

This is an amendment to 13.14.18 NMAC, Sections 6, 8, and 9, effective 1/1/2024.

13.14.18.6 OBJECTIVE: The purpose of this rule is to provide conditions and restrictions regarding the use of promulgated forms.

[13.14.18.6 NMAC – Rp, 13.14.18.6 NMAC, 1/1/2021; A, 1/1/2024]

13.14.18.8 PROMULGATED FORMS: For purposes of Section 59A-30-5 NMSA 1978, the superintendent shall promulgate title insurance forms by order after conducting a hearing pursuant to 13.1.5 NMAC or 13.1.6 NMAC, as the circumstances require. On ~~his~~ their own motion, or at the request of an interested person, the superintendent may, at any time, conduct a hearing to consider whether to promulgate a new form, to revoke a previously promulgated form, or to modify a previously promulgated form. The forms compiled and filed with the New Mexico State Rules Center and Archives as the New Mexico Title Insurance Forms shall be the promulgated forms, and those forms are incorporated into this rule by reference. The superintendent shall publish a table of the promulgated title insurance forms with the corresponding rates in a form that is easily accessible by the public on the OSI's website.

A. A title insurer or title insurance agency shall not use any new promulgated form unless:

- (1) the superintendent promulgates a rate for the form, if the order promulgating the form states that a rate is required to issue the form;
- (2) the superintendent has promulgated a rule for the form, if the order promulgating the form states that use of the form is contingent on promulgating a rule; and
- (3) the title insurer has provided to its title insurance agencies underwriting guidelines, compliant with these rules, to govern the use of the form.

B. A title insurer or title insurance agency shall not use any modified or replacement form unless:

- (1) the superintendent determines that the existing rate and rule, if applicable, for the form applies to the modified or replacement form, or the superintendent has promulgated a new rate and rule, if applicable, for the modified or replacement form; and

- (2) the title insurer has provided to its title insurance agencies underwriting guidelines, compliant with these rules, to govern the use of the form.

- (3) A title insurer shall only issue forms that match in all substantive respects the promulgated forms authorized by these rules.

[13.14.18.8 NMAC – Rp, 13.14.18.8 NMAC, 1/1/2021; A, 1/1/2024]

13.14.18.9 ALTERATION OF FORMS PROHIBITED; EXCEPTIONS; AND LETTERS OF INTERPRETATION OR WAIVER THAT CHANGE THE TERMS, PROHIBITED:

A. No person, firm or organization may alter or otherwise change any title insurance form promulgated by the superintendent, or use any non-promulgated endorsement, whether by deletion or omission of terms, except:

- (1) upon a determination by the superintendent following a hearing pursuant to 13.1.5 or 13.1.6 NMAC, as applicable, that the same be proper; or

- (2) in a manner specifically authorized by these regulations.

B. Factual information required to identify and describe the risk being undertaken may be inserted in an authorized form. This includes, but is not limited to, information necessary to identify the insured, the insured's estate or interest of record, the property description, all matters of record affecting the insured's interest which are exceptions to the policy, all matters, facts and circumstances, whether or not shown by the public records, constituting a lien, claim, encumbrance, impairment or limitation upon the estate to be insured, whether arising by operation of law or by reason of no recorded information establishing the insured matters, the amount of liability of the policy and, in case of a commitment, any matter constituting a requirement prior to issuance of a policy, may be inserted in the proper places in the various forms, provided that other information necessary to complete each form is inserted in the form prior to its issuance.

C. Additions to language in the promulgated form, if required to correctly identify and describe the risk being undertaken may be inserted in an authorized form. Any such modification must be approved by:

- (1) Legal counsel for the insured; or
- (2) An authorized representative of the insured in a transaction that does not involve one to four family residential property.

D. Nothing in this rule shall prevent a title insurer from:

- (1) adding blanks, spaces, labels or brief instructions to the promulgated forms; or
- (2) from typesetting a promulgated form utilizing type styles, margins or paginations

different from the promulgated forms; provided, however, that all language contained in each promulgated form must appear verbatim in each form, and further provided that nothing may be added to a promulgated title insurance form which changes any of the terms of such form except as specifically provided by these rules.

E. Nothing in these rules prohibits use of translated language other than English, provided, however, that any translated form shall contain the following language in bold-face type on the first page of the form in English and in the translated language: “This translation is provided as a convenience only. The English language version of this form shall control and shall be the operative document for all legal purposes.”

F. 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, and title insurance rule 13.14.18.9 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, except as authorized by law.”

G. No title insurer or title insurance agency shall issue, publish or circulate a letter, memorandum or other writing which directly or indirectly modifies or waives the terms or any part of the terms of any promulgated form, nor shall any such person agree to directly or indirectly do or not do anything, the effect of which is or would be to offer insurance coverages other than those in the promulgated title insurance forms, whether the same be more, less, substitute, alternative, negative or affirmative coverages or risks, except as specifically authorized by these rules. ~~[except that a title insurer shall waive, at no cost or charge to the insured, either by endorsement or language added to schedule B of the policy, the right to demand arbitration pursuant to the conditions and stipulations of title insurance policies issued in New Mexico. The endorsement or the language added to schedule B of the policy shall read: “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.”]~~

[13.14.18.9 NMAC – Rp, 13.14.18.9 NMAC, 1/1/2021; A, 1/1/2024]