

**Notice of Public Hearing**  
2012 Texas Title Insurance Periodic Hearing

DOCKET NO. 2732

The Commissioner of Insurance (commissioner) will hold a title insurance hearing on February 28, 2012, to consider adoption of premium rates and other matters relating to regulating the business of title insurance.

The hearing will begin at 9:30 a.m. in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas, on February 28, 2012, and will continue thereafter at dates, times, and places designated by the commissioner until its conclusion.

The commissioner calls the hearing under Insurance Code §2703.202 and §2703.206. In accordance with §2703.202(c), the commissioner will conduct the hearing as a rulemaking hearing. However, the State Office of Administrative Hearings may conduct the ratemaking portion as a contested case hearing, in accordance with Insurance Code Chapter 40 and Government Code Chapter 2001, Subchapters C through H. This may occur at the commissioner's direction or at the request of one of the parties listed in Insurance Code §2703.202(d). In the event of a contested case hearing, the commissioner will certify the matters that must be heard as contested cases.

Authority, Jurisdiction, Statutes, and Rules Involved

The commissioner has jurisdiction over the promulgation of rules and premium rates, over amendments to or promulgation of approved forms, and over other matters set out in this notice pursuant to Insurance Code §31.021 and §2551.003, and Insurance Code Chapters 2501, 2703, 2751; and pursuant to Administrative Code Title 28, Chapter 9. The hearing procedure will follow the Administrative Code Rules of Practice and Procedure before the Department of Insurance (28 TAC §§1.1-1.208) and the Administrative Procedure Act (Government Code Chapter 2001).

Matters to be Considered

The commissioner will consider testimony presented and information filed by title insurers, title agents, Texas Department of Insurance (TDI) staff, and other interested parties relating to the following issues:

Item No.	Submitted By	Description
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2012-1	Texas Land Title Association (TLTA)	Amends Form T-7, Commitment for Title Insurance, to correct typographical errors and conform the language to other rules and forms in the Basic Manual.
2012-2	TLTA	Amends Form T-1, Owner's Policy of Title Insurance, to correct margins and conform the language to other rules and forms in the Basic Manual.
2012-3	TLTA	Amends Form T-2, Loan Policy of Title Insurance, to correct margins.
2012-4	TLTA	Amends Form T-43, Texas Reverse Mortgage Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-5	TLTA	Amends Form T-42, Equity Loan Mortgage Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-6	TLTA	Amends Form T-42.1, Supplemental Coverage Equity Loan Mortgage Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-7	TLTA	Amends Form T-38, Mortgagee Policy of Title Insurance P-9.b.(3) Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-8	TLTA	Amends Form T-98, Limited Pre-Foreclosure Policy, to correct typographical errors in the Basic Manual.
2012-9	TLTA	Amends Form T-46, Texas Residential Limited Coverage Junior Mortgagee Policy Home Equity Line of Credit/Variable Rate Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-10	TLTA	Amends Rate Rule R-11D, regarding the Loan Policy Endorsement, to correct typographical errors and conform the language to other rules and forms in the Basic Manual.
2012-11	TLTA	Amends Rate Rule R-15, Owner Policy Endorsement, to correct typographical errors and conform the language to other rules and forms in the Basic Manual.
2012-12	TLTA	Amends Rate Rule R-17, Policy Forms for Use by United States Government, to conform the language to other rules and forms in the Basic Manual.
2012-13	TLTA	Amends Rate Rule R-22, Owner and Leasehold Policies,

		to conform the language to other rules and forms in the Basic Manual.
2012-14	TLTA	Amends Procedural Rule P-1w, regarding the definition of “premium,” to correct typographical errors in the Basic Manual.
2012-15	TLTA	Amends Procedural Rule P-9, Endorsement of Owner or Loan Policies, to conform the language to other rules and forms in the Basic Manual.
2012-16	TLTA	Amends Form T-56, Owner Policy Rejection Form, to correct typographical errors and conform the language to other rules and forms in the Basic Manual.
2012-17	TLTA	Amends Procedural Rule P-70(b), regarding Cancellation Fees; Fees for Services Rendered, to correct a typographical error in the Basic Manual.
2012-18	TLTA	Amends Form T-14, First Loss Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-19	TLTA	Amends Form T-16, Mortgagee Policy Aggregation Endorsement, to conform the language to other rules and forms in the Basic Manual.
2012-20	TLTA	Amends Form T-53, Texas Limited Coverage Residential Chain of Title Policy Combined Schedule, to conform the language to other rules and forms in the Basic Manual, correct margins, and correct a reference to a twelve month chain of title by making the period of time referenced to be not more than sixty months.
2012-21	TLTA	Minimum Capitalization Rule. Petitions to adopt Rule G-__, Minimum Capitalization Standards for Title Agents Pursuant to §2651.012 and Certification and Procedure to Determine Value of Assets Pursuant to §2651.158. The rule alters the timetables and capitalization amounts in Insurance Code §2651.012, in order to achieve compliance with minimum capitalization requirements.
2012-22	TLTA	Minimum Capitalization Certification of Assets Form. Petitions to adopt Form T-G__, Title Agent’s Unencumbered Assets Certification Form. The form certifies unencumbered assets, pursuant to Insurance Code §2651.158. The form specifies the title agent’s method of meeting the required minimum capitalization, and would accompany the annual audit of escrow

		accounts submitted to TDI unless the agent made a deposit under Insurance Code §2651.012(f).
2012-23	TLTA	Solvency Account Rule. Petitions to adopt Rule G-___, Solvency Account for Capitalization Standards, to meet the requirements of Insurance Code §2651.012. The rule sets forth the requirements for establishing and maintaining a solvency account.
2012-24	TLTA	Solvency Account Tripartite Agreement Form. Petitions to adopt Form T-G___, Tripartite Agreement, to establish a solvency account to comply with capitalization requirements. The form authorizes release of funds from a solvency account in limited circumstances.
2012-25	TLTA	Release of Solvency Account Assets Rule. Petitions to adopt Rule G-___, Title Agent Requirements, procedures and forms for obtaining release of assets in accordance with §2651.012(b) or §2651.0121, Insurance Code. The rule provides procedures to request the release of assets, including funds held in a solvency account, in accordance with §2651.0121. The rule articulates the steps to be taken in order to obtain a release of the assets.
2012-26	TLTA	Release of Solvency Account Request Form. Petitions to adopt Form T-G___, Solvency Account Release Request, to meet the Insurance Code §2651.0121(i) requirement by providing a form to request the release of funds held in a solvency account in accordance with §2651.0121. The form provides a checklist for the actions required to request the release.
2012-27	TLTA	Surety Bond Rule. Petitions to adopt Rule G-___, Surety Bond for Title Agents to Comply with Minimum Capitalization Standards. The rule enables title agents to comply with capitalization requirements by using a surety bond.
2012-28	TLTA	Surety Bond Form. Petitions to adopt a form of surety bond as an option for title agents to meet capitalization requirements.
2012-29	TLTA	Title Company Financial Matter Disclosure Rule. Petitions to adopt Rule G-___, Title Company Requirements, Procedures, and Forms for Providing Privileged Title Agent Financial Solvency Information to the Department Pursuant to §2651.011. Provides that an underwriter may provide information to TDI about a

		financial matter that may relate to the solvency of a title agent.
2012-30	TLTA	Title Company Financial Matter Disclosure Authorized Officer's Form. Petitions to adopt Form T-G__, Annual Report of Title Company's Officers Authorized to Provide Information on Agent Financial Matters. This form provides a form for title companies to identify to TDI the officers of the title company who are authorized to provide privileged financial information to TDI regarding title agents.
2012-31	TLTA	Title Company Financial Matter Disclosure Form. Petitions to adopt Form T-G__, Financial Matter Disclosure Report. The form provides a means for a designated officer of a title company to provide information to TDI pursuant to Insurance Code §2651.011. It declares that financial information regarding a title agent that is provided to TDI by a title company is not public information.
2012-32	TLTA	Title Agent's Quarterly Withholding Tax Report Rule. Petitions to adopt Rule G-__, Filing of Title Agent's Quarterly Withholding Tax Report. The rule provides TDI with an early warning tool to monitor the financial condition of title agents. It requires agents to file with TDI copies of their quarterly withholding tax reports or their equivalent.
2012-33	TLTA	Title Agent's Quarterly Withholding Tax Report Form. Petitions to adopt Form T-G__, Title Agent Certification Form of Agent's Quarterly Tax Reports. The form provides a method for a title agent to certify that the agent had no employees during a calendar quarter and did not file a quarterly withholding tax report.
2012-34	TLTA	Professional Training Program Rule. Amends Procedural Rule P-28, Requirements for Continuing Education for Title Agents and Escrow Officers. The amendments update continuing education requirements, conform the rule to Education Code §132.001, and address issues regarding management personnel.
2012-35	TLTA	Title Agent Examinations Report Rule. Petitions to adopt Rule G-__, Requirements for Title Agent Examination Reports Pursuant to §2651.206. The rule adds a new section to the Basic Manual to incorporate statutory

		changes resulting from HB 4338 (81R). In accordance with Insurance Code §2651.206, the rule establishes requirements and procedures for an examination report. The procedures allow the title agent to respond to the contents and conclusions of the report and allow for an appeal under 28TAC §7.83.
2012-36	TLTA	Abstract Plant Requirement Rule (P-1 & P-12). Amends Procedural Rules P-1 and P-12. The rule amends the P-1 definition of abstract plant in accordance with Insurance Code §2501.004(b). The rule amends P-12 in accordance with §2501.004 and updates certain statutory references.
2012-37	TLTA	Abstract Plant Requirement Form (T-57). Amends Form T-57, Agreement to Furnish Title Evidence, in accordance with Insurance Code §2501.004(b).
2012-38	TLTA	Amends Procedural Rule P-5.1, Exception or Exclusion Regarding Minerals. HB 2408 (82R) made issuance of the endorsement not mandatory after January 1, 2012.
2012-39	TLTA	Amends Procedural Rule P-50.1, Minerals and Surface Damage Endorsement (T-19.2), and Minerals and Surface Damage Endorsement (T-19.3). HB 2408 (82R) made issuance of the endorsements not mandatory after January 1, 2012.
2012-40	TLTA	Amends Procedural Rule P-53, Rebates and Discounts Prohibited to conform the rule to statutory changes made by HB 2408 (82R). In addition, the amendments provide prerequisites for filing complaints regarding this rule with TDI. The commissioner will also consider whether P-53 should be modified further or repealed, in light of recent court rulings.
2012-41	TLTA	Amends Rate Rule R-36, Credit for Exclusion of or General Exception for Minerals. HB 2408 (82R) repealed Rate Rule R-36, effective January 1, 2012.
2012-42	TLTA	Amends R-29.1, Premium for Minerals and Surface Damage Endorsement (T-19.2), and Minerals and Surface Damage Endorsement (T-19.3). As a result of HB 2408 (82R), no charge may be made for either endorsement to a Loan Policy issued after January 1, 2012.
2012-43	TLTA	Regulatory Communications Officers. Petitions to adopt

		Procedural Rule P-___, Regulatory Communications Officers. The rule establishes an official point of contact for each title agent and title company so that TDI may more efficiently seek clarifications relative to items filed with or reported to TDI in compliance with existing regulations.
2012-44	Texas Title Insurance Guaranty Association (TTIGA)	Amends licensing requirements with regard to issuance, cancellation, renewal, change in operations to secure additional information for the licensing of the title agents and streamline the process.
2012-45	TTIGA	Changes address on Policy Guaranty Fee Remittance Form to [current address] to update the current Policy Guaranty Fee Remittance Form and provide more flexibility for future changes to information without a rule amendment.
2012-46	TTIGA	Deletes all information on Form T-G1 to update the current Policy Guaranty Fee Remittance Form and provide more flexibility for future changes to information without a rule amendment.
2012-47	Alamo Title Company	Amends disclosure requirements with respect to third party notaries to conform the rule to Insurance Code §2501.008.
2012-48	Fidelity National Title Group, Inc. (Fidelity)	Amends Procedural Rule P-20 to clarify when the standard tax exception (Item 3 of Schedule B) may be amended to delete the words “and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership” (“insure or insuring against roll back taxes”). This will provide much needed guidance to a company as to what may or may not be done regarding the standard tax exception and the practice of insuring that taxes are paid or insuring against roll back taxes based upon an indemnity and/or the escrow of funds for the future payment of taxes.
2012-49	Fidelity	Amends Rate Rule R-32 related to the Contiguity Endorsement (T-25 or T-25.1) to facilitate the issuance of the T-25.1 endorsement in transactions where there are four or more parcels of land at the same rate as the Contiguity Endorsement T-25.
2012-50	Stewart Title Guaranty	Amends Procedural Rule P-57, Additional Insured Endorsement (T-26), to allow as an optional coverage the

	Company (Stewart)	inclusion of language addressing issues arising from the transfer of an interest in an insured under an owner's policy ("Fairway" language).
2012-51	Stewart	Amends Form T-26, Additional Insured Endorsement, to allow as an optional coverage the inclusion of language addressing issues arising from the transfer of an interest in an insured under an owner's policy ("Fairway" language).
2012-52	Stewart	Amends Procedural Rule P-58, Report on Directly Issued Policy, to conform the rule to Form T-00, which contains three statuses, rather than only the two currently listed in P-58.
2012-53	Stewart	Amends Form T-1R, Texas Residential Owner's Policy of Title Insurance, to incorporate the changes recently made to Form T-1. Form T-1 is similar to the American Land Title Association (ALTA) 2006 Owner's Policy. The changes comply with the requirements of Insurance Code §2703.101(g). Additionally, the amendments conform Form T-1R to the requirements adopted in HB 3768 (81R), regarding continuation of coverage upon dissolution of marriage, for a trustee or successor trustee, and for beneficiaries of a stated trust.
2012-54	Stewart	Amends Form T-11, Policy of Title Insurance (USA), to add a creditors' rights exclusion relating to the transaction, in compliance with Insurance Code §2502.006, which prohibits certain extra hazardous coverages.
2012-55	Stewart	Amends Form T-38, Mortgagee Policy of Title Insurance P-9.b.(e) Endorsement, to add a creditors' rights exclusion relating to the transaction, in compliance with Insurance Code §2502.006, which prohibits certain extra hazardous coverages.
2012-56	Stewart	Amends Endorsement Instructions III Concerning Assignments, Use Upon Assignment of Lien, to add a creditors' rights exclusion relating to the transaction, in compliance with Insurance Code §2502.006, which prohibits certain extra hazardous coverages. This endorsement also amends the exception and condition relating to delivery of the promissory note to be consistent with the exception set for in the ALTA Assignment Endorsements.

2012-57	Stewart	Amends Form T-16, Mortgagee Policy Aggregation Endorsement, to provide optional language that could provide a separate lower limit of liability for the policy in identified states in order to conform to single risk limits. The amendment also conforms the language to the current text of ALTA Endorsement 12-06.
2012-58	Stewart	Amends Form T-50, Insured Closing Service – Lender, to conform to the applicable terms of the ALTA Closing Protection Letter – Single Transaction (12/1/11).
2012-59	Stewart	Petitions to adopt Form T-23.1, Utility Access Endorsement. The endorsement provides coverage for buildings that do not have actual access to the utility services listed and checked in the endorsement.
2012-60	Stewart	Petitions to adopt Rate Rule R-11.n, Premium for Utility Access Endorsement (T-23.1). The rule sets the premium for Form T-23.1 at \$100 for each policy to cover costs of review, production, discussion, accounting, and underwriting.
2012-61	Stewart	Amends Procedural Rule P-9, Endorsement of Owner or Mortgagee Policies. This endorsement provides coverage if buildings do not have access to the utility services listed and checked in the endorsement. It is limited in applicability to situations where the improvements have already been built or are under construction and can be shown on a survey of the property.
2012-62	Stewart	Amends Form T-19, Restrictions, Encroachments, Minerals Endorsement. Identification of the terms of a covenant, condition, or restrictions should be satisfied by reference to the recorded document. This endorsement separately insures against loss of priority of the lien of the Insured Mortgage or of title because of the provisions of the covenant, condition, or restriction in paragraph 2, and insures against current violations in paragraph 1.b.
2012-63	Stewart	Amends Form T-19.1, Restrictions, Encroachments, Minerals Endorsement – Owner Policy. Identification of the terms of a covenant, condition, or restrictions should be satisfied by reference to the recorded document. This endorsement separately insures against current violations in paragraph 1.a.
2012-64	Stewart	Amends Form T-4, Leasehold Owner's Policy

		Endorsement to conform Form T-4 to ALTA Endorsement 13-06 (Leasehold – Owner’s).
2012-65	Stewart	Amends Form T-4R, Residential Leasehold Endorsement to conform Form T-4R to ALTA Endorsement 13-06 (Leasehold – Owner’s).
2012-66	Stewart	Amends Form T-5, Leasehold Loan Policy Endorsement to conform Form T-5 to ALTA Endorsement 13.1-06 (Leasehold – Loan).
2012-67	Stewart	Petitions to adopt Form T-36.1, Commercial Environment Protection Lien Endorsement. This endorsement is ALTA Endorsement 8.2-06. In commercial loan transactions in other jurisdictions, an ALTA 8.2-06 Endorsement is commonly requested and issued.
2012-68	Stewart	Amends Procedural Rule P-9.b.(9) to allow use of Form T-36.1 in certain circumstances. Proposed Form T-36.1 is ALTA Endorsement 8.2-06. In commercial loan transactions in other jurisdictions, an ALTA 8.2-06 Endorsement is commonly requested and issued.
2012-69	Stewart	Petitions to adopt Form T-___, Severable Improvements Endorsement, to address situations in which an item’s status as real or personal property is disputed. This endorsement affects the measure of damages available if there are title defects that cause diminution of value in certain circumstances, or certain costs incurred resulting from the defect.
2012-70	Stewart	Petitions to adopt Procedural Rule P-___, Severable Improvements Endorsement, to address situations in which an item’s status as real or personal property is disputed. This endorsement affects the measure of damages available if there are title defects that cause diminution of value in certain circumstances, or certain costs incurred resulting from the defect.
2012-71	TDI	Amends Rate Rule R-11 to update references. Incorporates changes suggested by TLTA under Agenda Item 2012-10 re: R-11(D).
2012-72	TDI	Amends Procedural Rule P-9 to conform to changes made to Rate Rule R-11 in Agenda Item 2008-61; to update references; and to conform the language to other rules and forms in the Basic Manual. Incorporates changes submitted by TLTA in Agenda Item 2012-15.

2012-73	TDI	Amends Form T-1R continuation of coverage language pursuant to HB 3768 (81R) and Insurance Code §2703.101(g).
2012-74	TDI	Amends Rate Rule R-5 to correct references as a result of the Agenda Item 2008-57 paragraph rearrangement and renumbering.
2012-75	TDI	Amends Rate Rule R-21 to update the reference to Rate Rule R-3, which changed to Procedural Rule P-66 as a result of Agenda Item 2008-65, and to conform the language to other rules and forms in the Basic Manual.
2012-76	TDI	Rescinds Rate Rule R-10 as obsolete.
2012-77	TDI	Amends Rate Rule R-32 to include the reference to Form T-25.1 (Agenda Item 2008-39) adopted for Procedural Rule P-56 (Agenda Item 2008-56) and to conform the language to other rules and forms in the Basic Manual.
2012-78	TDI	Amends Procedural Rule P-16 to conform the language to other rules and forms in the Basic Manual.
2012-79	TDI	Amends Procedural Rule P-11 to conform to changes made to Property Code §12.017 by HB 3945 (81R).
2012-80	TDI	Amends Form T-2R and Addendum to incorporate previous changes and correct references.
2012-81	TDI	Amends Rate Rule R-2 to conform R-20 to the changes made to R-5 in Agenda Item 2008-57 and to correct a typographical error.
2012-82	TDI	Amends Rate Rule R-20 to conform R-20 to the changes made to R-5 in Agenda Item 2008-57.
2012-83	TDI	Amends Form T-48, Co-Insurance Endorsement, to modify signature lines.
2012-84	TDI	Amends Form T-31, Manufactured Housing Endorsement, to update language and references.
2012-85	TDI	Amends Administrative Rule L-1, Title Insurance Agent, to include requirements when a title insurance agent changes abstract plant provider or buys/sells an abstract plant, to update definitions, to streamline the process, and to conform to Procedural Rule P-28.
2012-86	TDI	Amends Administrative Rule L-3, Direct Operations License, to include requirements when a Direct Operation

		changes abstract plant provider or buys/sells an abstract plant.
2012-87	TDI	Amends Administrative Rule L-2, Title Insurance Escrow Officer, to incorporate the changes of HB 652 (81R) regarding escrow officer schedule bonds, and to standardize formatting.
2012-88	TDI	Amends Procedural Rule P-28 to implement provisions for Professional Training Program as set forth in HB 4338 (81R), effective 9/1/2009.
2012-89	TDI	Amends T-3 instructions to better clarify the form use and conform the language to other rules and forms in the Basic Manual.
2012-90	TDI	Amends statistical plan to conform the language to other rules and forms in the Basic Manual.
2012-91	TDI	To consider amending Procedural Rule P-35, Prohibition Against Guaranties, Affirmations, Indemnifications, and Certifications, to expressly allow or disallow affidavits from settlement agents in short sales beyond the coverage in our promulgated forms.

You may request complete copies of agenda items at:

Office of the Chief Clerk  
Texas Department of Insurance (Mail Code 113-2A)  
P.O. Box 149104  
Austin, Texas 78714-9104

Pursuant to Insurance Code §31.02 and §2551.003, and Chapters 2501, 2703, and 2751; and the Administrative Procedure Act, TDI reserves the right to propose for adoption any rule for the regulation of title insurance at any time.

#### Conduct Expected at Hearing

Each page of any exhibit offered in evidence at a hearing before the commissioner, including pre-filed testimony, must be on 8½" x 11" paper, numbered consecutively at the center of the bottom margin, and three-hole-punched along the left margin. The front page of each exhibit must indicate that the exhibit will be part of the record of a public hearing before the commissioner and must identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front

page, the party offering the exhibit must also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the Department of Insurance  
Subject of Hearing:  
Docket No. \_\_\_\_\_  
Date: \_\_\_\_\_  
Party: \_\_\_\_\_  
Exhibit # \_\_\_\_\_  
Description of Exhibit: \_\_\_\_\_

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to provide all of the following:

- The original exhibit, which will be tendered to the commissioner for marking and retention for the official record. A photocopy of the original exhibit will be marked and used during witness examinations.
- One copy each for every other party admitted to the hearing.
- Six paper copies to be filed with the Office of the Chief Clerk.
- One electronic copy to be filed with the Office of the Chief Clerk.

You must submit testimony and exhibits accompanying testimony from your witnesses, including underlying work papers, to the Office of the Chief Clerk in both paper and electronic formats. Parameters, assumptions, and references to underlying data should be identifiable in the electronic exhibits. TDI must be able to access and use all information submitted in electronic format without passwords or other security devices.

Deadlines Subject to Change. All deadlines in this notice are subject to change at the commissioner's discretion to the extent permitted by statute and rule.