

No. 08-0186

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

Date: MAR 05 2008

Subject Considered:

Docket No. 2668
2006 Texas Title Insurance Biennial Hearing
Disapproval Order

General remarks and official action taken:

On this day came on for consideration by the Commissioner of Insurance (Commissioner) the matter of certain Agenda Items related to the 2006 Texas Title Insurance Biennial Hearing, Docket No. 2668, held on September 5, 2007.

The Commissioner has jurisdiction of this matter pursuant to Insurance Code §§2551.003, 2703.153, 2703.203, 2703.205 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, including risks that may not be assumed because of the insolvency of the parties to the transaction, and that the Commissioner determines are necessary to accomplish the purposes of Insurance Code Title 11, which concerns the regulation of title insurance. Section 2703.153 authorizes and requires the Commissioner to collect data from each title insurance company and title insurance agent engaged in the business of title insurance relating to loss experience, expense of operation, and other material matters necessary for the fixing of premium rates. Section 2703.203 authorizes and requires the Commissioner to hold a biennial public hearing to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an association, title insurance company, title insurance agent, or member of the public requests to be considered or that the Commissioner determines necessary to consider. Section 2703.205 authorizes and requires the Commissioner to consider rules, forms, endorsements, and related matters that do not have rate implications at the rulemaking phase of the biennial public hearing. Section 36.001 authorizes the Commissioner of Insurance to adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

The Title Division staff recommends that the following proposed Agenda Items not be adopted and accordingly should be disapproved because Departmental testing has not revealed sufficient basis for implementing these Items at this time:

Item 2006-11 – Submission to amend Procedural Rule P-1 to rename the "Owner Policy" and the "Mortgagee Policy" to coincide with the terminology utilized in the corresponding American Land Title Association policies and to provide that the new terminology be incorporated into newly printed or electronically generated forms.

Item 2006-13 – Submission to amend Procedural Rule P-17 by allowing for electronic filing and recording of documents and to withdraw Bulletin 163 to allow a pass-through to consumers of electronic filing fees. The Department notes that while the development and utilization of new technology to promote efficiencies in closing the transaction is strongly encouraged, such efficiencies should also minimize additional increased economic impact to consumers. The Department will continue to work with parties interested in amendments to Procedural Rule P-17 and revising Bulletin 163 to reflect acceptable practices regarding electronic filing and recording of documents. Interested parties are encouraged to organize and participate in a study group to determine a method of implementation of electronic filing and recording of documents that will minimize increased economic impact to consumers.

Item 2006-23 – Submission to amend the Owner Policy of Title Insurance Form T-1 based on the new 2006 American Land Title Association Owner's Policy.

Item 2006-25 – Submission to amend the Mortgagee Policy of Title Insurance Form T-2 based on the new 2006 American Land Title Association Loan Policy.

Item 2006-28 – Submission to amend Procedural Rule P-32 to clarify time periods for retention of documents and to conform this procedural rule to the provisions of UETA and E-SIGN.

Item 2006-37 – Submission to amend Administrative Rule L-1 to provide that, upon the filing of an application for a title insurance agent license, the Department must notify all currently licensed title insurance agents in the county in which the sponsoring title insurance company applicant is seeking approval and to provide that any currently licensed agent may make a written request to the Department for an on-site audit of the applicant's abstract plant facilities.

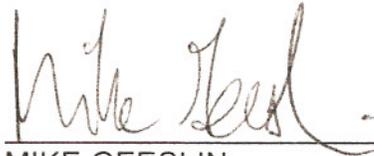
Item 2006-44 (Specific Areas and Procedures 5) – Amended submission to amend the Minimum Standards, Specific Instructions and Report Forms for Audit of Trust Funds Required of Texas Title Insurance Agents, Direct Operations, Title Attorneys and Attorneys Licensed as Escrow Officers in Section V to clarify consumer charges in Specific Areas and Procedures 5.

Item 2006-64 – Submission to adopt a new Procedural Rule to ensure that title insurance companies do not receive more than 50% of their business through Affiliated Business Arrangements, to provide that 90% of the business of a title insurance company operating in connection with an Affiliated Business Arrangement must involve property located within the county in which the company is licensed, to provide notice requirements concerning Affiliated Business Arrangements, and to ensure that such arrangements are not coercive.

After careful review and consideration of the filings, testimony and comments, the Commissioner has determined that the proposed Agenda Items 2006-11, 2006-13, 2006-23, 2006-25, 2006-28, 2006-37, 2006-44 (Specific Areas and Procedures 5), and 2006-64 should not be adopted and should accordingly be disapproved. As stated above, the section of Item 2006-44 regarding the Specific Areas and Procedures 5 of the Minimum Standards, Specific Instructions and Report Forms for the Audit of Trust Funds of the Basic Manual should not be adopted, and the Specific Areas and Procedures 5 is the only section of that Item that should not be adopted.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that, for the reasons stated herein, Agenda Items 2006-11, 2006-13, 2006-23, 2006-25, 2006-28, 2006-37, 2006-44 (Specific Areas and Procedures 5), and 2006-64 related to the 2006 Texas Title Insurance Biennial Hearing, Docket No. 2668, be and are hereby disapproved.

AND IT IS SO ORDERED.



MIKE GEESLIN
COMMISSIONER OF INSURANCE

ATTEST:



Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. _____