

UNDERWRITING BULLETIN - TEXAS

No. 37

DATE: January 8, 2014

RE: Changes for 2014

As has been the case over the last few years, the recent Commissioner's Order authorized many "housekeeping" revisions to existing forms, being changes with no substantive effect on your existing day to day practices. Your software provider will incorporate the changes in your forms database. Those items will not be addressed in this Bulletin. If you have any specific questions about any of those matters please contact Underwriting.

Guaranty Assessment Recoupment Charge

Collect \$1.80 for each OP and for each LP dated from January 1, 2014 through December 31, 2014. Remit quarterly to the Texas Title Insurance Guaranty Association (TTIGA).

Guaranty Fee

Do **not** collect this fee on transactions where the policy will be dated on or after January 1, 2014.

Reverse Mortgages

Effective January 1, 2014, a reverse mortgage may be used to purchase property which the borrower intends to occupy as a primary residence. There has been no change to the T-43 Reverse Mortgage Endorsement, but you may see changes in the closing packages and closing instructions you receive from your reverse mortgage lenders.

Disclaimers Ineffective as to Child Support Liens

Effective January 1, 2014, HB 2621 added new Section 122.107 of the Estates Code

Disclaimers will be ineffective regarding any child support obligation owed by the disclaiming individual when the disclaimer is filed on or after January 1, 2014.

New Statutory Durable Power of Attorney Form

Effective January 1, 2014, HB 2918 added Section 752.051 to the Estates Code

- The new statutory form does not invalidate prior forms.
- WFG will still accept POAs which were signed prior to January 1, 2014.
- POAs signed after January 1, 2014 do not have to be on the new statutory form.
- If a customer presents the new form, or signs one in your office, note that under this form the grantor **must initial** the line in front of the specific power that is

granted (“A” for real property transactions) or initial in front of “N”, which grants all powers.

- **This is an “opt in” format.** If no lines are initialed, no powers are granted and the POA is useless.
- A *Word* version of the new POA form is attached to this Bulletin.

Additional Insured Endorsement. The form (T-26) and the rule (P-57) have been amended to provide “fairway coverage” as an option. The effect of the new coverage is that if a LLC is the named insured under an OP, and if the transfer of an interest in the LLC creates a new entity, the new entity will qualify as an additional insured under the policy and has the rights and benefits of the original named insured.

Premium for the T 19.2 and the T 19.3. R-29.1 has been amended to remove the charge for issuing either of these endorsements on an LP.

No Credit for Exclusion of or General Exception of Minerals. R-36 is repealed. The title premium is not reduced merely because the title company places either the general mineral exclusion or the general mineral exception authorized by P-5.1 in a policy.

Texas Residential Owner Policy. The T-1R has been changed to expand the reach of “continuation of coverage” to include:

1. The ex-spouse of the named insured who was awarded the property in a divorce decree;
2. The trustee of a trust established by the named insured to whom the named insured transferred title after the date of policy; and,
3. The beneficiaries of a trust described in #2 upon the death of the original named insured.

Restrictions, Encroachments, Minerals Endorsements. Both of these commonly issued endorsements (T-19) and (T-19.1) have been re-written to make them similar to the ALTA forms. These revisions will be addressed in an upcoming Bulletin.

Loan Policy Aggregation Endorsement. This is another form (T-16) which has been revised to conform it to the ALTA form. Also, an entirely new provision has been added to address the situation where the “tying in” of mortgages in different states results in a total policy liability in excess of an underwriter’s statutory limit in Texas. Please contact Underwriting if you encounter this situation.

Leasehold Endorsements. These forms (T-4R, T-5 and T-14) have all been revised to conform them to their ALTA counterparts. Our underwriting guidelines regarding these endorsements remain unchanged.



Contiguity Endorsement. A premium of \$100.00 (R-32) has been set for the T-25.1 Contiguity Endorsement. The form was promulgated several years ago but we did not have a premium until now.

Endorsement Instructions. The major change here is in Sections II.A3 and II.B4. When issuing a completion endorsement on a construction policy, where no T-19 or T-19.1 was requested either at the commencement or completion of construction, or if there is no request to update one of those endorsements if previously issued, the completion endorsement should contain the following affirmative statement: "T-19 not requested" or "T-19.1 not requested".

II. USE UPON COMPLETION OF IMPROVEMENTS.

Upon the completion of improvements and after compliance with Procedural Rule P-8.a.(2) or b.(2), Procedural Rule P-50, and Rate Rules R-16 and R-29, if applicable, the following language may be inserted into the T-3 Endorsement:

A. In Owner's Policies - Rule P-8.a.(2)

"3. Only in the event there is a specific request that the T-19.1 Endorsement be issued and when the Company's underwriting requirements have been met, the following language contained in the applicable subdivision below may be inserted and shown as No. 3 of the T-3 Endorsement form. **In the event the endorsement is not to be issued or the coverage affirmed, No. 3 should read "T-19.1 not requested. ..."**

B. In Loan Policies-Rule P-8.b.(2)

"4. Only in the event there is a specific request that the T-19 Endorsement be issued and when the Company's underwriting requirements have been met, the following language contained in the applicable subdivision below may be inserted and shown as No. 4 of the T-3 Endorsement form. **In the event the endorsement is not to be issued or the coverage affirmed, No. 4 should read "T-19 not requested. ..."**

The Assignment of Lien Endorsement (T-3) has been revised to add the following provisions:

"This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses, by reason of any claim that arises out of the transaction creating the assignment by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on:

1. the assignment being deemed a fraudulent conveyance or fraudulent transfer; or
2. the assignment being deemed a preferential transfer."

"This endorsement shall be effective provided that, at Date of Endorsement:

1. the note or notes secured by the lien of the Insured Mortgage have been properly endorsed and delivered to the Assignee, or



2. if the note or notes are transferable records, the Assignee has "control" of the single authoritative copy of each "transferable record" as these terms are defined by applicable electronic transaction laws."

Commercial Environmental Protection Lien Endorsement. A new form (T-36.1) has been created. The existing T-36 applies only to residential real property; the new endorsement provides the same type of overage when the land is not residential real property.

Note: This endorsement may not be issued until a premium has been set.

Severable Improvements Endorsement. The form (T-54) and the rule (P-72) are new. They provide coverage (on either an OP or a LP) against certain defined risks which may result if a covered title defect results in the destruction of, or requires the relocation of personal property from its original location. Such items might include storage tanks or wind turbine structures. Please contact Underwriting if you are asked to issue this endorsement.

Note: This endorsement may not be issued until a premium has been set.

Simultaneous Issue Rule. R-5 has been revised. When an insured's existing OP was not issued pursuant to R-8a, upon completion of improvements in a subsequent transaction the policy may be surrendered and a credit given for the premium paid. The change in R-5 clarifies that the new policy must cover the identical property, be issued within 4 years of the original policy, and there must have been no change of ownership.

This Bulletin is a brief survey of what we believe are the substantive changes our agents will be dealing with on a recurring basis. We will address the developing issues as they arise.

~