

No. 12-0217

**Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas**

Date: MAR 19 2012

Subject Considered:

**2012 Texas Title Insurance Periodic Hearing
Docket No. 2732
Withdrawn and Disapproved Agenda Items**

The Commissioner of Insurance (Commissioner) considered the matter of certain agenda items submitted at the 2012 Texas Title Insurance Periodic Hearing, Docket No. 2732, held on February 28, 2012.

The Commissioner has jurisdiction over this matter pursuant to Insurance Code Chapter 2703 and §2551.003. Chapter 2703 requires the Commissioner to hold a public hearing to consider adoption of premium rates and other matters relating to regulating the business of title insurance at the request of a title insurance company, a qualifying association, or the office of public insurance counsel; and Section 2551.003 authorizes the Commissioner to promulgate and enforce rules prescribing underwriting standards and practices and to promulgate and enforce all other rules necessary to accomplish the purposes of Title 11, concerning the regulation of title insurance.

Agenda items 2012-10, 2012-15, 2012-34, 2012-43, 2012-44, 2012-46, 2012-60, 2012-61, and 2012-68 were withdrawn from consideration at the February 28, 2012, hearing at the request of the original filers.

The original filer requested that Agenda Item 2012-40, amending Procedural Rule P-53 (P-53), be withdrawn from consideration. However, at the February 28, 2012, hearing, in accordance with the Notice of Hearing issued on January 12, 2012, the Commissioner considered whether P-53 should be modified further or repealed. The Commissioner determined that TDI would not repeal P-53 as a result of the February 28, 2012, hearing. Thus, the Commissioner disapproves Agenda Item 2012-40.

After careful review and consideration of the filings, the Commissioner disapproves the following agenda items for the following reasons:

(1) Item 2012-7, amending Form T-38, Mortgagee Policy of Title Insurance P-9.b.(3) Endorsement, is disapproved because changes to P-9.b.(3) are addressed in Item 2012-55.

(2) Item 2012-48, amending 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"), is disapproved because the amendments conflict with Commissioner's Order No. 11-0417, dated May 12, 2011, and because their adoption could decrease the available coverage.

(3) Item 2012-49, amending 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, is disapproved because changes to R-32 are addressed in Item 2012-77.

(4) Item 2012-53, amending Form T-1R, Texas Residential Owner's Policy of Title Insurance, to incorporate the changes recently made to Form T-1, is disapproved because changes to T-1R are addressed in Item 2012-73.

(5) Item 2012-56, amending 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, and to amend the exception and condition relating to delivery of the promissory note to be consistent with the exception in the ALTA Assignment Endorsements, is disapproved because changes to Endorsement Instructions III are addressed in Item 2012-89.

(6) Item 2012-58, amending Form T-50, Insured Closing Service – Lender, to conform to the applicable terms of the ALTA Closing Protection Letter – Single Transaction (12/1/11), is disapproved because the sponsor's omission of negligence from the ALTA form may reduce coverage available under the current Form T-50.

(7) Item 2012-59, petitioning to adopt Form T-23.1, Utility Access Endorsement, which provides coverage for buildings that do not have actual access to the utility services listed and checked in the endorsement, is disapproved for the following reasons: (a) the form may lead to an additional cost, (b) the value of the endorsement is questionable, (c) agents have limited ability to determine utility access, and (d) there is a danger that the form would become part of a lender checklist.

(8) Item 2012-72, as amended by Stewart Title Guaranty Company, amending Procedural Rule P-9, is disapproved because Stewart's amendments to Item 2012-72 concern proposed Form T-23.1 (Item 2012-59), which is disapproved.

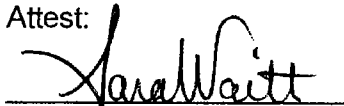
(9) Item 2012-91, to consider amending Procedural Rule P-35, Prohibition Against Guaranties, Affirmations, Indemnifications, and Certifications, to expressly allow or disallow affidavits from settlement agents in short sales beyond the coverage in our promulgated forms, is disapproved. Requiring title agents to execute short sale affidavits violates P-35 as written. Short sale affidavits seek assurances beyond the expected scope of title agents' knowledge.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that, for the reasons stated, The Texas Department of Insurance will not propose the following agenda items from the 2012 Texas Title Insurance Periodic Hearing, Docket No. 2732, for adoption: withdrawn agenda items 2012-10, 2012-15, 2012-34, 2012-43, 2012-44, 2012-46, 2012-60, 2012-61, and 2012-68; and disapproved agenda items 2012-7, 2012-40, 2012-48, 2012-49, 2012-53, 2012-56, 2012-58, 2012-59, 2012-72 as amended by Stewart Title Guaranty Company, and 2012-91.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE


ELEANOR KITZMAN
COMMISSIONER OF INSURANCE

Attest:

Sara Waitt, General Counsel
Texas Department of Insurance

Commissioner's Order No. **12-0217**