

**Nebraska Department of Insurance**  
**Guidance Document**  
**IGD - - C12**

Title: Closing Protection Letters

Issue Date: October 20, 2022

Previously: Issued as CB-140, September 16, 2019

Notice: This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

The Nebraska Department of Insurance (NDOI) has amended guidance document IGD - - C13, issued on July 10, 2018, regarding closing protection letters. The purpose of the amendment is to incorporate the changes made to the Title Insurers Act in LB 221 passed during the 2019 legislative session.

Under NEB.REV.STAT. § 44-101.01, 44-1978 et seq., 44-1984, and 44-19,106 et seq., a title insurer is required to issue closing protection to an insured if the title insurer or its title insurance agent engages in any escrow, settlement, or closing services related to the issuance of a title insurance commitment or policy. A title insurer may issue the closing protection as a letter, policy, endorsement, or other similar forms. The protection must indemnify the insured for the loss of settlement funds if the title insurer's title agent committed one of the following acts: theft of settlement funds and/or failure to comply with the written closing instructions by the insured when agreed to by the title insurance agent relating to the insurance coverage.

The NDOI requires title insurers to file rates and forms with the Property and Casualty Division. A title insurer is permitted to charge a fee for this coverage, but the NDOI must approve that fee. The title insurer must retain the entire fee. Title insurers are not permitted to split the closing protection fee with the insurance agent. Splitting this fee is considered a violation of the Title Insurance Agent Act and may result in the NDOI filing an administrative action against the title insurance agent, or both.

It is the responsibility of the title insurer to notify their agents of the subject matter of this guidance document and ensure compliance therewith.

Questions concerning this should be directed to the Property & Casualty division at 402-471-2201.