

INSURANCE CODE

TITLE 11. TITLE INSURANCE

SUBTITLE E. THE BUSINESS OF TITLE INSURANCE

CHAPTER 2704. ISSUANCE OF POLICY OR CONTRACT; DETERMINATION OF
INSURABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2704.001. ISSUANCE OF POLICY OR CONTRACT. A title insurance policy or contract may not be written unless:

(1) Sections [2502.053](#), [2502.054](#), and [2502.055](#) have been complied with;

(2) the policy or contract is based on an examination of title made from title evidence prepared from an abstract plant owned, or leased and operated by a title insurance agent or direct operation for the county in which the real property is located, except as provided by Section [2704.002](#);

(3) insurability of title has been determined in accordance with sound title underwriting practices; and

(4) evidence thereof is preserved and retained in the files of the title insurance company, title insurance agent, or direct operation for a period of not less than 15 years after the date of issuance of the policy or contract.

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

Sec. 2704.002. DIRECT ISSUANCE OF POLICY OR CONTRACT. A title insurance company may directly issue a title insurance policy or contract based on the best title evidence available if:

(1) a title insurance agent or direct operation does not exist for the county in which the real property is located; or

(2) each title insurance agent and direct operation for that county refuses to provide title evidence:

(A) in a reasonable period as determined by the department; and

(B) in compliance with Section [2502.053](#)(1).

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

Sec. 2704.003. COPY OF POLICY OR CONTRACT TO AGENT OR DIRECT OPERATION. In a reasonable period as determined by the department, a copy of each title insurance policy or contract issued in a real property transaction shall be provided to each title insurance agent or direct operation providing the title evidence on which the policy or contract is issued.

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

Sec. 2704.004. EXCEPTIONS TO APPLICABILITY OF CHAPTER. This chapter does not apply to a company that:

(1) does not assume primary liability in a reinsurance contract; or

(2) acts as coinsurer, if at least one of the other coinsurers has complied with this chapter.

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

SUBCHAPTER B. ISSUANCE OF OWNER AND MORTGAGEE POLICIES FOR RESIDENTIAL REAL PROPERTY

Sec. 2704.051. ISSUANCE OF OWNER POLICY REQUIRED IN CONNECTION WITH ISSUANCE OF MORTGAGEE POLICY. (a) In this section, "mortgagee title insurance policy" means a mortgagee policy of title insurance or another agreement or the equivalent that constitutes the business of title insurance.

(b) Except as provided by Section [2704.052](#), a title insurance company or title insurance agent that issues a mortgagee title insurance policy in connection with a lien on improved residential real property in this state that is sold shall also issue an owner title insurance policy to the owner of the property.

(c) The title insurance company or title insurance agent issuing the owner title insurance policy shall charge the required premium promulgated by the commissioner.

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

Sec. 2704.052. REJECTION OF ISSUANCE OF OWNER POLICY. At or before closing and settlement, the person acquiring title may reject the issuance of the owner title insurance policy required

under Section 2704.051 by executing a written and acknowledged rejection in the form prescribed, after notice and hearing, by the commissioner.

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

SUBCHAPTER C. TITLE INSURANCE COVERING AREAS AND BOUNDARIES

Sec. 2704.101. DEFINITION. In this subchapter, "area and boundary coverage" means title insurance coverage relating to discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.

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

Sec. 2704.102. RULES AUTHORIZING ACCEPTANCE OF EXISTING SURVEY. (a) The commissioner by rule may authorize a title insurance company providing area and boundary coverage to accept an existing real property survey as provided by this section.

(b) A title insurance company may accept an existing real property survey rather than requiring a new survey if, notwithstanding the age of the survey or the identity of the person for whom the survey was prepared, the company is willing to accept:

(1) evidence of the existing survey; and

(2) an affidavit prescribed by the commissioner that verifies the existing survey.

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

Sec. 2704.103. CERTAIN DISCRIMINATION PROHIBITED. A title insurance company may not discriminate in providing area and boundary coverage in connection with residential real property solely because:

(1) the real property is platted or unplatted; or

(2) a municipality did not accept a subdivision plat relating to the real property before September 1, 1975.

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

Sec. 2704.104. INDEMNITY PROHIBITED. A title insurance

company may not require an indemnity from a seller, buyer, borrower, or lender to provide area and boundary coverage.

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