

AMENDED DRAFT

7/27/22

R592. Insurance, Administration.

R592-18. Cost of Doing the Escrow Business.

R592-18-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404(2).

R592-18-2. Scope and purpose.

(1) This rule applies to title insurers and title insurance producers.

(2) The purpose of this rule is to establish the standard for determining compliance with Section 31A-19a-209(3)(a)(ii).

R592-18-3. Definitions.

(1) "Counties of the first and second classes" means counties of the first class and counties of the second class under Section 17-50-501.

(2) "Counties of the third, fourth, fifth and sixth classes" means counties of the third class, counties of the fourth class, counties of the fifth class and counties of the second class under Section 17-50-501.

(3) "Residential transaction" means the sale of:

(a) a building or structure, or a portion of a building or structure, occupied as, designed as, or intended for occupancy as a residence for natural persons; or

(b) vacant land that is offered for sale for the construction or location of a building or structure, or a portion of a building or structure, described in Subsection (3)(a).

R592-18-4. Calculating the cost of doing the escrow business under Section 31A-19a-209(3)(a)(ii).

(1)(a) [~~A title insurer, an~~] An agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall file with the commissioner, to be submitted with its annual report, a certified statement of the average residential escrow fee charged by the filer for residential transactions closed in this state for the prior calendar year.

(b)(i) Not later than November 1, 2022, a title insurer shall file with the commissioner a statement of the average residential escrow fee charged by the title insurer for residential transactions closed in this State for the prior calendar year.

(ii) Beginning in 2023, not later than April 30 of each year, a title insurer shall file with the commissioner a statement of the average residential escrow fee charged by the title insurer

for residential transactions closed in this State for the prior calendar year.

(2)(a) The commissioner shall establish an industry average residential escrow fee by calculating the average of the residential escrow fees submitted under Subsection (1).

(b)(i) An [The] industry average residential escrow fee shall be calculated for counties of the first and second classes based on escrow fees submitted by title licensees whose principal place of business is in one of those counties~~[the buyer side and the seller side of a transaction]~~.

(ii) An industry average residential escrow fee shall be calculated for counties of the third, fourth, fifth and sixth classes based on escrow fees submitted by title licensees whose principal place of business is in one of those counties.

(c) The industry average residential escrow fee shall include the sum of the fees charged by a filer for conducting escrow services on any residential transaction ~~[involving a dwelling as defined in Section 57-21-2]~~.

(d) The industry average residential escrow fee shall exclude any pass-through cost incurred incident to the escrow services or the issuance of the title insurance and separately charged to the consumer.

(3) On December 1, 2022, the commissioner shall issue a bulletin that notifies title insurers and title insurance producers of the industry average residential escrow fee for:

(a) counties of the first and second classes; and

(b) counties of the third, fourth, fifth and sixth classes.

(4) Beginning in 2023, on June 1 of each year, the commissioner shall issue a bulletin that notifies title insurers and title insurance producers of the industry average residential escrow fee for:

(a) counties of the first and second classes; and

(b) counties of the third, fourth, fifth and sixth classes~~[the buyer side and the seller side of a transaction]~~.

(4) The industry average residential escrow fee calculated under Subsection (2) shall take effect on September 1 following the issuance of the bulletin.

(5) Under Section 31A-19a-209(3)(a)(ii), the Title and Escrow Commission determines that the cost of doing the escrow business is not less than 50% of the industry average residential escrow fee ~~[for the buyer side and the seller side]~~ as calculated under Subsection (2).

R592-18-5. Severability.

If any provision of this rule or its application is held invalid, the invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: title insurance

Date of Last Change: new rule

**Authorizing, and Implemented or Interpreted Law: 31A-2-404(2)(a),
(4); 31A-19a-209(2)(a)(ii)**

Questions:

1. Should there be a separate average for refinance transactions?
2. Is a reference to the buyer's and the seller's side of the transaction unnecessary?
3. Is the addition of the term "residential transaction" sufficient to address the concerns with the statutory definition of dwelling?
4. How should the concerns with less-populated counties be addressed?
 - Set a separate average for each grouping of county classes? If so, how should the county classes be grouped?
 - Set one statewide average and allow individual counties to petition to have an average set for their own county? Under this approach, if there is only one licensee in the county, the average may be determined by the petitioner.
 - Set separate average for groupings of counties apart from classes?
 - Other?