The Title Office Staff recommends that the Commissioner of Insurance amend Administrative Rule L-2 Title Insurance Escrow Officer to read as follows:

**ADMINISTRATIVE RULES**

**L-2. TITLE INSURANCE ESCROW OFFICER**

All of the forms referred to herein are available upon request from the Title ~~Division~~ Office of the Department.

**I. PERSONS REQUIRED TO BE LICENSED**

1. The Texas Title Insurance Act defines "Escrow Officer" as an attorney, or bona fide employee of either (i) an attorney licensed as an Escrow Officer, (ii) a Direct Operation, or (iii) a Title Insurance Agent, whose duties include any or all of the following:
	1. countersigning title insurance forms;
	2. supervising the preparation and supervising the delivery of title insurance forms;
	3. signing escrow checks;
	4. closing the transaction.
2. No person shall act in the capacity of Escrow Officer without being licensed by the Department, and obtaining and maintaining a surety bond as required by Texas Insurance Code Chapter 2652 Subchapter C; and no Title Insurance Agent or Direct Operation shall employ any person as Escrow Officer who is not licensed and bonded in accordance with the provisions of the Texas Title Insurance Act.
3. No attorney shall be required to be licensed as an Escrow Officer in order to perform the duties of an Escrow Officer as defined in Texas Insurance Code § 2501.003(4). All non-attorney employees of an attorney who perform any or all of the duties of an Escrow Officer are required to be licensed. Notwithstanding the foregoing a Direct Operation or Title Insurance Agent shall NOT permit an attorney to conduct the attorney's business in the name of the Direct Operation or Title Insurance Agent unless the attorney and all of the bona fide employees of the attorney who perform any or all of the duties of an Escrow Officer are licensed as Escrow Officers.
4. An attorney may become licensed as an Escrow Officer, in which case the attorney shall comply with all requirements of the Texas Insurance Code with regard to Escrow Officers and trust funds, as if the attorney were a Title Insurance Agent. All escrow accounts utilized by licensed Escrow Officers for closing transactions shall be subject to the audit requirements contained in Texas Insurance Code Chapter 2651 Subchapter D. An attorney licensed as an escrow officer must use a title agency escrow account to close title insurance transactions. The transaction must be closed in the title agent’s name.
5. Neither the sole owner nor individual partners of a Title Insurance Agent, doing business as an Individual or Partnership, are required to be licensed as an Escrow Officer, only the employees of such Agents who perform any or all of the duties of an Escrow Officer. Each corporate officer and employee of a Title Agent, doing business as an Entity, who performs any or all of the duties of an Escrow Officer must obtain an Escrow Officer’s license.

 **II. ISSUANCE**

To appoint an individual to act as Escrow Officer for any Title Insurance Agent/Direct Operation, the following forms must be filed with the Title ~~Division~~ Office of the Department:

* 1. An original application for Escrow Officer’s license (Sections A and B).
		1. Each application shall be completed in full before it is submitted to the Department.
		2. The signature appearing on Section B of the application must be the signature of the Title Insurance Agent/Direct Operation.
	2. Non-refundable license fee of $35.00.
	3. The proper Texas Escrow Officer's Schedule Bond or in lieu thereof a cash deposit or irrevocable letter of credit issued by a financial institution in this state insured by an agency of the United States Government (or securities approved by the Department), procured at the expense of the Title Insurance Agent/Direct Operation.

1.~~(a)~~ The aggregate amount is to be determined by multiplying the number of Escrow Officers by:

1. $5,000 for each individual who is a bona fide resident of this state; plus
2. $10,000 for each individual who is a bona fide resident of a state adjacent to this state;
3. Notwithstanding Subsection (a) or Subsection (b), the maximum amount of the bond or deposit shall ~~but~~ not exceed~~ing~~ $50,000.

2.~~(b)~~The bond form will provide that the entire penal sum shall be applicable for losses caused by any one or all of the Escrow Officers covered by the obligation.

 **III. ADDITIONAL APPOINTMENTS**

The Department must be notified immediately whenever a Title Insurance Agent/Direct Operation or attorney licensed as an Escrow Officer employs an additional individual to act as Escrow Officer, and the following forms are required by the Department:

1. An original application for Escrow Officer’s license having the same specifications as listed under ISSUANCE.
2. Non-refundable license fee of $35.00.
3. An original rider or endorsement to the Texas Escrow Officer's Schedule Bond adding the individual to the schedule and increasing the penalty thereof by:

	1. $5,000 if an in-state applicant; or
	2. $10,000 per applicant if a bona fide resident of a state adjacent to this state,

if necessary.

 **IV. CANCELLATION**

1. Whenever an individual ceases to act as Escrow Officer for any Title Insurance Agent/Direct Operation written notice shall be sent immediately to the Escrow Officer and to the Department with the following:
2. Completed notification of cancellation (reverse side of Certificate of License), or a sworn statement that the Certificate of License has been lost or misplaced and a written statement indicating the reason for cancellation and the date the cancellation is effective.
3. An original rider to the Texas Escrow Officer's Schedule Bond deleting the individual from the schedule and decreasing the penalty thereof by:
4. $5,000 per escrow officer if an in-state resident; or
5. $10,000 per escrow officer if a bona fide resident of a state adjacent to this state,

if necessary.

1. An escrow officer may voluntarily surrender his license at any time by giving notice to the Department and submitting their current, original escrow officer license or a sworn statement that the license has been lost or misplaced or he has been unable to obtain the original license from the Title Agent/Direct Operation.
2. The license will be cancelled by the Department upon receipt of the items in A.1 or B notwithstanding the receipt of an original rider to the Escrow Officer's Schedule Bond.

 **V. RENEWAL**

* 1. Escrow Officer licenses shall, on the date of expiration, be renewed pursuant to Texas Insurance Code §4003.002.  Escrow Officer Licenses will be renewed with an expiration date to coincide with the expiration date of the license of the Title Agent/Direct Operation for which the Escrow Officer is licensed.
	2. For all Escrow Officer Licenses renewed: Escrow Officer Licenses expire on the same date as the Title Insurance Agent /Direct Operation for which the Escrow Officer is licensed. To renew any license, on or before the expiration date of the license, the Title Insurance Agent/Direct Operation must submit the following to the Department on behalf of each Escrow Officer whose license is expiring:
	3. The original Title Insurance Escrow Officer's License renewal form provided by the Department.
	4. Non-refundable renewal fee of $35.00. If a license is renewed for less than two (2) years the non-refundable renewal fee shall be prorated on a monthly basis.
	5. Failure of a Title Insurance Agent/Direct Operation to submit any of the required renewal forms for any Escrow Officer on or before the expiration date of the license, results in automatic expiration of the respective license, and the proper rider to the Texas Escrow Officer's Bond will then be required.
	6. If an Escrow Officer's License is expired for not longer than 90 days, the license may be renewed by submitting the renewal form and paying the required non-refundable renewal fee and a fee of one half (1/2) of the initial license fee.
	7. If the Escrow Officer's License is expired for more than 90 days, the license may not be renewed. An original application for Escrow Officer’s license must be submitted with the same requirements as listed under ISSUANCE.

 **VI. CHANGE IN EMPLOYMENT STATUS OF AN ESCROW OFFICER WHO REMAINS LICENSED WITH THE SAME TITLE AGENT OR DIRECT OPERATION**Upon a change in the employment status of a licensed escrow officer with the same title agent or direct operation, joint written notification must be made to the Title ~~Division~~ Office of the Texas Department of Insurance by the licensed escrow officer, the title agent or direct operation and the employer attorney, if applicable, within fifteen (15) calendar days of the change in employment status. The written notification must be acknowledged and sworn to by the escrow officer, the title agent or direct operation and the employer attorney, if applicable.

 **VII. CHANGE OF RESIDENCE ADDRESS OF A LICENSED ESCROW OFFICER**Upon a change in the residence address of a licensed escrow officer, written notification must be made to the Title ~~Division~~ Office of the Texas Department of Insurance by the licensed escrow officer. Written notification may be by letter, fax, or e-mail and must include the new residence address as well as new residence phone number if applicable.

**VIII. CHANGE OF NAME OF A LICENSED ESCROW OFFICER**Upon a change in the name of a licensed escrow officer, written notification must be made to the Title ~~Division~~ Office of the Texas Department of Insurance by the title insurance agent/direct operation. Written notification must be by letter and must include the new name and the reason for the name change, such as marriage or divorce. The written notification must be accompanied by the escrow officer’s current, original license and an original rider for the Texas Escrow Officers Schedule Bond on file with this Department for the title agent/direct operation changing the escrow officer’s name on the bond.

JUSTIFICATION

This agenda item incorporates the changes of HB 652 2009 Texas Legislature: 81(R) effective September 1, 2009 and also conforms formatting changes.