

TDI PROCEDURAL RULE CHANGES 2009

Presented by
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March 18, 2010

HOUSEKEEPING

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- If you have any questions for the speaker, please use the online chat feature.
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- Note: PowerPoint and audio for the February 18, 2010 "RESPA Update" webinar is now available at www.stewarttexas.com
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Texas Title Insurance 2008 Biennial Hearing

- Rule making phase of the 2008 hearing
- Hearing on October 2, 2008
- Effective date of adopted agenda items: February 1, 2010

■ rule

- *Noun*

- 1. a principle or regulation governing conduct, action, procedure, arrangement, etc.: *the rule of chess.*

- (source: *dictionary.com*)

What kinds of changes resulted from the 2008 hearing?

- New Requirements
- New Options
- New Products
 - Rules accompanying new forms
- Rule Clarifications
- Housekeeping

New Requirements

"You have to learn the rules of the game. And then you have to play better than anyone else."

-Albert Einstein

P-25

- Reasonable Time for Furnishing Title Evidence
- Agents and direct operations are now required to maintain auditable records and documents that demonstrate compliance with the rule
- Also updated statutory references to this procedural rule

What do you need to do?

- Title agents and direct operations who request that title evidence be provided by another title agent or direct operation when ordering and/or providing title will need to keep copies of e-mails, faxes, letters, and other written materials reflecting the relevant dates so that you can prove your compliance with this rule.

New Options

"Knowing the rules and remembering the rules are two completely different things."

-Simon Travaglia

P-17

- Electronically Produced, filed or Recorded forms, Instruments or Documents
- Amendment to Procedural Rule P-17 to allow a pass-through to consumers of electronic filing fees in accordance with HB 3073, as enacted by the 81st Legislature, effective January 1, 2010.

What do you need to do?

- This amendment recognizes the change in the law necessary to have TDI allow charges made by third-party providers to electronically record documents.
- You may pass through the exact charge made, but you may not pass through estimated charges.

P-70 (new rule)

- Cancellation Fees: Fees for Services Rendered.
- Defines and prohibits cancellation fees.
- Allows fees for furnishing title evidence or examination.
- P-24 Agreements may provide for a flat fee for furnishing title evidence and examination instead of a percentage of premium.

What do you need to do?

- You may enter into agreements with other title companies to provide title evidence for a fee.
- You may not charge a consumer (individual, entity or lender) a fee when a file fails to closed.

P-71 (new rule)

- Texas Limited Coverage Residential Chain of Title Policy.
- This is a new product available only for residential properties and to institutional lenders, mortgage bankers, and insurers.

What do you need to do?

- Cannot be issued until a rate is set by TDI.
- For Residential property *only*.
- Names last grantee in vesting deed, and shows other deeds and leases in chain of title for up to the past 60 months.
- Issued only to institutional lenders, not to individuals.
- No split of premium will be permitted! Title agent doing the search retains all of the premium.

P-55

- Amendment to rule to provide that the (Non-Imputation Mezzanine Financing Endorsement) (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).
- Allows non-imputation coverage provided in paragraph 4 of the OTP to be assigned by the Insured to a Mezzanine Lender.
- New product (T-24.1) is equivalent to the ALTA 16-06.

What is mezzanine financing?

- Mezzanine financing occurs when the lender in a commercial transaction takes an equity position in a project in return for making loan concessions.

What do you need to do?

- Can not be issued until a rate is set by TDI.
- Only available on non-residential property.
- You will need to follow basic non-imputation procedures to assure the new investors in, or owners of the titleholder do not have knowledge of matters that were known or created by prior owners if they are not excepted in Schedule B of the OTP.

P-56

- Contiguity Endorsement (T-25.1)
- Amends procedural rule P-56 providing that the new Contiguity Endorsement may be issued when the covered land is composed irregularly shaped parcels, or composed of 4 or more parcels.
- Use existing Rate Rule R-32.
- The proper language. (Agents and offices using Stewart software will have the changes made automatically).

What do you need to do?

- Non-residential use only
- Change your form to use the proper language
- Insures against strips and gores
- Use where more than four adjacent parcels, or
- Use where parcels are irregularly shaped.

P-69 (new rule)

- Issuance of Insured Closing Letters.
- Prohibits the issuance of Insured Closing Letters by (P-22) attorneys who are not licensed as escrow officers.
- Clarifies TDI prohibition of this practice.
- Does not apply to fee attorneys who are licensed as escrow officers.

What do you need to do?

- Be sure that only escrow officers licensed by TDI handle money or documents.
- Do not issue Insured Closing Letters to others.
- You may cause a Stewart Title Guaranty Company ICL to be issued only in appropriate situations.

P-20

- Reorganization of Procedural Rules regarding the standard tax exception and Bulletin 153 into one Procedural Rule.
- Eliminates Procedural Rule P-29 but merges the rule to make it part of Procedural Rule P-20
- Includes additional Amendments to Procedural Rule P-20.
- Amends P-20 to provide standard exception for taxes, and to insure that taxes are paid for the current year by use of escrow and indemnity agreement.

What do you need to do?

- The revised rule permits insuring against rollback taxes under current industry standards.
- Does not eliminate TDI Bulletin 153, since the rule still provides that if current year taxes are not yet assessed, then they may not be insured as paid.

New Products

"It is a good idea to obey all the rules when you're young just so you'll have the strength to break them when you're old."

-Mark Twain

Texas Limited Coverage Residential Chain of Title Policy (T-53)

- New form
- Available only for residential properties and to institutional lenders, mortgage bankers, and insurers
- Only available when a rate has been established
- No rate has been established at this time
- P-71

Housekeeping

"When everything else fails
read the instructions."

-Anonymous

P-36

- Arbitration Provision
- Amends Procedural Rule P-36 to allow for deletion of the arbitration provision on Schedule A of the Loan Policy or the Owner's Policy
- Amends outmoded references relating to the Mortgagee and Owner Policy forms

What do you need to do?

- Nothing except change your form to use the proper language.
- Agents and offices using Stewart software will have the changes made automatically

P-21

- Contents of Schedule D to Commitment for Title Insurance.
- Conforms the language of the rule with the language of the form by amending outmoded references relating to the Mortgagee and Owner Policy forms.
- Amends outmoded reference to the State Board of Insurance.

What do you need to do?

- Nothing except change your form to use the proper language.
- Agents and offices using Stewart software will have the changes made automatically

P-9.b(8)

- Endorsement of Owner's or Loan Policies
- Amends the rule to conform the language of the rule with the newly named Future Advance/Revolving Credit Form (T-35)
- Deletes the requirement that the Loan Policy show by endorsement that the lien being insured secures a revolving credit type of indebtedness

What do you need to do?

- Nothing except change your form to use the proper language.
- Agents and offices using Stewart software will have the changes made automatically

P-9.b(6)

- Amends the Procedural Rule to conform the language of the previously re-named Variable Rate Mortgage Endorsement (T-33) and the Variable Rate Mortgage-Negative Amortization Endorsement (T-33.1)

What do you need to do?

- Nothing except change your form to use the proper language
- Agents and offices using Stewart software will have the changes made automatically

P-7

- Name of Insured on Loan Policy of Title Insurance or Proposed Insured on Commitment for Loan Policy of Title Insurance.
- Changes the language in paragraphs B and C to conform with the language of the:
 - Owner's Policy (T-1)
 - Loan Policy (T-2)
- And the proposed changes to the Texas Residential Owner Policy of title Insurance – One-To-Four Family Residences (T-1R), Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R), and the Mortgagee Title Policy Binder on Interim Construction Loan (T-13)

What do you need to do?

- Nothing except change your form to use the proper language
- Agents and offices using Stewart software will have the changes made automatically

P-9

- Endorsement of Owner's and Loan Policies
- Amendment to eliminate the procedure for issuance of the Last Dollar Endorsement (T-15) which has been rescinded

What do you need to do?

- Nothing except change your form to use the proper language
- Agents and offices using Stewart software will have the changes made automatically

P-54

- Access Endorsement
- Amends Procedural Rule P-54 to authorize issuance of the Access Endorsement (T-23) and to remove redundant language

What do you need to do?

- Nothing except change your form to use the proper language
- Agents and offices using Stewart software will have the changes made automatically

One last thought . . .

"Rule A: Don't. Rule A1: Rule A doesn't exist. Rule A2: Do not discuss the existence or non-existence of Rules A, A1 or A2."

-R.D. Laing

THANK YOU!

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