

Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas
28 TAC §9.1

Subchapter C. Texas Title Insurance Statistical Plan
28 TAC §9.401

INTRODUCTION. The commissioner adopts amendments to 28 TAC §9.1 and §9.401, which adopt by reference the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas* (Basic Manual) and the *Texas Title Insurance Statistical Plan* (Statistical Plan). The commissioner adopts §9.1 and §9.401 and the amendments and new sections of the Basic Manual and the Statistical Plan without changes to the proposed text published in the May 31, 2024, issue of the *Texas Register* (49 TexReg 3908).

REASONED JUSTIFICATION. The new and amended sections of the Basic Manual and Statistical Plan reflect changes that the commissioner approved for the formal rulemaking proposal in an order dated December 21, 2023. The order followed a hearing on November 15, 2023, where the commissioner presided over a petition by the Texas Land Title Association (TLTA) for most of the changes and a proposal by TDI staff for the remaining changes. The commissioner's order and the exhibits at the hearing provide a detailed justification for the various changes and additions to the Basic Manual and Statistical Plan. These are summarized as follows:

-The rates for several endorsements, mostly associated with commercial-level transactions, increased because they did not compensate the title industry for the labor and risk required for them. Most of these rates had not changed for several decades.

- Endorsements for certain transactions, particularly energy projects, needed to be updated, or new forms needed to be promulgated, to better cover certain risks.

- Some processes unnecessarily required notarization. Removing the notarization requirement from licensing forms and allowing the use of an unsworn declaration for statements related to a prior survey increases efficiency, reduces burdens on licensees and consumers, and reduces consumer expense.

- Some forms needed to be updated to more closely reflect industry updates that have occurred in other states and with other industries, such as accounting and estate planning, that have updated requirements or practices that were not adequately reflected in current forms.

- Some forms and procedures needed to be amended to clarify coverage or remove references to obsolete laws.

- Some rules in the Basic Manual and parts of the Statistical Plan needed corrections.

- Nonsubstantive changes related to plain language and rule drafting preferences needed to be made for clarity and to conform with current TDI style guidelines.

The item numbers below identify the adopted amendments to the Basic Manual and Statistical Plan. Each item number represents amendments to, or the addition of, specific rules or forms in the Basic Manual and parts of the Statistical Plan. The item numbers in this order match the numbers used in the proposal. They are for organizational purposes only and do not represent formal agenda items from a call for rulemaking.

TDI adopts amendments to these items as described in the following paragraphs.

Item 2023-1. TDI adopts amendments to Rate Rule R-11.c, affecting the following Basic Manual items:

1. Form T-3 (Assignment of Mortgage Endorsement): Increases the premium to the minimum Basic Premium Rate plus \$100 for each additional full or partial 12-month period after the first anniversary of the initial policy date. Previously, the premium was the minimum Basic Premium Rate.

2. Form T-38 (Partial Release, Release of Additional Collateral, Modification Agreement, Reinstatement Agreement, or Release from Personal Liability Endorsement): Increases the premium to the minimum Basic Premium Rate plus \$25 per year between the issuance of the endorsement and the policy. Previously, the premium was \$100 plus \$10 per year between the issuance of the endorsement and the policy.

3. Form T-3 (Down Date Endorsement): Increases the premium to \$100 for nonresidential construction projects. The premium remains \$50 for residential construction projects. Previously, the premium was \$50 for any construction project, whether residential or nonresidential.

The adopted amendments also change the lettering convention on the subsections from lowercase to uppercase and make plain language edits.

Item 2023-2. TDI adopts amendments to Rate Rule R-15.b to increase the premium for the Form T-3 "down date endorsement" for Owner's Policies to \$100 for nonresidential construction projects. The premium remains \$50 for residential construction projects. Previously, the premium was \$50 for any construction project, whether residential or nonresidential.

Item 2023-3. TDI adopts amendments to Rate Rule R-30 to increase the premium for Access Endorsements (Form T-23) to \$100 for each Access Endorsement issued under a policy. Previously, the premium was \$100 for all Access Endorsements issued under a policy. The adopted amendments also make plain language edits.

Item 2023-4. TDI adopts an amendment to Form T-1R, Residential Owner's Policy of Title Insurance One-to-Four Family Residences, removing the parenthetical "(Applies to Owner's Policy only)" in Schedule B, Item 3 of the form.

Item 2023-5. TDI adopts amendments to Form T-16, Loan Policy Aggregation Endorsement, to conform more closely to the American Land Title Association (ALTA) form used in other states. The adopted amendments also make plain language edits, renumber the subsections, and restructure the form text for greater clarity and easier reading.

Item 2023-6. TDI adopts amendments to Forms T-19, T-19.1, T-19.2, and T-19.3, which are a series of endorsements that include coverage for damage to improvements because of mineral extraction or development. The amendments make coverage across the forms more consistent and update Forms T-19.2 and T-19.3 to conform with their model form equivalents from ALTA.

Item 2023-7. TDI adopts amendments to Forms T-1 and T-2 to clarify provisions related to survey coverage.

Item 2023-9. TDI adopts amendments to subsection C of Procedural Rule P-20 to allow title insurers to specify for which year the policy insures “taxes not yet due and payable.”

Item 2023-11. TDI adopts amendments to Procedural Rule P-57 to allow for more legal entities used in estate planning to be an additional insured on the Additional Insured Endorsement (Form T-26) and to allow the endorsement to be added up to 90 days after title is conveyed to the additional insured.

Item 2023-13. TDI adopts amendments to Procedural Rule P-2 and adopts Form T-47.1 to allow an unsworn declaration to be used to affirm that a property is essentially unchanged since a previous survey was issued. New Form T-47.1 can be used instead of the Form T-47, Survey Affidavit. TDI also adopts amendments to Form T-47 to allow for a single declarant and make plain language edits.

Item 2023-16. TDI adopts amendments to Procedural Rule P-9.b.8, Rate Rule R-11.f, and Form T-35 to clarify that the endorsement covers only revolving credit arrangements for construction projects, not other kinds of future advances.

Item 2023-18. TDI adopts an endorsement, Energy Project - Minerals and Surface Damage Endorsement (Form T-19.4), to provide surface damage coverage for severable improvements that would not be insured under the other forms that cover surface damage related to mineral extraction (Forms T-19, T-19.1, T-19.2, and T-19.3). TDI also adopts Procedural Rule P-50.2 to govern use of the endorsement, and Rate Rule R-29.2 to set a premium for the endorsement: 5% of the Basic Premium Rate. The endorsement

can only be used if it is issued simultaneously with an energy project endorsement, as described in Item 2023-B.

Item 2023-21. TDI adopts amendments to Internal Control No. 5 to explicitly allow for electronic signatures on escrow checks.

Item 2023-22. TDI adopts amendments to Form PC-150 to update and align it with the Texas State Board of Public Accountancy standards.

Item 2023-23. TDI adopts an amendment to Form T-11 to correct a clerical error on the form where the last item on a numbered list did not have its corresponding number.

Item 2023-24. TDI adopts amendments to Form PC-417 to update TDI's mailing address on the form.

Item 2023-25. TDI adopts amendments to Licensing Forms FINT 08, FINT 09, FINT 10, FINT 129, and FINT 143 to remove the notarization requirement and replace it with an unsworn declaration.

Item 2023-26. TDI adopts amendments to the Statistical Plan to update codes related to Rate Rule R-8 so that the plan matches the transaction descriptions that changed when Rate Rule R-8 was amended in 2019. The adopted amendments also include codes that match the adopted items described in Items 2023-1, 2023-2, 2023-18, 2023-B, and 2023-

C. TDI also adopts the amendments to use clearer and more consistent descriptions and improved style and formatting that reflect current TDI style preferences.

Item 2023-27. TDI adopts amendments to update TDI's mailing address, email address, and physical address where they are listed in the Basic Manual to reflect TDI's move from its previous location in the William P. Hobby Building at 333 Guadalupe Street, Austin, Texas 78701, to the Barbara Jordan State Office Building at 1601 Congress Avenue, Austin, Texas 78701, and also add TDI's Title Examinations email address as another way to communicate with TDI. The adopted amendments change TDI's address in the following places in the Basic Manual:

- Section V, Exhibit & Forms, Report forms for Audit of Trust Funds (TDI Title Forms PC 150)

- Section VI, Administration Rules, Rule D-1: Requirements for Ceasing Operations by Agents and Direct Operations, Section I, A

- Section VI, Administration Rules, Rule S.1: Minimum Capitalization Standards for Title Agents Pursuant to §2651.012 and Certification and Procedure to Determine Value of Assets Pursuant to §2651.158, Section III, C, D, and E

- Section VI, Administration Rules, Rule S.4: Title Company Requirements, Procedures, and Forms for Providing Privileged Title Agent Financial Solvency Information to the Department Pursuant to §2651.011, # A - 2 and 3, # B - 1 and 2

- Section VI, Administration Rules, Rule S.5: Filing of Title Agent's Quarterly Withholding Tax Report, Section III and Section IV

- Section VI, Administration Rules, Rule S.7: Surety Bond for Title Agents to Comply with Minimum Capitalization Standards, Section I, # E

Item 2023-A. TDI adopts amendments to Form T-50, the Insured Closing Service Letter, to conform more closely to recent changes in ALTA's model Closing Protection Letter, including the addition of language that excludes computer-related fraud. TDI also adopts the amendments to update formatting to reflect current TDI style, using plainer language and 12-point Segoe UI font, consistently numbering and lettering paragraphs, and organizing information more clearly.

Item 2023-B. TDI adopts six endorsements that are specifically tailored to provide coverage of severable improvements in different scenarios in connection with electrical energy projects: Forms T-55, T-55.1, T-55.2, T-55.3, T-55.4, and T-55.5. TDI adopts a rate rule to establish a premium for each endorsement: 5% of the Basic Premium Rate (Rate Rule R-37). TDI also adopts amendments to Procedural Rule P-72 to govern use of the six endorsements. TDI also adopts amendments to Procedural Rule P-72 to govern the use of another severable improvements endorsement form, Form T-54; and TDI adopts Rate Rule R-37 to establish a premium of 5% of the Basic Premium Rate for the Form T-54 endorsement. TDI also adopts amendments to update the formatting to reflect TDI style, using plainer language and 12-point Segoe UI font, consistently numbering and lettering paragraphs, and organizing information more clearly.

Item 2023-C. TDI adopts amendments to Procedural Rule P-1.u. to broaden the description of residential real property. The amendments allow immediately contemplated improvements to be considered residential properties on currently unimproved land. The amendments also loosen the acreage restrictions, including

removing the agricultural production requirement for large residential properties between 10 and 200 acres. TDI also adopts amendments to Rate Rule R-16 to allow a 5% survey coverage rate to be applied to residential property when an Owner's Policy (Form T-1) is issued, not just when a Residential Owner Policy (Form T-1R) is issued. TDI also adopts amendments to update the formatting to reflect TDI style, using plainer language and 12-point Segoe UI font, consistently numbering and lettering paragraphs, and organizing information more clearly.

Item 2023-D. TDI adopts amendments to subparagraph 2.b of the Equity Loan Mortgage Endorsement (Form T-42) to delete the previous language and insert a statement that the subparagraph is intentionally deleted because of an amendment to the Texas Constitution. The Texas Constitution amendment made the subparagraph obsolete.

Item 2023-E. TDI adopts amendments to subsections B, C, and D of Rate Rule R-5 (Simultaneous Issue of Owner's Policy and Loan Policy) to clarify that the simultaneous issue discount is available in combination with other applicable rate discounts. TDI adopts amendments to subsections F of Rate Rule R-5 to lower the Owner's Policy amount threshold for that subsection to \$1 million, restrict the subsection to nonresidential property transactions, and qualify that the subsequent Loan Policy must be issued by the same company that issued the Owner's Policy. TDI also adopts amendments to update the formatting to reflect TDI style, using plainer language and 12-point Segoe UI font, consistently numbering and lettering paragraphs, and organizing information more clearly.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on July 1, 2024.

Commenters: TDI received comments from three commenters. Commenters in support of the proposal were TLTA and Texas REALTORS. A commenter in support of the proposal with changes was the Texas Society of Professional Surveyors.

Comments on §9.1

Comment. One commentor agrees with the entirety of the proposal and thanks TDI for its diligent work.

Agency Response. TDI appreciates the support.

Comment. One commentor supports the changes to Procedural Rule P-2 and Forms T-47 and T-47.1, allowing unsworn declarations to be used instead of a notary.

Agency Response. TDI appreciates the support.

Comment. One commentor suggests changes to Procedural Rule P-2 and Forms T-47 and T-47.1. The commenter suggests adding a written disclosure form to describe what perjury is and criminal penalties for perjury. The commenter also suggests adding safeguards to prevent survey misuse related to copyright protections and to prevent the reuse of a survey in transactions that do not involve the original purchaser of the survey.

Agency Response. TDI declines to make the suggested changes. The unsworn declaration and affidavit forms already have language warning about the penalty of perjury. A written disclosure form summarizing the meaning of perjury and describing criminal penalties for perjury is unnecessary.

Insurance Code §2704.102, Procedural Rule P-2, and Forms T-47 and T-47.1 are concerned with underwriting area and boundary coverage in a title policy. Insurance Code §2704.102 explicitly gives title companies providing area and boundary coverage the discretion to accept a survey regardless of its age or the identity of the person for whom the survey was prepared. Procedural Rule P-2 and Forms T-47 and T-47.1 enable title companies to exercise the underwriting discretion granted by statute. TDI declines to introduce restrictions that seem unrelated to underwriting.

**Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title
Insurance in the State of Texas
28 TAC §9.1**

STATUTORY AUTHORITY. The commissioner adopts amended §9.1 under Insurance Code §§2551.003, 2651.002, 2651.007, 2652.051, 2703.054, 2703.101, 2703.151, 2703.208, and 36.001.

Insurance Code §2551.003 authorizes the commissioner to adopt and enforce rules that prescribe underwriting standards and practices, that define risks, and that the commissioner determines are necessary to accomplish the purposes of the Title Insurance Act.

Insurance Code §2651.002 requires that a title agent must file an application for an agent's license on forms provided by TDI.

Insurance Code §2651.007 requires that TDI prescribe title agent licensing renewal forms.

Insurance Code §2652.051 requires that an escrow officer file an application for an escrow officer's license on forms provided by TDI.

Insurance Code §2703.054 authorizes the commissioner to amend owner title insurance policy language and endorsements to implement Insurance Code Chapter 2703, Subchapter A.

Insurance Code §2703.101 requires the commissioner to prescribe an owner title policy form to be used in connection with a transaction involving residential real property in this state.

Insurance Code §2703.151 requires the commissioner to fix and promulgate premiums rates charged by title insurance companies and agents.

Insurance Code §2703.208 provides that any addition or amendment to the Basic Manual may be proposed and adopted by reference by publishing notice in the *Texas Register*.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.**§9.1. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas.**

The Texas Department of Insurance adopts by reference the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* (Basic Manual) as amended, effective November 1, 2024. The Basic Manual is available on the TDI website at www.tdi.texas.gov.

Subchapter C. Texas Title Insurance Statistical Plan
28 TAC §9.401

STATUTORY AUTHORITY. The commissioner adopts amended §9.401 under Insurance Code §§2551.003, 2703.151, 2703.153, 2703.208, and 36.001.

Insurance Code §2551.003 authorizes the commissioner to adopt and enforce rules that prescribe underwriting standards and practices, that define risks, and that the commissioner determines are necessary to accomplish the purposes of the Title Insurance Act.

Insurance Code §2703.151 requires the commissioner to fix and promulgate premiums rates charged by title insurance companies and agents.

Insurance Code §2703.153 requires the commissioner to develop and maintain a statistical report for the use of fixing and promulgating premium rates. The commissioner is required to evaluate the statistical report not less than every five years to see whether changes are required and amend it as necessary.

Insurance Code §2703.208 provides that any addition or amendment to the Basic Manual may be proposed and adopted by reference by publishing notice in the *Texas Register*.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.

§9.401. Texas Title Insurance Statistical Plan.

The Texas Department of Insurance adopts by reference the rules in the *Texas Title Insurance Statistical Plan* as amended effective January 1, 2025. This document is published by and is available from the Texas Department of Insurance, MC: PC-ACT, P.O. Box 12030, Austin, Texas 78711-2030. This document is also available on the TDI website at www.tdi.texas.gov.

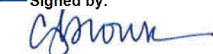
CERTIFICATION. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on September 25, 2024.

Signed by:

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Jessica Barta, General Counsel
Texas Department of Insurance

The amendments to 28 TAC §9.1 and §9.401 are adopted.

Signed by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-8851