

INSURANCE DEPARTMENT COMPLAINT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill broadens the Insurance Department's enforcement authority.

Highlighted Provisions:

This bill:

authorizes the Insurance Department to take enforcement action against a title insurance producer if the title insurance producer does not have an appointment from a title insurer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-23a-204, as last amended by Laws of Utah 2015, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-23a-204 is amended to read:

31A-23a-204 . Special requirements for title insurance producers and agencies.

An individual title insurance producer or agency title insurance producer shall be licensed in accordance with this chapter, with the additional requirements listed in this section.

(1) (a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:

- (i) a title examination line of authority; and
(ii) an escrow line of authority.

- 29 (b) An agency title insurance producer subject to Subsection (1)(a) may comply with
30 Subsection (1)(a) by having the agency title insurance producer owned or managed
31 by:
- 32 (i) one or more individuals who are licensed with the title examination line of
33 authority for the time period provided in Subsection (1)(a); and
34 (ii) one or more individuals who are licensed with the escrow line of authority for the
35 time period provided in Subsection (1)(a).
- 36 (c) A person licensed as an agency title insurance producer shall at all times during the
37 term of licensure be owned or managed by at least one individual who is licensed for
38 at least three years within the preceding five-year period with both:
- 39 (i) a title examination line of authority; and
40 (ii) an escrow line of authority.
- 41 (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
42 exempt an attorney with real estate experience from the experience requirements in
43 Subsection (1)(a).
- 44 (e) An individual who satisfies the requirements of this Subsection (1) is known as a
45 "qualifying licensee." At any given time, an individual may be a qualifying licensee
46 for not more than two agency title insurance producers.
- 47 (2) (a) An individual title insurance producer or agency title insurance producer
48 appointed by an insurer shall maintain:
- 49 (i) a fidelity bond;
50 (ii) a professional liability insurance policy; or
51 (iii) a financial protection:
- 52 (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and
53 (B) that the commissioner considers adequate.
- 54 (b) The bond, insurance, or financial protection required by this Subsection (2):
55 (i) shall be supplied under a contract approved by the commissioner to provide
56 protection against the improper performance of any service in conjunction with
57 the issuance of a contract or policy of title insurance; and
58 (ii) be in a face amount no less than \$250,000.
- 59 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
60 exempt individual title insurance producer or agency title insurance producers from
61 the requirements of this Subsection (2) upon a finding that, and only so long as, the
62 required policy or bond is generally unavailable at reasonable rates.

- 63 (3) An individual title insurance producer or agency title insurance producer appointed by
64 an insurer may maintain a reserve fund to the extent money was deposited before July 1,
65 2008, and not withdrawn to the income of the individual title insurance producer or
66 agency title insurance producer.
- 67 (4) An examination for licensure shall include questions regarding the examination of title
68 to real property.
- 69 (5) An individual title insurance producer may not perform the functions of escrow unless
70 the individual title insurance producer has been examined on the fiduciary duties and
71 procedures involved in those functions.
- 72 (6) The Title and Escrow Commission may adopt rules, establishing an examination for a
73 license that will satisfy this section, subject to Section 31A-2-404, and after consulting
74 with the commissioner's test administrator.
- 75 (7) A license may be issued to an individual title insurance producer or agency title
76 insurance producer who has qualified:
- 77 (a) to perform only examinations of title as specified in Subsection (4);
78 (b) to handle only escrow arrangements as specified in Subsection (5); or
79 (c) to act as a title marketing representative.
- 80 (8) (a) A person licensed to practice law in Utah is exempt from the requirements of
81 Subsections (2) and (3) if that person issues 12 or less policies in any 12-month
82 period.
- 83 (b) In determining the number of policies issued by a person licensed to practice law in
84 Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah
85 issues a policy to more than one party to the same closing, the person is considered to
86 have issued only one policy.
- 87 (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not,
88 shall maintain a trust account separate from a law firm trust account for all title and real
89 estate escrow transactions.
- 90 (10) The department may, in accordance with Title 63G, Chapter 4, Administrative
91 Procedures Act, take any of the following actions against a title insurance producer if the
92 title insurance producer does not have an appointment from a title insurer as described in
93 Section 31A-23a-115:
- 94 (a) suspend or revoke the title insurance producer's license;
95 (b) freeze a bank account associated with the title insurance producer's business;
96 (c) subpoena the title insurance producer's records;

- 97 (d) enjoin the title producer's business operations; or
- 98 (e) post, at the title producer's business location, a notice of an action listed in
- 99 Subsections (10)(a) through (10)(d).

100 Section 2. **Effective date.**

101 This bill takes effect on May 1, 2024.