

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street
San Francisco, CA 94105

Bulletin No. 95-4
July 24, 1995

TO: All Title Insurers, Underwritten Title Companies,
Controlled Escrow Companies and Other Interested Persons

SUBJECT: Scope of the Permissible Escrow Activities of Title
Insurers, Underwritten Title Companies and Controlled
Escrow Companies

This bulletin articulates the Department of Insurance's position as to the scope of the permissible escrow activities of title insurers, underwritten title companies, and controlled escrow companies. Specifically, this bulletin addresses the issue of whether title insurers, underwritten title companies, and controlled escrow companies may engage in escrows in which a title insurance policy was neither issued nor contemplated to be issued.

This bulletin stems from numerous communications to the Department of Insurance from independent escrow companies which are under the jurisdiction of the Department of Corporations. Such communications suggest that title insurers and underwritten title companies may only engage in escrows in which a title insurance policy was issued or contemplated to be issued. Such communications do not address the scope of the permissible escrow activities of controlled escrow companies.

It is the position of the Department of Insurance that title insurers, underwritten title companies, and controlled escrow companies may engage in escrows in which a title insurance policy was neither issued nor contemplated to be issued. Such conclusion was reached after analyses of applicable Insurance Code sections and other pertinent statutes, legal opinions of both the California Attorney General and the Legislative Counsel of California, and meetings with representatives of the Department of Corporations, the independent escrow company industry and the title insurance industry in which they expressed their divergent positions.

Underwritten title companies which engage in escrows in which a title insurance policy was neither issued nor contemplated to be issued should be mindful that they are exempt from the Escrow Law (Financial Code Sections 17000-17654) only if their "principal business is that of preparing abstracts or making searches of title

that are used as a basis for the issuance of a policy of title insurance by a company doing business under any law of this state relating to insurance companies" (Financial Code Section 17006(a)(3); see also 54 Ops.Cal.Atty.Gen. 13 (1971)).

Questions regarding this bulletin may be addressed to:

Hon W. Chan
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A handwritten signature in black ink, reading "Chuck Quackenbush". The signature is written in a cursive, flowing style with a large initial "C".

CHUCK QUACKENBUSH
Insurance Commissioner