UNDERWRITING BULLETIN - TEXAS

No. 15

DATE: December 28, 2011

RE: 2011 Legislative Update - 82nd Session – Insurance Code

Effective January 1, 2012, HB 2408 amended the Insurance Code by adding Sections 2703.0515, 2703.055 and 2703.056.

These new sections deal with mineral coverages, Endorsements T-19.2 and T-19.3, the general mineral exclusion and the general mineral exception, premiums for the T-19.2 and T-19.3, and the 2% credit. The text of the new sections is attached to this Bullletin.

Old Rule **Before January 1, 2012**	**New Rule** **After January 1, 2012**
A Texas title company may insert the mineral exception clause or the mineral exclusion clause found in P-5.1 in any policy.	No change in the rule.
If either the exception or the exclusion found in P-5.1 are used, the title company must issue the T-19.2 or the T-19.3, upon request.	Issuance of the T-19.2 or T-19.3 is not mandatory; the title company may issue them at its option.
If either the exception or the exclusion found in P-5.1 are used, the title company must give the insured a 2% credit on the premium.	The mandatory 2% credit has been abolished.
The premium for either the T-19.2 or the T-19.3 on an owner policy is $50.00.	No change in the premium for an OP.
The premium for either the T-19.2 or the T-19.3 on a loan policy is $50.00.	There is no premium for issuing a T-19.2 or a T-19.3 on a loan policy. It is issued free of charge.

Issues:

1. Can the T-19.2/T-19.3 endorsements be issued if the policy does not contain the exclusion clause or the exception clause from P-5.1?

No; only when one of the P-5.1 clauses is placed in the policy is it proper to issue the T-19.2 or T-19.3.

2. When can an agent issue a policy without the P-5.1 language?

A. If the agent has a complete plant from at least 1900;
B. the agent has conducted a mineral search; **and**,
C. the agent itemizes all mineral grants and reservations and leases on Schedule B.

Note: Remember that the P-5.1 language can still be used even if the policy contains specific Schedule B exceptions regarding minerals and/or mineral leases.

3. Does this affect the mineral coverages contained in the T-19 and the T-19.1?

No.

TEXT

Sec. 2703.0515. CERTAIN REQUIREMENTS PROHIBITED.

(a) A title insurance company is not required to offer or provide in connection with a title insurance policy an endorsement insuring a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral if the policy includes a general exception or exclusion from coverage a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral.

(b) In this section, "general exception or exclusion" means a provision in a title insurance policy or other title insuring form that provides that title insurance coverage under the policy or form:

(1) is subject to, and the title insurer does not insure title to, and excepts from the description of the covered property, coal, lignite, oil, gas, and other minerals in and under and that may be produced from the covered property, together with related rights, privileges, and immunities; or

(2) does not cover a lease, grant, exception, or reservation of coal, lignite, oil, gas, or other minerals, or related rights, privileges, and immunities, appearing in the public records.

(c) An additional premium or other amount may not be charged for an endorsement to a loan policy of title insurance if the endorsement:

(1) insures against loss from damage to improvements or permanent buildings located on land that results from the future exercise of any right existing on the date of the loan policy to

use the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral;
(2) expressly does not insure against loss resulting from subsidence; and
(3) was promulgated by the commissioner in calendar year 2009.

Sec.2703.055. REQUIREMENT OF CERTAIN PROVISIONS PROHIBITED.

The commissioner may not require by rule, or through adoption of a title insurance policy or other insuring form, that a title insurance policy delivered or issued for delivery in this state:
(1) insure against a loss that a person with an interest in real property sustains from damage to the property by reason of severance of minerals from the surface estate; or
(2) provide insurance as to ownership of minerals.

Sec. 2703.056. EXCEPTIONS; MINERAL INTERESTS.

(a) Subject to the underwriting standards of the title insurance company, a title insurance company may in a commitment for title insurance or a title insurance policy include a general exception or a special exception to except from coverage a mineral estate or an instrument that purports to reserve or transfer all or part of a mineral estate.

(b) A reduction to, or credit on a premium charge for, a policy of title insurance or other insuring form may not be directly or indirectly based on an exclusion of, or general or special exception to, a mineral estate in the title insurance policy.

(c) The inclusion in a title insurance policy of a general exception or a special exception described by Subsection (a) does not create title insurance coverage as to the condition or ownership of the mineral estate.

~