

To: Otis Phillips, Office of Superintendent of Insurance
From: NMLTA Executive Committee plus Kevin Peterman
Date: July 6, 2018

Mr. Phillips, after review of the various concerns relating to the revised forms, our group had the following responses:

We request that OSI correct three issues noted on the mark-up of the publication:

- 13.14.8.13 - INSURING AROUND ENDORSEMENT: In subsection 13.14.8.13 B (4), do not add the phrase "or other adverse matter".
- 13.14.9.16 - ADDITIONAL CHARGES: Do not add the phrase "platted tracts".
- 13.14.9.19 - NON-POLICY RATES: In 13.14.9.19 A, do not add the second sentence which refers a version issued to correct an error by the agent.

The NM 6 form which was distributed (the one without the reference to First American Title) is the correct "form". The promulgated form does not and should not contain the statements which are required by the following referenced sections of the regulation to be inserted. The insertions are really additions to the forms (as is the case also with the forms of OP and LP as promulgated). Several agents have inquired of us as well as one of the software vendors about these points and we have responded by saying that the language from the regulations should be added to the form, as required by the regulations.

13.14.18.9 ALTERATION OR SUBSTITUTION OF FORMS PROHIBITED:

...
D. The following language shall be added at the top of schedule A of all commitments and policies in a font not less than the font size of the remaining print of schedule A and be in bold italicized print: "Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, control and supervision by superintendent and title insurance regulation 13.14.18.10 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located."

13.14.5.9 STANDARD EXCEPTIONS IN SCHEDULE B:

A. All commitments issued on New Mexico property will contain each of the following numbered exceptions verbatim and in the same order stated herein.

- (1) Rights or claims of parties in possession not shown by the public records.
- (2) Easements, or claims of easements, not shown by the public records.
- (3) Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matter which would be disclosed by an accurate survey and inspection of the premises.
- (4) Any lien, claim or right to a lien, for services, labor or materiel heretofore or hereafter furnished, imposed by law and not shown by the public records.
- (5) Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or loan policy).
- (6) Water rights, claims or title to water.
- (7) Taxes for the year _____, and thereafter. (See 13.14.5.12 NMAC)

(8) Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.

...

C. Each commitment shall contain the following statement: Standard exceptions 1, 2, 3, and or 4, may be deleted from any policy upon compliance with all provisions of the applicable rules, upon payment of all additional premiums required by the applicable rules, upon receipt of the required documents and upon compliance with the company's underwriting standards for each such deletion. Standard exception 5 may be deleted from the policy if the named insured in the case of an owner's policy, or the vestee, in the case of a leasehold or loan policy, is a corporation, a partnership, or other artificial entity, or a person holding title as trustee. Except for the issuance of a U.S. policy form (NM form 7 or NM form 34), any policy to be issued pursuant to this commitment will be endorsed or modified in schedule B by the company to waive its right to demand arbitration pursuant to the conditions and stipulations of the policy at no cost or charge to the insured. The endorsement or the language added to schedule B of the policy shall read: "In compliance with Subsection D of 13.14.18.10 NMAC, the company hereby waives its right to demand arbitration pursuant to the title insurance arbitration rules of the American land title association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the company and the insured."

[6-16-86, 3-1-90, 6-1-97, 6-1-98; 13.14.5.9 NMAC - Rn, 13 NMAC 14.5.9, 5-15-00; A, 8-29-03; A, 7-1-05; A, 8-17-09; A, 9-15-09; A, 09-15-10; A, 10-1-12; A, 7-31-14; A, 3-1-16]