



STATE OF ARIZONA
DEPARTMENT OF INSURANCE

JANET NAPOLITANO
Governor

2910 NORTH 44th STREET, SUITE 210
PHOENIX, ARIZONA 85018-7256
602/912-8456 (phone) 602/912-8452 (fax)

CHARLES R. COHEN
Director of Insurance

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TO: Licensed Title Insurance Agents and Title Insurance Agent Applicants

FROM: Charles R. Cohen
Director of Insurance

DATE: June 9, 2003

RE: **Licensure as Title Insurance Agent and as Escrow Agent**

The Department is concerned that some licensed title insurance agents are engaging in unlicensed escrow activity. Escrow agents in Arizona are licensed and regulated by the Arizona State Banking Department pursuant to Arizona Revised Statutes ("A.R.S."), Title 6, §6-801 *et seq.* Title insurers and title insurance agents in Arizona are governed by A.R.S. §20-1561 *et seq.* The unlicensed escrow activity may arise from a misunderstanding of A.R.S. §20-1581(B), which provides as follows:

"A title insurance agent may engage in the business of handling escrows of real property transactions so long as it maintains a separate record of all receipts and disbursements of escrow funds and does not commingle any such funds with its own funds or with funds held by it in any other capacity."

This language does not, and was never intended to, create an exemption from the escrow agent licensing requirements of A.R.S. Title 6. Rather, it serves only to expressly allow a licensed title insurance agent to also engage in escrow business, in accordance with A.R.S. Title 6, provided that the records and funds relative to the escrow business are maintained separately from those of the title business.

The plain language of A.R.S. §6-811, which enumerates the exemptions from the escrow agent licensing requirements, supports this conclusion. Licensed attorneys, licensed real estate brokers and licensed mortgage bankers are among the persons exempt from licensure. Licensed title insurance agents, however, are **not** exempt.

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Therefore, licensed title insurance agents are advised that they should contact the State Banking Department regarding the appropriate licensure before engaging in any escrow agent activity. Likewise, prospective applicants for title insurance agent licenses are advised that obtaining the title agent license does not eliminate the need to also obtain an escrow agent license if they intend to transact both title and escrow business.

Please direct any questions regarding this Bulletin to Gerrie Marks, 602-912-8456 or gmarks@id.state.az.us. For any questions regarding escrow agent licensing, please contact the Arizona State Banking Department at 602-255-4421 or consult their website at www.azbanking.com.