

INSURANCE CODE

TITLE 11. TITLE INSURANCE

SUBTITLE E. THE BUSINESS OF TITLE INSURANCE

CHAPTER 2703. POLICY FORMS AND PREMIUM RATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2703.001. COMPLIANCE WITH TITLE AND RULES. (a) This section applies to a corporation organized under this title, a foreign corporation, and, to the extent that the corporation is engaged in the business of title insurance, a corporation organized under another law, including:

(1) Subdivision 57, Article 1302, Revised Statutes, before repeal of that statute; and

(2) Chapter 861.

(b) A corporation operates in this state under the control and supervision of the commissioner and under uniform rules adopted by the commissioner relating to:

(1) forms of policies and underwriting contracts;

(2) premiums for those policies and contracts; and

(3) underwriting standards and practices.

(c) With respect to real property located in this state, a corporation may not issue any kind of title insurance coverage, any kind of guarantee, or reinsurance of a risk assumed under a title insurance policy, except as provided by Section 2551.305 or 2551.3055, unless the corporation is authorized to engage in the business of title insurance under this title and otherwise complies with this title. In engaging in the business of title insurance with respect to real property located in this state, the corporation shall comply with this title and rules described by Subsection (b), including when:

(1) issuing any kind of title insurance policy or an underwriting contract;

(2) reinsuring any portion of a risk assumed under a title insurance policy; and

(3) deleting a title insurance policy exclusion.

(d) Title insurance coverage, reinsurance, or a guarantee

issued in violation of Subsection (c) is invalid.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 38 (S.B. 572), Sec. 4, eff. September 1, 2015.

Sec. 2703.002. USE OF FORMS IN GENERAL. A title insurance company or title insurance agent may not use a form required under this title to be prescribed or approved until the commissioner has prescribed or approved the form.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.003. PAYMENT OF PREMIUMS. The premium for a title insurance policy or for another form prescribed or approved by the commissioner shall be paid in the due and ordinary course of business.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

SUBCHAPTER B. POLICY PROVISIONS

Sec. 2703.051. CERTAIN PROVISIONS REQUIRED. A title insurance policy delivered or issued for delivery in this state to insure an owner of real property must include certain provisions, the form and content of which shall be prescribed by the commissioner, in accordance with this subchapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. [2408](#)), Sec. 8, eff. September 1, 2011.

Sec. 2703.052. DUTY OF TITLE INSURANCE COMPANY. (a) On a report to a title insurance company made by an insured after a title insurance policy has been issued that a lien, encumbrance, or title defect exists that is not excepted under the policy or otherwise excluded from coverage, the company shall promptly investigate to determine whether the lien or encumbrance is valid and not barred by statute or other law.

(b) A title insurance company that concludes that a valid lien or encumbrance that is not barred by statute or other law exists or that a title defect exists shall:

(1) institute all necessary legal proceedings to clear the title to the property;

(2) indemnify the insured according to the terms of the policy;

(3) reinsure at current value the title to the property without making exception to the lien, encumbrance, or defect or indemnify another insurer for reinsuring the title without making exception to the lien, encumbrance, or defect;

(4) secure a release of the lien, encumbrance, or defect; or

(5) take a combination of the actions described by this subsection.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.053. ESTABLISHMENT OF STANDARDS AND SCHEDULES. The commissioner by rule shall establish standards and time schedules for implementing and handling claims by title insurance companies in accordance with this subchapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.054. AUTHORITY OF COMMISSIONER IN IMPLEMENTING SUBCHAPTER. (a) The commissioner may adopt, by amendment to an owner title insurance policy or by separate endorsement to an owner title insurance policy, language to implement this subchapter in a manner consistent with the terms, provisions, conditions, and stipulations of the policy or the exceptions to coverage contained in the schedules to the policy.

(b) This subchapter does not prohibit the commissioner from adopting for use in this state one or more policies in a simplified, generally more understandable, and usable form.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. 2408), Sec. 9, eff. September 1, 2011.

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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. 2408), Sec. 9, eff. September 1, 2011.

SUBCHAPTER C. POLICY FORMS FOR RESIDENTIAL REAL PROPERTY

Sec. 2703.101. POLICY FORMS FOR RESIDENTIAL REAL PROPERTY.

(a) The commissioner shall prescribe an owner title insurance policy form to be issued in connection with a transaction involving residential real property in this state.

(b) A title insurance company or title insurance agent shall use the form prescribed by the commissioner in issuing to an individual an owner title insurance policy relating to residential real property in this state.

(c) Unless authorized by rule adopted by the commissioner, an insurer may not enter into a contract or other agreement

concerning an individual title insurance policy if the contract or other agreement is not expressed in the policy. A contract or agreement prohibited by this subsection is void.

(d) An endorsement prescribed by the commissioner may be attached to the title insurance policy form as authorized by rule adopted by the commissioner.

(e) The commissioner may not prescribe an owner title insurance policy form for residential real property or an endorsement to the policy if the policy form or endorsement is not written in plain language. For purposes of this subsection, a policy form or endorsement is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner or, at the commissioner's option, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. This subsection does not apply to policy language required by state or federal law.

(f) For an owner title insurance policy on residential real property that is issued to an individual, the commissioner may adopt coverages that insure against ad valorem taxes, including penalties and interest, to be paid with respect to the property for a previous tax year:

(1) that are delinquent on the effective date of the policy because of sale, diversion, or change of use, unless excluded because the insured has actual knowledge of the delinquent taxes; or

(2) that result from an exemption granted to a previous owner of the property under Section [11.13](#), Tax Code, or from an improvement not assessed for a previous tax year, unless excluded because the insured has actual knowledge of the taxes.

(g) For an owner's title insurance policy on residential real property that is issued to an individual, the commissioner shall adopt terms that provide for continuation of coverage subject to rights and defenses against the original named insured for:

(1) a person who inherits the original named insured's title on the original named insured's death;

(2) the original named insured's spouse who receives title in a dissolution of marriage with the original named insured;

(3) the trustee or successor of a trust established by the original named insured to whom the original named insured transfers title after the date of policy; or

(4) the beneficiaries of a trust described by Subdivision (3) on the death of the original named insured.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 985 (H.B. 3768), Sec. 1, eff. September 1, 2009.

SUBCHAPTER D. FIXING AND PROMULGATING PREMIUM RATES

Sec. 2703.151. FIXING AND PROMULGATING PREMIUM RATES. (a) Except as provided by Subsection (b), the commissioner shall fix and promulgate the premium rates to be charged by a title insurance company or by a title insurance agent for title insurance policies or for other forms prescribed or approved by the commissioner.

(b) The commissioner may not fix or promulgate the premium rates for reinsurance between title insurance companies. Title insurance companies may establish the premium rates in amounts to which the companies agree.

(c) Except for a premium charged for reinsurance, a premium may not be charged for a title insurance policy or for another prescribed or approved form at a rate different than the rate fixed and promulgated by the commissioner.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.152. FACTORS CONSIDERED IN FIXING PREMIUM RATES.

(a) In fixing premium rates, the commissioner shall consider all relevant income and expenses of title insurance companies and title insurance agents attributable to engaging in the business of title insurance in this state.

(b) The premium rates fixed by the commissioner must be:

(1) reasonable as to the public; and

(2) nonconfiscatory as to title insurance companies

and title insurance agents.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.153. COLLECTION OF DATA FOR FIXING PREMIUM RATES; ANNUAL STATISTICAL REPORT. (a) Each title insurance company and title insurance agent engaged in the business of title insurance in this state shall annually submit to the department, as required by the department to collect data to use to fix premium rates, a statistical report containing information relating to:

- (1) loss experience;
- (2) expense of operation; and
- (3) other material matters.

(b) The information must be submitted in the form prescribed by the department.

(c) Not less frequently than once every five years, the commissioner shall evaluate the information required under this section to determine whether the department needs additional or different information or no longer needs certain information to promulgate rates. If the department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

(d) A title insurance company or a title insurance agent aggrieved by a department requirement concerning the submission of information may bring a suit in a district court in Travis County alleging that the request for information:

- (1) is unduly burdensome; or
- (2) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the periodic hearing and is not a request reasonably designed to lead to the discovery of that information.

(e) On filing of a suit under Subsection (d), the requirement that the title insurance company or title insurance agent bringing the suit comply with the request for the information is abated as to that title insurance company or title insurance

agent. The district court may enter an order requiring the title insurance company or title insurance agent to comply with the request for information subject to the limitations, if any, imposed by the court.

(f) A title insurance company or title insurance agent must bring suit under Subsection (d) not later than the 30th day after the date the company or agent receives the request for information from the department.

(g) This section may not be construed to limit the department's authority to request information under Section 38.001 or other applicable provisions of this code.

(h) The contents of the statistical report, including any amendments to the statistical report, must be established in a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(i) An amendment to the contents of the statistical report may not apply retroactively.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 930 (H.B. 3271), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. 2408), Sec. 10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 5.001, eff. September 1, 2011.

SUBCHAPTER E. PROCEDURES REGARDING PREMIUM RATES, POLICY FORMS, AND OTHER RELATED MATTERS

Sec. 2703.201. HEARING REQUIRED FOR FIXING PREMIUM RATE. Before a premium rate may be fixed and a premium charged, the department must provide reasonable notice and a hearing must be afforded to title insurance companies, title insurance agents, and the public.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.202. HEARING REQUIRED FOR CHANGE IN PREMIUM RATE.

(a) A premium rate previously fixed by the commissioner may not be changed until after the commissioner holds a public hearing.

(b) The commissioner shall order a public hearing to consider changing a premium rate, including fixing a new premium rate, in response to a written request of:

(1) a title insurance company;

(2) an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by the department;

(3) an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by the department; or

(4) the office of public insurance counsel.

(b-1) An interested person by a written request to the commissioner may request a public hearing to consider changing a premium rate, including fixing a new premium rate. For the purposes of this subsection, "interested person" means:

(1) a resident of this state;

(2) a business entity doing business in this state;

(3) a political subdivision located in this state; or

(4) a public or private organization, other than a state agency, that is located in this state.

(b-2) Not later than the 60th day after the date of submission of a request under Subsection (b-1), the commissioner shall:

(1) deny the request in writing, stating the reasons for the denial; or

(2) initiate a hearing under Subsection (a).

(c) Except as provided by Subsection (d), a public hearing held under Subsection (a) or under Section 2703.206 shall be conducted by the commissioner as a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(d) Notwithstanding Subsection (c), a person or entity described by Subsection (b) or an interested person described by, and subject to, Subsection (b-1) may petition the commissioner in writing that a public hearing held under Subsection (a) or under Section 2703.206 be conducted by the commissioner as a contested

case hearing under Subchapters C through H and Subchapter Z, Chapter 2001, Government Code. The petition must state the grounds for the petitioner's request.

(d-1) Not later than the 30th day after the date the commissioner receives a petition under Subsection (d), the commissioner shall hold a public hearing on the petition to determine whether:

- (1) the petition is made in good faith; and
- (2) the grounds stated in the petition otherwise justify conducting the proceeding as a contested case hearing.

(d-2) Not later than the 60th day after the date a petition under Subsection (d) is submitted, the commissioner shall:

- (1) deny the petition in writing, stating the reasons for the denial; or
- (2) grant the petition to initiate a hearing under Subsections (a) and (h) as a contested hearing.

(e) Information received or requested by the commissioner as part of an individual audit or examination under Chapters 2602 and 2651 may not be used for rate setting under Subchapter D, Chapter 2703. Nothing in this section prohibits a party from conducting discovery in a ratemaking or other proceeding or producing other information requested by the department, or verifying the data reported under a statistical plan or report promulgated by the commissioner.

(f) Subsections (c) through (e) apply only to a public hearing held on or after January 1, 2009.

(g) If a hearing held under Subsection (a) is not conducted as a contested case hearing, the commissioner shall render a decision and issue a final order not later than the 120th day after the date the commissioner receives a written request under Subsection (b) or (b-1).

(h) If a hearing held under Subsection (a) is conducted as a contested case hearing:

- (1) not later than the 30th day after the date the commissioner rules on a petition for a public hearing under Subsection (d-2), the commissioner shall issue a notice of call for items to be considered at the hearing;

(2) the commissioner may not require responses to the notice of call before the 60th day after the date the commissioner issues the notice of call;

(3) the commissioner shall issue a notice of the public hearing not later than the 30th day after the date responses to the notice of call are required under Subdivision (2);

(4) the commissioner shall commence the public hearing not earlier than the 120th day after the date the commissioner issues a notice of hearing under Subdivision (3);

(5) the commissioner shall close the public hearing not later than the 150th day after the date the commissioner issues the notice of hearing under Subdivision (3); and

(6) the commissioner shall render a decision and issue a final order not later than the 60th day after the record made in the public hearing is closed under Subdivision (5).

(i) A party's presentation of relevant, admissible oral testimony in a hearing under this section may not be limited.

(j) The commissioner shall consider each matter presented in a hearing under this section and announce in a public hearing all decisions on all matters considered.

(k) A party described by Subsection (b) or (b-1) may petition a district court in Travis County to enter an order requiring the commissioner to comply with the deadlines described by this section if the commissioner fails to meet a requirement in Subsection (g) or (h).

(l) Subject to Subsection (m), if the commissioner fails to comply with the requirements under Subsection (g) or (h)(6), a combination of at least three associations, persons, or entities listed in Subsection (b) or (b-1) may jointly petition a district court of Travis County to adopt a rate based on the record made in the hearing before the commissioner under this section.

(m) If the record made in the hearing before the commissioner is not complete before the request for the court to adopt a premium rate under Subsection (l), the court shall hold an evidentiary hearing to establish a record before adopting the premium rate.

(n) After a petition has been filed under Subsection (l),

the commissioner may not issue findings or an order related to the subject matter of the petition until after the date the court enters a final judgment.

(o) A district court may appoint a magistrate to adopt a rate under this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1025 (H.B. 4338), Sec. 17, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. 2408), Sec. 11, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 884 (H.B. 3228), Sec. 1, eff. September 1, 2019.

Sec. 2703.203. PERIODIC HEARING. The commissioner shall hold a public hearing not earlier than July 1 after the fifth anniversary of the closing of a hearing held under this chapter to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an interested person, association, title insurance company, title insurance agent, or entity under Section 2703.204 requests to be considered or that the commissioner determines necessary to consider.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 930 (H.B. 3271), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. 2408), Sec. 12, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 884 (H.B. 3228), Sec. 2, eff. September 1, 2019.

Sec. 2703.204. ADMISSION AS PARTY TO HEARING. (a) Subject to this section, the following persons, associations, and entities shall be admitted as parties to a contested case hearing under Section 2703.202, the periodic hearing under Section 2703.203, or a hearing under Section 2703.206:

(1) a trade association whose membership is composed

of at least 20 percent of the members of an industry or group represented by the trade association;

(2) an association, person, or entity described by Section [2703.202\(b\)](#);

(3) an interested person described by Section [2703.202\(b-1\)](#); or

(4) department staff.

(b) A party to any portion of the periodic hearing relating to ratemaking may request that the commissioner remove any other party to that portion of the hearing on the grounds that the other party does not have a substantial interest in the subject matter of the hearing. A decision of the commission to deny or grant the request is final and subject to appeal in accordance with Section [36.202](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 930 (H.B. [3271](#)), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. [2408](#)), Sec. 13, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 884 (H.B. [3228](#)), Sec. 3, eff. September 1, 2019.

Sec. 2703.206. COMMISSIONER AUTHORITY TO HOLD HEARINGS AS NECESSARY. At any time, the commissioner may order a public hearing to consider adoption of premium rates and other matters relating to regulating the business of title insurance as the commissioner determines necessary or proper.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Sec. 2703.207. NOTICE OF CERTAIN HEARINGS. Not later than the 60th day before the date of a hearing under Section [2703.202](#), [2703.203](#), or [2703.206](#), notice of the hearing and of each item to be considered at the hearing shall be:

(1) sent directly to all parties to the previous hearing conducted under Section [2703.202](#), [2703.203](#), or [2703.206](#), if the hearing was conducted as a contested case hearing; and

(2) published in the Texas Register and on the department's Internet website.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1011 (H.B. [2408](#)), Sec. 14, eff. September 1, 2011.

Sec. 2703.208. ADDITIONS OR AMENDMENTS TO MANUAL. (a) An addition or amendment to the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas may be proposed and adopted by reference by publishing notice of the proposal or adoption by reference in the Texas Register.

(b) Notice under this section must include:

(1) a brief summary of the substance of the matter to be added or amended; and

(2) a statement that the full text of the matter is available for review in the office of the chief clerk of the department.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 6, eff. April 1, 2005.