

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Bruce R. Ramge

Director



December 31, 2013
CB-131

Dave Heineman
Governor

BULLETIN

SUBJECT: TITLE INSURER ONSITE REVIEW OF TITLE AGENT

The purpose of this bulletin is to provide clarification of onsite reviews by title insurers of title insurance agents in accordance with Neb.Rev.Stat. §44-1993(3) and 210 Neb. Admin. Code §§34-005 to 34-007.

Conducting the Onsite Review

Neb.Rev.Stat. §44-1993(3) requires that a title insurer complete an annual onsite review of the underwriting, claims, and escrow practices of all its title insurance agents that have conducted business in Nebraska for the preceding year. Detailed requirements of the onsite review are located at 210 Neb. Admin. Code §34-006. The Department of Insurance would like to address the following issues:

- An onsite review must be conducted in the title insurance agent's location. Any onsite review not conducted in the title insurance agent's location, including at the title insurer's home office, does not comply with Nebraska law.
- A title insurer may conduct the onsite review in conjunction with other audits or reviews of the title insurance agent. The title insurer must ensure that all required areas are reviewed and a separate onsite review report is prepared.
- An onsite review does not need to be conducted on a title insurance agent that is licensed in Nebraska but did not conduct any business in Nebraska for the preceding year. However, a title insurer must provide the Department of Insurance with a certified statement explaining the reason the onsite review was not conducted. In addition, the title insurer is still required to comply with the provisions of Neb.Rev.Stat. §44-1993(2) regarding filing a statement of financial condition of the title insurance agent.

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- The onsite review must contain a representative sample of Nebraska files. If the title insurance agent conducts business in multiple states and the title insurer elects to review the title insurance agent's files based upon the ratio of business in each state, the title insurer must explain the sampling method. The sampling method must comport with one of the methods described at 210 Neb. Admin. Code §34-005.03.

Any additional questions regarding the administration of the onsite review should be directed to the Department of Insurance for further response.

Onsite Review Report

Pursuant to 210 Neb. Admin. Code §34-006, upon completion of the onsite review the title insurer is required to complete a detailed report of the review. The report is not required to follow a standardized format, however, the Department of Insurance has developed a sample onsite review report which may be utilized by a title insurer. A copy of this report has been attached as Appendix A. When preparing the report, the title insurer should be mindful of the following:

- The report shall notate all areas reviewed but only expound upon findings considered to be a deficiency, error, exception, or deviation.
- Any deficiencies noted in the report which cannot be remedied within five (5) business days must be reported to the Department of Insurance. The report shall describe the deficiency and any progress made by the title insurance agent to correct the deficiency.
- A deficiency is any finding that does not comply with the requirements of the Nebraska Revised Statutes or Nebraska Administrative Code and requires corrective action. If a title insurer has questions regarding whether a finding is a deficiency, the insurer should contact the Department of Insurance.

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- The report shall include a listing of all individual title agents employed by the title insurance agency at the time of the onsite review.
- The report shall notate the title insurer's receipt of the title insurance agent or title insurance agency's statement of financial condition.
- The report shall include a review of the title insurance agent's files awaiting policy issuance to determine the average length of time between closing and policy issuance. The report must state whether the title insurance agent has appropriate follow-up procedures in place to obtain additional items after closing and whether the title insurance agent is utilizing those procedures. Documentation of these items shall be available upon request.
- The report shall be available to the Director of the Department of Insurance upon request.

Any additional questions regarding the completion of onsite reports should be directed to the Department of Insurance.

Cancellation of a Title Insurance Agent

A title insurer is required to notify the Director within thirty days of termination of a title insurance agent or title insurance agency if the termination involved circumstances listed in Neb.Rev.Stat. §44-4059. The title insurer also shall verify the termination was processed by the Department of Insurance.



Bruce R. Ramge
Director

Attachment

Appendix A

Nebraska Title Insurer's Statutory Onsite Review Report

Pursuant to Neb.Rev.Stat. §44-1993(3) and 210 Neb. Admin. Code §§34-005 to 34-007

Agency Name: _____

Location of Review: _____

Agency Contact: _____

Contact Phone: _____

Contact Email: _____

Date of Last Review: _____

Date: _____

Insurer: _____

(Note: For agencies with multiple issuing agency contracts of the company, separate reports must be prepared)

Reviewer: _____

Reviewer Phone: _____

Reviewer Email: _____

Total number of Nebraska title policy files processed since the last annual review: _____

Total number of Nebraska escrow/closing files processed since the last annual review: _____

Total number of Nebraska title files reviewed: _____

Total number of Nebraska closing/escrow files reviewed: _____

Explanation of sampling methodology used pursuant to 210 Neb. Admin. Code §34-005.03:

Section 1: Insurer Agency Contract

Pursuant to 210 Neb. Admin. Code §34-006.01

Note: The reviewer shall ensure that a copy of the most current issuing agency contract is in the insurer’s agency file which may be kept electronically.

Is the issuing agency contract up-to-date and properly executed? YES _____ NO _____

Does the issuing agency contract between the agency and insurer set the responsibilities of each party? YES _____ NO _____

Section 2: Licensure Review

Pursuant to 210 Neb. Admin. Code §34-006.02

Note: The reviewer shall ensure that copies of the most current business entity and producer title insurance licenses are maintained in the insurer’s agency file, which may be kept electronically.

A list of all individual title agents employed by the title agency as of the onsite review is attached.

Does the agency have a current valid business entity license? YES _____ NO _____

Do all employees of the agency who sell, solicit or negotiate title insurance have current, valid producer licenses? YES _____ NO _____

Section 3: Financial Responsibility

Pursuant to 210 Neb. Admin. Code §34-006.03

Note: The reviewer shall ensure that a copy of the most current statement of financial condition along with the supporting documentation is maintained in the insurer’s agency file. This may be kept electronically. If the statement and/or supporting documentation is not available at the time of the review, the reviewer shall make note of such in its report and take the necessary steps to obtain this documentation when available.

Has the agency prepared and certified a statement of financial condition as being a true and correct representation of its financial condition as of December 31 of the preceding year? YES _____ NO _____
(Attach copy with supporting documentation)

If no, what is the expected date of receipt: _____ N/A _____

Section 4: Management Evaluation

Pursuant to 210 Neb. Admin. Code §34-006.04

Does the agency engage in affiliated business arrangements as defined in Neb.Rev.Stat. §44-19,108(2)? YES _____ NO _____

If yes, based on the files reviewed where commitments or policies of the insurer have been issued, is the agency in compliance with the provisions of Neb.Rev.Stat. §44-19,112 regarding disclosure of the affiliated business arrangement? YES _____ NO _____ N/A _____

Based on the files reviewed where commitments or policies of the insurer have been issued, is the agency in compliance with the provisions of Neb.Rev.Stat. §44-19,113 regarding favored agent of the title insurer? YES _____ NO _____ N/A _____

Section 5: Title Plant Maintenance

Pursuant to 210 Neb. Admin. Code §34-006.05

Does the agency maintain a title plant? YES _____ NO _____

If yes, are the agency's procedures for maintaining and updating its title plant adequate? YES _____ NO _____ N/A _____

Section 6: Underwriting Practices

Pursuant to 210 Neb. Admin. Code §34-006.06

Has the title insurer established and provided underwriting standards related to the thoroughness and accuracy of the agency's title search procedures? YES _____ NO _____

In files reviewed where commitments or policies of the insurer have been issued did the agency follow those standards? YES _____ NO _____

Section 7: Office Maintenance

Pursuant to 210 Neb. Admin. Code §34-006.07

Is the agency's order log and policy register properly maintained? YES _____ NO _____

Did the reviewer reconcile the agency's orders with the insurer's commitments, title searches, policies, and collection of premium? YES _____ NO _____

Pursuant to the reconciliation, were all orders properly handled? YES _____ NO _____

Did the reviewer reconcile outstanding inventory with issued policies? YES _____ NO _____

Pursuant to the reconciliation, were all orders properly handled? YES _____ NO _____

Does the agency have adequate procedures for tracking issued commitments where no policies have been issued? YES _____ NO _____

In files reviewed, does the agency follow these procedures? YES _____ NO _____

Does the agency have adequate procedures for cancelling commitments on transactions that do not close? YES _____ NO _____

In the files reviewed, did the agency follow these procedures? YES _____ NO _____

Does the agency have adequate procedures for follow up, after closing, to track the status of outstanding conditions required for timely issuance of policies? YES _____ NO _____

In the files reviewed, did the agency follow these procedures? YES _____ NO _____

Did the reviewer reconcile the issued policy reports of the insurer? YES _____ NO _____

Pursuant to the reconciliation, were all policies issued correctly? YES _____ NO _____

Does the agency maintain a log or logs to demonstrate compliance with the above? YES _____ NO _____

Section 8: Claims

Pursuant to 210 Neb. Admin. Code §34-006.08

If the issuing agency contract contains provisions that allow the agency to settle claims on behalf of the insurer:

Did the reviewer review proper claims procedures with the agency in accordance with the terms of the issuing agency contract, and title assurances of the insurer, to ensure proper and timely submission, with all adequate documentation, in order for the insurer to timely respond to all potential claims? YES _____ NO _____ N/A _____

Section 9: Policy Delays

Pursuant to 210 Neb. Admin. Code §34-006.09

Does the agency have adequate follow up procedures in place to request needed items after the closing in order to issue the policies of the insurer? YES _____ NO _____

In the files reviewed, is the agency following those procedures by issuing policies of the insurer within 60 days of the date all requirements are met? YES _____ NO _____

In the files reviewed, what is the average length of time between compliance with the requirements of the insurer’s commitment for insurance and the issuance of the insurer’s title policy by the agency? _____ DAYS

Number of files that were not in compliance with 210 Neb. Admin. Code §34-006.09: _____

Section 10: Policy Issuance

Pursuant to 210 Neb. Admin. Code §34-006.10

In the policies reviewed:

Were correct policy and endorsement forms used? YES _____ NO _____

Was the insured information accurate? YES _____ NO _____

Were the policies issued timely? YES _____ NO _____

Were premium charges calculated correctly? YES _____ NO _____

Were all necessary disclosures given? YES _____ NO _____

Does the agency maintain a premium remittance account for policies issued on behalf of the insurer? YES _____ NO _____

Did the reviewer verify that the funds held on the insurer’s behalf are reasonably ascertainable from the agency’s books of account and records and are sufficient to satisfy the obligations of the agency to the insurer? YES _____ NO _____

Section 11: Escrow Closings

Pursuant to 210 Neb. Admin. Code §34-006.11

See attached Escrow Addendum

Section 12: Agency Record Retention

Pursuant to 210 Neb. Admin. Code §34-007

Does the agency preserve and maintain records of its affairs, including title insurance, escrow operations, security deposit, and escrow trust accounts for a period of no less than 15 years after the insurance policy has been issued or 10 years after the escrow or security deposit account has been closed?

YES _____ NO _____

Section 13: Summary of Onsite Review Results

Number of title files not in compliance: _____

Number of closing/escrow files not in compliance: _____

Please attach a separate document describing and explaining each area marked "NO" in Sections 1 through 12. This description should include any remedial action taken by the agency, any action plan developed, and any follow-up dates.

Note: If the insurer's onsite review indicates the title insurance agency is deficient in any of the areas listed in 210 Neb. Admin. Code §§34-006.01 to 34-006.11, the insurer shall notify the Department within five (5) business days if the Agency has not remedied or cannot remedy the deficiency within that time as required by 210 Neb. Admin. Code §34-006.

Completion dates, where applicable:

Contract revision completed: _____ N/A _____
(Date)

Licensing updated: _____ N/A _____
(Date)

Statement of financial condition received with supporting documentation: _____ N/A _____
(Date)

Reviewer's Signature: _____

Nebraska Title Insurer's Statutory Onsite Review Report Escrow Addendum

Pursuant to Neb.Rev.Stat. §44-1993(3) and 210 Neb. Admin. Code §§34-005 to 34-007

Agency Name: _____

Insurer: _____

Note: For agencies with multiple issuing agency contracts of the company, separate reports must be prepared.

Section 11: Escrow Closings

Pursuant to Neb.Rev.Stat. §44-19,116

Does the agency retain a formal escrow agreement signed by the appropriate parties? YES _____ NO _____

Do all funds disbursed by the agency meet the good funds requirement? YES _____ NO _____

Does the agency deposit escrow funds in a separate fiduciary trust account in a qualified financial institution no later than the next business day after receipt? YES _____ NO _____

Does the agency disburse funds in compliance with written closing instructions? YES _____ NO _____

Does the agency record deeds and security instruments in a timely manner? YES _____ NO _____

If the answer is "no" to any of these questions, provide an explanation:

Remedial action taken by the agency:

Action plan, with follow up dates, if any:

Note: *If the insurer's onsite review indicates the title insurance agency is deficient in any of the areas listed in 210 Neb. Admin. Code §§34-006.01 to 34-006.11, the insurer shall notify the Department within five (5) business days if the agency has not remedied or cannot remedy the deficiency within that time as required by 210 Neb. Admin. Code §34-006.*

Audit Date: _____

Auditor's Name: _____

Auditor's Signature: _____