

Dear Utah Legislator:

Email sent March 6, 2019

I represent the Utah Consumer Advocacy Network [www.UcanUtah.org](http://www.UcanUtah.org). We are **STRONGLY OPPOSED TO SB 121** which will allow Affiliated (Controlled) Business Arrangements (**AfBAs**) to operate in Utah. AfBAs allow for common ownership among real estate businesses and title insurance agencies (real estate transaction settlement agents).

For decades **Utah consumers have been protected** by legal limits on Controlled Business in Title Insurance (Real Estate Transactions). Now special interest groups in the real estate industry seek to profit by dismantling this **vital consumer protection** to allow for controlled business through AfBAs in Utah's real estate market.

**Here is what *really* happens when legislatures allow AfBAs to operate in their states' real estate market:**

**CONSUMERS PAY THE PRICE!** Prices go UP; Transaction Risk goes UP; Competition Suffers; Customer Service Suffers

- **Consumer closing costs go up because Kick-backs cost money!** More fingers in the pie REQUIRES A BIGGER PIE!
- **Consumer closing costs go up because controlled business = No Competition; No Competition = Higher Prices.**
- **Consumer closing costs go up for EVERYONE** in the market, not just those who close their transactions with AfBAs, because demands for illegal kick-backs go way up **even among non-AfBA service providers.**

Despite what you may be hearing to the contrary, **One-Stop-Shopping in a real estate transaction is NOT WHAT UTAH CONSUMERS WANT.** AfBAs have proven to offer NO BENEFITS TO CONSUMERS. AfBAs are notorious for **driving out competition and driving up closing costs.** The AfBA is an ENEMY TO CONSUMER WELFARE.

Despite what you may be hearing to the contrary, **AfBAs will create Conflicts of Interest that PUT CONSUMERS AT RISK, and no amount of "free-market" rhetoric can change this fact.** In an AfBA closing environment, the escrow settlement agent is NOT an impartial third-party looking out for consumer's best interest. They are instead a puppet for the AfBA affiliate real estate broker or builder with strong incentives to IGNORE CONSUMER INTERESTS.

Despite what you may be hearing to the contrary, **even though local title insurance agencies are backed-up by financially strong national insurance underwriters, CONSUMERS CAN STILL BE HARMED by AfBA Conflicts of Interest at the local level.** Just ask AfBA consumers who have been forced to wait years for insurance settlement claims to work their way through courts after they've lost their money or their homes because of the stress AfBAs put on agencies.

Despite what you may be hearing to the contrary, **THE TITLE INDUSTRY IN UTAH HAS NOT AGREED to the proposed law.** Most of the rank and file title agencies in Utah are unequivocally against this bill. The Utah Land Title Association – (ULTA) is a trade association, not a universal governing body in the Utah title industry. **ULTA does not have a mandate or the authority to "negotiate" on behalf of the title insurance industry in Utah on this issue.** Many Utah title agencies are **not members of the ULTA.** And, many of those who are members **felt coerced** into negotiations and **do not agree** with the new legislation. In addition, **CONSUMER WELFARE IS AT STAKE.** WHY is it ok for the real estate industry to unilaterally "negotiate" the new law without representation of the Consumer Interest? The "negotiation" of this law **did not have the public transparency or public input** that it requires.

Despite what you may be hearing to the contrary, **enacting RESPA in Utah WILL NOT adequately PROTECT UTAH CONSUMERS!** Policing AfBAs is an impossible task for state regulators. The enforcement tests in the new law require regulators to make judgement calls about the **intentions of the AfBA participants.** Regulators are not equipped to do this. **Determination of intention happens in courts of law!** Can we really afford to burden Utah's court system in order to test the validity of every new AfBA?

We trust that once you become educated about these issues, you will **DO THE RIGHT THING FOR UTAH CONSUMERS** and **Vote NO to SB 121.** If you would like to learn more about the problems with SB 121 and AfBAs, we urge you to please visit our website – [www.UcanUtah.org](http://www.UcanUtah.org)

**Thank you** for your dedicated service to our fine state and for your consideration of our positions.

Sincerely,

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