

**SUBCHAPTER A. BASIC MANUAL OF RULES, RATES AND FORMS FOR THE  
WRITING OF TITLE INSURANCE IN THE STATE OF TEXAS****28 TAC §9.1**

**INTRODUCTION.** The Commissioner of Insurance adopts amendments to 28 TAC §9.1, which adopts by reference amendments to the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (Basic Manual)*. The amendments update, correct, and clarify existing rules and forms in the *Basic Manual* to facilitate the operation and regulation of title insurance in Texas.

The Commissioner adopts the amendments to §9.1 with changes to the proposed text published in the March 2, 2018, issue of the *Texas Register* (43 TexReg 1228) and changes to the items proposed to be adopted by reference. TDI made changes to the proposed items in response to comments.

TDI changed the rule text to revise the effective date stated in the rule. As proposed, the rule would have been effective August 1, 2018. However, an August effective date would have delayed TDI's ability to proceed with other projects to update the *Basic Manual*. So as adopted, this rule will be effective on June 10, 2018. To give title agents and companies time to implement the amendments, as contemplated with the proposed text, the rules and forms adopted by this order will have a delayed implementation date of August 9, 2018, and agents and companies may continue to use the previous rules and forms until that date.

**REASONED JUSTIFICATION.** This order, which adopts by reference amended rules and forms in the *Basic Manual*, is necessary to facilitate the operation and regulation of title insurance and to update, correct, and clarify title insurance rules and forms.

The item numbers below identify the adopted amendments. Each item number represents amendments to a specific rule or form in the *Basic Manual*. The item numbers in this order are the same as the numbers used in the proposal. These item numbers are for organizational purposes only and do not represent formal agenda items from a call for rulemaking.

The following items are adopted as originally proposed:

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- Item 2017-1: Procedural Rule P-58, Report on Directly Issued Policy;
- Item 2017-2: Form T-00, Verification of Services Rendered;
- Item 2017-3: Form T-G1, Policy Guaranty Fee Remittance Form;
- Item 2017-4: Form T-S3, Solvency Account Release Request;
- Item 2017-5: Form T-S4-A, Financial Matter Disclosure Report;
- Item 2017-6: Form T-S1, Title Agent's Unencumbered Assets Certification;
- Item 2017-7: Administrative 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;
- Item 2017-8: Form T-S5, Title Agent Certification of Agent's Quarterly Tax Reports;
- Item 2017-9: Administrative Rule S.5, Filing of Title Agent's Quarterly Withholding Tax Report;
- Item 2017-10: Procedural Rule P-19, Pending Disbursements;
- Item 2017-11: Procedural Rule P-64, Subordinate Liens and Leases - Pursuant to Rule P-11.b.(8);
- Item 2017-12: Form T-44, Texas Residential Limited Coverage Junior Loan Policy Combined Schedule;
- Item 2017-13: Form T-45, Texas Residential Limited Coverage Junior Loan Down Date Endorsement;
- Item 2017-15: Procedural Rule P-27, Disbursement from Escrow or Trust Fund Accounts;
- Item 2017-16: Procedural Rule P-45, Texas Reverse Mortgage Endorsement;
- Item 2017-17: Form T-43, Texas Reverse Mortgage Endorsement;
- Item 2017-18: Form T-51, Purchaser/Seller Insured Closing Service Letter;
- Item 2017-19: Form T-52, Abstract Plant Information; and
- Item 2017-20: Administrative Rule S.3, Title Agent Requirements, Procedures, and Forms for Obtaining Release of Assets in Accordance With Insurance Code §2651.012(b) or §2651.0121.

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The remaining adopted items are described below:

Item 2017-14: Amends Procedural Rule P-9, Endorsement of Owner or Mortgagee Policies. The following amendments to Rule P-9 are adopted as proposed:

- change the terms "Owner Policy" to "Owner's Policy" and "Mortgagee Policy" to "Loan Policy";

- update references to government agency loan programs to use the current names of the programs;

- update or clarify other references, such as updating endorsement names in a consistent manner and clarifying references to applicable parts of the Form T-3 Endorsement Instructions;

- specify in Procedural Rule P-9.b.(1) and (2) that companies may issue a General Endorsement (Form T-3) on payment of the premium prescribed by Rate Rule R-11.a., and may issue the endorsements described in Procedural Rule P-9.b.(6) on payment of any premium prescribed by Rate Rule R-11.d;

- update the reference to Rate Rule R-11.j (formerly R-11.k) in Procedural Rule P-9.b.(13),

- update the reference to Rate Rule R-11.k (formerly R-11.l) in Procedural Rule P-9.b.(14);

- update the reference to Rate Rule R-11.l (formerly R-11.m) in Procedural Rule P-9.b.(15); and

- in Procedural Rule P-9.b.(15), remove the stipulation that a company may issue a Condominium Endorsement on or after the effective date of Rate Rule R-11.m (now Rule R-11.l) because that rule is already effective.

The proposal also sought to amend Rule P-9 to delete Part b.(12) of the rule and to renumber the remaining Parts b.(13), b.(14), and b.(15) because Part b.(12) refers to an endorsement that was deleted in 2010. TDI will still delete the language in Part b.(12), but will list it as "deleted" and keep the remaining numbering as it currently appears, instead of completely removing Part b.(12) and renumbering. See the Summary of Comments and Agency Response section below for additional discussion of this change.

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Item 2017-21: Amends Rate Rule R-11, Loan Policy Endorsements, to conform to the rest of the *Basic Manual* by more clearly referencing form and procedural rule numbers and by making other minor editorial changes.

The proposal also sought to amend Rule R-11 to update references to Procedural Rule P-9.b.(13), b.(14), and b.(15); however, because TDI decided not to renumber Rule P-9 in response to comment, it is not necessary to amend Rule R-11 to update any Rule P-9 references at this time.

### **SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** TDI received one comment from the Texas Land Title Association (TLTA) in support of the proposal with amendments. No one commented against the proposal.

#### **Items 2017-14 (Procedural Rule P-9) and 2017-21 (Rate Rule R-11)**

TLTA asks TDI to reconsider some of the proposed changes and to consider additional changes to Item 2017-14, Procedural Rule P-9, Endorsement of Owner or Mortgagee Policies, and to Item 2017-21, Rate Rule R-11, Loan Policy Endorsements.

**Comment:** TLTA asks TDI to consider adding titles to each subsection in Rule P-9 and in Rule R-11 so that each referenced endorsement is conspicuously named. This practice has been applied to some subsections, but not others, resulting in inconsistencies. Adding titles will provide more clarity and consistency to industry and consumers.

**Agency Response:** TDI agrees and has added titles to those subsections in Rule P-9 and Rule R-11 that do not currently have titles.

**Comment:** Regarding the proposed deletion of Part b.(12) of Rule P-9 and the renumbering of the remaining parts of P-9, TLTA asks that TDI list Part b.(12) as deleted and keep the numbering the same for the remaining Parts b.(13), b.(14), and b.(15). Indicating that Part b.(12) is intentionally deleted and keeping the remaining parts numbered as they currently are will avoid any confusion to industry members and the public.

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**Agency Response:** TDI agrees, and has listed P-9.b.(12) as "deleted" and kept the numbering the same for Parts b.(13), b.(14) and b.(15). The proposed amendments to Rule R-11 to update references to Rule P-9 are no longer necessary.

**Comment:** TLTA indicates that it is against cross-referencing procedural rules and rate rules in Rule P-9 and Rule R-11. Their reasoning is that if one rule name changes, then both rules are out of date; and until the rules are updated, it would be confusing to industry members and the public.

**Agency Response:** TDI disagrees with the comment and declines to remove the cross-references from Rule P-9 and R-11. While cross-referencing does require updating references when rules change, it also provides a benefit to industry and consumers. Referencing an applicable rate rule within a procedural rule, and vice versa, allows the reader to understand which rules go together. Title insurance is heavily regulated in Texas, with many procedural and rate rules that specifically go together. Including references to specific rules allows agents and consumers to more easily locate these rules and understand how they operate. At this time, the benefit of providing clarity to readers outweighs the burden of updating cross-references in this rule.

**Comment:** TLTA asks that TDI consider removing language from Rule P-9 that states that premiums must be paid, and then lists the applicable rate rule for that particular endorsement. TLTA reasons that this language is unnecessary because Rate Rule R-2 already mandates that full premiums be collected before issuing any insuring form, with only a few exceptions that are articulated in the rule.

**Agency Response:** TDI disagrees with the comment and declines to remove this language from Rule P-9 at this time. While Rate Rule R-2 does provide language requiring the collection of premiums before issuing a title insuring form, Rule P-9 lists the specific rate rules that apply to each endorsement. Rule P-9 discusses several different types of endorsements with various rate rules. References to specific rate rules allow the reader to know which rate rules go with which endorsements. This increases transparency and is a benefit to both industry and the public.

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**Comment:** TLTA proposed a number of non-substantive, stylistic edits to enhance the clarity of language in Parts a.(3), b.(1), b.(2), and b.(4) of Rule P-9, and Part c. of Rule R-11.

**Agency Response:** TDI agrees that many of the proposed non-substantive, stylistic edits enhance clarity, so TDI has made changes to each of those Parts. The changes are in accordance with TLTA's proposed edits and include a few small differences to further enhance clarity.

**STATUTORY AUTHORITY.** The Commissioner adopts the amendments to 28 TAC §9.1 in accordance with Insurance Code §§2551.003, 2703.208, and 36.001.

Section 2551.003 authorizes the Commissioner to adopt and enforce rules that prescribe underwriting standards and practices on which a title insurance contract must be issued; that define risks that may not be assumed under a title insurance contract; and that the Commissioner determines are necessary to accomplish the purposes of Title 11, Insurance Code, which concerns the regulation of title insurance.

Section 2703.208 states that an addition or amendment to the *Basic Manual* may be proposed and adopted by reference by publishing notice of the proposal or adoption by reference in the *Texas Register*.

Section 36.001 provides that 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.

### **TEXT.**

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

##### **§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* as amended, effective June 10, 2018. The document is available from and on file at the Texas Department of Insurance, Mail

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Code 104-PC, P.O. Box 149104, Austin, Texas 78714-9104. The document is also available on the TDI website at [www.tdi.texas.gov](http://www.tdi.texas.gov), and by email from [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov).

**CERTIFICATION.** This 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 May 18, 2018.

*/s/ Norma Garcia*  
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Norma Garcia  
General Counsel  
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §9.1.

*/s/ Kent C. Sullivan*  
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Kent C. Sullivan  
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **2018-5503**