

<p>IN THE MATTER OF THE</p> <p>PERIODIC TITLE INSURANCE RATE</p> <p>RULEMAKING HEARING,</p> <p>TEXAS LAND TITLE ASSOCIATION</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>COMMISSIONER OF INSURANCE</p> <p>FOR</p> <p>THE STATE OF TEXAS</p>
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PETITION TO HOLD THE PERIODIC TITLE INSURANCE RATE RULEMAKING HEARING
AND FOR THE ADOPTION OF A RULE

TO THE HONORABLE CASSIE BROWN, COMMISSIONER OF INSURANCE:

In accordance with TEX. GOV'T. CODE § 2001.021, TEX. INS. CODE § 2703.202 and 28 TEX. ADMIN. CODE § 1.202, the Texas Land Title Association ("TLTA") files this petition to hold the Periodic Title Insurance Rate Hearing as a rulemaking proceeding and to adopt proposed amendments to 28 TEX. ADMIN. CODE § 9.1.

1. TLTA, the Petitioner, has retained Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. to represent the association in the above referenced matter. Stanton Strickland and Jay Thompson will serve as the attorneys of record. Their firm's mailing address, telephone number, and facsimile number are contained in the signature line below.

2. TLTA is an association composed of approximately 80 percent—well over the required 50 percent—of the number of title insurance agents and title insurance companies licensed or authorized by the department; and, on behalf of its membership, TLTA requests that the commissioner hold a rulemaking proceeding to fix and promulgate a title insurance premium rate pursuant to TEX. INS. CODE § 2703.202(b).

3. On October 22, 2024, the Texas Commissioner of Insurance ("commissioner") called a public meeting to receive comments from stakeholders and interested parties regarding title insurance premium rates. Leading up to the meeting, TLTA representatives met multiple times with Texas Department of Insurance (TDI) staff to discuss rate implications on title agents in Texas at various levels of possible rate decreases. During the public meeting, TLTA submitted to the commissioner a copy of its 2024 Title Rate Analysis and Overview which included TLTA's rate analysis and recommendations as well as other relevant information for consideration during the rate review. TLTA also presented the verbal comments of member agents who described the actions that they have taken to survive the stagnant and depressed title insurance market and submitted their letters to the commissioner expressing their concerns regarding rate decreases.

4. Even though the title insurance business in the State of Texas experienced positive results between 2018-2021, the current real estate market has changed dramatically due to COVID impacts and policies and other economic factors. In particular, the unprecedented artificial drop and subsequent rapid rise of interest rates, together with inflation, have resulted in a depressed housing market. The 2022 statistical data on the TDI website and additional information that TLTA submitted to the commissioner on October 22, 2024, demonstrate that multiple title agents in the State of Texas had a negative or near negative net income for 2022 and will face probable impairment if the rate decrease reaches a confiscatory level.

5. Accordingly, TLTA believes that no change in rates is warranted at this time. A decrease in insurance rates in the current economic climate risks having a confiscatory impact and causing some title operations to become financially impaired or insolvent.

6. TLTA further recommends that if a rate decrease is made, it should be very conservative and should be no more than a -1% adjustment. This level of adjustment would present a greater likelihood of meeting the statutory non-confiscatory requirement and would provide needed certainty, allowing agents to survive the downturned market.

7. TLTA requests that the Commissioner set an effective date no earlier than July 1, 2025, as the start date for implementing any new rate changes.

8. TLTA requests a copy of department staff's updated analysis and recommendations, if any, on the rule proposal before a rulemaking hearing on the title insurance rate is held. TLTA requests that the commissioner assign this petition a reference number, provide a copy to the appropriate TDI staff for review and response, and notify the Petitioner through its attorneys of record of the name, address, and telephone number of the staff person reviewing the proposal and designated as contact person for inquiries, as well as the reference number assigned to the petition.

9. TLTA invites informal conferences with department staff to obtain the opinions and advice of interested persons about the contemplated rulemaking as per TEX. GOV'T. CODE § 2001.031.

10. TLTA requests that the commissioner instruct the TDI Office of the Chief Clerk to submit the proposed rule as recommended by the Petitioner to the *Texas Register* for publication and that the commissioner will publish a Notice of Public Hearing to consider the adoption of title insurance rates.

11. TLTA requests that the commissioner adopt the proposed amendments to 28 TEX. ADMIN. CODE § 9.1, attached and incorporated into this petition by reference, and promulgate the *Schedule of Basic Premium Rates for Title Insurance*, attached as Appendix A, to be made part of the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

The Texas Land Title Association respectfully requests that the Commissioner of Insurance grant this petition and award the relief requested.

Respectfully submitted,



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**ATTORNEYS FOR
THE TEXAS LAND TITLE ASSOCIATION**

CERTIFICATE OF SERVICE

In accordance with 28 TEX. ADMIN. CODE § 1.202, I hereby certify that on November 1, 2024, a true and correct copy of this petition, the proposed rule, and Appendix A have been sent to the following parties:

Deputy Chief Clerk **VIA EMAIL AT: ChiefClerk@tdi.texas.gov**
Office of the Chief Clerk
Texas Department of Insurance
1601 Congress Avenue
P.O. Box 12030
Austin, Texas 78711

David Bolduc, Public Counsel & Executive Director **VIA EMAIL AT: DBolduc@opic.texas.gov**
Office of Public Insurance Counsel
1601 Congress Avenue; Suite 3.500
Austin, Texas 78701

TITLE 28. INSURANCE

**PART 1. TEXAS DEPARTMENT OF INSURANCE
CHAPTER 9. TITLE INSURANCE**

**SUBCHAPTER A. BASIC MANUAL OF RULES, RATES AND FORMS FOR THE WRITING
OF TITLE INSURANCE IN THE STATE OF TEXAS**

28 AC §9.1

INTRODUCTION. The Texas title insurance industry has been in a stagnant and depressed condition since late 2022. The Texas Land Title Association (“TLTA”) believes that in this economic climate a rate decrease is not warranted at this time and risks being confiscatory. If the commissioner determines to decrease title insurance rates, TLTA proposes to amend 28 TEX. ADMIN. CODE § 9.1, concerning the rate to be charged for title insurance policies written in the State of Texas in an amount not to exceed -1%. These amendments are necessary to implement such a rate change and adopt the *Schedule of Basic Premium Rates for Title Insurance*, attached and incorporated by reference as Appendix A, as part of the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*. Accordingly, Appendix A reflects a proposed -1% reduction in the rates to be charged for title insurance policies to be written in the State of Texas. TLTA also requests that the commissioner adopt the *Schedule* effective not earlier than 12:01 a.m. July 1, 2025.

The proposed amendments require title insurance companies and title insurance agents to charge the rate as fixed and promulgated by the commissioner. The rate is calculated based on formulas in the *Schedule*. Title insurance companies and title insurance agents may not charge a rate different from that set by the commissioner.

PUBLIC BENEFITS AND COSTS. TLTA anticipates potential public benefits to industry and consumers alike for each of the first five years the proposed amendments are in effect. By adopting a rate change not exceeding the proposed rate change and effective date, the commissioner provides title insurance companies and title insurance agents with a more certain, adequate, and reasonable rate of return. Substantial and abrupt increases in federal mortgage interest rates and a depressed real estate market in Texas have negatively impacted the title insurance industry and also left it in a depressed and stagnant condition since

late 2022. TLTA believes that in this economic climate a rate decrease is not warranted at this time and risks being confiscatory. It has provided current title insurance market information to the commissioner that indicates title insurance rates should remain unchanged. If a rate decrease is made, it should be very conservative and no more than a -1% adjustment.

By adopting the proposed rate change, the commissioner also offers important protections to consumers and purchasers of title insurance. An adequate provision for losses and the associated expenses makes it possible to investigate claims, indemnify the purchaser of title insurance, and institute legal proceedings to clear their title. An adequate provision for expenses ensures reliable, consistent, and efficient service. It prevents losses. An adequate provision for profit creates market stability, attracts capital, and encourages long-term investments in the title industry. It prevents insolvencies. It ensures the safety of funds and the security of the real estate closing.

A rate change does impose some costs on title insurance companies, title insurance agents, and software vendors. The following category of costs will be incurred: technology (e.g., software programming and redevelopment), printing, labor, and training. Title insurance companies must update software, which includes, rate and fee calculators, accounting, policy production, and escrow/title systems. Title insurance agents may also incur technology costs for updating internal policy production and escrow/title systems, depending variously on the licensee's reliance on the sponsoring underwriter or software vendor. Software vendors that provide business solutions to the title insurance industry will expend funds on software redevelopment. Title insurance companies and agents will pay for new rate cards and the printing of training materials. Underwriters, agents, and software vendors alike will incur labor costs. The number of full-time employees required to perform these tasks is dependent on the size of the entity. Estimates have ranged from one to three full-time employees being devoted to these projects for anywhere from nine to 90 days. Some training programs are conducted in-house, others are provided by software vendors for a fee.

There should be no adverse economic impact on small or micro-business. TLTA suggests that it is neither legal nor feasible to waive the requirements of the rule for small or micro-businesses; because, in accordance with TEX. INS. CODE § 2703.151(c), a premium may not be charged for a title insurance policy or for another prescribed or approved form at a rate different than the rate fixed and promulgated by the commissioner. All title insurance agents and title insurance companies, regardless of size, must charge the same rate.

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 July 1, 2025. The Basic Manual is available on the TDI website at www.tdi.texas.gov, and by email from ChiefClerk@tdi.texas.gov.

STATUTORY AUTHORITY. The amendments are proposed under TEX. INS. CODE §§ 31.021(b), 36.001, 36.110, 2501.002, and 2551.003(a), 2703.001(b), 2703.151, 2703.202(b) – (c), and 2703.206; and TEX. GOV'T. CODE §§ 2001.021 – 2001.041. Insurance Code, Section 31.021(b) vests the commissioner with the statutory powers and duties of the department. Insurance Code, Section 36.001 provides the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state. Insurance Code, Section 36.110 allows the commissioner to engage in negotiated rulemaking under Chapter 2008, Government Code. Insurance Code, Section 2501.002 explicitly states the legislative intent to completely regulate the business of title insurance, and Insurance Code, Section 2551.003(a) grants the commissioner rulemaking authority over the business of title insurance. Insurance Code, Chapter 2703 describes the commissioner's powers in additional detail. Insurance Code, Section 2703.001(b) states that the commissioner supervises and oversees the title insurance industry. Insurance Code, Section 2703.151 provides that the commissioner shall fix and promulgate premium rates to be charged by title insurance agent or title insurance company for title insurance policies or for other forms prescribed and approved by the commissioner. Insurance Code, Section 2703.202(b) provides that the commissioner shall order a public hearing to consider charging a premium rate on written request of an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed by the department; and, Insurance Code, Section 2703.206 provides that the commissioner may hold a hearing to consider the adoption of premium rates as the commissioner determines necessary. Insurance Code, Section 2703.202(c) provides that the commissioner shall hold a public hearing as a rulemaking hearing under Subchapter B, Chapter 2001, Government Code. Government Code, Sections 2001.021 to 2001.041 provides the procedures for proposing and adopting a rule under the Administrative Procedures Act.

CROSS-REFERENCE TO STATUTE. The following statutes are related to this proposal: Insurance Code, Chapters 2501 and 2703.

Submitted to the Texas Department of Insurance on the 1st of November 2024 by:

A handwritten signature in blue ink, appearing to read 'Stanton Strickland', with a horizontal line underneath it.

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APPENDIX

Schedule of Basic Premium Rates for Title Insurance

Effective

12:01 a.m. July 1, 2025

TEXAS TITLE INSURANCE PREMIUM RATES

Policy Face Amount Up to And Including	Basic Premium	Policy Face Amount Up to And Including	Basic Premium	Policy Face Amount Up to And Including	Basic Premium	Policy Face Amount Up to And Including	Basic Premium
\$25,000	\$325	\$44,000	\$451	\$63,000	\$577	\$82,000	\$704
25,500	\$328	44,500	\$454	63,500	\$581	82,500	\$709
26,000	\$332	45,000	\$458	64,000	\$585	83,000	\$713
26,500	\$335	45,500	\$461	64,500	\$588	83,500	\$715
27,000	\$337	46,000	\$464	65,000	\$591	84,000	\$718
27,500	\$340	46,500	\$468	65,500	\$594	84,500	\$722
28,000	\$344	47,000	\$470	66,000	\$598	85,000	\$725
28,500	\$347	47,500	\$473	66,500	\$603	85,500	\$728
29,000	\$351	48,000	\$478	67,000	\$606	86,000	\$731
29,500	\$354	48,500	\$482	67,500	\$607	86,500	\$736
30,000	\$357	49,000	\$485	68,000	\$611	87,000	\$740
30,500	\$360	49,500	\$488	68,500	\$615	87,500	\$742
31,000	\$364	50,000	\$491	69,000	\$618	88,000	\$744
31,500	\$367	50,500	\$494	69,500	\$621	88,500	\$748
32,000	\$370	51,000	\$496	70,000	\$625	89,000	\$752
32,500	\$374	51,500	\$500	70,500	\$629	89,500	\$754
33,000	\$377	52,000	\$505	71,000	\$633	90,000	\$757
33,500	\$381	52,500	\$509	71,500	\$635	90,500	\$761
34,000	\$384	53,000	\$511	72,000	\$638	91,000	\$765
34,500	\$388	53,500	\$515	72,500	\$642	91,500	\$769
35,000	\$391	54,000	\$518	73,000	\$644	92,000	\$771
35,500	\$394	54,500	\$521	73,500	\$647	92,500	\$775
36,000	\$397	55,000	\$524	74,000	\$651	93,000	\$778
36,500	\$401	55,500	\$527	74,500	\$655	93,500	\$782
37,000	\$404	56,000	\$532	75,000	\$659	94,000	\$783
37,500	\$408	56,500	\$535	75,500	\$661	94,500	\$788
38,000	\$412	57,000	\$538	76,000	\$664	95,000	\$793
38,500	\$415	57,500	\$542	76,500	\$667	95,500	\$796
39,000	\$417	58,000	\$545	77,000	\$671	96,000	\$797
39,500	\$421	58,500	\$547	77,500	\$674	96,500	\$801
40,000	\$424	59,000	\$550	78,000	\$678	97,000	\$805
40,500	\$429	59,500	\$554	78,500	\$682	97,500	\$809
41,000	\$431	60,000	\$558	79,000	\$686	98,000	\$812
41,500	\$435	60,500	\$562	79,500	\$687	98,500	\$816
42,000	\$438	61,000	\$565	80,000	\$691	99,000	\$819
42,500	\$442	61,500	\$567	80,500	\$695	99,500	\$822
43,000	\$444	62,000	\$571	81,000	\$699	100,000	\$824
43,500	\$447	62,500	\$575	81,500	\$701		

TITLE BASIC PREMIUM CALCULATION FOR POLICIES IN EXCESS OF \$100,000

Using the table below, apply these steps to determine basic premium for policies above \$100,000:

- Step 1 In column (1), find the range that includes the policy's face value.
- Step 2 Subtract the value in column (2) from the policy's face value.
- Step 3 Multiply the result in Step 2 by the value in column (3), and round to the nearest dollar.
- Step 4 Add the value in column (4) to the result of the value from Step 3.

(See examples following the table.)

TITLE BASIC PREMIUM CALCULATION FOR POICIES IN EXCESS OF \$100,000

(1) Policy Range	(2) Subtract	(3) Multiply By	(4) Add
[\$100,001-\$1,000,000]	100,000	0.00522	\$824
[\$1,000,001-\$5,000,000]	1,000,000	0.00429	\$5,522
[\$5,000,001-\$15,000,000]	5,000,000	0.00353	\$22,682
[\$15,000,001-\$25,000,000]	15,000,000	0.00251	\$57,982
[\$25,000,001-\$50,000,000]	25,000,000	0.00150	\$83,082
[\$50,000,001-\$100,000,000]	50,000,000	0.00137	\$120,582
[Greater Than \$100,000,000]	100,000,000	0.00123	\$189,082

EXAMPLES FOR POLICIES IN EXCESS OF \$100,000

Example 1:

- (1) Policy is \$268,500
- (2) Subtract \$100,000 ==> $\$268,500 - \$100,000$ ==> Result = \$168,500
- (3) Multiply by 0.00522 ==> $\$168,500 \times 0.00522$ ==> \$879.55 ==> Result = \$880
- (4) Add \$824 ==> $\$880 + \824 ==> Final Result = \$1,704

Example 2:

- (1) Policy is \$4,826,600
- (2) Subtract \$1,000,000 ==> $\$4,826,600 - \$1,000,000$ ==> Result = \$3,826,600
- (3) Multiply by 0.00429 ==> $\$3,826,600 \times 0.00429$ ==> \$16,416.11 ==> Result = \$16,416
- (4) Add \$5,522 ==> $\$16,416 + \$5,522$ ==> Final Result = \$21,938

Example 3:

- (1) Policy is \$10,902,800
- (2) Subtract \$5,000,000 ==> $\$10,902,800 - \$5,000,000$ ==> Result = \$5,902,800
- (3) Multiply by 0.00353 ==> $\$5,902,800 \times 0.00353$ ==> \$20,836.88 ==> Result = \$20,837
- (4) Add \$22,682 ==> $\$20,837 + \$22,682$ ==> Final Result = \$43,519

Example 4:

- (1) Policy is \$17,295,100
- (2) Subtract \$15,000,000 ==> $\$17,295,100 - \$15,000,000$ ==> Result = \$2,295,100
- (3) Multiply by 0.00251 ==> $\$2,295,100 \times 0.00251$ ==> \$5,760.70 ==> Result = \$5,761
- (4) Add \$57,982 ==> $\$5,761 + \$57,982$ ==> Final Result = \$63,743

Example 5:

- (1) Policy is \$39,351,800
- (2) Subtract \$25,000,000 ==> $\$39,351,800 - \$25,000,000$ ==> Result = \$14,351,800
- (3) Multiply by 0.00150 ==> $\$14,351,800 \times 0.00150$ ==> \$21,527.70 ==> Result = \$21,528
- (4) Add \$83,082 ==> $\$21,528 + \$83,082$ ==> Final Result = \$104,610

Example 6:

- (1) Policy is \$75,300,200
- (2) Subtract \$50,000,000 ==> $\$75,300,200 - \$50,000,000$ ==> Result = \$25,300,200
- (3) Multiply by 0.00137 ==> $\$25,300,200 \times 0.00137$ ==> \$34,661.27 ==> Result = \$34,661
- (4) Add \$120,582 ==> $\$34,661 + \$120,582$ ==> Final Result = \$155,243

Example 7:

- (1) Policy is \$151,250,300
- (2) Subtract \$100,000,000 ==> $\$151,250,300 - \$100,000,000$ ==> Result = \$51,250,300
- (3) Multiply by 0.00123 ==> $\$51,250,300 \times 0.00123$ ==> \$63,037.87 ==> Result = \$63,038
- (4) Add \$189,082 ==> $\$63,038 + \$189,082$ ==> Final Result = \$252,120