

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Title No. - Rule No. - Section No.

Rule or Section Number:

R592-15

Filing ID: Office Use Only

Agency Information

| | | |
|-----------------------------|------------------------------------|-----------------|
| 1. Department: | Insurance | |
| Agency: | Title and Escrow Commission | |
| Room number: | Suite 2300 | |
| Building: | Taylorsville State Office Building | |
| Street address: | 4315 S. 2700 W. | |
| City, state and zip: | Taylorsville, UT 84129 | |
| Mailing address: | PO Box 146901 | |
| City, state and zip: | Salt Lake City, UT 84114-6901 | |
| Contact persons: | | |
| Name: | Phone: | Email: |
| Steve Gooch | 801-957-9322 | sgooch@utah.gov |

Please address questions regarding information on this notice to the persons listed above.

General Information

| |
|---|
| 2. Rule or section catchline: |
| R592-15. Schedule of Minimum Charges for Escrow Services |
| 3. Purpose of the new rule or reason for the change: |
| The rule is being repealed because Section 31A-19a-209 was amended by HB 410 (2023 General Session) to remove the requirement to file a schedule of escrow charges with the department. |
| 4. Summary of the new rule or change: |
| The filing repeals the rule. |

Fiscal Information

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| 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to: |
| A) State budget: |
| There is no anticipated cost or savings to the state budget. Maintaining and posting online the list of escrow charges was performed by two department employees as part of the normal course of their duties. It took minimal time and effort to perform, and that time and effort will be reallocated to other duties. |
| B) Local governments: |
| There is no anticipated cost or savings to local governments. The rule did not apply to local governments. |
| C) Small businesses ("small business" means a business employing 1-49 persons): |
| There is no anticipated cost or savings to small businesses. Under the rule, a title insurance agency was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurance agencies rarely changed this price and so rarely reported to the department. In cases where an agency did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable. |
| D) Non-small businesses ("non-small business" means a business employing 50 or more persons): |

There is no anticipated cost or savings to non-small businesses. Under the rule, a title insurer was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurers rarely changed this price and so rarely reported to the department. In cases where an insurer did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There is no anticipated cost or savings to any other persons. Under the rule, an individual title insurance producer who was not an employee of a title insurer or designated by a title agency was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of individual title insurance producers rarely changed this price and so rarely reported to the department. In cases where an individual producer did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The rule is being repealed.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

| Regulatory Impact Table | | | |
|------------------------------|------------|------------|------------|
| Fiscal Cost | FY2024 | FY2025 | FY2026 |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Cost | \$0 | \$0 | \$0 |
| Fiscal Benefits | FY2024 | FY2025 | FY2026 |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits | \$0 | \$0 | \$0 |
| Net Fiscal Benefits | \$0 | \$0 | \$0 |

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| | | |
|-------------------|-------------------------------|--|
| Section 31A-2-404 | Ex 2: Subsection 63G-3-403(3) | |
| | | |
| | | |

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | |
|---|--|
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Issue Date | |
| Issue or Version | |

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | |
|---|--|
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Issue Date | |
| Issue or Version | |

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2023

B) A public hearing (optional) will be held:

| Date (mm/dd/yyyy): | Time (hh:mm AM/PM): | Place (physical address or URL): |
|---------------------------|----------------------------|---|
| | | |
| | | |

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on: 08/07/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

| | | | |
|---|---|--------------|-------------------------------|
| Agency head or designee and title: | Steve Gooch, Public Information Officer | Date: | Click or tap to enter a date. |
|---|---|--------------|-------------------------------|

~~**R592. Insurance, Title and Escrow Commission.**~~

~~**R592-15. Schedule of Minimum Charges for Escrow Services.**~~

~~**R592-15-1. Authority.**~~

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

~~**R592-15-2. Purpose and Scope.**~~

~~_____ (1) The purpose of this rule is to establish procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.~~

~~_____ (2) This rule applies to a title insurer, an agency title insurance producer, and an individual title insurance producer who is not an employee of a title insurer or who is not designated to an agency title insurance producer that provides escrow services in Utah.~~

~~**R592-15-3. Definitions.**~~

~~_____ Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-19a-102. Additional terms are defined as follows:~~

~~_____ (1) "Certification" means a statement that a filing complies with Utah laws and rules.~~

~~_____ (2) "Charge" means a dollar amount charged for a service rendered by a title licensee.~~

~~_____ (3) "Document preparation" means preparing or compiling documents in connection with an escrow service.~~

~~_____ (4) "Electronic filing" or "file electronically" means:~~

~~_____ (a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or~~

~~_____ (b) a filing submitted via an email system by an agency title insurance producer or an individual title insurance producer.~~

~~_____ (5) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow Services.~~

~~_____ (6) "Escrow service" means a service related to a settlement of a real estate transaction.~~

~~_____ (7) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.~~

~~_____ (8) "File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.~~

~~_____ (9) "Filer" means a person who submits a filing.~~

~~_____ (10)(a) "Filing Objection Letter" means a letter issued by the commissioner when a review determines that the filing fails to comply with Utah laws and rules.~~

~~_____ (b) The Filing Objection Letter may require correction of non-compliant items and request clarification or additional information pertaining to the filing.~~

~~_____ (11) "Letter of Authorization" means a letter signed on behalf of a title licensee that gives an individual filing authority.~~

- _____ (12) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services rendered.
- _____ (13) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.
- _____ (14) "Other settlement service" means an additional service not specifically listed in the Schedule of Minimum Charges for Escrow Services.
- _____ (15) "Rejected" means a filing is:
 - _____ (a) not submitted in accordance with Utah laws and rules;
 - _____ (b) returned to the filer by the department, with the reasons for rejection; and
 - _____ (c) not considered filed with the department.
- _____ (16) "Title licensee", for purposes of this rule, means a title insurance company, an agency title insurance producer, or an individual title insurance producer.

R592-15-4. Required Documents.

_____ The following documents shall be used for each filing and are available on the department's website, <https://insurance.utah.gov>:

- _____ (1) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and
- _____ (2) "Schedule of Minimum Charges for Escrow Services."

R592-15-5. General Filing Information.

_____ (1)(a) A filing shall be accurate, consistent, complete, and contain all required documents for the filing to be processed in a timely and efficient manner.

_____ (b) The commissioner may request additional information as necessary.

_____ (2)(a) A filing that does not comply with this rule is rejected and returned to the filer.

_____ (b) A rejected filing:

_____ (i) is not considered filed with the department;

_____ (ii) shall be submitted as a new filing; and

_____ (iii) will be charged a new filing fee.

_____ (3) Prior filings are not researched to determine the purpose of the filing.

_____ (4) The department does not review or proofread every filing.

_____ (a) A filing may be reviewed:

_____ (i) when submitted;

_____ (ii) as a result of a complaint;

_____ (iii) during a regulatory examination or investigation; or

_____ (iv) any time the department determines a review is necessary.

_____ (b) When a Filing Objection Letter or Order to Prohibit Use is issued, a title licensee may be required to disclose the deficiencies to each affected consumer.

_____ (5) Filing corrections.

_____ (a) If the filing is in an open status, correction can be made at any time.

_____ (b) If the filing is in a closed status, a new filing is required.

_____ (c) The filer must reference the original filing in the filing description.

_____ (6) When responding to a Filing Objection Letter or an Order to Prohibit Use, a filer shall comply with Section R592-15-9.

_____ (7) A filer must notify the department when withdrawing a previous filing.

R592-15-6. Filing Requirements.

_____ (1) The following shall electronically file a Schedule of Minimum Escrow Service Charges:

_____ (a) a title insurer;

_____ (b) an agency title insurance producer; and

_____ (c) an individual title insurance producer who is:

_____ (i) not an employee of a title insurer; or

_____ (ii) not designated to an agency title insurance producer.

_____ (2) Only an individual who is authorized to act on behalf of a title licensee may submit a filing.

_____ (3)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day it is filed.

_____ (b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:

_____ (i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or

_____ (ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.

_____ (4) Each filing must be submitted as an electronic filing via:

_____ (a) email; or

_____ (b) SERFF.

_____ (5) A complete email filing consists of the following:

_____ (a) an email naming the filer and stating that it is an escrow rate filing in the title of the email;

_____ (b) a complete Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, containing a complete filing description in the following order:

_____ (i) Certification.

_____ (A) A filer shall certify that a filing is complete and complies with Utah laws and rules.

_____ (B) The filing shall include the following statement in the filing description: "~~BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES~~".

_____ (C) A filing will be rejected if the certification is false, missing, or incomplete.

_____ (ii) Indicate if the filing is:

_____ (A) new;

_____ (B) replacing or modifying a previous submission, describing the changes;

_____ (C) previously rejected, with reasons for rejection and previous filing's submission date; or

- ~~_____ (D) previously objected to or prohibited, with reasons for resubmission;~~
- ~~_____ (e) a Schedule of Minimum Charges for Escrow Services, completed as follows:~~
 - ~~_____ (i) each blank field must be completed;~~
 - ~~_____ (ii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and~~
 - ~~_____ (iii) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~
 - ~~_____ (d) a Letter of Authorization.~~
 - ~~_____ (i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
 - ~~_____ (ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
 - ~~_____ (e) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~
- ~~_____ (6) A complete SERFF filing consists of the following:~~
 - ~~_____ (a) a complete description section on the general information tab, presented in the following order:~~
 - ~~_____ (i) Certification.~~
 - ~~_____ (A) A filer shall certify that a filing is complete and complies with Utah laws and rules.~~
 - ~~_____ (B) The filing shall include the following statement in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".~~
 - ~~_____ (C) A filing will be rejected if the certification is false, missing, or incomplete.~~
 - ~~_____ (ii) Indicate if the filing is:~~
 - ~~_____ (A) new;~~
 - ~~_____ (B) replacing or modifying a previous submission, describing the changes;~~
 - ~~_____ (C) previously rejected, with reasons for rejection, and previous filing's submission date; or~~
 - ~~_____ (D) previously objected to or prohibited, with reasons for resubmission;~~
 - ~~_____ (b) a Schedule of Minimum Charges for Escrow Services completed as follows:~~
 - ~~_____ (i) attach the filing to the rate and rule schedule tab;~~
 - ~~_____ (ii) each blank field must be completed;~~
 - ~~_____ (iii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and~~
 - ~~_____ (iv) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~
 - ~~_____ (e) a Letter of Authorization.~~
 - ~~_____ (i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
 - ~~_____ (ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
 - ~~_____ (d) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~

R592-15-7. Charges.

- ~~_____ (1) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
- ~~_____ (2) Other settlement service charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~
- ~~_____ (3) Other settlement service charges shall be filed as a per hour charge.~~
- ~~_____ (4) Only document charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
- ~~_____ (5) Other services not specifically listed on the Schedule of Minimum Charges for Escrow Services may be provided if a justifiable charge is filed.~~

R592-15-8. Correspondence and Status Checks.

- ~~_____ (1) To identify the original filing, the following information shall be provided:~~
 - ~~_____ (a) type of filing;~~
 - ~~_____ (b) date of filing; and~~
 - ~~_____ (c) submission method.~~
- ~~_____ (2) A filer may request the status of its filing 60 days after the filing date.~~

R592-15-9. Responses.

- ~~_____ (1) A response to a Filing Objection Letter shall include:~~
 - ~~_____ (a) a cover letter identifying the changes made; and~~
 - ~~_____ (b) revised documents with each change highlighted.~~
- ~~_____ (2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.~~
- ~~_____ (b) Use of the filing shall be discontinued by the date specified in the Order.~~
- ~~_____ (c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.~~
- ~~_____ (d) Once the Order to Prohibit Use has been issued, a new filing is required if the title licensee chooses to make the requested changes addressed in the original Filing Objection Letter.~~

R592-15-10. Severability.

~~_____ If any provision of this rule, Rule R592-15, or its application to any person or situation is held invalid, such 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 escrow filings

Date of Last Change: December 23, 2021

Notice of Continuation: March 30, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-404]