No.06-1280

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

Date: December 12, 2006

Subject Considered:

In the Matter of the 2004
TEXAS TITLE INSURANCE BIENNIAL RATE HEARING
Docket No. 2601

General remarks and official action taken:

On this day came on for consideration by the Commissioner of Insurance (Commissioner) the matter of determining the premium rates for title insurance and other matters with rate implications pursuant to the Texas Insurance Code, Title 11, Chapter 2501 *et sequens*. The Commissioner has jurisdiction over these matters pursuant to the Texas Insurance Code §§31.007 and 2551.003; the Texas Insurance Code, Chapters 2501 and 2703; and the Texas Administrative Code, Title 28, Chapter 9.

The Texas Department of Insurance (TDI) issued a Notice of Call for Issues Related to 2004 Biennial Title Hearing which was published at 29 *TexReg* 7785 on August 6, 2004. Any association, any title insurance company, any title agent or any member of the public that wished to request that any matter or subject, in addition to the rates for title insurance, be considered at the biennial hearing was instructed to provide a detailed description of the matter or subject to TDI by September 7, 2004. Eight matters with rate implications were submitted for consideration and were certified as matters having rate implications to be considered at the ratemaking phase of the biennial hearing. Texas Land Title Association (TLTA) submitted Agenda Item 2004-44 to adopt a Schedule of Basic Premium Rates for Title Insurance (Texas Title Insurance Premium Rates) for the next calendar year and subsequent years until changed by subsequent order of the Commissioner; Agenda Item 2004-45 to adopt a new Rate Rule for the proposed new Assignment of Rents/Leases Endorsement; Agenda Item 2004-46 to adopt a new Rate Rule for the proposed new Premium for Deletion of Exception to Marital Rights; Agenda Item 2004-47 to amend Rate Rule R-11 to add a new subparagraph (m) for the proposed new Condominium Endorsement; Agenda Item 2004-48 to adopt a new Rate

Rule for the proposed new Survey Endorsement; and Agenda Item 2004-49 to amend Rate Rule R-30 to allow multiple access endorsements to be issued with a proposed separate charge for each endorsement. The TDI Title Division staff (Title Division staff) submitted Agenda Item 2004-50 to amend Rate Rule R-8, Mortgagee Policy, on a Loan to Take Up, Renew, Extend or Satisfy an Existing Lien(s) to increase the percentage of credits; and Agenda Item 2004-51 to amend Rate Rule R-29, Premium For Restrictions, Encroachments, Minerals Endorsement (T-19) And Premium For Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1).

TDI issued a Notice of Public Hearing on October 6, 2004, and it was published at 29 *TexReg* 9718, on October 15, 2004. Docket No. 2600, the rulemaking phase, was set for hearing on December 15, 2004, at 9:30 a.m., and Docket No. 2601, the ratemaking phase, was set for hearing on December 31, 2004, at 9:30 a.m. No party objected to this notice.

TLTA; Texas Society of Professional Surveyors (TSPS); Texas Association of Abstractors and Title Insurance Agents (TAATA); Sierra Title Company, Inc., Metro Title Company, Inc. d/b/a Sierra Title of Cameron and Willacy Counties, Sierra Title of North Texas, Inc., Sierra Title of Corpus Christi, L.L.C., and Sierra Title of Hidalgo County, Inc. (as one party) (Sierra); Southern Title Insurance Corporation (STIC); John E. Phipps (Phipps); Gary P. Lancaster (Lancaster); and Department of Insurance staff (TDI staff) filed motions for admission as parties. The Office of Public Insurance Counsel (OPIC) filed a notice of intervention indicating that it would appear in the proceedings. All of the above were admitted as parties in the ratemaking phase of the hearing pursuant to Prehearing Order No. 1 issued on November 16, 2004. No party requested that the rate case be heard by the State Office of Administrative Hearings.

The hearing on the rulemaking phase was held on December 15, 2004. Two orders address the issues raised at this hearing. The first, Commissioner’s Order No. 05-0688, dated August 9, 2005, denied or otherwise disposed of certain rules and forms. Because the order denied TLTA’s Agenda Items 2004-13, 2004-16, and 2004-17, Agenda Items 2004-46 and 2004-48, to be presented during the ratemaking phase, were rendered moot. The second, Commissioner’s Order No. 05-0851, dated October 5, 2005, adopted amendments to Title 28, Texas Administrative Code, §§9.1 and 9.401, which concern the adoption by reference of certain amendments to the Basic Manual of Rules, Rate and Forms for the Writing of Title Insurance in the State of Texas (Basic Manual) and to the Texas Title Insurance Statistical Plan (Statistical Plan). The amendments to §§9.1 and 9.401 revise the date of the amended Basic Manual and Statistical Plan.

The hearing on the ratemaking phase did not immediately follow the hearing on the rulemaking phase. Originally, a Notice of Reconvening of 2004 Texas Title Insurance Biennial Hearing was published at 30 *TexReg* 8321 on December 9, 2005. An Amended Notice of Reconvening of 2004 Texas Title Insurance Biennial Hearing was published at

31 *TexReg* 206 on January 6, 2006. The amended notice set the ratemaking phase for March 7, 2006. TAATA filed a Motion for Continuance of the ratemaking phase of the 2004 Biennial Title Hearing. Prehearing Order No. 2 granted the Motion for Continuance and ordered the ratemaking phase of the 2004 Biennial Title Hearing continued to a date after the conclusion of the 79th Session of the Texas Legislature. A final Notice of Reconvening of 2004 Texas Title Insurance Biennial Hearing was published at 31 *TexReg* 4094 on May 12, 2006. The notice set the ratemaking phase for August 16, 2006. No party objected to this notice.

Prior to the hearing on the ratemaking phase, many other procedural matters were addressed in Prehearing Order Nos. 3 through 12.

Prehearing Order No. 3, issued on December 6, 2005, set a prehearing conference for December 12, 2005 to hear requests for continuance and other pre-trial motions, to identify and resolve pre-trial discovery disputes, and to address other matters that might aid in the simplification of the proceedings.

Prehearing Order No. 4, issued on December 14, 2005, ruled on motions for continuance by granting in part and denying in part, overruled Sierra's objections to deposition upon written questions, set a schedule for filing requests to set a discovery deadline and for the prefiling of testimony and each party's statement of position, and set forth the order of presentation of argument and evidence by the parties.

TDI staff filed requests for issuance of subpoenas and commissions for deposition and subpoenas duces tecum to various parties and other interested non-parties. Counsel for these parties and other interested non-parties filed either objections or motions to quash or motions for protective orders. TDI staff filed a Motion to Compel Discovery, and several parties and other interested non-parties filed responses thereto. Prehearing Order No. 5, issued on January 18, 2006, set a settlement conference for January 27, 2006 to address evidentiary and other matters that might aid in the simplification of the proceedings.

Prehearing Order No. 6, issued on January 20, 2006, granted a Motion to Withdraw the Motion to Compel Discovery filed by TDI staff.

A Motion for Admittance as a Party was filed by the Houston Center for Independent Living, and responses and objections thereto were filed by TLTA and TAATA. Prehearing Order No. 7 issued on February 10, 2006, denied the Motion for Admittance as a Party.

On February 10, 2006, Prehearing Order No. 8, issued on the Commissioner's own motion, extended the deadline for the pre-filing of direct testimony to February 17, 2006, and, subject to further orders, preserved all other filing deadlines contained in Prehearing Order No. 4.

A Discovery Settlement Agreement was filed on February 9, 2006, and an Amendment to Discovery Settlement Agreement was filed on February 15, 2006, to which TDI staff, the parties, and all non-party witnesses agreed. On February 16, 2006, Prehearing Order No. 9 was issued in which the compromise as stated in the agreements was approved, and motions to continue the March 7, 2006 setting of the ratemaking phase of the 2004 Texas Title Insurance Biennial Hearing were granted. Prehearing Order No. 9 also abated compliance with the schedule of deadlines set forth in Prehearing Order No. 4, issued on December 14, 2005.

Prehearing Order No. 10, issued on April 27, 2006, denied the Motion for Rehearing of the prehearing conference filed by Lancaster.

Prehearing Order No. 11, issued on April 27, 2006, set forth a new schedule of deadlines for the pre-filing of testimony and statements of position and the order of parties for the presentation of argument and evidence.

Parties submitted a number of objections to pre-filed testimony and deposition excerpts. Prehearing Order No. 12 issued on August 9, 2006, scheduled a pre-trial conference for August 14, 2006 to hear oral arguments. TLTA, OPIC, and TDI staff presented. The General Counsel ruled from the bench. The rulings were recorded on the record.

The hearing on the merits of the 2004 Texas Title Insurance Biennial Hearing Ratemaking Phase, presided over by Commissioner Mike Geeslin, convened on August 16, 2006 in Room 100, 333 Guadalupe, Austin, Texas and continued through August 17, 2006. The following Agenda Items were considered in this hearing: Agenda Item 2004-44 to adopt a Schedule of Basic Premium Rates for Title Insurance (Texas Title Insurance Premium Rates) for the next calendar year and subsequent years until changed by subsequent order of the Commissioner; Agenda Item 2004-45 to adopt a new rate rule for the proposed new Assignment of Rents/Leases Endorsement; Agenda Item 2004-47 to amend Rate Rule R-11 to add a new subparagraph (m) for the proposed new Condominium Endorsement; Agenda Item 2004-49 to amend Rate Rule R-30 to allow multiple access endorsements to be issued with a proposed separate charge for each endorsement; Agenda Item 2004-50 to amend Rate Rule R-8, Mortgagee Policy, on a Loan to Take Up, Renew, Extend or Satisfy an Existing Lien(s) to increase the percentage of credits; and Agenda Item 2004-51 to amend Rate Rule R-29, Premium For Restrictions, Encroachments, Minerals Endorsement (T-19) And Premium For Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1). Preliminary matters considered included an opportunity for public comment. No one at the hearing expressed a desire to make public comment.

Parties were asked to announce. Phipps and Lancaster did not appear. TLTA, TAATA, TSPS, Sierra, STIC, OPIC and TDI staff gave opening remarks followed by a presentation of the evidence. TLTA presented its case through the testimony of Samuel C. Hadaway, Jared E. Hazelton, Nelson R. Lipschutz, David Appel, Michael J. Miller, John F. Rothermel, III, and Brian Pitman. TAATA presented its case through the testimony of Drew Darby, Celia Flowers, Mike Overly, and R. C. Von Doenhoff. TSPS presented no witnesses. Sierra presented its case through the testimony of Robert Field. STIC presented no witnesses. OPIC presented its case through the testimony of Allan Schwartz. TDI staff presented its case through the testimony of Mark Crawshaw. On August, 17, 2006, the Commissioner adjourned the hearing on the merits. Parties were asked to submit closing statements and rebuttal arguments.

After the presentation of evidence but prior to closing the record, the parties were asked to submit briefs on alternative rating methodologies, reinsurance, and the various approaches other states take to regulating the business of title insurance by August 29, 2006. Reply briefs were due on September 12, 2006. The Commissioner requested these briefs because the testimony presented by some of the parties, although not on specific agenda items, suggested that a competitive disadvantage exists when rural title agents work on transactions controlled by large, metropolitan title operations. Some parties testified that the rural title agent is forced to do all of the work, but receives an unfair portion of the premium split or performs title work for which the agent is never compensated. For the past six years, the Commissioner has instructed parties to consider and provide evidence on alternative methodologies for determining premium rates, premium splits between agents, and premium splits between agents and underwriters. The parties have failed to provide helpful testimony or submit agenda items that effectively address these issues, but continue to complain about these alleged inequities. The Commissioner considers these issues to be significant matters that must be addressed. The matters require a solution if the current framework of the Texas title insurance industry is to continue. Therefore, the Commissioner intends for these matters to be covered in a separate hearing, to be scheduled at a later date.

The Commissioner has the responsibility under the Texas Insurance Code §2703.003 and §§2703.151 – 2703.153 to fix and promulgate the premium rates to be charged by title insurance companies and title insurance agents for policies of title insurance. The prescribed rates are to be reasonable to the public and nonconfiscatory as to the title insurance companies and title insurance agents. Based upon the testimony and evidence admitted, the Commissioner adopts the following findings of fact and conclusions of law.

FINDINGS OF FACT

Procedural Matters

1. On October 6, 2004, the Texas Department of Insurance (TDI) issued its Notice of Public Hearing in this matter, and it was published at 29 *TexReg* 9718 (October 15, 2004).

2. The ratemaking phase of the 2004 Texas Title Insurance Biennial Hearing was reconvened after the conclusion of the 79th Session of the Texas Legislature.

3. The following entities were admitted as parties in the rate hearing: Texas Land Title Association (TLTA); Texas Society of Professional Surveyors (TSPS); Texas Association of Abstractors and Title Insurance Agents (TAATA); Sierra Title Company, Inc., Metro Title Company, Inc. d/b/a Sierra Title of Cameron and Willacy Counties, Sierra Title of North Texas, Inc., Sierra Title of Corpus Christi, L.L.C., and Sierra Title of Hidalgo County, Inc. (as one party) (Sierra); Southern Title Insurance Corporation (STIC); John E. Phipps (Phipps); Gary P. Lancaster (Lancaster); Department of Insurance staff (TDI staff); and the Office of Public Insurance Counsel (OPIC) .

4. The rate hearing was convened on August 16, 2006, and adjourned on August 17, 2006.

5. The rate hearing was held before the Texas Commissioner of Insurance, Mike Geeslin.

Losses and Loss Adjustment Expenses (LAE)

6. OPIC selected a loss and LAE ratio of 2.8 percent, prior to the consideration of catastrophes, from a series of 10 averages and medians based on past calendar year on-level loss and LAE ratios for periods ranging from one to 23 years, as well as a regression over the most recent 23 years against a binary variable that has a value of one in the period 1986-1992 and zero for other years.

7. The losses and LAE underlying OPIC's selected ratio described in Finding No. 6 included losses and LAE reported by the agent and underwriter groups.

8. The average and median loss and LAE ratios described in Finding No. 6 ranged from 2.6 percent to 5.2 percent; while the regression produced fitted values of 10.6 percent for the 1986-1992 years and 2.8 percent for other years.

9. OPIC added a one percentage point provision for catastrophes producing a final selected loss and LAE ratio of 3.8 percent.

10. TDI staff reviewed calendar year loss and LAE ratios over the 16 year period 1989-2004, which produced an average of 2.6 percent for 1997-2004 and an average of 4.5 percent over the full 16 years.

11. The losses and LAE underlying TDI staff ratios described in Finding No. 10 included losses and LAE from both the agents and underwriter groups.

12. TDI staff selected a final loss and LAE provision of 4.0 percent, including a provision for catastrophes, based on the loss and LAE ranges and averages described in Finding No. 10 and on Commissioner's Order No. 04-0405.

13. TLTA directly projected a loss and LAE ratio only for underwriters; the losses and LAE for agents were included in its projection of agents' expenses.

14. TLTA calculated loss and LAE ratios for underwriters on a policy year basis using what were essentially normal actuarial loss development techniques.

15. TLTA incorrectly stated the policy year 1998 loss and LAE ratios beyond the first evaluation. This affected certain loss development factors as well as the projected policy year 1998 loss and LAE ratio itself.

16. After correction of the calculation error described in Finding No. 15, the developed ultimate loss and LAE ratios for the 10-year period 1995-2004 ranged from 1.92 percent to 4.86 percent, with an arithmetic average of 3.15 percent.

17. TLTA noted that there appeared to be a marked upward trend in the loss and LAE ratios, so it fitted a regression line to the ratios, producing a projected 2006 loss and LAE ratio of 5.17 percent, which should be 5.04 percent based on the corrected policy year loss ratios.

18. TLTA noted that there is a great deal of volatility in the indicated fully-developed loss ratios for the less mature years, which increases the level of uncertainty of the regression. Therefore, rather than using the indication from the regression analysis, TLTA selected a more conservative estimate of the expected loss and LAE ratio of 4.11 percent, which is the five-year average of the fully developed loss ratios.

19. The five-year average of the fully developed loss ratios should be 4.03 percent after correction of the error discussed in Finding No. 15.

20. TLTA selected a final 5.11 percent loss and LAE ratio by including a one percentage point provision for catastrophes, which would be 5.03 percent based on the corrected policy year loss ratios.

21. OPIC and TDI staff used calendar year losses and LAE for agents and underwriters, which represent all claims activity, including payments and changes in reserves, that takes place during a given calendar year, regardless of when the policy giving rise to the claims was written.

22. The developed ultimate policy year losses and LAE for underwriters used by TLTA represent the costs of claims arising from policies that were written during a given annual period, regardless of when the claims are reported or paid.

23. It is reasonable to use developed to ultimate policy year losses and LAE to calculate the loss and LAE ratio in the rates if such data is available, because it ties losses and LAE to a particular block of policies and is not subject to potential distortions such as changing volumes of business.

24. A disadvantage of using developed to ultimate policy year losses and LAE is that the most recent years are not mature, with many claims not yet settled and many or most claims not even known, and actual ultimate policy year losses and LAE could vary substantially from the projected values.

25. A reasonable way to temper possible fluctuations in the projections, especially for the most recent policy years, is to utilize an average over a number of years.

26. The 10-year average of the fully developed loss ratios using TLTA’s methodology is 3.15 percent.

27. Policy year data for agents’ losses and LAE was not available from title statistical data reported to TDI. However, the 10-year average of calendar year agents’ losses and LAE ratios is 0.27 percent.

28. Based on Finding Nos. 6 through 27, it is reasonable to base the loss and LAE ratio on the sum of the 10-year average of the projected ultimate underwriter policy year losses and LAE ratios using TLTA’s methodology and the 10-year average of calendar year incurred losses and LAE ratios reported by agents.

29. A reasonable provision for loss and LAE in the rates is 4.0 percent, including a loading for catastrophes.

Expenses and Premiums

Data

30. TLTA included losses and LAE incurred by agents in the expenses attributable to agents, but did not include losses and LAE incurred by underwriters in the expenses attributable to underwriters. Both OPIC and TDI staff excluded all losses and LAE from expenses.

31. Based on Finding Nos. 28 and 29, it is reasonable to exclude all loss and LAE from expenses.

32. OPIC and TDI staff also adjusted the 1989-2004 premiums and expenses they used in their projections to eliminate the double counting of income and expense arising when underwriters or agents pay another agent for title services.

33. The transfer payments described in Finding No. 32 overstated the indicated experience expense ratios, and the adjustments proposed by TDI staff and OPIC to account for these payments are reasonable.

34. OPIC, TLTA and TDI staff subtracted tax certificate and recording fee income from gross title income and tax certificate and recording fee costs from title expenses. This was done under the assumption that the amounts were straight pass-throughs.

35. OPIC and TDI staff included the change in the statutory premium reserves (sometimes also called the change in the unearned premium reserve) held by underwriters as an expense item in calculating the expenses to be included in the rate.

36. The Texas Insurance Code §§2551.256 and 2551.257 state that the purpose of the statutory premium reserve is to provide for adverse development on known claims and for incurred but not reported claims.

37. The projections to ultimate of policy year losses and LAE described in Finding Nos. 13 through 29 would include provisions for adverse development on known claims and the costs of incurred but not reported claims.

38. To use both projected ultimate policy year losses and LAE and the change in the statutory premium reserve for the development of premium rates would be double-counting a portion of the provisions for adverse development on known claims and the costs of incurred but not reported claims.

39. It is reasonable to exclude the change in the statutory premium reserve from expenses in calculating the rate.

40. Even after taking into account differences among the parties on what data elements should be included in expenses, there remained some unexplained differences in the parties' expense and premium data.

41. Instances where the underlying expenses, adjusted to a common basis, differed for 1989-2004 were identified.

42. Data to determine the actual expenses or premiums in instances where the parties differed is not in the record.

43. In instances where two of the parties used the same expenses or premiums and one used different values, it is reasonable to conclude that the expenses or premiums of the two parties that used the same expenses or premiums are the correct values. In instances where all parties used different expenses or premiums, it is reasonable to use the median expenses or premiums.

44. It is reasonable in this proceeding to base rate calculations on the underlying expenses or premiums where all parties agreed on the underlying expenses or premiums, the underlying expenses or premiums of the two parties that agreed where the third disagreed, and the median expenses or premiums where all three parties disagreed.

Proposed Methodologies

45. OPIC selected expense ratios, excluding all loss and LAE, from a series of 10 averages and medians based on past on-level expense ratios for periods ranging from one to 23 years, as well as two regressions against the on-level expense ratios from the most recent 23 years.

46. The first regression model described in Finding No. 45 regressed the expense ratios against a time variable (the year) and a dummy variable that increased in increments of one from a value of one in 1982 to a value of nine in 1990 and was set equal to 10 thereafter.

47. The second regression model described in Finding No. 45 regressed the expense ratios against the numbers of owner and mortgagee policies written by underwriters and the dummy variable described in Finding No. 46.

48. The regression model described in Finding No. 46 produced an expense ratio of 88.1 percent while the regression model described in Finding No. 47 produced an expense ratio of 91.5 percent.[1]

49. In arriving at its final rate change recommendation OPIC effectively averaged these to produce an expense ratio of 89.8 percent based on the regression results of 88.1 percent and 91.5 percent described in Finding No. 48, prior to expense limitations on account of reverse competition.

50. TLTA projected expense dollars separately for four groups: underwriters, direct operations, affiliated agents, and independent agents.

51. TLTA's projections were based on regressions over the most recent 16 years of each group's inflation-adjusted expenses against the corresponding numbers of owners and mortgagee policies written by each group and a dummy variable.

52. TLTA's adjustment for inflation described in Finding No. 51 was accomplished by multiplying each year's expenses for each group by a factor derived from the Gross Domestic Product (GDP) deflator to bring them to 2006 cost levels.

53. In order to account for a change in the definition of affiliated agents for the reporting of experience that became effective in 1997, the dummy variable utilized by TLTA in its regressions had a value of zero for years prior to 1997 and a value of one for 1997 and thereafter.

54. TLTA's projected expense dollars were based on an assumed 1,103,525 policies, a figure derived from the number of policies written by underwriters in 2004 reduced by approximately 7.5 percent, the reduction being based on an assumed downturn in refinancing activity.

55. To get an indicated expense ratio, TLTA's projected expense dollars described in Finding Nos. 50 through 54 were divided by TLTA's projected premiums based on the projected 1,103,525 policies and an assumed average rate selected from 10 years of average premiums at current rate levels adjusted to reflect a 2006 estimated average real estate value level.

56. TLTA's average projected expense ratio, including agents' losses and LAE, was 88.7 percent.

---

[1] An expense ratio of 89.9 percent for the regression described in Finding No. 48 was provided in the original filing. After correction of a calculation error, the resulting expense ratio is 91.5 percent.

57. TDI staff projected expenses, excluding all losses and LAE, for underwriters and agents combined, using four regression methodologies.

58. TDI staff's first methodology regressed the 1989 through 2004 on-level expense ratios against the corresponding numbers of "weighted" policies written by agents. The numbers of weighted policies were calculated by adding 45 percent of the numbers of other than owner and mortgagee policies to the numbers of owner and mortgagee policies.

59. TDI staff's second methodology regressed the 1989 through 2004 on-level expense ratios against the corresponding on-level premiums.

60. TDI staff's third methodology regressed the 1989 through 2004 on-level expense ratios against the corresponding numbers of owner and mortgagee policies written by agents.

61. TDI staff's fourth methodology was similar to that described in Finding No. 60 except that the numbers of owner and mortgagee policies written by underwriters were used.

62. The 2003 and 2004 actual expense ratios were adjusted to reflect differences between the number of policies or premiums in those years and those anticipated for 2006, using the coefficients from the regression.

63. The anticipated numbers of policies and the anticipated dollars of premium for 2006 referred to in Finding No. 62 were effectively averages of the actual numbers of policies and the actual premiums written in 2003 and 2004.

64. TDI staff did not reflect likely increases in premiums due to increases in property values between the 2003-2004 period and 2006 in its calculations in the case of the regression described in Finding No. 59.

65. TLTA assumed a 3.4 percent annual increase in premiums due to increases in property values in its calculations.

66. It is reasonable to assume a 3.4 percent per year increase in premiums due to increases in property values between 2003-2004 and 2006 in applying the regression methodology proposed by TDI staff that uses on-level premiums as the independent variable.

67. TDI staff further adjusted the projected on-level expense ratios referred to in Finding No. 62 to account for an apparent misallocation of costs between title

and non-title activities in 2003 and 2004 in situations where some agents showed escrow and/or non-policy abstract income with little or no corresponding expenses, title expenses with no title income, and title expenses greatly in excess of title income.

68. TDI staff's adjustment for the apparent misallocation of costs described in Finding No. 67 is reasonable and should be used.

69. TDI staff also adjusted the projected on-level expense ratios to exclude the effect of reverse competition as described in Finding No. 95.

70. TDI staff's final projected expense ratios were 87.1 percent in the case of projections based on weighted policies, 85.4 percent in the case of projections based on on-level premiums as adjusted for the increasing property values described in Finding No. 66, 86.8 percent in the case of projections based on owner and mortgagee policies written by underwriters, and 87.0 percent in the case of projections based on owner and mortgagee policies written by agents.

Final Projected Expense Ratio

71. All of the parties effectively based their expense projections on regression analyses.

72. The determination of the final 2006 expense ratios in several of the proposed methodologies depend heavily on the anticipated numbers of premiums or policies to be written in that year.

73. Both OPIC and TDI staff used the average of the premiums or numbers of policies written in 2003 and 2004 in most of their projections of 2006 expenses (one of the OPIC projections used neither policies nor premiums); this is the approach that has been adopted in previous orders.

74. TLTA asserted that there would likely be a sharp downturn in refinancings in 2006, which would reduce the premiums and numbers of polices written below the levels seen in 2003 and 2004. TLTA predicted 1,103,525 owner and mortgagee policies for 2006, approximately nine percent below the average written by underwriters in 2003 and 2004 while the corresponding premiums were projected to be approximately 10 percent less.

75. Similar downturn predictions have been made in previous years, but the downturn predictions have never come about when the actual experience emerged.

76. With interest rates at relatively low levels and the possibility of an economic upturn, it is not clear that there will be a reduction in Texas home sales and refinancings during 2006, at least from 2003-2004 levels.

77. No persuasive evidence was presented at the hearing that the numbers of policies written in the year 2006 will decrease substantially from the levels seen in 2003 and 2004.

78. It is reasonable to use the average number of policies written in 2003 and 2004 or the average on-level premiums written in 2003 and 2004, adjusted to reflect likely changes in property values, as an estimate of the corresponding writings for 2006.

79. In its regressions, TLTA used the numbers of policies written by underwriters and the dummy variable described in Finding No. 53 to regress underwriter's expenses, and the numbers of policies written by each category of agents to regress their respective expenses.

80. TLTA effectively used the numbers of policies written by underwriters in calculating its final projected expenses, including those of agents.

81. TLTA's regression reports for each category of agents show that the intercept term and the dummy variable are not statistically significant.

82. Regression of the agents' combined expenses, without the dummy variable, against all policies written by agents greatly improves the agent expense projection statistically.

83. The dummy variable described in Finding No. 53 is not needed if the analysis is based on all agents combined as the change in agent definition only affects expenses and policy count by category of agents but does not affect the total agents' combined expenses and policy counts.

84. The numbers of policies written by agents in any calendar year differ from those written by underwriters, due to permissible delays in reporting title transactions to underwriters.

85. Based on Finding No. 78 , it is reasonable to use the average number of owner and mortgagee policies written in 2003 and 2004 by underwriters to calculate likely 2006 expenses for underwriters, and the average number of policies written by all agents in 2003 and 2004 to calculate likely 2006 expenses for all agents under TLTA's methodology. It is also reasonable to calculate the expected

dollars of loss and LAE by multiplying the 4.0 percent expected loss and LAE ratio described in Finding No. 29 by the average of the premiums written by underwriters in 2003 and 2004.

86. TDI staff also projected the expense ratio using the most recent 10-year data.

87. The data of more recent years are more representative of the current business expenses.

88. It is reasonable to use the most recent 10-year data to project the expense ratio.

89. Based on Finding Nos. 31, 33, 39, 44, 66, 68, 85, and 88, the projected expense ratio based on OPIC's methodology would be 86.7 percent, that based on TLTA's methodology would be 84.8 percent, and those based on TDI staff's methodologies would range from 85.4 to 87.0 percent, depending on the regression model used.

<u>Reverse Competition and the Reasonableness of Expenses</u>

90. OPIC testified that reverse competition in the title insurance marketplace results in excessive and inappropriate expenses which should be removed from historical expenses in determining rates.

91. OPIC recommended reducing final projected 2006 expenses by 5.0 percent to account for the impact of reverse competition.

92. OPIC's testimony regarding the presence and general impact of reverse competition is not persuasive; its specific recommendation of a 5.0 percent expense reduction is not supported by sufficient credible evidence.

93. TDI staff testified that, because of the potential for reverse competition, it cannot be automatically assumed that the historical expenses reported by the agents and underwriters reflect necessary and reasonable expenses.

94. TDI staff proposed a 0.5 percent decrease in projected expenses based on 2003 data and 0.1 percent decrease in projected expenses based on 2004 data to account for reverse competition based on an observed decrease in certain expenses occurring after TDI adopted Procedural Rule P-53, a rule prohibiting certain rebates and discounts.

95. Although TDI staff's testimony regarding the presence and general impact of reverse competition is persuasive, it is not conclusive. TDI staff's effective

recommendation of a 0.3 percent expense reduction, which is the average of 0.1 percent and 0.5 percent described in Finding No. 94 calculated based on Finding No. 78, is not supported by sufficient credible evidence.

96. TLTA testified that there is no expense-increasing impact from reverse competition, because the marketing expenses that title insurers incur are not higher than those incurred by insurers in other insurance lines.

97. TLTA made no adjustment for reverse competition in its rate recommendation.

98. The evidence in the record supports a conclusion that reverse competition exists and has impacted title insurance expenses, but does not adequately support any specific adjustment to reported expenses.

Provision for Profit

Cost of Capital

99. Only OPIC and TLTA provided analyses specifically directed at the cost of capital of the title insurance industry.

100. OPIC recommended a 9.8 percent after-tax return on equity, based upon capital asset pricing model (CAPM) and discounted cash flow (DCF) analyses of five title insurers, 18 financial services companies with significant property and casualty insurance operations, and 50 property and casualty insurers combined.

101. TLTA disputed OPIC's cost of capital analysis asserting that it assigns too little weight to the title insurers and too much weight to the property and casualty insurers, and relied on an inappropriately low, selected risk premium in the CAPM analysis.

102. TLTA recommended an 11.5 percent after-tax return on equity, based upon the results of DCF and CAPM analyses. TLTA performed separate analyses on five title insurers and 50 property and casualty insurers.

103. OPIC disputed TLTA's cost of capital analysis for three reasons: first, OPIC argued TLTA considered only historical data to estimate risk premiums; second, OPIC claimed TLTA used an excessive risk premium in its CAPM cost of capital calculation and an excessive growth rate in its DCF cost of capital calculation; and finally, OPIC argued TLTA did not adjust for debt in the capital structure of insurers and insurer holding companies.

104. While the record shows that there are points of similarity between property and casualty insurers and title insurers, and thus property and casualty insurer indications may provide helpful insight into necessary returns on equity for title insurers, it also shows that there are significant differences which makes the direct application of indicated necessary returns on equity from one group to the other inappropriate.

105. OPIC's use of a combined sample of five title insurers, 18 financial services with significant property and casualty insurance, and 50 property and casualty insurers in its return on equity analyses effectively gives the property and casualty segment fourteen times the weight given to the title insurer segment, and may therefore produce inappropriate indications for title insurers.

106. Furthermore, OPIC selected a risk premium of 6.0 percent for use in its CAPM analysis. Based on OPIC's evidence, a higher risk premium would also have been reasonable.

107. Therefore, based on Findings Nos. 105 and 106, OPIC's indicated target rate of return on equity should be given less weight.

108. TLTA's DCF result for title insurers reflects a growth rate which is unreasonable based on TLTA's evidence. Therefore, TLTA's conclusions from its DCF analysis should be given less weight than its corresponding CAPM analysis.

109. TLTA's cost of capital estimate was not adjusted to reflect the debt in the capital structure of insurers and insurer holding companies. If this were reflected, the indicated cost of capital would decrease. Unfortunately, the amount of the decrease cannot be determined based on evidence contained in the record.

110. If adjustments to the estimated cost of capital were made consistent with Findings Nos. 139 and 140, a reasonable cost of capital would be approximately 10.5 percent.

111. A reasonable cost of capital for use in this proceeding is 10.5 percent.

Profit Provision

112. TLTA used a calendar year accounting model to derive a profit provision for underwriters including direct operations and affiliated agents ("underwriter group") of 9.02 percent based on its recommended 11.5 percent rate of return.

113. TLTA derived a profit provision for independent title agents by giving an 85 percent weight to reported profit margins for agents in other lines of insurance and a 15 percent weight to reported profit margins for attorneys. The resulting profit margin for independent title insurance agents was 10.45 percent.

114. By giving 49.04 percent weight to its underwriting group margin and 50.96 percent weight to its non-subsidiary agent margin, TLTA derived a combined profit provision for Texas title insurance of 9.75 percent.

115. Substituting a target rate of return on capital of 10.5 percent and no other changes, TLTA's model produces a profit provision of 7.66 percent for its underwriter group and a combined profit provision for Texas title insurance of 9.08 percent.

116. OPIC used a calendar year accounting model to derive a profit provision of 3.8 percent for underwriters and agents, based on its recommended 9.8 percent return on net worth.

117. Substituting a target rate of return on capital of 10.5 percent and no other changes, OPIC's profit model produces a profit provision of 4.3 percent.

118. Both TLTA and OPIC used averages of the past investment returns of the title insurance industry to derive the estimated investment returns in their profit models. TLTA estimated the after-tax investment return to be 4.93 percent of equity, while OPIC estimated the pre-tax investment return to be 6.5 percent of equity. Based on OPIC's assumed 25 percent tax rate, the OPIC after-tax investment return would be 4.9 percent.

119. It would be reasonable to give some consideration to current yields, as interest rates are presently at relatively low levels.

120. Based on Finding No. 119, 4.5 percent is a reasonable after-tax investment return to be used in TLTA's model.

121. OPIC's selected 25 percent tax rate was used to adjust its total target after-tax rate of return on equity to a pre-tax level.

122. A portion of the total return of title insurers comes from investment income and capital gains or losses while the remainder comes from the underwriting profit margin in the rates. Each is generally taxed at different rates, so the OPIC tax rate is presumably a blended tax rate.

123. TLTA's analysis of the effective tax on investment returns of title insurers over the five-year period 2000 to 2004 was approximately 23.8 percent. Because any underwriting profits would be subject to a 35 percent tax rate and both OPIC and TLTA attributed approximately half the necessary income to each source of income, an average 30 percent tax rate appears reasonable for its intended purpose.

124. To determine a pre-tax investment income yield, however, it is more reasonable to use a tax rate specifically applicable to investment income, or, based on the record, approximately 25 percent.

125. Using a 25 percent tax rate and the after-tax yield of 4.5 percent described in Finding No. 120, the corresponding pre-tax investment rate for use in OPIC's underwriting profit margin calculation would be 6.0 percent.

126. OPIC's estimated investment return is based on data for its underwriter group, and not independent agents, but is applied in OPIC's model to the equity attributed to both its underwriter group and independent agents.

127. The reasonableness of OPIC's application of an underwriter-derived investment return to independent agent equity was insufficiently supported. Although OPIC's recommendation was not contested in this particular respect, the underlying data shows that the income earned by independent agents is projected to be significantly lower in relation to premiums than it is in the case of the underwriter group. To achieve the total rate of return as depicted by OPIC, independent agents would have to generate more income from premiums if their investment income is lower.

128. TLTA's analysis included a premium-to-net worth ratio of 1.03 to 1.0, while OPIC's analysis included a premium-to-net worth ratio of 1.75 to 1.0. Much of this difference is due to the approaches taken by the various parties.

129. The TLTA premium-to-net worth ratio pertained to its underwriter group alone, while the OPIC ratio also included consideration of independent agents.

130. TLTA's ratio was based on the 10-year average of ratios derived from Texas-specific data.

131. The same data showed that 5-year and 20-year averages were 1.00 to 1.00 and 1.23 to 1.00, respectively.

132. Additional data in TLTA's pre-filed testimony showed that the premium-to-net worth ratios for Texas were lower than those for the nation as a whole. In particular, based on data contained in TLTA's pre-filed testimony, the nine-year countrywide average leverage ratio is approximately 20 percentage points greater than the Texas leverage ratio.

133. It is not clear based on the evidence whether there are any additional risks associated with the business of title insurance in Texas that would necessitate a lesser degree of leverage (i.e., a lower premium-to-net worth ratio) to reflect the same level of risk reflected by the higher leverage existing nationally.

134. This suggests that the use of TLTA's Texas-specific premium-to-net worth ratio is not appropriate.

135. Based on Finding Nos. 128 through 134, a premium-to-net worth ratio between 1.2 to 1.0 and 1.3 to 1.0 would be a reasonable value to be used in the TLTA model for its underwriter group.

136. The OPIC premium-to-net worth ratio of 1.75 to 1.00 is intended to reflect the leverage of independent agents, as well as that of its underwriter group.

137. OPIC indicated that the leverage ratio for independent agents would likely be lower than that for its underwriter group; however, no data specifically based on independent title agents was provided.

138. There is little in the record upon which to precisely determine the appropriate leverage under the OPIC methodology. The record as a whole indicates that a combined underwriter and agent leverage ratio between 1.6 to 1.0 and 1.75 to 1.0 would be reasonable.

139. With a rate of return of 10.5 percent, a tax rate of 30 percent, a pre-tax investment return of 6.0 percent, and a premium-to-net-worth ratio of 1.75 to 1.0, OPIC's model produces an indicated profit provision for its underwriter group and independent agents of 5.1 percent; with a 1.6 to 1.0 premium-to-net-worth ratio the indicated profit provision is 5.6 percent.

140. With a rate of return of 10.5 percent, a tax rate of 30 percent, an after-tax investment return of 4.5 percent, and a premium-to-net worth ratio of 1.2 to 1.0, the TLTA model produces a profit margin for underwriters and agents of 8.55 percent. Changing the premium-to-net worth ratio to 1.3 to 1.0 produces a profit margin of 8.30 percent.

141. TDI staff questioned TLTA's reliance upon reported profit margins for attorneys in deriving a profit margin for independent title agents.

142. TDI staff suggested that the reported profit margins for attorneys could represent a wide variety of activities including those that could be expected to have above average profit margins.

143. A reasonable profit provision for use in this proceeding is 6.0 percent.

Indicated Rate

144. Based on Finding Nos. 29, 89, 98, and 143, the OPIC regression analyses would produce a rate change indication of -3.5 percent.

145. Based on Finding Nos. 29, 89, 98, and 143, the TLTA regression analysis would produce a rate change indication of -5.6 percent.

146. Based on Finding Nos. 29, 89, 98, and 143, the TDI staff regression analyses would produce rate change indications of -3.2 to -4.9 percent depending on the regression model used.

147. A reasonable rate change is -3.2 percent.

Rate Implicated Rules

148. TLTA submitted Agenda Item 2004-44 to adopt a Schedule of Basic Premium Rates for Title Insurance (Texas Title Insurance Premium Rates), and in so doing to consider the expense and loss experience of the industry so as to establish a rate which is reasonable to the public and nonconfiscatory to title insurance companies and title insurance agents.

149. After considering the expense and loss experience of the title industry and the analysis of the evidence adduced in the ratemaking phase of the biennial hearing, a change in the prescribed rates in the Schedule of Basic Premium Rates for Title Insurance (Texas Title Insurance Premium Rates) of -3.2 percent, as stated in this order, is hereby found to be reasonable to the public, nonconfiscatory as to title insurance companies and title insurance agents, and should be adopted.

150. TLTA submitted Agenda Item 2004-45 to adopt new Rate Rule R-34 for the proposed new Assignment of Rents/Leases Endorsement.

151. After considering the evidence presented, the Commissioner has determined that the evidence adduced does not support establishing the rate as proposed by TLTA. Rate Rule R-34 is adopted, but the premium for the new Assignment of Rents/Leases Endorsement is $0.00. The endorsement may be issued, but a charge may not be imposed.

152. TLTA submitted Agenda Item 2004-47 to amend Rate Rule R-11 to add a new subparagraph (m) for the proposed new Condominium Endorsement.

153. After considering the evidence presented, the Commissioner has determined that the evidence adduced does not support establishing the rate as proposed by TLTA. The amendment to Rate Rule R-11 adding subparagraph (m) is adopted, but the premium for the new Condominium Endorsement is $0.00. The endorsement may be issued, but a charge may not be imposed.

154. TLTA submitted Agenda Item 2004-49 to amend Rate Rule R-30 to allow multiple Access Endorsements to be issued with a proposed separate charge for each endorsement.

155. After considering the evidence presented, the Commissioner has determined that the evidence adduced does not support amending the rate rule as proposed by TLTA. Therefore, the petition to adopt amendments to Rate Rule-30 is denied.

156. Title Division staff submitted Agenda Item 2004-50 to amend Rate Rule R-8, Mortgagee Policy, on a Loan to Take Up, Renew, Extend or Satisfy an Existing Lien(s) to increase the percentage of credits.

157. No party offered any evidence or testimony to support the proposed amendments to Rate Rule R-8. Therefore, the petition to amend Rate Rule R-8 is denied.

158. Title Division staff submitted Agenda Item 2004-51 to amend Rate Rule R-29, Premium For Restrictions, Encroachments, Minerals Endorsement (T-19) And Premium For Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) to minimize double payment for the purchase of similar coverages.

159. TDI Division staff proposed that the premium for the Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) should be 5% of the Basic Rate for a single issue policy if an amendment of exception to area and boundaries pursuant to Procedural Rule P-2 or Procedural Rule P-8.a.(2) is also purchased in accord with Rate Rule R-16, but not less than $25. A witness presented by TLTA testified that it was unfair for consumers to pay twice for similar coverages. The witness

agreed that a discounted premium was warranted; but that the 5% proposed by TDI Division staff was too low.

160. After considering the evidence presented, the Commissioner has determined that the evidence adduced does support amending the rate. The amendments to Rate Rule R-29 are adopted; however, the premium for the Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) shall be 10% of the Basic Rate for a single issue policy if an amendment of exception to area and boundaries pursuant to Procedural Rule P-2 or Procedural Rule P-8.a.(2) is also purchased in accord with Rate Rule R-16, but not less than $25.00.

161. Rate Rule R-26 contains references to the Limited Pre-Foreclosure Policy Form (T-40) and the Limited Pre-Foreclosure Policy Down Date Endorsement (T-41). The Limited Pre-Foreclosure Policy Form was amended in the rulemaking phase of the 2004 Biennial Hearing. The number of the form was changed to T-98. The Limited Pre-Foreclose Policy Down Date Endorsement was also amended. The number on the endorsement was changed to T-99. Therefore, the Commissioner adopts conforming changes to Rate Rule R-26. The references to T-40 and T-41 are changed to T-98 and T-99 respectively, and formatting was changed for consistency.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to the Texas Insurance Code §31.007 and Chapters 2501, 2703, §2551.003, and the Texas Administrative Code, Title 28, § 9.1.

2. As referenced in Finding No. 1, proper and timely notice of the hearing was given pursuant to the Texas Insurance Code, Chapter 2703 and Texas Government Code, §§2001.051 and 2001.052.

3. The Commissioner of Insurance has the duty to fix and promulgate the premium rates to be charged by title insurance companies and title insurance agents created or operating under the Texas Insurance Code, Chapters 2501 – 2704 and pursuant to the Texas Insurance Code, Chapter 2703.

4. The premium rates fixed and promulgated by the Commissioner of Insurance specified in the findings of fact in this order are reasonable to the public and nonconfiscatory as to the title insurance companies and title insurance agents.

5. In fixing the premium rates specified in the findings of fact in this order, the Commissioner has considered all relevant income and expenses of title insurance

companies and title insurance agents attributable to the Texas title insurance business.

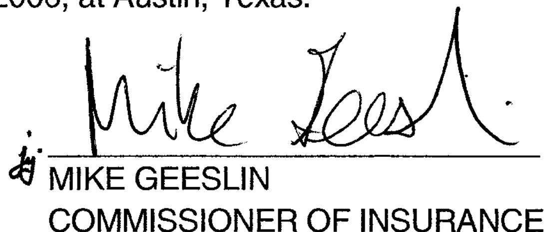
6. The fixing of rates in accordance with the findings of fact and conclusions of law in this order is in compliance with the provisions of the Texas Insurance Code, Chapter 2703.

7. The amendment and adoption of the rules, rates, and forms in accordance with the findings of fact and conclusions of law in this order are in compliance with the provisions of the Texas Insurance Code, Chapter 2703.

IT IS, THEREFORE, THE ORDER OF the Commissioner of Insurance that, effective 12:01 a.m., February 1, 2007 rates applicable to title insurance policies written in Texas will be calculated based on these findings of fact and conclusions of law. The Commissioner further orders that a Schedule of Basic Premium Rates for Title Insurance contained in the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas be adopted by reference as indicated in Appendix A attached hereto, effective February 1, 2007.

IT IS, THEREFORE, THE FURTHER ORDER of the Commissioner of Insurance that Rate Rule R-34 be adopted and that Rate Rules R-11, R-26, and R-29 be amended and that all of the said rate rules be adopted by reference as indicated in Appendix B attached hereto. These rate rules are adopted as part of the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas, effective February 1, 2007.

SIGNED and ENTERED December 12, 2006, at Austin, Texas.



MIKE GEESLIN
COMMISSIONER OF INSURANCE

Appendix A

TEXAS TITLE INSURANCE PREMIUM RATES

EFFECTIVE FEBRUARY 1, 2007

Policies Up To And Including	Basic Premium	Policies Up To And Including	Basic Premium	Policies Up To And Including	Basic Premium	Policies Up To And Including	Basic Premium
$10,000	$229	$32,500	$383	$55,000	$536	$77,500	$690
10,500	233	33,000	386	55,500	539	78,000	694
11,000	235	33,500	390	56,000	544	78,500	698
11,500	239	34,000	393	56,500	547	79,000	702
12,000	243	34,500	397	57,000	550	79,500	703
12,500	246	35,000	400	57,500	554	80,000	707
13,000	250	35,500	404	58,000	558	80,500	711
13,500	254	36,000	407	58,500	560	81,000	715
14,000	257	36,500	410	59,000	564	81,500	717
14,500	260	37,000	413	59,500	567	82,000	721
15,000	262	37,500	417	60,000	571	82,500	725
15,500	266	38,000	421	60,500	575	83,000	729
16,000	270	38,500	425	61,000	578	83,500	731
16,500	274	39,000	427	61,500	581	84,000	734
17,000	277	39,500	431	62,000	585	84,500	739
17,500	281	40,000	434	62,500	589	85,000	742
18,000	285	40,500	438	63,000	591	85,500	745
18,500	287	41,000	440	63,500	594	86,000	748
19,000	290	41,500	445	64,000	598	86,500	752
19,500	293	42,000	448	64,500	602	87,000	756
20,000	298	42,500	452	65,000	605	87,500	759
20,500	301	43,000	454	65,500	608	88,000	762
21,000	305	43,500	458	66,000	612	88,500	766
21,500	308	44,000	461	66,500	617	89,000	770
22,000	312	44,500	465	67,000	620	89,500	772
22,500	315	45,000	469	67,500	621	90,000	775
23,000	318	45,500	472	68,000	625	90,500	779
23,500	321	46,000	475	68,500	629	91,000	783
24,000	325	46,500	479	69,000	632	91,500	787
24,500	328	47,000	481	69,500	635	92,000	789
25,000	332	47,500	485	70,000	640	92,500	793
25,500	335	48,000	489	70,500	644	93,000	797
26,000	339	48,500	493	71,000	647	93,500	801
26,500	342	49,000	496	71,500	649	94,000	802
27,000	345	49,500	499	72,000	652	94,500	806
27,500	348	50,000	503	72,500	656	95,000	811
28,000	352	50,500	506	73,000	660	95,500	814
28,500	355	51,000	508	73,500	663	96,000	816
29,000	359	51,500	512	74,000	667	96,500	820
29,500	362	52,000	516	74,500	671	97,000	824
30,000	366	52,500	520	75,000	674	97,500	828
30,500	369	53,000	523	75,500	676	98,000	830
31,000	373	53,500	527	76,000	680	98,500	834
31,500	376	54,000	530	76,500	683	99,000	838
32,000	379	54,500	533	77,000	687	99,500	841
						100,000	843

Premiums shall be calculated as follows for policies in excess of $100,000:

1. For policies of $100,001 - $1,000,000
Basic Premium
(1) Subtract $100,000 from policy amount.
(2) Multiply result in 1.(1) by $.00534 and round to nearest whole dollar.
(3) Add $843 to result in 1.(2).

2. For Policies of $1,000,001 - $5,000,000
Basic Premium
(1) Subtract $1,000,000 from policy amount.
(2) Multiply result in 2.(1) by $.00439 and round to nearest whole dollar.
(3) Add $5,649 to result in 2.(2).

3. For policies of $5,000,001 - $15,000,000
Basic Premium
(1) Subtract $5,000,000 from policy amount.
(2) Multiply result in 3.(1) by $.00362 and round to nearest whole dollar.
(3) Add $23,209 to result in 3.(2).

4. For policies of $15,000,001 - $25,000,000
Basic Premium
(1) Subtract $15,000,000 from policy amount.
(2) Multiply result in 4.(1) by $.00257 and round to nearest whole dollar.
(3) Add $59,409 to result in 4.(2)

5. For policies in excess of $25,000,000
Basic Premium
(1) Subtract $25,000,000 from policy amount.
(2) Multiply result in 5.(1) by $.00154 and round to nearest whole dollar.
(3) Add $85,109 to result in 5.(2).

Appendix B

Item 2004-45

Rate Rule 34. PREMIUM FOR ASSIGNMENT OF RENTS/LEASES ENDORSEMENT (T-27). When the Assignment of Rents/Leases Endorsement (T-27) is issued with a Mortgagee Policy of Title Insurance (T-2) in accordance with Rule P-60, the premium for each Assignment of Rents/Leases Endorsement (T-27) shall be $0.00.

ADOPTED

Item 2004-47

Rate Rule 11.m. Endorsement as provided in Rule P-9.b (15) – When the Condominium Endorsement (T-28) is issued with a Mortgagee Policy in accordance with Rule P-9b (15), the premium for each Condominium Endorsement (T-28) shall be $0.00.

ADOPTED

Item 2004-51

R-29. PREMIUM FOR RESTRICTIONS, ENCROACHMENTS, MINERALS ENDORSEMENT (T-19) AND PREMIUM FOR RESTRICTIONS, ENCROACHMENTS, MINERALS ENDORSEMENT - OWNER POLICY (T-19.1).

A. When the Restrictions, Encroachments, Minerals Endorsement (T-19) is issued with a Mortgagee Policy of Title Insurance (T-2) on residential real property in accordance with Rule P-50, the premium for the Restrictions, Encroachments, Minerals Endorsement (T-19) shall be 5% of the Basic Rate for a single issue policy provided that the minimum premium shall be not less than $25.00.

B. When the Restrictions, Encroachments, Minerals Endorsement (T-19) is issued with a Mortgagee Policy of Title Insurance (T-2) on land which is not residential real property, in accordance with Rule P-50, the premium for the Restrictions, Encroachments, Minerals Endorsement (T-19) shall be 10% of the Basic Rate for a single issue policy provided that the minimum premium shall be not less than $25.00.

C. When the Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) is issued with an Owner Policy of Title Insurance (T-1) on land which is not residential real property, in accordance with Rule P-50, the premium for the Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) shall be 15% of the Basic Rate for a single issue policy or shall be 10% of the Basic Rate for a single issue policy if an amendment of exception to area and boundaries pursuant to Procedural Rule P-2 or Procedural Rule P-8.a.(2) is also purchased in accord with Rate Rule R-16. In either event, the minimum premium shall be not less than $25.00. A Company may not issue its Restrictions, Encroachments, Minerals Endorsement - Owner Policy (T-19.1) on residential real property.

ADOPTED

Rate Rule R-26

R-26 Premium for Limited Pre-Foreclosure Policy (Form T-98) and Limited Pre-Foreclosure Policy Downdate Endorsement (Form T-99)

A) A Limited Pre-foreclosure Policy must be issued in accordance with the requirements of Procedural Rule P-43. In this Rule, the term "Foreclosing Mortgage" means the deed of trust, or other lien, specifically described under the section entitled Foreclosing Mortgage in the Limited Pre-Foreclosure Policy Combined Schedule (Form T-98).

B) The premium for the Limited Pre-Foreclosure Policy must be calculated in accordance with Steps One through Four below:

Step One: Determine the smaller of:

(i) the outstanding loan balance on the loan secured by the Foreclosing Mortgage; and,

(ii) the value of the land secured by the Foreclosing Mortgage. If the proposed insured does not provide the Company with some written evidence of the value of the land, use the outstanding balance of the loan secured by the Foreclosing Mortgage as the Step One numerical figure.

Step Two: Then use the numerical figure derived in Step One to calculate a full (undiscounted) premium amount using the Schedule of Basic Premium Rates for Title Insurance under Rate Rule R-1.

Step Three: Then multiply the premium amount calculated under Step Two x .40.

Step Four: The premium for the Limited Pre-Foreclosure Mortgagee Policy is the greater of:

(i) The minimum basic premium; or

(ii) The premium calculated after completing Step Three above.

C) The title insurance agent's portion of the premium shall be retained by and paid to only the title insurance agent licensed in the county where the land described in the Limited Pre-Foreclosure Policy is located because the title insurance agent's retained portion of the premium for the Limited Pre-Foreclosure Policy and the Limited Pre Foreclosure Policy Downdate Endorsement is attributed for

(i) title search;

(ii) title examination; and,

(iii) issuance of the Limited Pre-foreclosure Policy and Limited Pre-Foreclosure Policy Downdate Endorsement.

D) The premium for each Limited Pre-Foreclosure Policy Downdate endorsement shall be $50.00.

ADOPTED