TEXAS DEPARTMENT OF INSURANCE

Texas Title Insurance Agent Experience Report Submission

General Instructions Manual

*For inquiries regarding the Title Data Call,*

*contact Data Services at 512-475-1878*

**All Texas title insurance companies and title insurance agents, whether independent, affiliated, or direct operation, must submit the Texas Title Insurance Agent Experience Report.**

Tex. Ins. Code Ann. § 2703.153

This manual will assist you in completing the Texas Title Insurance Agent Experience Report Submission using the Texas Department of Insurance (TDI) interactive PDF form or hard copy report.

### General Instructions

1. The experience report submission forms generally have separate columns for reporting title insurance, escrow, and non-policy abstract experience. These three types of operations are further defined as:

 a) *Title insurance* is the business of issuing title insurance commitments, policies, and forms*.*

* It includes all activities connected with title search, title examination, furnishing of title evidence, and closing. Include these activities when you expect that policies or forms will be issued by any title insurance agent, direct operation, or underwriter, whether or not they are, in fact, ultimately issued.
* Direct operations**:** Direct operation activities do NOT include activities for underwriting, administration, and claim settlements.

 b) *Escrow* is the business that relates to the fiduciary function of receiving, accounting for and disbursing of funds held in escrow pertaining to a real estate transaction. If you do not expect that policies or forms will be issued and, in fact, none are ultimately issued, it includes obtaining, signing, copying, certifying, or delivering documents related to the transaction.

 c) *Non-policy abstract* is the business that generates non-policy abstracts, abstract certificates, and non-policy-related abstract fees. It does not involve the expectation of issuance of any title insurance policy or form.

2. Show income and expenses from each of the operations (title, escrow, and non-policy abstract) in their respective columns. If you can determine the exact expense for each operation, allocate the expenses directly (direct allocation). Include expenses required to qualify for and maintain a direct operation or agent's license, including non-refundable license fees, annual audits, and bonds for agents and direct operations, as direct expenses in the title insurance column.

If you are unable to allocate directly, you may use another equitable and reasonable method. One way is to allocate expenses in the same ratio that each individual operation’s income bears to the total income for the applicable operations. Or depending upon the expense to be allocated, you may allocate on the basis of square feet or number of employees devoted to the three operations. If expenses are associated with business activities other than the three operations, you must allocate some portion of the expenses to these other activities**. See the next page for examples of allocation based upon income.**

3. Do not include income and/or expenses for any other business operations in this submission. However, if the books and records that support amounts shown in this submission include income and/or expenses for other business operations, you must complete the form entitled "Allocation Reconciliation Worksheet" and retain it with the books and records used to complete this submission.

Do not submit the Allocation Reconciliation Worksheet with the experience report. Maintain the Allocation Reconciliation Worksheet with your records and ensure that it is available at all times for examination by TDI personnel. The worksheet is only available in hard copy form.

4. Maintain underlying data, individual source documents and other information utilized in the development of your experience report submission in your records for a minimum of five years after the submission due date.

5. Do not report distributions, such as partnership or “s-corp” distributions, on Form J.

Case 1: You have a $750 expense to be allocated to all three operations.

Assume your total from each column on Form A, line A-14, is:

Title $40,000

Escrow $10,000

Non-Policy Abstract $25,000

Total $75,000

To find allocation percentages:

Title $40,000/$75,000 = 53%

Escrow $10,000/$75,000 = 13%

Non-Policy Abstract $25,000/$75,000 = 33%

Allocation amounts are then determined:

Title $750 x .53 = $398

Escrow $750 x .13 = $ 98

Non-Policy Abstract $750 x .33 = $248

 $744

The calculations produce a rounding difference of $6 ($750 - $744 = $6). Simply adjust your figures to make up the $6 difference.

Title $400

Escrow $100

Non-Policy Abstract $250

 $750

Case 2: You have a $900 expense to be allocated between only Title and Non-Policy Abstract.

Again, assume your total from each column on Form A, line A-14, is:

Title $40,000

Escrow $10,000

Non-Policy Abstract $25,000

Total $75,000

Now, add amounts for the two operations involved in this allocation:

Title $40,000

Non-Policy Abstract $25,000

Total $65,000

To find allocation percentages:

Title $40,000/$65,000 = 62%

Non-Policy Abstract $25,000/$65,000 = 38%

Allocation amounts are then determined:

Title $900 x .62 = $558

Non-Policy Abstract $900 x .38 = $342

 $900

Form A – Agency Detail

**General Information:**

**AGENCY NAME**: Use DBA if applicable.

**AGENCY NUMBER**: Found on mailing label of the envelope in which TDI sent this data call packet.

**INDEPENDENT**: Describes title insurance agencies that are independently owned and write title insurance business for one or more underwriting companies.

**AFFILIATED**: Describes a title insurance agency that is owned 10% or more by an underwriting company or that is a member of a holding company structure that includes an underwriting company. See Tex. Ins. Code Ann. §§ 823.002-823.003, 823.151. 2602.003-2602.004.

**DIRECT OPERATION**: Describes an operation, run by a title insurance company which has a license issued by TDI that allows it to own, lease, and control an abstract plant, or to participate in a bona fide joint abstract plant in a given county. A title insurance company may not write, sign, or deliver title insurance in a county in which the company operates an abstract plant until TDI has issued a direct operations license to the company. Tex. Ins. Code Ann. § 2651.051.

**Tax certificates through Telephone & Facsimile** (lines A-6 through A-11): Report all income collected for these specific items. These line items are not carried forward from other forms.

**Interest Income** (line A-12): Does NOT include interest on funds held in escrow that is paid to the escrow fund owners*.*

 Direct operations: Do NOT include interest income on balances supporting underwriting, administration, or claim settlement activities.

**Total income:** The sum of all columns in line A-14.

Form A, Section B: EXPENSE

**General Information:**

**♦ General Note Regarding Expenses: Apportion corporate allocations from Form A, Sections E and F to the appropriate line item expenses, such as salaries, accounting, auditing, data processing, equipment, and so on.**

**♦ Salaries/Wages** (lines B-1a and B-1b): In addition to salaries, include all forms of cash compensation, such as commissions and bonuses. Include any payments for temporary or contract labor.

 Sole proprietorships and partnerships: Include money withdrawn by owner/partner for personal use in lieu of or in addition to a specific salary.

 Direct operations: Do not include salaries for employees engaged solely in underwriting, administration, or claim settlement functions. Where employees have multiple responsibilities, include only that portion of salaries for the percentage of time devoted specifically to direct operations.

**Employee Benefits & Welfare** (lines B-2a and B-2b): These include, but are not limited to, group insurance (life, dental, health, etc.), profit sharing and pension plans [including 401(k), ESOP, SEP, etc.], unemployment taxes, payroll taxes, service awards, and company parties or other functions held solely for and attended solely by bona fide company directors, officers, and employees and their families.

**FORM A, LINES B-5 THROUGH B-31 ARE INDIVIDUAL EXPENSE ITEMS. ALL APPLICABLE EXPENSES MUST BE REPORTED IN THEIR SPECIFIC CATEGORIES. DO NOT USE “OTHER EXPENSES” AS A CATCH-ALL.**

**♦ Accounting and Auditing** (line B-7): Include expenses for in-house or contract services.

**♦ Advertising and Promotions** (line B-8): Include all expenses incurred for any marketing activity. Include expenses incurred for advertising and promoting the title agency. Also include expenses incurred for activities that educate participants about the business of title insurance and the state and federal laws by which the business of title insurance is regulated.

**♦ Employee Travel, Lodging & Education** (line B-9): Include all expenses for business travel, including meals and short-term vehicle rentals while in travel status. Include employee training expenses. Do NOT include long-term vehicle leases that should be reported on line B-19.

**Insurance** (line B-10): Include general insurance such as automobile, property, liability, workers compensation, E&O or fidelity, and title agent and escrow officer bonds. Do NOT include group insurance plans. Report group insurance plans on line B-2.

**Interest** (line B-11): Include interest paid or accrued on all short-term or long-term debt obligations.

**Legal Expenses** (line B-12): Include legal fees and retainers for corporate and administrative matters. Does NOT include costs for defending against a loss. These should be reported on line B-24.

**Licenses, Taxes & Fees** (line B-13): These include, but are not limited to, agent/direct operation and escrow officer licenses, notary bonds, sales tax permits, and property taxes.

**Postage & Freight** (line B-14): Include postage and freight expenses usual and customary to the operation of any business.

**Courier & Overnight Delivery** (line B-15): Include courier and overnight delivery charges paid to third-party vendors for the benefit of title insurance customers. Do NOT include expenses paid for an employee assigned runner/courier duties. Report expenses paid for an employee assigned runner/courier duties on line B-1a.

**Telephone & Facsimile** (line B-16): Include monthly telephone service charges as well as dedicated line charges, long distance charges, and other operational charges for facsimile equipment.

**Equipment & Vehicle Leases** (line B-19): Include all payments for vehicles and other equipment (whether mobile or stationary) acquired through long-term lease agreements. Do NOT include any short-term vehicle rentals while in travel status. Report short-term vehicle rentals while in travel status on line B-9.

**Director’s Fees** (line B-21): Director’s fees are displayed automatically if entered on Form H in the interactive PDF. If you are submitting the forms manually, bring Form H totals forward to line B-21.

**Dues, Boards, Associations** (line B-22): Include only those amounts paid for memberships in associations and on boards.

 **♦** Do NOT include any portion of dues used to support political action committees or lobbyists. Report those expenses on line B-30.

 **♦** Do NOT include amounts paid to trade associations or clubs. Report trade association expenses on line B-31. Report club memberships as employee benefits on line B-1b, or as advertising and promotions on line B-8.

**Bad Debts** (line B-23): Include only obligations due to this agency which were written off the books as uncollectible during the calendar year.

**Loss & Loss Adjustment Expenses** (line B-24): Losses are displayed automatically if entered on Form I in the interactive PDF. If you are submitting the forms manually, bring Form I totals forward to line B-24.

**Tax Certificates Paid Tax Authorities** (line B-25): Include any amounts paid to taxing authorities and/or to tax services for providing tax information.

**Recording Fees Paid County Clerk** (line B-26): Includes only fees paid to the county clerk for the recording of instruments.

**Plant Lease/Maintenance Costs** (line B-27): Allocate these costs directly to the title insurance column, except to the extent that you can make equitable and reasonable allocations to the non-policy abstract column.

**Donations/Lobbying** (line B-30): "Donations" means charitable contributions. "Lobbying expenses" includes amounts paid to political action committees (PACs) and individual lobbyists, whether these amounts are paid directly to the PAC or lobbyist, or indirectly through other organizations. Do NOT include amounts paid to trade associations. Report amounts paid to trade associations on line B-31.

**Trade Association Fees** (line B-31): Include amounts paid to organizations that provide professional services as well as lobbying, such as Trade Associations.

Form A, Section C: NET

**General Information:**

**Income (or loss) from operations** (line C-1): The interactive PDF form calculates these totals for you from the information you have entered. If these numbers do not agree with your calculations, complete the rest of the submission, then review your forms and revise any errors. The title agency experience report submission should reconcile with the net income reported on the title agency financial statements for these three business areas.

Form A, Section D: POLICY COUNT

**General Information:**

Line D-1: Include the number of owner policies issued under Rate Rules R-3 and R-5 (simultaneous issuance).

Line D-2: Include the number of mortgagee policies issued at other than simultaneous issuance rates.

Line D-3: Include the number of mortgagee policies issued under Rate Rule R-5 (simultaneous issuance).

Form A, Section E: UNDERWRITER EXPENSE

**General Information:**

**Total expenses allocated *to* underwriter by Direct Operation or Affiliated Agent only:** Include costs that the direct operation or affiliated agent actually expended, but that were allocated to the underwriter for purposes of the experience report submission. This is an aggregate amount of all such expenses excluded from the agent’s experience report submission***.***

**Total expenses allocated *from* underwriter by Direct Operation or Affiliated Agent only:** Include costs that the underwriter actually expended in its underwriting, administration, or claim settlement activities, but that were allocated to the direct operation or affiliated agent for purposes of the experience report submission. This is an aggregate amount of all such expenses excluded from the underwriter’s experience report submission.

Form A, Section F: AFFILIATED ENTITIES

**General Information:**

For income and/or expense items reported on Form A, specify if allocations were made from other affiliated entities. For this section, other affiliated entities include, but are not limited to, parent and/or sister companies, holding companies, and partners. Include the line and item number on which the allocation is reported.

Title Premiums - Form B

**General Information:**

**Title premiums** (Form B, column 2, Form A, line A-1): Include all premiums collected during the calendar year for policies, binders, and endorsements that have been or will be issued by your agency. **Only report premiums for policies written in counties in which you are licensed.**

**Remitted title premiums** (Form B, column 3, Form A, line A-2): Include the portion of premiums collected during the calendar year that were either remitted to or owed to title underwriting companies.

 Direct operations: Include the portion of gross premiums allocated to the underwriter function.

**Retained** **title premiums** (Form B, column 4, Form A, line A-3): Include the portion of premiums your agency collected during the calendar year. This is the amount of premium *before* splitting with attorneys or other title agents.

 Direct operations: Include the portion of gross premiums not allocated to the underwriter function.

Examination Fees - Form C

**General Information:**

**Fees received for title examination and furnishing title evidence** (Form C, column 3, Form A, line A-4): Report the portion of premiums received from other title insurance agents or underwriters for title examination and furnishing title evidence when the other agents or underwriters issued the policies.

Fees Received for Closing Services - Form D

**General Information:**

**Fees received for closing** (Form D, column 3; Form A, line A-5): Report the portion of premiums received from other title insurance agents or underwriters for closing transactions when other agents or the underwriters issued the policies. Show any income received for out-of-county transactions as fees received for closing on Form D.

Other Income - Form E

**General Information: Other income** (Form E, columns 2, 3, and 4; Form A, line A-13): Do not show income for items that are listed on Form A, lines 1-12.

**Title Insurance**(column 2): Include other income, such as tax refunds, plant/lease update fees, and copy charges.

**Escrow**(column 3):Include escrow fees or other fees that are not passed through to third-party vendors.

**Non-Policy Abstract** (column 4): Include all non-policy-related abstract fees. Do NOT include any premiums or escrow fees.

**Gains or Losses on Sale of Business Asset** (column 2, 3, and 4): Include only the portion of proceeds from the sale of business assets that represents the gains or losses on the sale of those assets. Show loss amounts as a negative income.

Fees Paid for Title Examination and Furnishing Title Evidence - Form F

**General Information:**

**Fees paid for title examination and furnishing title:** Report the portion of premiums paid to non-employees for title examination and furnishing title evidence when your agency issued the policies. Do not show any expenses paid or premium splits paid on out-of-county transactions. If you include any expenses on Form F, those should only be for properties in counties for which you are licensed.

If the payment was made to an affiliate, indicate that with an "X" in column 5. You can do this on the interactive PDF form by clicking in the box.

Tex. Ins. Code Ann. § 823.003(a) defines an affiliate as a person that “directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the other person.”

Fees Paid for Closing Services - Form G

**General Information:**

**Fees paid for closing** (Form G, columns 3, and 4; Form A, lines B-4a and B-4b): Report the portion of premiums paid to non-employees for closing transactions when your agency issued the policy.

If the payment was made to an affiliate, indicate that with an "X" in column 5. Tex. Ins. Code Ann. § 823.003(a) defines an affiliate as a person that “directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the other person.”

Recapitulation of Director Fees - Form H

**General Information:**

**Directors’ fees** (Form H, columns 3, 4, and 5; Form A, line B-21): Include all amounts paid to corporate directors. Do NOT include any amounts reported under Salaries on line B-1.

Losses and Loss Adjustment Expenses - Form I

**General Information:**

Do not include losses that have been paid or that will be paid by an underwriter. Report amounts paid by an agent to reimburse an underwriter for all or a portion of a claim as **losses** or **loss adjustment expenses** for the agent.

**Losses** **(Form I, columns 2, 3, and 4; Form A line B24)**

**Escrow Losses**: Include losses resulting from payments made to or on behalf of others for errors in the closing of an escrow. These payments include, but are not limited to, mathematical errors, additional interest on payoffs, current taxes when not enough was collected at closing, missed invoices or other disbursements, incorrect prorations, and bad checks.

**Agent Errors:** Include payments made by the agent for errors in closing that could have been covered under an insuring form if not paid by the agent. These payments include, but are not limited to, past taxes, missed liens requiring later payoffs, abstracting or examining errors, failure to follow the instructions of parties or lender, and failure to comply with a contract. If not satisfied by the agent and presented to the underwriter, these errors would create a loss covered by a policy or binder.

**Deceptive Trade Practices Act (DTPA) and Product Liability Losses:** Include payments stemming from a lawsuit on these grounds. Where a lawsuit alleges both DTPA or product liability grounds and title defects, report losses stemming from that lawsuit as closing errors based on the title defect.

**Loss Adjustment Expenses:** Include payments made for legal costs, court costs, investigative costs, and other expenses to defend a loss not included in any other expense

Affiliated agents and direct operations: Include all losses that would be charged to an independent agent under identical circumstances.

Other Expenses - Form J

**General Information:**

**Other Expenses** (Form J, columns 2, 3, and 4; Form A, line B-32): Include any other necessary expense associated with the title insurance, escrow, or non-policy abstract business not otherwise noted or included in this submission. **Do not report distributions, such as partnership or “s-corp” distributions on Form J.**

This category does not usually represent a significant percentage of an agent’s total expenses. If the amount of other expenses exceeds 2% of total expenses (line B-32 line B-33), you must itemize the “other expenses” on Form J. Otherwise, you may enter "other" and show the total amount of other expenses.

Many agents wrongly include the following expenses in this category: copy charges (B-17), taxes (B-13), legal fees (B-12), and dues (B-22). Do not include these expenses as other expenses.

Identification of Owners - Form K

**General Information:**

List each individual or entity with a direct or indirect ownership interest in the agency greater than or equal to one percent. Use the codes on Form K to describe the individual or entity.

Title Insurance Premium by County - Form L

**General Information:**

The total Title Premiums Charged should equal the amount of total title premiums charged entered in Form B. **Only report premiums for policies written in counties in which you are licensed.** Refer to the list of Texas County names when entering this information.