

LEGISLATIVE UPDATE


September 17, 2009

Presented by:

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Web conference TDI Update

**John Rothermel
and
Randy Lee**




Rate Hearing Update

- o 3 day hearing held this week
- o 9-5 each day before 2 SOAH administrative law judges
- o TDI, OPIC, TLTA, Fidelity, Stewart, and both large and small agent groups participated
- o Thousands of pages of testimony and charts and graphs were presented




Rate Hearing 2

- o Industry presented its case first with STGs Ted Jones presenting the facts about the Texas economic picture which is ok but not good.
 - Business is off nearly 40% with rising unemployment even as the USA starts to recover
 - Downward pressure on housing values = 6% rate increase indication without considering anything else




Rate Hearing 3

- TLTA witness Jared Hazelton presented much the same information which was not refuted by OPIC or TDI.
- Texas entered the recession late and will recover later than the rest of the USA.
- Reverse Competition is actually efficient not evil.




Rate Hearing 4

- Fidelity Actuaries stated that industry needed capital to survive and recover from the losses of staying afloat and that capital costs were increasing because of the economic conditions.
- Much argument with TDI and OPIC over whether or not the industry should be allowed more than a 4.5 to 6% profit when most industries were allowed much more.




Rate Hearing 5

- On direct testimony OPIC presented its views:
 1. Title rates are inflated by payoffs to real estate agents
 2. Title agents could and should provide greater services at lesser premium rates to punish the few companies that have been caught rebating
 3. The entire rate setting procedure should be changed to a time cost basis.
 4. Documents presented without live testimony indicate their belief that Texas should abolish the free enterprise title insurance system and go to a state run insurer.
 5. On live cross examination by STG the witness had to back off on 3 and 4




Rate Hearing 6

- o TDI witness repeated his time worn position that increasing volume and prices will solve any problems without the need for a rate increase and that reverse competition which again for the 5th time cannot put any numbers to prove his points.



Rate Hearing 7

- o The interrogatory practice by OPIC (last minute demand for expenditures in ways that no company could complete in the time allowed and that cost STG more than \$30,000 to complete) which was not even explored but simply thrown around as a sign of evil in the title business, has had the result of there being NO RATE RELIEF in 2009.



Rate Hearing 8

- o OPIC was successful in postponing the hearing due to tactical maneuvering with its discovery so that at this point, the schedule will result in the commissioner not even getting the SOAH recommendation much before December 15, 2009.
- o With the length of time the commissioner usually takes to make a decision, especially with this much conflicting information and testimony, it is doubtful if there will be a decision before March 2010 at the earliest or perhaps May, 2010 with the rates being implements 1 or 2 months after the decision is made.
- o It is very likely that even in Texas, the recession will be about over before any changes in rates will be in effect.

Rate Hearing 9

- Parties recommendations:
- TLTA: 13% increase
- TDI: no change
- OPIC: 11% reduction caused in large part by arbitrarily removing 10% of all expense (amounting to \$660 million over 10 yrs to account for reverse completion).
- STG: supports TLTA
- Fidelity: essentially the same as TLTA

Rate Hearing 10

- Prognosis:
 - If the commissioner recognizes the damage done to the industry by the economic crisis and the totally unreliable nature of the OPIC testimony, there could be a 6-10% rate increase.
 - If the commissioner splits the baby as he has frequently done in the past and adopts one of the 9 scenarios presented by Staff, the most likely result is 0-4% rate increase.
 - We believe it highly unlikely that OPIC recommendations will be enacted. But the harm has been done since any increase will have been delayed for at least 1 yr (the worst year since the great depression nationally and the worst years since the early 1990's in Texas when the banking system in Texas was forced into collapse.

Rate Hearing 11

- Comments on the process
 - SOAH judges seem to be interested, engaged and fair
 - The SOAH process is designed to drag along so that no results are reach quickly even in an emergency situation, due in large part by zealous enforcement of rules of civil procedure.
 - All sides had a reasonable opportunity to have their positions aired and critiqued.

Rate Hearing 12

- The rate case by law is a contested case. That means that it is conducted as a trial.
- However, there is no real reason for the rate hearing to be as adversarial as it has become.
 - Ambushes of witnesses: questions not on the subject matter of their testimony
 - Accusations made on supposition without doing any studies or having any actual knowledge of the subject matter
 - Selective criticism of the accuracy of a witnesses predictions without admitting to the inaccuracy of your own
- Use of untested or inapplicable statistical methods
- No moderated meetings of the experts to resolve differences before the TRIAL

Rate Hearing 13

- Future hearings
 - OPIC will be subject to future sunset review
 - It must be abolished or totally revised
 - Proper procedures for setting of rates and conducting hearings must be legislated
 - Including standards of proof, standards such as mentioned on the prior slide, and perhaps a different concept than the presider being the decision maker. (Much study and discussion will be needed under this point)

DRAFT

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Bulletin

Stewart Title Guaranty Company
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2008 Rules Hearing Order

Item 2008-1
T-47 Residential Real Property Affidavit

This Item revises the T-47 to move the term Title Company to the first of the form rather than at the end.

Actions/requirements: None

2008 Rules Hearing Order

Item 2008-2
P-36. Arbitration Provisions.

This item revises the procedural rule to conform to the names of the Owner's policy (T-1) and Loan policies (T-2 and T-2R).

Actions/requirements:
Please note that the T-1R does not require arbitration and so you will not delete the arbitration language by endorsement. There are no other actions or requirements.

2008 Rules Hearing Order

Item 2008-3
P-21. Contents of Schedule D to Commitment for Title Insurance

This item revises the procedural rule to conform to the names of the Owner's policy (T-1) and Loan policies (T-2 and T-2R).

Actions/ Requirements: None

2008 Rules Hearing Order

Item 2008-4
P-9.(8) Endorsement of Owner's [Owner] or Loan [Mortgagee] Policies
(8) Future Advance/Revolving Credit (T-35)

This item revises the procedural rule to conform to the names of Loan policies (T-2 and T-2R).

Actions/ Requirements: None

2008 Rules Hearing Order

Item 2008-5
P-9.b(6) Endorsement of Owner's [Owner] or Loan [Mortgagee] Policies

This item revises the procedural rule to conform to the names of Loan policy.

Actions/ Requirements: None

2008 Rules Hearing Order

Item 2008-6
TEXAS LIMITED COVERAGE RESIDENTIAL CHAIN OF TITLE POLICY

This agenda item creates a new form to provide a title insurance product to conform to lender requirements for a 24 month title search in connection with their loans. It can only be issued in connection with residential properties.

Actions/Requirements: Will be discussed more fully in item 2008-7 immediately following, Item 2008-7

2008 Rules Hearing Order

Item 2008-7

P-____. Texas Limited Coverage Residential Chain of Title Policy.

a. The Texas Limited Coverage Residential Chain of Title Policy (T-____) may be issued upon request and upon payment of the premium set out in

Rate Rule R-____, provided that:

1. The land is residential real property; and
2. The proposed insured is an entity which is an institutional lender including a Bank, Credit Union, or Savings Association as defined in § 341.001, Texas Finance Code, or a Mortgage Banker as defined in §157.002, Texas Finance Code, or an Insurer as defined in §823.002, Texas Insurance Code.
- b. A Texas Limited Coverage Residential Chain of Title Policy may be issued only by an agent licensed in the county in which the land is located; and no other party may receive any portion of the premium, other than the promulgated division of premium between agent and underwriter.
- c. The Texas Limited Coverage Residential Chain of Policy (T-____) shall not be issued with respect to deeds and leases recorded in the public records more than sixty (60) months immediately preceding the Date of Policy.

2008 Rules Hearing Order

Item 2008-7 (continued)

Actions/ Requirements:


1. The rate for this policy has not yet been established and cannot be used until a rate is established.
2. Residential real property has the meaning assigned in P-1u.
3. The policy cannot be issued to individuals.
4. No splits are allowed between agents. If an agent in one county receives the order, he must provide all of the premium to the agent producing the title evidence.
5. The coverage period is only for the most immediate 60 months preceding the policy date.
6. The amount of insurance is printed at \$100 and may not be modified.
7. The form provides that the grantee is the person named in the latest deed that is more recent than 60 months (if your search shows that the owner acquired title longer than 60 months ago, you would simply say, "The vesting deed appears to have been recorded prior to 60 months before the date of this policy".
8. The policy shows deeds and leases found during the search period required by the lender.
9. If you find deeds or leases, you must set out their recording information. If you do not find deeds or leases, the exception must be deleted.
10. The legal description of the land is inserted.

2008 Rules Hearing Order

✍ **Item 2008-8** – Submission to amend the Assignment of Rents/Leases Endorsement (T-27) to correct typographical errors

Actions/requirements: None.

2008 Rules Hearing Order

 **Item 2008-9** – Submission to amend the Texas Residential Owner Policy of Title Insurance – One-To-Four Residences (T-1R), the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R), and the Mortgagee Title Policy Binder on Interim Construction Loan (T-13) to conform with the language of the Owner’s Policy (T-1) and the Loan Policy (T-2) by changing the term “Owner” to “Owner’s” and changing the term “Mortgagee” to “Loan.”


Actions/requirements: None. This item simply changes the name of the forms in the reference.

2008 Rules Hearing Order

Item 2008-10 –Amends Procedural Rule P-7 to change the language in paragraphs B and C to conform with the language of the *Owner’s* Policy (T-1) and the *Loan* Policy (T-2) and the proposed changes to the Texas Residential Owner Policy of Title Insurance – One-To-Four Residences (T-1R), the Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R), and the Mortgagee Title Policy Binder on Interim Construction Loan (T-13).

Actions/requirements: None. This item simply changes the name of the forms in the reference.

2008 Rules Hearing Order

 **Item 2008-11** –Amends Schedule B of the Loan Policy (T-2) to correct a typo.

Actions/requirements: None. This item simply changes the name of the forms in the reference.

2008 Rules Hearing Order

Item 2008-12 –Amends Schedule A of the Loan Policy (T-2) to remove the Tax Deletion Endorsement (T-30) from the list of optional endorsements on Schedule A. It also removes the language from Schedule A allowing certain provisions to be deleted from several of the endorsements, which will now require the deletions to be included as a special exception on Schedule B of the commitment and policies.

Actions/requirements: None. This item simply requires that instead of deleting a section from a T-17 or T-19 on the schedule page, a specific exception deleting that section must be made on Schedule B of the commitment or policy.

2008 Rules Hearing Order

Item 2008-13 – Amends the Deletion of Arbitration Provision of the Commitment for Title Insurance (T-7) to increase the threshold amount for arbitral matters to \$2 million in conformity with Procedural Rule P-36.

Actions/requirements: None. Just remember that since the T-2R residential owner's policy does not require arbitration, the arbitration provision cannot be deleted from that policy.

2008 Rules Hearing Order

Item 2008-14 –Amends Procedural Rule P-17 to allow a pass-through to consumers of electronic filing fees and tax service fees in accordance with HB 3073, as enacted by the 81st Legislature, Regular Session, effective January 1, 2010.

2008 Rules Hearing Order

Item 2008-15 – Submission to amend Specific Areas and Procedures 5 of the Minimum Standards to allow a pass-through to consumers of tax search service fees and certain notary fees in accordance with HB 3073, as enacted by the 81st Legislature, Regular Session, effective January 1, 2010.

Actions/requirements:

These items were presented to the Commissioner prior to passage of HB 3073 to overrule TDI interpretations that such charges were included in the title insurance premium. The commissioner was required by the legislation to allow electronic filing fees and tax service fees to be passed along to consumers.

The fees must be payable to a 3rd party provider of such services and should be based on the actual charge made by such provider. There appears to be a conflict between TDI regulations that would allowed estimates or averages to be charged, RESPA regulations appear to require actual charges.

The actual charge for an absentee notary sign-up fee may be passed through, if the notary is a third party, not affiliated with the licensee that is closing the transaction, and that licensee, prior to closing the transaction, receives a written request signed by the borrower, buyer or seller making the request and agreeing to pay for an absentee sign up by a notary as an accommodation to the requester after the licensee provides the requester with written notice of the amount of the notary fee or a reasonable estimate of the fee, if not know by the licensee.

As regards payoffs, the Minimum Standards now provide: If there is evidence of a prior lien in the file, such as a payoff statement from a lending institution, it must be determined that a check or other written evidence such as a wire transfer confirmation, reflects the payoff of said loan and a release was received or a written demand for a release was made. There must be a closing statement in the file, and entries on the closing statement should be traced to the escrow accounting records.

2008 Rules Hearing Order

Item 2008-16 –Amends the Commitment for Title Insurance (Form T-7) to conform the language of the form with the changed name of the policies referenced therein.

Actions/requirements: None

2008 Rules Hearing Order

Item 2008-17 –Amends Procedural Rule P-18 to require that a copy of the Commitment for Title Insurance (T-7) on an Owner's Policy be delivered to the proposed insured *as soon as practicable, but in no event later than 5 business days* prior to closing the transaction.

Actions/requirements: P-18 has been in place for several years using the "as soon as practicable" language but allowing a reasonable time to review documents. This rule simply states that the reasonable time is at least 5 business days before closing. Please note that the Commissioner's order continues the use of the expression closing the transaction which can be several days later than closing the contract. We believe that you should make every reasonable attempt to provide the commitment at least 5 days prior to closing the contract.

2008 Rules Hearing Order

Item 2008-18 -- Amends Procedural Rule P-21 to remove language from Schedule D of the commitment for Title Insurance (T-7) regarding optional advanced disclosure of settlement charges and optional advanced issuance of a Commitment for Title Insurance in conformity with the proposed amendment to Procedural Rule 18.

Actions/requirements: The major change is an attempt to conform Schedule D with proposed RESPA reforms that encourage customers to shop for title company charges. Accordingly, the new language differentiates between TDI charges and charges that may be subject to negotiations. It is interesting to note that in the past TDI staff has taken the position that negotiating escrow fees could be a rebate, while this rule amendment appears to sanction such activities. The following language must be added to your Schedule D.

2008 Rules Hearing Order

Item 2008-18 (continued)

Fixed Non-Negotiable Charges Mandated by the Department of Insurance:
Owners Policy \$
Mortgagee Policy \$
Endorsement \$
Endorsement \$

Costs and Expenses Subject to Negotiation
Escrow Fees \$
Expense \$
Expense \$
TOTAL ESTIMATED SETTLEMENT CHARGES* \$

Of this total amount: \$ (or %) will be paid to the policy issuing Title Insurance Company; \$ (or %) will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

Amount To Whom For Services
\$ (or%)
\$ (or%)
\$ (or%)

*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance."

2008 Rules Hearing Order

Item 2008-19 --Amends the Owner's Policy of Title Insurance (T-1) to remove indemnity language from the form in conformity with the 2006 American Land Title Association Owner's Policy.

Actions/requirements: For agents and offices, none. The deleted language removes the ability of a title insurer to recoup losses when handling a claim under a reservation of rights that the claim is not a covered claim.

Item 2008-20 --Amend the Loan Policy of Title Insurance (T-2) to remove indemnity language from the form in conformity with the 2006 American Land Title Association Loan Policy.

Actions/requirements: Same comment as 2009-19 above.

2008 Rules Hearing Order

Item 2008-21 –Adopts new form (T-24, 1) titled Non-Imputation Endorsement (Mezzanine Financing) to allow non-imputation coverage provided in paragraph 4 of the Owner's Policy to be assigned by the Insured to a Mezzanine Lender.

Actions/requirements: Mezzanine Financing is a relative new concept for Texas. Essentially, a mezzanine lender acquires a partial interest in the property as collateral for its making all or part of the loan. Since the mezzanine lender becomes a partner with the owner, the mezzanine lender does not want to be charged with the knowledge of possible defects that the owner might have. This endorsement deals with this issue. Agents and offices will need to obtain an affidavit from the owner to the effect (i) stating when negotiations for the loan commenced and (ii) that the owner is not aware of any title defects or matters not shown in the commitment for title insurance and (iii) has not provided lender with notice of any defects or matters not shown in the commitment for title insurance.

2008 Rules Hearing Order

Item 2008-22 –Adopts New Procedural Rule (P-___) titled *Issuance of Insured Closing Letters* to prohibit the issuance of Insured Closing Letter by attorneys operating pursuant to Procedural Rule P-22.

Actions/requirements: This agenda item prohibits a title company from issuing an insured closing letter to a lender when the loan is being closed by an attorney who is not a fee attorney appointed an escrow officer of the title company. Attorneys who choose to operate outside the regulation of the TDI and whose escrow accounts are not subject to audit by the title company and TDI are not entitled to ICLs.

2008 Rules Hearing Order

Item 2008-23 –Adopts New Procedural Rule (P-___) titled, *Cancellation Fees; Fees for Services Rendered*, to define and prohibit cancellation fees and to otherwise allow fees for furnishing title evidence or furnishing title evidence and examination.

Actions/requirements: This rule was necessary to clarify that title agents and offices may agree between themselves whether a charge for furnishing title evidence or title evidence and examination is paid as a percentage of premium or as a state amount (flat fee). Additionally, the agents may agree whether the fee is paid whether or not the transaction closes. Prohibited cancellation fees apply only to charges made to customers when a transaction does not close with an issued and paid for policy.

2008 Rules Hearing Order

✍ **Item 2008-24** –Amends the Insured Closing Service form (T-50) to substantially conform to the American Land Title Association Standard Closing Protection Letter except that it is proposed to maintain the current two year coverage period.

Actions/requirements: for agents and offices, none. We will populate our automated ICL system with the appropriate form. Please remember that only the new form, unaltered, may be used after October 1, 2009.

✍ **Item 2008-25** –Amends the Co-Insurance Endorsement (T-48) to substantially conform to the American Land Title Association Standard Co-Insurance – Single Policy Endorsement.

Actions/requirements: for agents and offices, none. We will provide the new forms which essentially create a chart of co-insurers and the amount of liability accepted by each of them rather than the prior forms more narrative approach to the same issue. The important factor to keep in mind is that when you are called upon to co-insure a transaction is to use the endorsement form rather than having each co-insurer issue a separate policy.

2008 Rules Hearing Order

✍ **Item 2008-26** –Rescinds the Last Dollar Endorsement (T-15) in its entirety.

Actions/requirements: for agents and offices, none. The new Loan Policy does not contain the language which this endorsement addressed and so the endorsement was now unnecessary.

✍ **Item 2008-27** –Amends Procedural Rule P-9 to rescind the procedure for issuance of the Last Dollar Endorsement (T-15), which has been rescinded.

Actions/requirements: for agents and offices, none. See Item 2008-26 above for explanation.

✍ **Item 2008-28** –Amends P-55 to provide that the proposed Non-Imputation Endorsement (Mezzanine Financing) (T-24.1) be issued in accordance with the same procedural provisions currently set forth by the rule for the Non-Imputation Endorsement (T-24).

Actions/requirements: for agents and offices, none. See comments under Item 2008-21.

2008 Rules Hearing Order

✍ **Item 2008-30** –Amends Administrative Rule L-1 to provide that a Title Insurance Company may cancel an agent's license for cause without giving the required advance notice of 30 days. The Department has modified the notice provisions to add a new requirement to specify that if the company is the sole underwriter at the time of cancellation then the company must submit an orderly plan for the winding down of the title agent's operations that is in compliance with Administrative Rule D-1.

Actions/requirements: for agents and offices, none. The TDI explanation addresses the issue. Please note that "for cause" will be spelled out in the Agency Agreement between agent and underwriter.

2008 Rules Hearing Order

✍ **Item 2008-31** –Amends the Future Advance/Revolving Credit Endorsement (T-35) to substantially conform the language of the endorsement to the American Land Title Association Future Advance Endorsement and to conform the language of the endorsement to the Loan Policy (T-2).

Actions/requirements: The primary difference is in the following language: *c. The loss of priority of the lien of the Insured Mortgage as security for any Advance, to a federal tax lien, which Advance is made after the earlier of (i) actual knowledge of the Insured that a federal tax lien was filed against the mortgagor, or (ii) the expiration of more than forty-five days after notice of a federal tax lien filed against the mortgagor.*

Agents and offices may be requested by the lender to down date a policy to determine that no federal tax liens have been filed which would prime the future advance. Provided that the loan is a construction loan, a down date endorsement is appropriate. If the loan is not a construction loan, we suggest that you provide the lender with your form of an abstract product similar to a "Nothing Further Certificate" or "Title Report".

2008 Rules Hearing Order

✍ **Item 2008-32** –Amends the Leasehold Loan Policy Endorsement (T-5) to conform the language of the endorsement to the American Land Title Association Leasehold Loan Endorsement and to conform the language of the endorsement to the Loan Policy (T-2).

Actions/requirements: for agents and offices, none.

✍ **Item 2008-33** – Amends the Leasehold Owner's Policy Endorsement (T-4) to conform the language of the endorsement to the American Land Title Association Leasehold Owner's Endorsement and to conform the language of the endorsement to the Owner's Policy (T-1).

Actions/requirements: for agents and offices, none.

✍ **Item 2008-37** – Amends Procedural Rule P-54, titled *Access Endorsement*, to authorize issuance of the Access Endorsement (T-23) and to remove redundant language.

Actions/requirements: for agents and offices, none.

2008 Rules Hearing Order

✍ **Item 2008-38** –Amends Procedural Rule P-56 pertaining to (T-25) Contiguity Endorsement to include new requirements for new Contiguity Endorsement (T-25.1) that insures against loss or damage sustained by reason of the presence of any gaps, strips, or gores lying between contiguous parcels of insured lands and does not require the contiguous boundary lines of the various parcels of land to be specifically identified. The Department has amended new subsection D. by adding the clarifying language "non-residential" in two places to ensure that it is clear that the new Contiguity Endorsement (T-25.1) would only apply to non-residential property.

New Subsection D now reads as follows: *If the insured non-residential land is composed of four or more parcels, or if the insured non-residential land is composed of irregularly shaped parcels, a Company may, in its discretion, issue the Contiguity Endorsement (T-25.1).*

Actions/requirements: For agents and offices, none. It appears that this new language is intended to set a limit on the number of contiguity endorsements that can be issued in a single file by forcing the using of the new T-25.1 under the circumstances set out in subsection D.

2008 Rules Hearing Order

Item 2008-39 –Adopts a New Contiguity Endorsement (T-25.1) to insure against loss or damage sustained by reason of the presence of any gaps, strips, or gores lying between contiguous parcels of insured lands and that does not require the contiguous boundary lines of the various parcels of land to be specifically identified.

Actions/requirements: Be certain that you issue this endorsement form when you have more than 4 tracts or when tracts are irregularly shaped.

2008 Rules Hearing Order

Item 2008-40 –Amends Procedural Rule P- 20 Amendment of Standard Exception in Mortgagee Policy or Mortgagee Title Policy Binder on Interim Construction Loan (Interim Binder) Relating to Taxes to organize procedural rules regarding the standard tax exception and Bulletin 153 into one rule. This submission provides guidance to the title industry regarding current year and rollback taxes and it merges Procedural Rule 29, titled Amendment of Standard Exception in Mortgagee Policy Binder on Interim Construction Loan (Interim Binder) Relating to Taxes Not Yet Due and Payable to make it a part of Procedural Rule P- 20 subsection C.

Actions/requirements: None. Current practices remain the same; there will now only be one rule rather than having separate rules scattered about the rate rules.

2008 Rules Hearing Order

Item 2008-41 –Amends the Title Insurance Agent (L-1) administrative rule in Section VI of the Basic Manual to update statutory references in the rule.

Actions/requirements: none.

Item 2008-42 – Submission to amend the Audit and Review of the Agent/Direct Operations Escrow and Trust Accounts (G-2) administrative rule in Section VI of the Basic Manual to update statutory references in the rule.

Actions/requirements: none.

Item 2008-43 –Amends the Policy Guaranty Fee Remittance (T-G1) form in Section V of the Basic Manual to update the policy guaranty fee amount shown on the remittance form to reflect the correct amount due for each policy.

Actions/requirements: Please note that HB 4338, effective September 1, 2009 removed the \$5 maximum guaranty fee that may be collected by the Guaranty Association. The fee remains at \$5 until changed by the Guaranty Association. See Insurance Code Section 2602.152.

2008 Rules Hearing Order

Item 2008-44 –Amends the Requirements for Ceasing Operation by Agents and Direct Operations (D-1) administrative rule in Section VI of the Basic Manual to clarify the requirements of ceasing operation by agents or direct operations and to update statutory references in the rule.

Actions/requirements: Please note that HB 4338, effective September 1, 2009 amends several sections of the Insurance Code dealing with agents ceasing to do business. For example:

2008 Rules Hearing Order

Item 2008-44 (continued)

§ 2602.452 allows the Guaranty Association to engage or employ persons to close real estate transactions, disburse escrow funds and issue final title policies.

§ 2602.453 allows the Commissioner to direct the Guaranty Association to take the actions required in § 2602.452 as well as have full and complete access to all of the books, records and accounts of the "failed" or impaired agent and further requires cooperation with the Guaranty Associations by all present or former owners, managers, directors, trustees, officers, employees or agents of the agent by replying promptly in writing to any request for information by the Guaranty Association, making available to the Guaranty Association all books and records requested by the Guaranty Association. A person who fails to cooperate under these sections is subject to full sanctions available under the Code.

2008 Rules Hearing Order

Item 2008-46 –Amends the Reasonable Time for Furnishing Title Evidence (P-25) procedural rule in Section IV of the Basic Manual to provide a requirement for title agents and direct operations to maintain auditable records and documents that demonstrate compliance with the rule and to update statutory references in the rule.

Actions/requirements: P-25 now provides: "Such auditable records include, but are not limited to, letters, faxes, e-mails, fax confirmations, and certified mail receipts."

Item 2008-47 –Amends the Statement of Assessment Received from and Recoupments Distributed to Title Insurance Company (T-G3) form in Section V of the Basic Manual.

Actions/requirements: for agents and offices, none applies only to underwriters.

Item 2008-48 – Submission to amend the Guaranty Assessment Recoupment Charge Remittance (T-G2) form in Section V of the Basic Manual.

Actions/requirements: for agents and offices, none applies only to underwriters.

2008 Rules Hearing Order

Item 2008-49 – Submission to amend the Supplemental Coverage Manufactured Housing Unit Endorsement (T-31.1) in Section II of the Basic Manual to remove a reference to "serial number" in the form and to insert a reference to the "policy number."

Actions/requirements: none. The explanation provided is adequate.

Item 2008-50 – Submission to amend the Leasehold Mortgage Policy Endorsement (T-5) in Section II of the Basic Manual to remove a reference to "serial number" in the form.

Actions/requirements: none. The explanation provided is adequate.

Item 2008-51 – Submission to amend the Leasehold Owner Policy Endorsement (T-4) in Section II of the Basic Manual to remove a reference to "serial number" in the form.

Actions/requirements: none. The explanation provided is adequate.

Item 2008-52 – Amended submission to amend the Policy Guaranty Fee (G-1) administrative rule in Section VI of the Basic Manual to update statutory references in the rule.

Actions/requirements: none. The explanation provided is adequate.

2008 Rules Hearing Order

Item 2008-53 – Submission to amend the Title Insurance Escrow Officer (L-2) rule in Section VI of the Basic Manual to provide a procedure for a title agent or direct operation to notify the Department upon a change of name of a licensed escrow officer and to update statutory references in the rule.

Actions/requirements: The applicable section now reads: *Upon a change in the name of a licensed escrow officer, written notification must be made to the Title Division of the Texas Department of Insurance by the title insurance agent/direct operation. Written notification must be by letter and must include the new name and the reason for the name change, such as marriage or divorce. The written notification must be accompanied by the escrow officer's current, original license and an original rider for the Texas Escrow Officers Schedule Bond on file with this Department for the title agent/direct operation changing the escrow officer's name on the bond.*

While no changes has been made to the preceding section of the L-2 rule dealing with addresses, we do call you attention to HB HB 652 by Darby

- Deals with escrow officers who live across state line.
- Section 2652.051, Insurance Code, is amended by amending Subsection (c) and adding Subsection (d).
- The escrow officer may live any where in an adjoining state but must be a bona fide employee of a title insurance agent or direct operation with an office in this state.
- (d) Notwithstanding Sections 406.004 and 406.020, Government Code, a person qualified under this section as an escrow officer may hold a license and operate as a notary public under Chapter 406, Government Code.
- Passed effective 9-1-09

2008 Rules Hearing Order

Item 2008-54 – Submission to amend the Statistical Plan to provide a Rate Code for the new Co-Insurance Endorsement (T-48) and to add reporting codes for the new personal property title insurance forms and endorsements.

Actions/Requirements: The new rate code for the T-48 endorsement is 0896 which you will need to insert into the form when remitting to us. There is no charge for this endorsement. You will not be issuing personal property title insurance forms as that is the duty of the underwriter.

THANK YOU!

- For Escrow Officer Credit please email password and attendees names to ken.wrider@stewart.com for certificate (Please do this as soon as possible. Certificates will not be produced after the start of our next webinar)
- Attorneys email bar card number to Ken Wrider for CLE credit
- Next Texas TIPS Online October 15, 2009, "Spooky Claims 2009" by Susan Withers
- Questions/Comments? Email fred.schraub@stewart.com
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