

## **Personal Property Title Insurance Primer for Title Agents and Offices**

Texas Insurance Commissioner Mike Geeslin approved Stewart Title Guaranty Company's forms and rates for personal property title insurance effective July 2, 2008. Texas now has substantially the same forms and rates as a number of other states.

Stewart manages its personal property title insuring from our Glendale California office where a team of personal property title insurance specialists handle files from around the United States.

- 1. What types of personal property can be insured?**
  - a. Furniture and fixtures in a restaurant
  - b. Furniture and fixtures in an office
  - c. Computers, servers and peripherals in a data center
  - d. Equipment and machinery in a factory
  - e. Equipment, tubing and towers in a refinery
  - f. Certain types of inventory financing
  - g. Mezzanine financing and loans securing the equity interests of LLC's, LP's etc. on entities acquiring the interests in or who already own the real property
- 2. How does the lender perfect a lien for this stuff?**
  - a. The lender perfects a lien by having the borrower execute a note, mortgage instrument, loan agreement, security agreement and financing statement. The financing statement is filed in the appropriate Secretary of State's office (or state equivalent).
- 3. Where is the appropriate secretary of state's office?**
  - a. The state where the borrower is incorporated or in which it has its primary office.
- 4. How do I know where that is? How can I search those records?**
  - a. Initially, at order placement, you may not know. However, working with the lender and borrower, our personal property title insurance specialists will make that determination.
  - b. You, the Texas title company, do not make the search. Stewart hires outside search firms with the knowledge, expertise and data bases to perform these searches nationally. In Texas, the search fee is part of the premium.
- 5. What do I do with an order for personal property title insurance?**
  - a. Orders should be placed with our office in Glendale California. They can be reached as follows:
    - i. Stewart Title Guaranty Company 525 North Brand Street, Suite 800A, Glendale California 91203, phone 818-547-2030. Michael Choy heads this department.
- 6. Who closes? Who issues?**

- a. Stewart Title Guaranty Company causes the search to be done, examines the search results, issues a commitment for title insurance, closes the transaction and issues the policy.

**7. What do I, the Texas title insurance agent do? How do I get paid?**

- a. You place the order and handle any real property title insurance necessary.
- b. You get paid as normal for real property title insurance.
- c. When the loan funds, you get a 30% commission of the personal property title insurance premium for simply making the referral to Stewart Title Guaranty Company.

**8. Doesn't that violate RESPA or Texas law?**

- a. No. RESPA only applies to residential real estate transactions. And Texas law specifically allows for the commission and the process outlined.

**9. What are the rates?**

- a. Stewart's rates are set out on the attachment to this memorandum

**10. I don't see any of this stuff in the TDI Rate Manual.**

- a. Since agents have so little part of the process, the industry parties asked the commissioner to place all of the rules and forms in a new section of the TDI Rate Manual. He agreed and this new section will be made available shortly.

**11. How do I get some of this business?**

- a. Be alert to the kinds of deals discussed above. Discuss the transactions with borrower and lender to see if the loan is being secured in total or in part by personal property. Ask if they are going to want the personal property secured and if they will want the transaction fully insured.
- b. Because the filing requirements are not based on the location of the collateral but rather the situs of the borrower, Texas personal property title insurance will only be issued when the borrower is a Texas based entity. However, if you have Texas real property with an out of Texas borrower and part of the collateral is personal property, you should still discuss the transaction with the lender and borrower and sell them on personal property title insurance. As set out in the attachment, when Stewart is issuing real property title insurance and personal property title insurance policies simultaneously in the same transaction, the real property policy bears its normal premium and the personal property title insurance policy gets a 10% credit off its premium, with a \$500 minimum premium. Stewart will still pay a 30% commission if we issue such a policy.
- c. If you are wondering whether to get involved in this line of title insurance, please be aware that our national average personal property title insurance policy is issued for a \$12,500 premium. We believe that we will find more but smaller deals in Texas provided that agents and issuing offices are alert to the possibilities of providing this line of insurance.

**12. Are there endorsements?**

- a. Yes. A number of endorsements can be issued. They are specialized to this type of title insurance product. They bear additional premium. Our Glendale office can price the product when they discuss with the lender and borrower.

**13. If the customer wants to use some other forms, can Stewart provide those forms?**

- a. The commissioner also approved forms and rates filed by First American and Fidelity.
- b. What this means is that any company can use the promulgated forms approved by the commissioner. In that sense, the forms are not the copyrighted property of the company that requested them.
- c. Stewart believes that its forms and rates provide the best value for a customer. So, while you may certainly respond ‘yes’ to an inquiry as to the use of other forms, please do not commit to their use. Please let our Glendale specialists discuss forms and rates with the customer.

**14. I do timber deals where the lender takes a UCC financing statement for the cut timber. Why should I consider personal property title insurance? Won't the cost and division of premium be less?**

- a. Standing timber (called stumpage) is a real property interest and certainly can be covered by the real property title insuring products.
- b. Cut timber is personal property and rightfully can only be covered by the personal property title insuring products.
- c. Depending on the type of wood and location, the typical increase in value of cut wood over stumpage ranges from 30-100% and more. It is this increase in value that the personal property line can insure.
- d. Company policy is that we will assume that cut timber has a minimum value of at least 25% more than stumpage but that the lender and borrower must provide an appraised value and allocation of the cut timber's value to the loan amount. We generally will not offer personal property insurance for less than 25% more than the stumpage value.
- e. Since the personal property title insurance line only insures the increase in value, this is additional insurance coverage that is not available in the real property title insurance line. So, the lesser premium rate and division of premium is an add-on value for the title agent, not a decrease.

**ITEM 2007-58**

**PPT R-1. Rate for the Personal Property Title Insurance Owner's Policy (PPT-1) or the Personal Property Title Insurance Lender's Policy (PPT-2)**

The premium for the Personal Property Title Insurance Owner's Policy (PPT-1) or the Personal Property Title Insurance Lender's Policy (PPT-2) shall be as follows:

**A. BASIC RATE:**

<b>AMOUNT OF INSURANCE:</b>	<b>BASIC RATES (for amount of insurance excess of prior bracket of liability):</b>
\$0 up to and including \$100,000	\$500.00
\$100,001 to \$300,000	\$3.85 for each \$1000 of additional insurance (or any portion thereof)
\$300,001 to \$1,000,000	\$2.00 for each \$1000 of additional insurance (or any portion thereof)
\$1,000,001 to \$3,000,000	\$1.50 for each \$1000 of additional insurance (or any portion thereof)
\$3,000,001 to \$5,000,000	\$1.25 for each \$1000 of additional insurance (or any portion thereof)
\$5,000,001 to \$10,000,000	\$1.00 for each \$1000 of additional insurance (or any portion thereof)
\$10,000,001 to \$25,000,000	\$0.85 for each \$1000 of additional insurance (or any portion thereof)
\$25,000,001 to \$50,000,000	\$0.65 for each \$1000 of additional insurance (or any portion thereof)
\$50,000,001 and above	\$0.50 for each \$1000 of additional insurance (or any portion thereof)

**B. SIMULTANEOUS RATE**

If a Personal Property Title Insurance Lender's Policy (PPT-2) is issued simultaneously with a Personal Property Title Insurance Owner's Policy (PPT-1), the rate shall be the Basic Rate for the Amount of Insurance for the policy with the larger amount of insurance, plus \$500 for the additional policy.

**C. MIXED COLLATERAL TRANSACTIONS**

In transactions of any amount where both personal property and real property secure the same indebtedness, and the title insurance company issues personal property title insurance policies simultaneously on both the real property and personal property, the rate for the personal property title insurance policies shall be 90% of the applicable rate, but in no event less than \$500 for each policy.