

Desk Copy

Title News

the official publication of the American Land Title Association



President
Hickman
At Mid-Winter

May, 1973



A Message from the Editor

MAY, 1973

Our thanks to ALTA President Jim Hickman, who this month offered his inside front cover message space for the sharing of thoughts from the editor's desk.

Throughout history, editors have received bouquets and brickbats from their readers—and generally have appreciated both. Since the success of any publication depends on reader interest, all reaction from those who turn the pages is welcome.

Title News is no exception when it comes to the need for reader evaluation and involvement. The views of ALTA members are an important contribution to editorial planning—and we would like to have yours. Since the magazine has just completed its fiftieth year of publication, why not pass along your views on content as an anniversary present?

Your comments on what you like, don't like, and would like to see in the magazine are the ingredients for a "letter to the editor" of the highest priority. If there's a certain subject you would like to have covered in *Title News*, you might even want to write an article about it. Let us know if you have such aspirations. With the recent addition of Mrs. Carol Haley to ALTA staff as managing editor of the magazine, more writing assistance is available than ever before—should you need it.

The history of *Title News* is one of continuing effort to help the magazine better serve its readers. In recent years, the physical format has been redesigned to better reflect the modern land title industry. Constant editorial attention is focused on presenting a wide range of articles and features congruent with the interest of title men and women across the nation.

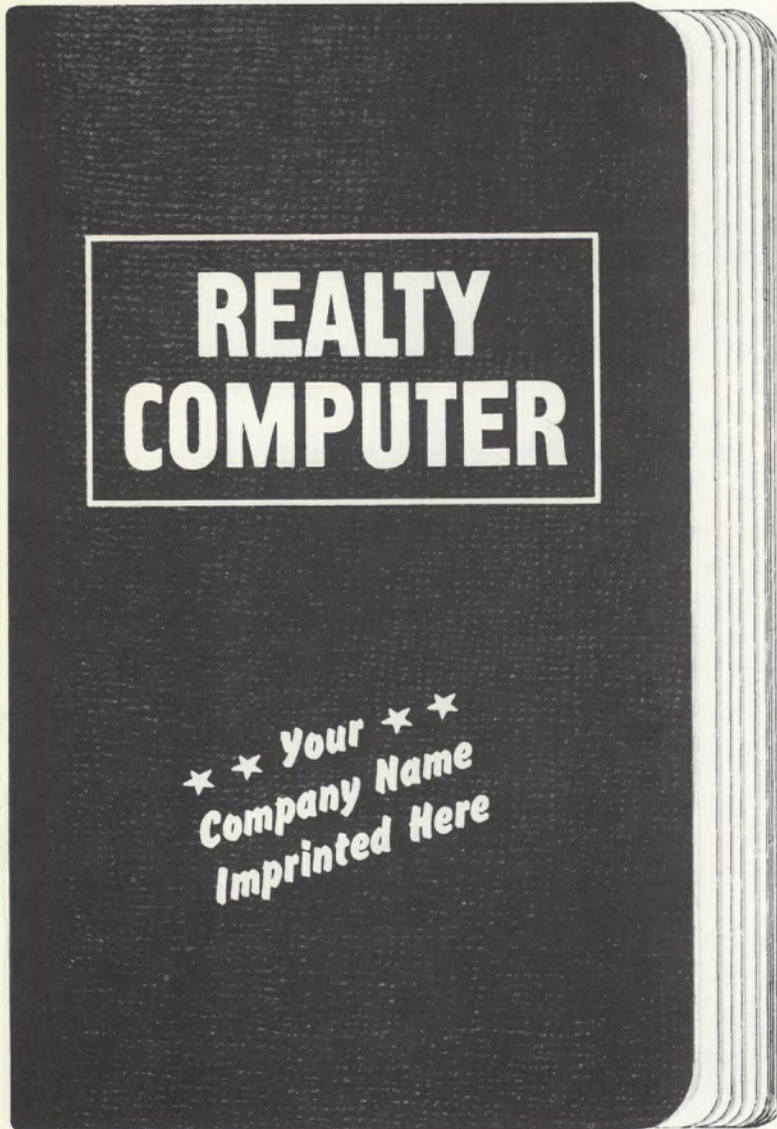
Your opinions, ideas, and editorial contributions will help keep *Title News* a viable medium for ALTA. May we hear from you?

Sincerely,

Gary L. Garrity

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This talented group wants to sing your praises



These talented performers are ready to sing the praises of your title company through local radio advertising. They're waiting—on tape—in the recently-introduced ALTA Do-It-Yourself Commercial Kit.

If you're an ALTA member, you can buy the kit—on a first come, first served basis—for \$50 plus postage. Just write Gary Garrity in the ALTA Washington office. You'll be billed later.

What's in the kit? The singers, of course. On 7½ ips mono tape. Furnishing high quality contemporary music for a 20, a 30, and a 60-second commercial. Plus instructions and suggested copy for three different title company radio advertising approaches. For promoting use of local attorneys or real estate brokers. For establishing local identity for a title company executive. For promoting simultaneous is-

sue and awareness of mortgagor title insurance. You decide which approach is best for your local need—or substitute another.

Here's how it works. First, order the kit. Then work out your radio advertising campaign with one or more local stations. Adapt the enclosed commercials to carry your message—or write your own. Have a local announcer—or other appropriate talent—record voice copy to link your message with the taped music. And—presto—you have a customized local radio campaign to strengthen your market identity.

What does the group sing? This jingle: "Who can ease all your worries . . . when you're buyin' a home . . . who can bring you protection . . . the title man can."

Better order now. They're doing your song.

American Land Title Association
1828 L Street, N.W.
Washington, D.C. 20036

Title News

the official publication of the American Land Title Association

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ON THE COVER: ALTA President James O. Hickman, Pioneer National Title Insurance Company, calls a General Session to order during the 1973 Mid-Winter Conference of the Association at Phoenix in March. For a report on the Conference, please turn to page 4. And, for a complete copy of the Revised Model Title Insurance Code approved by ALTA members at the Conference, please see the Special Insert in this issue.

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GARY L. GARRITY, Editor

CAROL MATHES HALEY, Managing Editor

Legislation, Political Action Major Topics at Mid-Winter

Challenges of substantial importance to the future of the land title industry received the undivided attention of those present at the 1973 ALTA Mid-Winter Conference at Phoenix in March.

Some 680 registrants were on hand to focus on a list of important topics headed by legislation and regulation, political support of candidates with appropriate views, and the increasing needs of title company customers. The registra-

tion exceeded by more than 100 the previous ALTA Mid-Winter attendance record set last year in Atlanta.

ALTA response to recent political developments was apparent in General Session presentations.

William T. Finley, Jr., a Washington, D.C., attorney assisting in title company efforts to resist federal rate regulation, praised ALTA members for their constituent contact with members of Congress in this regard last session and called for related preparedness in opposing similar federal legislation that could well develop during the Ninety-Third Congress.

Aubrey C. Doggett, Jr., chairman of the Mortgage Bankers Political Action Committee, emphasized the importance of individual title men and women forming a similar group to support appropriate political candidates and strengthen the national political identity of the land title industry.

Following Doggett's talk, Francis E. O'Connor of Chicago Title and Trust Company reported he had just been elected chairman of a newly-formed land title political action committee that will be calling on individuals in the land title industry to aid in its support of suitable political candidates.

Chairman J. Mack Tarpley (Chicago Title Insurance Company) of the ALTA Committee to Establish Liaison with the National Association of Insurance Commissioners presented for consideration an extensively revised (from a 1964 version originally adopted) ALTA Model Title Insurance Code; after amending to specifically include the



An excellent lineup of guest speakers added much to program content at the 1973 Mid-Winter Conference. At top, left, Aubrey C. Doggett, Jr., chairman, Mortgage Bankers Political Action Committee, comments on helping political candidates win. James E. Murray (left), senior vice president and general counsel, Federal National Mortgage Association, talks with ALTA President James O. Hickman, Pioneer National Title Insurance Company, after his guest speaker address on the secondary mortgage market and the land title industry, in the photograph at top, right. William T. Finley, Jr., right, Washington, D.C., attorney who presented a commentary on the Ninety-Third Congress and federal regulation of the title business, visits with two ALTA members in the lower photograph. They are, from left, Fred B. Fromhold of Commonwealth Land Title Insurance Company, and Philip J. Brennan of Sedgwick-Brennan Abstract Company; Brennan is the current president of the Iowa Land Title Association.

District of Columbia, the Model Code was approved as a tool to help states strengthen their regulation of the title business. (Please see the full text of the Revised Model Code elsewhere in this issue.)

Chairman James G. Schmidt (Commonwealth Land Title Insurance Company) of the ALTA Federal Legislative Action Committee reported brisk Association activity involving Congress and federal agencies. This includes Congressional relations; proposed Federal Home Loan Bank Board authority to allow service corporations of federally-insured savings and loan associations to own title insurance agency and underwriter operations and serve as trustee under deeds of trust (ALTA objects to these proposals); study by the House Subcommittee on Conservation and Natural Resources and the General Accounting Office that includes the possibility of the federal government becoming a self-insurer regarding title insurance; and metric conversion legislation hearings by the House Subcommittee on Science, Research, and Development.

Chairman James W. Robinson (American Title Insurance Company) of the ALTA Public Relations Committee narrated an impressive audio-visual presentation that showcased 1973 Association communications activity reaching a nationwide audience of millions through television, radio, print media, and other means; he pointed out that ALTA public relations messages help offset distorted criticism of the land title industry from politicians and certain news media and urged Association members to engage in their own local public relations activity.

"Politics is a business and political action funds are a business," Doggett told a General Session audience. "You must, as individuals interested in the title insuring field, be organized so that as a collective group your voice may be heard in the nation's capitol on matters that affect you legislatively."

Referring to activity of the Mortgage Bankers Political Action Committee, Doggett commented, "It is the individual candidate's platform and program, not his party label, that determines whether he gets MORPAC's support." (The full text of Doggett's ad-



Panel presentations were a highlight of 1973 Mid-Winter Conference Section meetings. In the top photograph, Robert G. Frederick, C. W. Lynn Abstract Company, Inc., presents a commentary during an Abstracters and Title Insurance Agents Section panel discussion on "Flexible Business Attitudes: The Key to Progress". Listening are, from left, fellow panelists Hugh B. Robinson, Carroll County Abstract Co., and Drake Circle, West Coast Title Company, who served as panel chairman. Shown in the lower photograph are members of a Title Insurance and Underwriters Section panel on statistical compilation for rate filings, who are, from left, Dr. Nelson R. Lipshutz, Arthur D. Little, Inc.; Leroy F. King, Commonwealth Land Title Insurance Company, panel chairman; and Louis Fried, Title Insurance and Trust Company.

dress will be published in the June, 1973, *Title News*.)

In urging title men and women to support their new political action committee, Chairman O'Connor pointed out that this group of individuals is offering an opportunity to act rather than be acted upon.

Another major area of challenge was brought to the attention of those present by James E. Murray, senior vice president and general counsel for Federal National Mortgage Association. After noting that title insurers will continue to play an important role in meeting the requirements of secondary mortgage market lenders, Murray went on to suggest "new areas of coverage" which he referred to as "the 'outer limits' of title insurance". These include expanded coverage for condominium loans; insuring that mortgaged property does

not lie within high risk flood areas; insuring that a real estate project being financed would not require filing of an environmental impact statement under state law; a mortgagee policy endorsement insuring against loss or damage sustained by refusal to accept title in connection with a future FHA insurance claim resulting from existence as of policy date of such matters as restrictive covenants, easements affecting the land, encroachments and outstanding oil, gas and mineral rights; and limited usury coverage.

"Too often the reaction of some title insurance companies to such changes is a hastily worded addition to the list of exceptions in Schedule B," Murray said. "Although in some instances this can be the only response, I urge you to look for additional means of serving the in-

Continued on page 8



REVISED MODEL TITLE INSURANCE CODE

(1973)



American Land Title Association

1828 L Street, N. W.

Washington, D.C. 20036

STATEMENT OF PURPOSE AND USE

The within Revised Model Code is the product of the land title industry's best thinking and conclusions after nine years of experience in the use and attempted use of the provisions of a Model Title Insurance Code adopted by ALTA in 1964.

In the revision consideration has been given to the attitudes of the regulators, the changes that have occurred in the general insurance laws of the several states, the changing character of the business of title insurance, the expressed concern of the federal government, and the current attitudes of consumers.

Greater utilization is made of references to the general insurance laws, with specificity used only when it is deemed necessary to provide a stronger and more effective scheme of regulation by recognizing the nature of the business of title insurance and its differences from other lines of insurance.

It is urged that those proposing to use the within code for the purpose of enacting legislation look at it as a compendium of the areas of regulation deemed necessary for the business of title insurance and suggested provisions therefor, many of which are considered to be mini-

mal, and others made intentionally broad to cover the different methods of doing title insurance business throughout the United States.

No person or group of persons should attempt to utilize the within code as legislation in a particular jurisdiction until there has been made a thorough and exhaustive study of the insurance laws of, and the manner in which the business of title insurance is conducted in, that jurisdiction.

It is urged that earnest consideration be given to the value and advantages of nationwide uniformity in certain areas of regulation, viz:

- (a) provisions for reserves;
- (b) limits of single risk limitation;
- (c) provisions for reinsurance of single risks;
- (d) provisions for admittance of foreign and alien insurers; and
- (e) provisions relating to rebates and controlled business.

Adherence to the provisions of the within code relating to those areas is strongly recommended.

Other provisions of the within code may be modified on a state-by-state basis in recognition of statutes or practices of

long standing without adversely affecting the scheme of regulation. To illustrate:

Section 101(e): Other components of the total charge may be included in the definition of "rate" where they are desired or customary, or some included components may be deleted where they are inapplicable.

Sections 131 through 134: Regulation of agents is a necessary part of any title insurance code. While the provisions of the within code are considered broad enough for use in any state, local statutes, customs, and/or practices of long standing may dictate an amplification of such provisions.

Sections 142 through 154: Regulation of rates is a vital and necessary part of any title insurance code. The provisions of the within code set forth the minimum essential for strong and effective regulation. Adoption of a different method of rate regulation equal to or greater in strength and effectiveness would not violate the purpose of the within code.

The within code was adopted by the American Land Title Association at its Mid-Winter Conference on March 16, 1973 by the passage of the following resolution:

RESOLUTION

Resolved that this meeting vote approval of the Model Title Insurance Code, Revised, as submitted to the members on or about January 31, 1973, and as amended in this meeting, that upon such approval the National Office codify the material in one document which shall include a statement of purpose and use containing an explanation to the effect that, by reason of local law, practice or custom, certain specified sections of the code may require modification or amendment; and as so codified shall be distributed to the membership of this Association and to the appropriate members and committees of the National Association of Insurance Commissioners; that the Officers of the American Land Title Association be empowered to respond to requests for printed copies of the code, and upon its response to each such request, shall notify the affiliated state title association, if any shall exist, in the state from which the request was made, and should there be no affiliated state title association in such state, shall then notify all of the title insurance company members of the American Land Title Association domiciled in said state.

REVISED MODEL TITLE INSURANCE CODE

(1973)

1

A. PRELIMINARY PROVISIONS

2 Section 101 *Certain Words Defined:*

3 (a) "Title Insurance" means insuring, guaranteeing or indemnifying owners of
4 real or personal property or the holders of liens or encumbrances thereon or others
5 interested therein against loss or damage suffered by reason of:

6 (1) liens, encumbrances upon, defects in or the unmarketability of the title to
7 said property;

8 (2) invalidity or unenforceability of any liens or encumbrances thereon,
9 or doing any business in substance equivalent to any of the foregoing in a manner
10 designed to evade the provisions of this Act.

11 (b) The "business of title insurance" shall be deemed to be (1) the making as
12 insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety,
13 of any contract or policy of title insurance, (2) the transacting or proposing to
14 transact, any phase of title insurance including solicitation, negotiation preliminary
15 to execution, execution of a contract of title insurance, insuring and transacting
16 matters subsequent to the execution of the contract and arising out of it, including
17 reinsurance, or (3) the doing, or proposing to do, any business in substance equiva-
18 lent to any of the foregoing in a manner designed to evade the provisions of this
19 Act.

20 (c) "Title Insurance Company" means any domestic company organized under
21 the provisions of this Act for the purpose of transacting as insurer the business
22 of title insurance, any title insurance company organized under the laws of another
23 state, the District of Columbia or foreign government and licensed to transact as
24 insurer the business of title insurance within this state pursuant to Section 125 (one
25 hundred twenty-five) of this Act, and any domestic, foreign or alien company

1 having the power and authorized to transact as insurer the business of title insur-
2 ance within this state as of the effective date of this Act.

3 (d) "Applicants for Insurance" shall include all those, whether or not a prospec-
4 tive insured, who from time to time apply to a title insurance company or to its
5 agent, for title insurance, and who at the time of such application are not agents
6 for a title insurance company.

7 (e) "Rate" for title insurance means and includes the charges for the assumption
8 of the insurance risk, abstracting, searching, examination or determination of in-
9 surability and every other activity, exclusive of escrow, settlement or closing
10 charges, whether denominated premium or otherwise, made by a title insurance
11 company or an agent of a title insurance company, or either of them, to an insured
12 or to an applicant for insurance, for any policy or contract of title insurance, but
13 the term "rate" shall not include any charges paid to and retained by an attorney
14 at law, abstracter, surveyor, tax service or any other person acting in a capacity
15 other than as a title insurance agent and on behalf of a client other than a title
16 insurance company, or any charges made for special services, even though per-
17 formed in connection with a title insurance policy or contract.

18 (f) "Commissioner" means the Insurance Commissioner of this state.

19 (g) "Title Insurance Agent" means a person, firm, association, trust, corporation,
20 cooperative, joint-stock company or other legal entity authorized in writing by a
21 title insurance company to solicit title insurance, collect premiums, determine
22 insurability in accordance with the underwriting rules and standards prescribed by
23 the title insurance company which the agent represents and issue policies in its
24 behalf, provided, however, the term "title insurance agent" shall not include offi-
25 cers and salaried employees of any title insurance company.

26 (h) "Single Insurance Risk" means the insured amount of any policy or contract
27 of title insurance issued by a title insurance company unless two or more policies
28 or contracts are simultaneously issued on different estates in identical real prop-
29 erty, in which event, it means the sum of the insured amounts of all such policies
30 or contracts. However, any such policy or contract that insures a mortgage interest
31 that is excepted in a fee or leasehold policy or contract, and which does not exceed
32 the insured amount of such fee or leasehold policy or contract, shall be excluded in
33 computing the amount of a single insurance risk.

1 (i) "Net Retained Liability" means the total liability retained by a title insurance
2 company under any policy or contract of insurance, or under a single insurance
3 risk as defined in or computed in accordance with subsection (h) of Section 101
4 (one hundred one) less the amount of reinsurance ceded.

5 (j) "Domestic Title Insurance Company" means a title insurance company orga-
6 nized under the laws of this state.

7 (k) "Foreign Title Insurance Company" means a title insurance company orga-
8 nized under the laws of any other state of the United States or the District of
9 Columbia.

10 (l) "Alien Title Insurance Company" means any title insurance company incor-
11 porated or organized under the laws of any foreign nation or of any province or
12 territory thereof, not included under the definition of "Foreign Title Insurance
13 Company."

14 Section 102 *Short Title:*

15 This Act shall be known and may be cited as "The Title Insurance Act of One
16 Thousand Nine Hundred and _____".

17 Section 103 *Application of Act:*

18 The provisions of this Act shall apply to all title insurance companies, title
19 insurance rating organizations, title insurance agents, applicants for title insur-
20 ance, policyholders and to all persons and business entities engaged in the business
21 of title insurance.

22 Section 104 *Severability:*

23 The provisions of this Act shall be severable, and, if any of its provisions shall
24 be held to be unconstitutional or invalid, the decision of the court shall not affect
25 the validity of the remaining provisions of this Act. It is hereby declared as a leg-
26 islative intent that this Act would have been adopted by the Legislature of this
27 state had such unconstitutional or invalid provisions not been included therein.

28 Section 105 *Compliance with Act Required:*

29 On and after the effective date of this Act, only a title insurance company as
30 defined in sub-paragraph (c) of Section 101 (one hundred and one) of this Act,
31 shall underwrite or issue a policy of title insurance; further, no person, firm, asso-
32 ciation, corporation, cooperative, joint-stock company, trust or other legal entity
33 shall engage in the business of title insurance in this state unless authorized to

1 transact such a business by the provisions of this Act.

2 **B. TITLE INSURANCE COMPANY**

3 Section 106 *Corporate Form Required:*

4 A domestic title insurance company shall be organized as a stock corporation as
5 provided in (here insert by reference the provisions of the insurance code of the
6 state setting forth the manner and requirements for the organization of a stock
7 insurance corporation).

8 Section 107 *Financial Requirements:*

9 (a) Every domestic title insurance company shall have a minimum capital, which
10 shall be paid in and maintained, of not less than \$250,000.00 (two hundred fifty
11 thousand dollars) and, in addition, paid-in initial surplus of at least \$125,000.00
12 (one hundred twenty-five thousand dollars).

13 (b) Every title insurance company shall, prior to the issuance of any policy of title
14 insurance in this state, have on deposit with the Commissioner of the state of its
15 domicile the sum of \$100,000.00 (one hundred thousand dollars) as a guarantee
16 fund for the security and protection of its policyholders wherever situated, or bene-
17 ficiaries under such policies. The amount of such deposit shall be increased by the
18 sum of \$50,000.00 (fifty thousand dollars) for each state or territorial subdivision
19 of the United States or the District of Columbia, other than the state of its domi-
20 cile, in which it shall be or become qualified to engage in the business of title insur-
21 ance, less the amount required by and deposited in such other states or territorial sub-
22 divisions, provided such deposits are for the security and protection of its policyhold-
23 ers wherever situated or beneficiaries under such policies. When the aggregate of
24 amounts so deposited in this or such other states or territorial subdivisions or the Dis-
25 trict of Columbia, has reached the sum of \$750,000.00 (seven hundred fifty thousand
26 dollars) no further deposit shall be required of such title insurance company as a con-
27 dition of its qualification to engage in the business of title insurance in this state.

28 In the event any company is unable to make the deposits herein required in the
29 state of its domicile by reason of a lack of statutory authority for such deposits,
30 then such deposits may be made with the Commissioner of this state.

31 (c) The deposit required to be made by sub-paragraph (b) of this Section 107 (one
32 hundred seven) may be made in lawful money of the United States or in the classes
33 of investments authorized by the laws of the state in which such deposit is made or

1 by (here insert reference to Section of the General Insurance Laws governing
2 deposits of securities).

3 (d) Assets deposited with the Commissioner pursuant to sub-paragraph (b) of this
4 Section 107 (one hundred seven) may, with the approval of the Commissioner, be
5 exchanged from time to time for other assets which qualify under sub-paragraph
6 (c) of this Section 107 (one hundred seven).

7 (e) The depositing title insurance company shall receive the income, interest and
8 dividends on any assets deposited.

9 (f) Any title insurance company which has deposited assets with the Commissioner
10 pursuant to sub-paragraph (b) of this Section 107 (one hundred seven) may, with
11 the approval of the Commissioner, withdraw any part of the assets so deposited,
12 provided, however, that should said title insurance company continue to engage in
13 the business of title insurance, it shall not be permitted to withdraw assets that
14 would reduce the amount of its deposit below the amount required by sub-para-
15 graph (b) of this Section 107 (one hundred seven).

16 (g) Deposits made pursuant to subsection (b) of Section 107 (one hundred seven) of this
17 Act shall be for the security and protection of the insureds under the policies and con-
18 tracts of insurance issued or reinsurance assumed by such title insurance company. In
19 the event of insolvency or dissolution of such title insurance company, such deposits
20 shall continue to be retained by the Commissioner until such time as all outstanding
21 liabilities created by such policies, contracts, or reinsurance agreements have been dis-
22 charged by reinsurance or otherwise. Such deposits, or so much thereof as shall be nec-
23 essary, may be used by or with the written approval of the Commissioner in the payment
24 of claims arising under such policies, contracts or reinsurance agreements or to pur-
25 chase reinsurance thereof. Any amounts then remaining with the Commissioner shall
26 be applied first to the payment of other obligations of such title insurance company,
27 and second shall be distributed to the stockholders of such title insurance company.

28 (h) If, with respect to any title insurance company as defined in sub-paragraph (c)
29 of Section 101 (one hundred one) of this Act, this Section 107 (one hundred seven)
30 requires a greater amount of capital or surplus or deposit than required of such
31 title insurance company immediately prior to the effective date of this Act, such
32 title insurance company shall have the period ending July 1st five years after the
33 effective date of this Act within which to comply with any such increased re-

1 quirement.

2 Section 108 *Procedure When Capital Impaired:*

3 (Follow the provisions of the general insurance code of the state with respect to
4 impairment of capital of insurers.)

5 Section 109 *Determination of Insurability Required:*

6 No policy or contract of title insurance shall be written unless and until the title
7 insurance company has caused to be conducted a reasonable search and examina-
8 tion of the title and has caused to be made a determination of insurability of title
9 in accordance with its established underwriting practices. Evidence thereof shall be
10 preserved and retained in the files of the title insurance company or its agent for a
11 period of not less than fifteen years after the policy or contract of title insurance
12 has been issued. In lieu of retaining the original evidence, the title insurance com-
13 pany or the title insurance agent, may in the regular course of business establish
14 a system whereby all or part of these writings are recorded, copied or reproduced
15 by any photographic, photostatic, microfilm, micro-card, miniature photographic,
16 or other process which accurately reproduces or forms a durable medium for re-
17 producing the original. This Section shall not apply to (a) a company assuming no
18 primary liability in a contract of reinsurance, or (b) a company acting as a co-
19 insurer if one of the other co-insuring companies has complied with this Section.

20 Section 110 *General Powers:*

21 Every title insurance company shall have the power to:

22 (a) do the kinds of business defined in subsections (a) and (b) of Section 101 (one
23 hundred one) of this Act;

24 (b) do any act, directly or through a title insurance agent, incidental to the making
25 of any contract or policy of title insurance, including, but not limited to, the con-
26 ducting or holding of any escrow, settlement or closing of a transaction; and,

27 (c) provide any other services related or incidental to the sale and transfer of real
28 or personal property.

29 Section 111 *Limitations on Powers:*

30 (a) An insurer which anywhere in the United States transacts any class or kind of
31 insurance other than title insurance is not eligible for the issuance of a license to
32 transact the business of title insurance in this state, nor for the renewal thereof.

33 (b) A title insurance company shall not engage in the business of guaranteeing the

1 payment of the principal or the interest of bonds or other obligations of other
2 persons.

3 Section 112 *Joint Plant Companies:*

4 Two or more title insurance companies or two or more title insurance agents or
5 one or more title insurance companies and one or more title insurance agents may
6 make application to the Commissioner to form an association, corporation or
7 other legal entity, the purpose of which is to engage in the business of preparing
8 abstracts of title or title searches from public records or from records to be owned
9 by such entity, upon the basis of which a title insurance agent or a title insurance
10 company will issue title policies. Such application shall contain:

11 (a) a copy of the proposed articles of incorporation or association and the by-laws
12 or agreement governing the operation of such entity;

13 (b) a list of the owners or participants;

14 (c) the names and addresses of the persons to operate such entity together with a
15 description of their experience and qualifications;

16 (d) the conditions under which ownership or participation in the entity may be
17 sold or acquired;

18 (e) a statement of whether or not title information will be compiled and sold to
19 persons other than owners of or participants in the entity;

20 (f) pro forma balance sheet and other financial information to indicate the suf-
21 ficiency of financing of such entity.

22 If the Commissioner finds that such entity will be adequately financed, that the
23 persons who will be operating the entity are duly qualified and that the rules of
24 operation as expressed in the articles of incorporation or association and the by-
25 laws thereof will promote the efficiency of the operation of the subscribing owners
26 or participants and will not unduly restrict competition, he shall issue a license to
27 such entity and permit its organization. Every such application shall be granted or
28 denied in whole or in part by the Commissioner within sixty (60) days of the date
29 of its filing. Licenses issued pursuant to this Section shall remain in effect until
30 suspended or revoked by the Commissioner. The fee for said license shall be (here
31 insert amount applicable in the General Insurance Laws of the State to fees of title
32 insurance agents). Licenses issued pursuant to this Section may be suspended or
33 revoked by the Commissioner after hearing upon notice in the event the entity

1 ceases to operate as set forth in the approved application or if the Commissioner
2 determines that such operation has become a restraint on competition and not in
3 the interests of the public. Every such entity shall notify the Commissioner prompt-
4 ly of every change in sub-paragraph (a) of this Section 112 (one hundred twelve), its
5 articles of incorporation or association and its by-laws, rules and regulations gov-
6 erning the conduct of its business; and sub-paragraph (b) of this Section 112
7 (one hundred twelve) the ownership of its stock or in the participants therein or the
8 sale of any interest therein to new owners or participants.

9 All joint plant companies who are presently conducting the business as pro-
10 vided in this Section may continue such business and shall be deemed licensed
11 hereunder, provided such joint plant company shall file an application for license
12 setting forth the information called for herein within one year of the effective date
13 of this Act.

14 C. RESERVES

15 Section 113 *Unearned Premium Reserve:*

16 (a) Every domestic title insurance company shall, in addition to other reserves
17 required by this Act, establish and maintain a reserve to be known as the "un-
18 earned premium reserve" for title insurance, which shall at all times and for all
19 purposes constitute the unearned portions of premiums due or received and shall
20 be charged as a reserve liability of such title insurance company in determining its
21 financial condition.

22 (b) The unearned premium reserve shall be retained and held by such title insur-
23 ance company for the protection of the policyholders' interest in policies which
24 have not expired. Except as provided in Section 115 (one hundred fifteen) of this
25 Act, assets equal to the amount of such reserve shall not be subject to distribution
26 among depositors or other creditors or stockholders of such title insurance com-
27 pany until all claims of policyholders or holders of other title insurance contracts
28 or agreements of such title insurance company have been paid in full and all
29 liability on the policies or other title insurance contracts or agreements, whether
30 contingent or actual, have been discharged or lawfully reinsured. Income from the
31 investment of the amount of such reserve shall not be required to be added to the
32 reserve.

33 Section 114 *Amount of Unearned Premium Reserve, Release Thereof:*

1 (a) Every domestic title insurance company shall maintain an unearned premium
2 reserve of unencumbered assets aggregating:

3 (1) the amount of the unearned premium reserve held as of the effective date of
4 this Act, pursuant to or under permission granted by any prior act of the
5 legislature; and

6 (2) the amount of all additions required to be made to such reserve by this
7 Section, less the withdrawals therefrom as permitted by this Section.

8 (b) The amount of the unearned premium reserve held as of the effective date of
9 this Act, pursuant to or under permission granted by any prior act of the legisla-
10 ture, shall be released from said reserve and restored to income or surplus in the
11 manner provided by such prior act.

12 (c) After the effective date of this Act, every domestic title insurance company
13 shall add to its unearned premium reserve in respect to each policy or reinsurance
14 agreement issued by it, a sum equal to \$1.00 (one dollar) for each single insurance
15 risk assumed by it, plus \$.15 (fifteen cents) for each \$1,000.00 (one thousand dol-
16 lars) face amount of net retained liability, as defined in subsection (i) of Section
17 101 (one hundred one) of this Act, and shall separately record the aggregate
18 amounts so set aside and reserved in respect to such policies, contracts or agree-
19 ments written in each calendar year.

20 (d) The amounts set aside as additions to the unearned premium reserve shall be
21 deducted in determining net profits of any title insurance company.

22 (e) For the purposes of determining the amounts of the unearned premium reserve
23 that may be withdrawn pursuant to subsection (f) of this Section, and the interest
24 of the policyholders therein under Section 115 (one hundred fifteen) of this Act, all
25 policies, contracts of title insurance or reinsurance agreements of title insurance
26 shall be considered as dated on July 1st in the year of issue.

27 (f) The aggregate of the amounts set aside in unearned premium reserve in any
28 calendar year pursuant to subsection (c) of this Section shall be released from said
29 reserve and restored to net profits pursuant to the following formula:

30 One twentieth ($1/20$ th) of said aggregate sum on July 1 of each year next suc-
31 ceeding year of addition to the reserve until the entire sum shall have been so
32 released and restored to income.

33 (g) If substantially the entire outstanding liability under all policies, contracts of

1 title insurance or reinsurance agreements of any such title insurance company shall
2 be reinsured, the value of the consideration received by a reinsuring title insurance
3 company authorized to transact the business of title insurance in this state shall
4 constitute, in its entirety, unearned portions of original premiums and be added to
5 its unearned premium reserve and deemed, for recovery purposes, to have been
6 provided for liabilities assumed during the year of such reinsurance. The amount
7 of such addition to the unearned premium reserve of such assuming title insurance
8 company shall be not less, however, than two-thirds (2/3rds) of nor more than the
9 amount of the unearned premium reserve required to be maintained by the ceding
10 title insurance company at the time of such reinsurance.

11 Section 115 *Use of the Unearned Premium Reserve on Liquidation,*

12 *Dissolution or Insolvency:*

13 (a) If a domestic title insurance company becomes insolvent, or is in the process
14 of liquidation or dissolution, or in the possession of the Commissioner:

15 (1) such amount of the assets of such title insurance company equal to the un-
16 earned premium reserve then remaining as is necessary may be used by or
17 with the written approval of the Commissioner, to pay for reinsurance of the
18 liability of such title insurance company upon all outstanding policies or
19 contracts or reinsurance agreements of title insurance, as to which claims
20 for losses by the holders are not then pending, the balance, if any, of assets
21 equal to the unearned premium reserve then remaining, then to be trans-
22 ferred to the general assets of the title insurance company;

23 (2) the assets other than the unearned premium reserve shall be available to pay
24 claims for losses sustained by holders of policies then pending or arising up
25 to the time reinsurance is effected. In the event that claims for losses are in
26 excess of such other assets of the title insurance company, such claims, when
27 established, shall be paid pro rata out of the surplus assets attributable to the
28 unearned premium reserve, to the extent of such surplus, if any.

29 (b) In the event that reinsurance is not obtained, the unearned premium reserve
30 and assets constituting minimum capital, or so much as remains thereof after out-
31 standing claims have been paid, shall constitute a trust fund to be held by the
32 Commissioner for 20 (twenty) years, out of which claims of policyholders shall be
33 paid as they arise. The balance, if any, of such fund shall, at expiration of 20

1 (twenty) years, revert to the general assets of the title insurance company.

2 Section 116 *Reserve for Unpaid Losses and Loss Expenses:*

3 (a) Each domestic title insurance company shall at all times establish and main-
4 tain, in addition to other reserves, a reserve:

5 (1) against unpaid losses, and (2) against loss expense, and shall calculate such
6 reserves by making a careful estimate in each case of the loss and loss ex-
7 pense likely to be incurred, by reason of every claim presented, pursuant to
8 notice from or on behalf of the insured, of a title defect in or lien or adverse
9 claim against the title insured, that may result in a loss or cause expense to
10 be incurred for the proper disposition of the claim. The sums of the items
11 so estimated shall be the total amounts of the reserves against unpaid losses
12 and loss expenses of such title insurance company.

13 (b) The amounts so estimated may be revised from time to time as circumstances
14 warrant, but shall be redetermined at least once each year.

15 (c) The amounts set aside in such reserves in any year shall be deducted in deter-
16 mining the net profits for such year of such title insurance company.

17 Section 117 *Reserve Requirements - Foreign and Alien Title Insurers:*

18 Every foreign or alien title insurance company licensed to transact the business
19 of title insurance in this state shall reserve and maintain as to its business in this
20 state the same reserves as are required of domestic companies under the provisions
21 of this Act, unless by the laws of the state or the District of Columbia or country
22 of domicile of such company there is required to be set aside and maintained
23 reserves in substantially a like amount as is required of domestic companies by
24 this Act.

25 **D. LIMIT OF NET RETENTION**

26 Section 118 *Net Retained Liability:*

27 The net retained liability of any title insurance company under any single title
28 insurance risk assumed in this state as defined in subsections (i) and (j) of Section
29 101 (one hundred one) of this Act shall not exceed 50% (fifty per cent) of the net
30 amount remaining after deducting from the sum of its capital, surplus, unearned
31 premium reserve and voluntary reserves, the value, if any, assigned in such sum-
32 mation to its title plants, all as shown in its most recent report on file with the
33 Commissioner. The same limitation shall apply to any secondary risk assumed by

1 means of reinsurance or to any policy of excess co-insurance. Upon application by
2 a title insurance company and the showing of good cause therefor the Commis-
3 sioner may waive such limitation in connection with the assumption of a particular
4 risk.

5 Nothing in this Section is intended to limit the amount of a single insurance risk,
6 as defined in subsection (h) of Section 101 (one hundred one) of this Act, that may
7 be written or assumed by a title insurance company, provided it shall cede to one
8 or more other title insurance companies, on or before the effective date of such
9 writing or assumption, such portion, or portions, of the said risk as shall be suf-
10 ficient to bring its net retained liability thereunder within the limits hereinabove
11 set forth; and provided, further, that each such cession of risk shall also be within
12 the limits of this Section as applied to the sum of the capital, surplus, unearned
13 premium reserve and voluntary reserves, less the value, if any, assigned in such
14 summation to the title plants of the assuming and reinsuring title insurance com-
15 pany, as shown by its most recent report on file with the supervisory agency in the
16 state of its domicile.

17 E. REINSURANCE

18 Section 119 *Power to Reinsure:*

19 Any title insurance company authorized to engage in the business of title insur-
20 ance in this state may cede reinsurance of all or any part of its liability under one
21 or more of its policies or contracts or reinsurance agreements to any title insurance
22 company authorized to engage in the business of title insurance in this or any
23 other state or the District of Columbia; provided, however, that no larger amount
24 of reinsurance shall be assumed by any title insurance company on a single policy,
25 or contract of title insurance, or on any single title insurance risk as defined in sub-
26 section (h) of Section 101 (one hundred one) of this Act, than such title insurance
27 company would be permitted to retain if authorized to engage in the business of
28 title insurance in this state. It may also reinsure policies of title insurance issued
29 by other companies on risks whether located in this state or elsewhere. Any title
30 insurance company authorized to transact business in this state shall pay to this
31 state taxes required on all business taxable within this state and reinsured, as pro-
32 vided in this Section, with any foreign or alien company not authorized to do busi-
33 ness within this state. Issuance of contracts of reinsurance by a title insurance

1 company not authorized to engage in the business of title insurance in this state,
2 but authorized to engage in the business of title insurance in any of the United
3 States or the District of Columbia, reinsuring a title insurance company author-
4 ized to engage in the business of title insurance in this state on property located in
5 this state, shall not of itself constitute the doing of business in this state by such
6 reinsuring company.

7 F. INVESTMENTS

8 Section 120 *Minimum Capital:*

9 (General insurance laws of this state governing investments of insurance com-
10 panies shall be applicable to title insurance companies.)

11 Section 121 *Funds in Excess of Minimum Capital:*

12 (a) (General insurance laws of this state governing investments of insurance com-
13 panies shall be applicable to title insurance companies.)

14 (b) Title Plants. Provided it shall at all times comply with the minimum capital
15 investment requirements of Section 120 (one hundred and twenty), a title insurance
16 company may invest in title plants. Any title plant shall be considered an asset at
17 the fair value thereof. In determining the fair value of a title plant, no value shall
18 be attributed to furniture and fixtures, and the real estate in which the title plant
19 is housed shall be carried as real estate. The value of title abstracts, title briefs,
20 copies of conveyances or other documents, indices and other records comprising
21 the title plant shall be determined by considering the expenses incurred in obtain-
22 ing them, the age thereof, the cost of replacements less depreciation, and all other
23 relevant factors. Once the value of a title plant shall have been determined here-
24 under, such value may be increased only by the acquisition of another title plant by
25 purchase, consolidation or merger; in no event shall the value of the title plant be
26 increased by additions made thereto as part of the normal course of abstracting
27 and insuring titles to real estate. Subject to the above limitations and with the
28 approval of the Commissioner as provided by Section 112 (one hundred twelve) of
29 this Act, a title insurance company may enter into agreements with others whereby
30 they participate in the use, ownership, management and control of a title plant to
31 service the needs of all such companies or such companies may hold stock of a
32 corporation owning and operating a title plant for such purposes.

33 Section 122 *Investments Acquired before Effective Date:*

1 Any investment of a domestic title insurance company lawfully acquired before
2 the effective date of this Act and which but for this Section would be considered
3 ineligible as an investment on such effective date shall be disposed of within 5 (five)
4 years from such effective date. The Commissioner, upon application and proof that
5 forced sale of any such investment would be contrary to the best interests of the
6 title insurance company and its policyholders, may extend the period for sale or
7 disposal of such investment for a further reasonable time.

8 Section 123 *Trust Funds:*

9 For those title insurance companies which also have powers to do a trust busi-
10 ness, trust funds or assets held in a fiduciary capacity shall be invested in accord-
11 ance with the statutes of this state governing trust companies.

12 Section 124 *Open Section*

13 *G. FOREIGN AND ALIEN COMPANIES*

14 Section 125 *Requisites for Foreign and Alien Title Insurance Companies*

15 *to do Business:*

16 Any foreign or alien title insurance company shall be licensed to transact a title
17 insurance business within this state only if such company is and remains of the
18 same standard of solvency and complies with other requirements fixed by the laws
19 of this state for domestic title insurance companies. No title insurance company
20 shall be licensed to do business until:

21 (a) it has filed with the Commissioner a certified copy of its charter, a statement
22 of its financial condition and business, signed and sworn to by its proper officers,
23 and copies of forms of all policies it proposes to issue in this state, with such other
24 information as the Commissioner may require, and

25 (b) it has satisfied the Commissioner that it is fully and legally organized under the
26 laws of its state or the District of Columbia or government to do the business it
27 proposes to transact and that it has the requisite amount of capital, fully paid up
28 and unimpaired, and

29 (c) it shall, by a duly executed instrument filed in his office, constitute and appoint
30 the Commissioner its true lawful attorney, upon whom all lawful processes in any
31 action, rule, order or legal proceeding against it may be served; and therein shall
32 agree that any lawful process against it which may be served upon him as its said
33 attorney shall be of the same force and validity as if served on the company, and

1 that the authority thereof shall continue in force irrevocably so long as any liabil-
2 ity of the company remains outstanding in this state.

3 Section 126 *Foreign and Alien Title Insurance Companies;*

4 *Transaction of Business:*

5 No foreign or alien title insurance company licensed to transact business in this
6 state shall make, write, place or cause to be made, written or placed any policy or
7 contract of insurance covering property in this state except:

8 (a) through a title insurance agent as defined in Section 101 (one hundred one)
9 (g) of this Act who or which is a resident of this state or maintains his, her or its
10 principal place of business in this state, or

11 (b) through a bona fide branch office located in this state and under the direction
12 and control of such title insurance company, all expenses of which branch office,
13 including compensation of all employees, are paid by such title insurance com-
14 pany, or

15 (c) through a subsidiary title insurance company licensed to do business in this
16 state.

17 This Section shall not be applicable to contracts of reinsurance.

18 H. *MERGERS, CONSOLIDATIONS AND ACQUISITIONS*

19 (The insurance laws of this state shall be applicable.)

20 Section 127 *Open Section*

21 Section 128 *Open Section*

22 Section 129 *Open Section*

23

I. *AGENTS*

24 Section 130 *Title Insurance Agents, Names to be Certified to Commissioner:*

25 Every title insurance company authorized to transact business within this state
26 shall certify annually to the Commissioner the names of all title insurance agents
27 representing it in this state.

28 Section 131 *Title Insurance Agents, to be Licensed:*

29 (a) Title insurance agents shall be licensed in the manner provided for agents of
30 insurance companies in (here insert by reference the sections of the insurance code
31 of the particular state governing the licensing of agents of insurance companies),
32 provided:

33 (1) All applicants for a title insurance agent's license shall be required to qualify

1 for such license by taking an examination of sufficient scope to satisfy the
2 Commissioner that the applicant has sufficient knowledge of, and is reason-
3 ably familiar with, the title insurance laws of this state and with the provi-
4 sions, terms and conditions of title insurance and has an adequate under-
5 standing of the duties and obligations of a title insurance agent.

6 (2) If the applicant for a title insurance agent's license is a firm, association,
7 corporation, cooperative, joint-stock company or other legal entity, the
8 members, officers and employees of the applicant who intend to exercise the
9 power and perform the duties of the agency shall be required to take the
10 examination required of applicants by sub-section (1) of this Section; pro-
11 vided, however, that those employees performing only clerical functions not
12 requiring the knowledge and understanding of title insurance agents shall
13 not be required to take said examination.

14 (3) All applicants for title insurance agent's license who are presently acting as
15 title insurance agents shall not be required to take an examination for such
16 license if application for the issuance of such license is filed with the Com-
17 missioner within a period of 6 (six) months immediately following the effec-
18 tive date of this Act.

19 (b) Licenses of title insurance agents shall expire annually at _____
20 _____, unless revoked sooner by the Commissioner, or unless the
21 agency relationship shall be terminated sooner between the title insurance com-
22 pany and the agent. If terminated by the title insurance company, such company
23 shall report to the Commissioner the circumstances giving rise to such termination.

24 (c) Title insurance agents' licenses shall be renewed annually on the filing of an
25 application containing such information as the Commissioner deems necessary.

26 (d) The Commissioner may, upon application to him by a person, firm, associa-
27 tion, corporation, cooperative, joint-stock company or other legal entity grant to
28 such applicant a temporary license as a title insurance agent. Such license shall
29 remain in force and effect for a period of six (6) months or until the expiration of
30 sixty (60) days after the next regularly scheduled examination for applicants for
31 title insurance agents' license, whichever period is the longer. In the event of fail-
32 ure of the applicant to qualify for a regular title insurance agent's license as in this
33 Section provided, no renewal or extension may be granted to any temporary license

1 held by said applicant.

2 Section 132 *Title Insurance Agents, Books and Records:*

3 (a) Every title insurance agent shall maintain its books of account and record and
4 vouchers pertaining to the business of title insurance in such a manner that the
5 Commissioner, or his authorized representatives, may readily ascertain from time
6 to time whether the agent has complied with all the provisions of this Act.

7 (b) A title insurance agent may engage in the business of handling escrows, settle-
8 ments and closings in connection with the business of title insurance, provided:

9 (1) agent shall maintain a separate record of all receipts and disbursements
10 of escrow funds and shall not commingle any such funds with agent's own
11 funds or with funds held by agent in any other capacity, and

12 (2) agent shall comply with such standards of solvency as the Commissioner
13 may from time to time require.

14 (c) If at any time the Commissioner shall determine that an agent has failed to
15 comply with any of the provisions of this Section, the Commissioner may, after a
16 hearing conducted in accordance with the provisions of (here insert by reference
17 the applicable laws of the state relating to such hearings), revoke the license of
18 said agent.

19 Section 133 *Title Insurance Agents, Replies to Inquiries by Commissioner:*

20 Every title insurance agent shall reply in writing promptly, with a copy thereof
21 to each title insurance company for which said agent is acting, to any inquiry of
22 the Commissioner relative to his acts as a title insurance agent and failure to reply
23 shall be a ground for revocation of the agent's license. A copy of any such inquiry
24 shall also be sent by the Commissioner to each title insurance company for which
25 said agent is acting.

26 Section 134 *Title Insurance Agents, Certain Names Prohibited:*

27 After the effective date of this Act, no agent for a title insurance company shall
28 adopt a firm name containing the words "title insurance", "title guaranty", or
29 "title guarantee", unless such words are followed by the words "agent" or
30 "agency" in the same size and type as the words preceding them. This Section shall
31 not apply to a title insurance company acting as agent for another title insurance
32 company.

33

J. *DIVISION OF RATES*

1 Section 135 *Open Section*

2 Section 136 *Rebates Prohibited:*

- 3 (a) No title insurer and no officer, employee, attorney, agent or solicitor thereof,
4 shall pay, allow or give or offer to pay, allow or give, directly or indirectly, as an
5 inducement to obtaining any title insurance business, any rebate, reduction or
6 abatement of any rate or charge made incident to the issuance of such insurance,
7 any special favor or advantage, or any money consideration or inducement what-
8 ever. The words "charge made incident to the issuance of such insurance" shall be
9 construed to include, without limitation, escrow, settlement and closing charges.
- 10 (b) No insured named in a title insurance policy nor any other person directly or
11 indirectly connected with the transaction involving the issuance of said policy,
12 including, but not limited to, mortgage lender, real estate broker, builder or attor-
13 ney, or any officer, employee, agent, representative or solicitor thereof, or any
14 other person whatsoever, shall knowingly receive or accept, directly or indirectly,
15 any such rebate, reduction or abatement of any such charge, or any such special
16 favor or advantage, or any such monetary consideration or inducement whatever.
- 17 (c) Nothing in this section shall be construed as prohibiting (1) the payment of fees
18 for services actually rendered either to a title insurance company or to a title
19 insurance agent in connection with a title insurance transaction, or, (2) the pay-
20 ment of an earned commission to a duly appointed title insurance agent who ac-
21 tually issues the policy of title insurance.

22 Section 137 *Open Section*

23 Section 138 *Personal or Controlled Insurance:*

24 As used in this Act "personal or controlled insurance" means a policy of title
25 insurance where the insured or one of the insureds under such policy is, or the
26 loss thereunder is payable to:

27 (a) the title insurance company issuing such policy, or

28 (1) any person or corporation directly or indirectly owning or controlling a
29 majority of the voting stock or controlling interest in such title insurance
30 company, or

31 (2) any corporation which is directly or indirectly controlled by a person or
32 corporation which also controls the title insurance company as described
33 in (1) of this subsection (a), or

1 (3) any corporation making consolidated returns for United States income tax
2 purposes with such title insurance company or any corporation described
3 in (1) or (2) of this subsection (a).

4 (b) the title insurance agent issuing such policy, or

5 (1) If such title insurance agent is a natural person:

6 (i) his spouse, his employer or his employer's spouse, or

7 (ii) any person related to him or the persons mentioned in (i) of sub-
8 paragraph (1) of this subsection (b) within the second degree by blood
9 or marriage, or

10 (iii) if his employer is a corporation, any person directly or indirectly
11 owning or controlling a majority of the voting stock or controlling
12 interest in such corporation, or

13 (iv) if his employer is a partnership or association, any person owning an
14 interest in such partnership or association.

15 (2) If such title insurance agent is a corporation:

16 (i) any person directly or indirectly owning or controlling a majority of
17 the voting stock or controlling interest in such corporation, or

18 (ii) any corporation which is directly or indirectly controlled by a person
19 who also controls the title insurance agent as described in (i) of sub-
20 paragraph (2) of this subsection (b), or

21 (iii) any corporation making consolidated returns for United States income
22 tax purposes with any corporation described in (i) or (ii) of sub-
23 paragraph (2) of this subsection (b).

24 If the rates and charges for personal or controlled insurance from any one source
25 so issued in any one calendar year received by a title insurance company or by a
26 title insurance agent shall exceed twenty-five per cent (25%), or from all such
27 sources shall exceed fifty per cent (50%) of the total rates and charges received
28 by such title insurance company or by such title insurance agent for title insur-
29 ance issued in the same year, the excess shall be deemed to be unlawful rebate.

30 For the purpose of this Section, if the interest of a title insurance company or a
31 title insurance agent is or was held by such title insurance company or title insur-
32 ance agent in a fiduciary capacity for the true or beneficial owner of such property,
33 then the issuance of an insurance policy covering a transaction by which the title is

1 conveyed to or by a title insurance company or title insurance agent shall not be
2 deemed controlled insurance.

3 Section 139 *Examination of Records:*

4 The Commissioner, if he has reason to believe that any title insurance agent has
5 violated or is violating any of the provisions of Section 136 (one hundred thirty-
6 six) or 138 (one hundred thirty-eight) of this Act, shall forthwith examine said
7 title insurance agent's books of account and record and vouchers pertaining to the
8 business of title insurance, and any said title insurance agent so examined shall
9 pay to the Commissioner the cost of such examination on demand.

10 Section 140 *Additional Penalty:*

11 Any person or persons who violate Section 136 (one hundred thirty-six) or Sec-
12 tion 138 (one hundred thirty-eight) of this Act shall be jointly and severally liable
13 to the people of this state for five times the amount or value of any such unlawful
14 rebate, reduction or abatement of any rate or charge made incident to the issuance
15 of title insurance, any special favor or advantage, or any monetary consideration
16 or inducement.

17 Section 141 *Permitted Division of Rates:*

18 Nothing in this Act prohibits the division of rates and charges between or among
19 a title insurance company and its agent, two or more title insurance companies,
20 one or more title insurance companies and one or more title insurance agents, or
21 two or more title insurance agents, provided such division of rates and charges
22 does not constitute an unlawful rebate under the provisions of this Act and is not
23 in payment of a forwarding fee or finder's fee.

24 **RATES, RATING ORGANIZATIONS AND RATE MAKING PROCEDURE**

25 Section 142 *General Provisions:*

26 The purposes of Sections 143 (one hundred forty-three) to 154 (one hundred
27 fifty-four), inclusive, of this Act are to promote the public welfare by regulating
28 title insurance rates to the end that they shall not be excessive, inadequate or un-
29 fairly discriminatory, and to authorize cooperative action between or among title
30 insurance companies in rate making and other matters within the scope of said
31 Sections. Nothing herein is intended (1) to prohibit or discourage reasonable com-
32 petition, or (2) to prohibit or discourage, except to the extent necessary to accom-
33 plish the purposes stated above, uniformity in title insurance rates, rating systems

1 and rating plans and practices. The provisions of Section 143 (one hundred forty-
2 three) to 154 (one hundred fifty-four), inclusive, shall be literally interpreted to
3 make effective the purposes thereof as outlined in this Section.

4 Section 143 *Rate Filing:*

5 (a) Every title insurance company shall file with the Commissioner its schedules
6 of rates, every manual of classifications, rules and plans pertaining thereto, and
7 every modification of any of the foregoing which it proposes to use in this state.
8 Every such filing shall state the proposed effective date thereof, and shall indicate
9 the character and extent of the coverage contemplated.

10 (b) A title insurance company may satisfy its obligations to make such filings by
11 becoming a member of, or a subscriber to, a licensed title insurance rating organi-
12 zation which makes such filings, and by authorizing the Commissioner to accept
13 such filings on its behalf.

14 (c) The Commissioner shall make such review of the filings as may be necessary to
15 carry out the provisions of this Act.

16 (d) Subject to the provisions of subsection (f) of this Section, each filing shall be
17 on file for a period of thirty (30) days before it becomes effective. The Commis-
18 sioner may, upon written notice given within such period to the person making the
19 filing, extend such waiting period for an additional period, not to exceed thirty
20 (30) days, to enable him to complete the review of the filing. Further extensions of
21 such waiting period may also be made with the consent of the title insurance com-
22 pany or rating organization making the filing. Upon written application by the title
23 insurance company or rating organization making the filing, the Commissioner
24 may authorize a filing or any part thereof which he has reviewed, to become effec-
25 tive before the expiration of the waiting period or any extension thereof.

26 (e) Except in the case of rates filed under subsection (f) of this Section, a filing
27 which has become effective shall be deemed to meet the requirements of this Act.

28 (f) When the Commissioner finds that any rate for a particular kind or class of
29 risk cannot practicably be filed before it is used, or any contract or kind of title
30 insurance, by reason of rarity or peculiar circumstances, does not lend itself to
31 advance determination and filing of rates, he may, under such rules and regulations
32 as he may prescribe, permit such rate to be used without a previous filing and
33 waiting period.

1 (g) Beginning ninety (90) days after the effective date of this Act, no title insur-
2 ance company or agent of a title insurance company shall charge any rate for any
3 policy or contract of title insurance except in accordance with filings or rates which
4 are in effect for said title insurance company as provided in this Act, or in accord-
5 ance with subsection (f) of this Section.

6 (h) The Commissioner shall not regulate, or require the filing of, rates paid by title
7 insurance companies for reinsurance contracts or agreements, or policies of excess
8 coinsurance.

9 Section 144 *Justification for Rates:*

10 A rate filing shall be accompanied by a statement of the title insurance company
11 or title insurance rating organization making the filing, setting forth the basis
12 upon which the rate was determined, and the rates are to be computed. Any filing
13 may be justified by:

14 (1) the experience or judgment of the title insurance company or title insurance
15 rating organization making the filing, or

16 (2) its interpretation of any statistical data relied upon, or

17 (3) the experience of other title insurance companies or title insurance rating
18 organizations, or

19 (4) any other factors which the title insurance company or title insurance rating
20 organization deem relevant.

21 The statement and justification shall be open to public inspection.

22 Section 145 *Making of Rates:*

23 (a) Every title insurance company that shall make its own rates, and every title
24 insurance rating organization, shall make rates that are not excessive or inadequate
25 and which do not unfairly discriminate between risks in this state which involve
26 essentially the same exposure to loss and expense elements, and which shall give
27 due consideration to the following matters:

28 (1) the desirability for stability of rate structures;

29 (2) the necessity of assuring the financial solvency of title insurance companies
30 in period of economic depression by encouraging growth in assets of title
31 insurance companies in periods of high business activity; and

32 (3) the necessity for assuring a reasonable margin of underwriting and op-
33 erating profit.

1 (b) Every title insurance company that shall make its own rates, and every title
2 insurance rating organization, shall adopt basic classifications of policies or con-
3 tracts of title insurance which shall be used as the basis for rates.

4 (c) Rates within each rate classification may, at the discretion of the title insur-
5 ance company that files its own rates, or at the discretion of the title insurance
6 rating organization, be less than the cost of the expense elements in the case of
7 smaller insurances, and the excess may be charged against the larger insurances
8 without rendering the rates unfairly discriminatory.

9 Section 146 *Disapproval of Filings:*

10 (a) Upon the review at any time by the Commissioner of a filing, he shall, before
11 issuing an order of disapproval, hold a hearing upon not less than ten (10) days
12 written notice, specifying in reasonable detail the matters to be considered at such
13 hearing, to every title insurance company and title insurance rating organization
14 which made such filing, and if, after such hearing, he finds that such filing or a part
15 thereof does not meet the requirements of this Act, he shall issue an order spec-
16 ifying in what respects he finds that it so fails, and stating when, with a reasonable
17 period thereafter, such filing or a part thereof shall be deemed no longer effective
18 if the filing or a part thereof has become effective under the provisions of Section
19 143 (one hundred forty-three) of this Act. A title insurance company or title insur-
20 ance rating organization shall have the right at any time to withdraw a filing or a
21 part thereof, subject to the provisions of Section 148 (one hundred forty-eight) of
22 this Act in the case of a deviation filing. Copies of said order shall be sent to every
23 title insurance company and title insurance rating organization affected. Said order
24 shall not affect any contract or policy made or issued prior to the expiration of the
25 period set forth in said order.

26 (b) Any person or organization aggrieved with respect to any filing which is in
27 effect, may make written application to the Commissioner for a hearing thereon.
28 The title insurance company or title insurance rating organization that made the
29 filing shall not be authorized to proceed under this subsection. Such application
30 shall specify in reasonable detail the grounds to be relied upon by the applicant.
31 If the Commissioner shall find that the application is made in good faith, that the
32 applicant would be so aggrieved if his grounds are established, and that such
33 grounds otherwise justify holding such a hearing, he shall, within thirty (30) days

1 after receipt of such application, hold a hearing upon not less than ten (10) days
2 written notice to the applicant and to every title insurance company and title insur-
3 ance rating organization which made such a filing. If, after such hearing, the Com-
4 missioner finds that the filing or a part thereof does not meet the requirements of
5 this Act, he shall issue an order specifying in what respects he finds that such filing
6 or a part thereof fails to meet the requirements of this Act, stating when within a
7 reasonable period thereafter, such filing or a part thereof shall be deemed no longer
8 effective. Copies of said order shall be sent to the applicant and to every such title
9 insurance company and title insurance rating organization. Said order shall not
10 affect any contract or policy made or issued prior to the expiration of the period
11 set forth in said order.

12 (c) No filing nor any modification thereof shall be disapproved if the rates in con-
13 nection therewith meet the requirements of this Act.

14 Section 147 *Title Insurance Rating Organizations:*

15 (a) A corporation, an unincorporated association, a partnership or an individual,
16 whether located within or outside this state, may make application to the Com-
17 missioner for license as a rating organization for title insurance companies, and
18 shall file therewith:

- 19 (1) a copy of its constitution, its articles of agreement or association or its cer-
20 tificate of incorporation, and of its by-laws, rules and regulations governing
21 the conduct of its business;
- 22 (2) a list of its members and subscribers;
- 23 (3) the name and address of a resident of this state upon whom notices or orders
24 of the Commissioner or process affecting such rating organizations may be
25 served; and
- 26 (4) a statement of its qualifications as a title insurance rating organization.

27 If the Commissioner finds that the applicant is competent, trustworthy and
28 otherwise qualified to act as a title insurance rating organization, and that its
29 constitution, articles of agreement or association or certificate of incorporation,
30 and its by-laws, rules and regulations governing the conduct of its business con-
31 form to the requirements of the law, he shall issue a license authorizing the appli-
32 cant to act as a rating organization for title insurance. Every such application shall
33 be granted or denied in whole or in part by the Commissioner within sixty (60)

1 days of the date of its filing with him. Licenses issued pursuant to this Section shall
2 remain in effect for three (3) years unless sooner suspended or revoked by the
3 Commissioner or withdrawn by the licensee. The fee for said license shall be (here
4 insert amount applicable in the general insurance laws of the state to fees for
5 licensing rating organizations). Licenses issued pursuant to this Section may be
6 suspended or revoked by the Commissioner, after hearing upon notice, in the event
7 the title insurance rating organization ceases to meet the requirements of this sub-
8 section. Every such rating organization shall notify the Commissioner promptly of
9 every change in:

- 10 (1) its constitution, its articles of agreement or association or its certificate of
11 incorporation, and its by-laws, rules and regulations governing the conduct
12 of its business;
- 13 (2) its list of members and subscribers; and
- 14 (3) the name and address of the resident of this state designated by it upon
15 whom notices or orders of the Commissioner or process affecting such rating
16 organization may be served.

17 (b) Subject to rules and regulations which have been approved by the Commis-
18 sioner as reasonable, each title insurance rating organization shall permit any title
19 insurance company to be a member or a subscriber to its rating services at a rea-
20 sonable cost and without discrimination or to withdraw therefrom.

21 (c) Notices of proposed changes in the rules and regulations shall be given to
22 members and subscribers. The reasonableness of any rule or regulation in its ap-
23 plication to subscribers, or the refusal of any such rating organization to admit a
24 title insurance company as a subscriber, shall, at the request of any subscriber or
25 any such title insurance company, be reviewed by the Commissioner at a hearing
26 held upon at least ten (10) days written notice to such rating organization and to
27 such subscriber. If the Commissioner finds that such rule or regulation is unreason-
28 able in its application to subscribers, he shall order that such rule or regulation
29 shall not be applicable to subscribers. If the rating organization fails to grant or
30 reject an application of a title insurance company for subscribership within thirty
31 (30) days after it was made, the title insurance company may request a review by
32 the Commissioner as if the application had been rejected. If the Commissioner
33 finds that the title insurance company has been refused admittance to the title

1 insurance rating organization as a subscriber without justification, he shall order
2 said rating organization to admit the title insurance company as a subscriber. If he
3 finds that the action of the title insurance rating organization was justified, he shall
4 make an order affirming its action.

5 (d) Cooperation among title insurance rating organizations, or among such rating
6 organizations and title insurance companies, and concert of action among title
7 insurance companies under the same general management and control in rate
8 making or in other matters within the scope of this Act is hereby authorized, pro-
9 vided the filings resulting therefrom are subject to all the provisions of this Act
10 which are applicable to filings generally.

11 Two or more title insurance companies who are members of or subscribers to a
12 rating organization may act in concert with each other with respect to any matters
13 pertaining to the making of rates or rating systems, the preparation or making of
14 insurance policy forms, underwriting rules, surveys, inspections and investigations,
15 the furnishing of loss or expense statistics or other information and data, or carry-
16 ing on of research.

17 The Commissioner may review such activities and practices and if, after a hear-
18 ing, he finds that any such activity or practice is unfair or unreasonable or other-
19 wise inconsistent with the provisions of this Act, he may issue a written order
20 specifying in what respects such activity or practice is unfair or unreasonable or
21 otherwise inconsistent with the provisions of this Act and requiring the discon-
22 tinuance of such activity or practice.

23 Section 148 *Deviations:*

24 Every member of or subscriber to a title insurance rating organization shall ad-
25 here to the filings made on its behalf by such organization, except that any title
26 insurance company which is a member of or subscriber to such a rating organiza-
27 tion may file with the Commissioner a decrease or increase to be applied to any or
28 all elements of the rates produced by the rating system so filed for a class of title
29 insurance which is found by the Commissioner to be a proper rating unit for the
30 application of such decrease or increase, or to be applied to the rates for a particu-
31 lar area. Such deviation filing shall specify the basis for the modification and shall
32 be accompanied by the data or historical pattern upon which the applicant relies.
33 A copy of the deviation filing and data shall be sent simultaneously to such rating

1 organization. Any such deviation filing shall be on file for a waiting period of fif-
2 teen (15) days before it becomes effective. Extension of such waiting period may be
3 made in the same manner that such period is extended in the case of rate filings.
4 The Commissioner may authorize a deviation filing or any part thereof to become
5 effective before the expiration of the waiting period or any extension thereof.
6 Deviation filings shall be subject to the provisions of Section 146 (one hundred
7 forty-six) of this Act. Each deviation shall be effective for one (1) year unless termi-
8 nated sooner with the approval of the Commissioner, or in accordance with the
9 provisions of Section 146 (one hundred forty-six) of this Act.

10 Section 149 *Appeal by Minority:*

11 Any member of or subscriber to a title insurance rating organization may appeal
12 to the Commissioner from any action or decision of such rating organization in
13 approving or rejecting any proposed change in or addition to the filings of such
14 rating organization, and the Commissioner shall, after a hearing held upon not
15 less than ten (10) days written notice to the appellant and to such rating organiza-
16 tion, issue an order approving the action or decision of such rating organization
17 or directing it to give further consideration to such proposal and to take action or
18 make a decision upon it within thirty (30) days. If such appeal is from the action
19 or decision of the title insurance rating organization in rejecting a proposed addi-
20 tion to its filings, he may, in the event he finds that such action or decision was
21 unreasonable, issue an order directing said rating organization to make an addi-
22 tion to its filings, on behalf of its members and subscribers, in a manner consistent
23 with his findings, within a reasonable time after the issuance of such order. If the
24 appeal is from the action of the title insurance rating organization with regard to
25 a rate or a proposed change in or addition to its filings relating to the character
26 and extent of coverage, he shall approve the action of said rating organization or
27 such modification thereof as shall have been suggested by the appellant, if either
28 be in accordance with this Act.

29 The failure of a title insurance rating organization to take action or make a
30 decision within thirty (30) days after submission to it of a proposal under this
31 Section shall constitute a rejection of such proposal within the meaning of this
32 Section. If such appeal is based upon the failure of said rating organization to
33 make a filing on behalf of such member or subscriber which is based on a system

1 of expense allocation which differs, in accordance with the right granted in sub-
2 section (c) of Section 145 (one hundred forty-five) of this Act from the system of
3 expense allocation included in a filing made by said rating organization, the Com-
4 missioner shall, if he grants the appeal, order the rating organization to make the
5 requested filing for use by the appellant. In deciding such appeal, the Commis-
6 sioner shall apply the standards set forth in Section 145 (one hundred forty-five)
7 of this Act.

8 Section 150 *Rate Administration; Authority and Duties of Commissioner;*

9 *Rules and Regulations:*

10 (a) The Commissioner may, in his discretion, prescribe by regulation rules rea-
11 sonably adaptable to each of the rating systems on file with him, uniform classifi-
12 cation of accounts to be observed, statistics to be reported and uniform forms for
13 reporting such data by all title insurance companies and title insurance rating
14 organizations. No such regulation shall be promulgated by the Commissioner ex-
15 cept after a hearing held upon notice to all title insurance companies and title
16 insurance rating organizations. Any such regulation, or amendment thereto, shall
17 be promulgated by the Commissioner not less than six months prior to the first
18 day of the calendar year during which such regulation or amendment shall take
19 effect. Any title insurance company or title insurance rating organization aggrieved
20 by such rules or regulations, shall have the right to file suit in the (here insert
21 designation of proper court) of (here insert county in which state capital is lo-
22 cated) County, within thirty (30) days to determine the validity or reasonableness
23 of such rule or regulation; such suit to be tried as provided in (here insert reference
24 to proper section of General Insurance Laws).

25 (b) Reasonable rules and plans may be promulgated by the Commissioner for the
26 interchange of data necessary for the application of rating plans.

27 (c) In order to further uniform administration of rate regulatory laws, the Com-
28 missioner and every title insurance company and title insurance rating organization
29 may exchange information and experience data with insurance supervisory of-
30 ficials, title insurance companies and title insurance rating organizations in other
31 states, and may consult with them and with each other with respect to rate making
32 and the application of rating system.

33 Section 151 *False or Misleading Information:*

1 No title insurance company or title insurance agent shall willfully withhold infor-
2 mation from, or knowingly give false or misleading information to, the Commis-
3 sioner, or to any title insurance rating organization of which the title insurance
4 company is a member or subscriber, which will affect the rates chargeable under
5 this Act.

6 Section 152 *Penalties:*

7 The Commissioner may, if he finds that any title insurance rating organization,
8 title insurance company, or title insurance agent has violated any provision of this
9 Act, impose a penalty of not more than fifty dollars (\$50.00) for each such viola-
10 tion, but if he finds such violation to be willful, he may impose a penalty of not
11 more than five hundred dollars (\$500.00) for each such violation. Such penalties
12 may be in addition to any other penalty provided by law.

13 The Commissioner may suspend the license of any title insurance rating organi-
14 zation, title insurance company, or title insurance agent which fails to comply
15 with an order of the Commissioner within the time limited by such order, or any
16 extension thereof, which the Commissioner may grant. The Commissioner shall not
17 suspend the license of any such rating organization, company or agent for failure
18 to comply with an order until the time prescribed for an appeal therefrom has
19 expired, or, if an appeal has been taken, until such order has been affirmed.

20 The Commissioner may determine when a suspension of license shall become
21 effective, and it shall remain in effect for the period fixed by him, unless he modi-
22 fies or rescinds such suspension, or until the order upon which such suspension is
23 based is modified, rescinded or reversed.

24 No penalty shall be imposed and no license shall be suspended or revoked ex-
25 cept upon a written order of the Commissioner, stating his findings, made after a
26 hearing held upon not less than ten (10) days written notice to such person or
27 organization, specifying the alleged violation.

28 Section 153 *Hearing Procedure:*

29 (a) Any title insurance company, title insurance rating organization or person
30 aggrieved by any action of the Commissioner, or by any rule or regulation adopted
31 and promulgated by the Commissioner, shall have the right to file a complaint
32 with the Commissioner and to have a hearing thereon before the Commissioner.
33 Pending such hearing and the decision thereon, the Commissioner may suspend or

1 postpone the effective date of such action, rule or regulation.

2 (b) All hearings provided for in this Act shall be conducted, and the decision of
3 the Commissioner on the issue or filing involved shall be rendered, in accordance
4 with the provisions of (here insert by reference the applicable laws of the state
5 relating to such hearings).

6 Section 154 *Existing Filings and Hearings Continued:*

7 All title insurance manuals of classifications, rules and rates, rating plans and
8 modifications thereof filed under any repealed act shall be deemed to have been
9 filed under this Act, and all title insurance rating organizations licensed under such
10 repealed act shall be deemed to have been licensed under this Act. All hearings and
11 investigations pending under such repealed act shall be deemed to have been ini-
12 tiated under and shall be continued under this Act.

13 **L. POLICY FORMS**

14 Section 155 *Forms of Policies and Other Contracts of Title Insurance:*

15 Every title insurance company shall file with the Commissioner all forms of title
16 policies and other contracts of title insurance which it proposes to issue in this
17 state before the same shall be issued. Any such filing may be made by a title insur-
18 ance rating organization in behalf of all of its members or subscribers. In no event
19 shall any title insurance company issue any such form of policy or contract until
20 thirty (30) days after it shall have been filed with the Commissioner unless it shall
21 have received earlier approval by the Commissioner. Unless the Commissioner
22 shall disapprove a form of title policy or contract of title insurance within thirty
23 (30) days from the date of its filing, such filing shall be deemed to have been
24 approved.

25 Forms of title policies and other contracts of insurance, as used in this Sec-
26 tion, shall be deemed to include preliminary reports of title, binders for insurance,
27 commitments to insure and policies of insurance or guaranty, together with all the
28 terms and conditions of insurance coverage or guaranty that relate to title to any
29 interest in property and which shall be offered by a title insurance company. They
30 shall, however, specifically exclude (1) reinsurance contracts or agreements, (2)
31 all specific defects in title that may be ascertained from an examination of the risk
32 and excepted in such reports, binder, commitments or policies, together with any
33 affirmative assurances of the title insurance company with respect to such defects

1 whether given by endorsement or otherwise, and (3) such further exceptions from
2 coverage by reason of limitations upon the examination of the risk imposed by an
3 applicant for insurance or through failure of an applicant for insurance to provide
4 the data requisite to a judgment of insurability.

5 **M. ESCROW, SETTLEMENT AND CLOSING CHARGES**

6 Section 156 *Filing Required:*

7 (a) Every title insurance company shall file with the Commissioner a schedule of
8 the escrow, settlement and closing charges which it proposes to use in this state for
9 such services when performed in connection with the issuance of policies of title
10 insurance. The filing shall state the effective date thereof, which shall be not less
11 than thirty (30) days after the date of filing with the Commissioner.

12 (b) All or any part of any such schedule may be changed or amended at any time
13 or from time to time. Each change or amendment shall be filed with the Commis-
14 sioner, and shall state the effective date thereof, which shall be not less than thirty
15 (30) days after the date of filing with the Commissioner.

16 (c) So long as they are effective, copies of such schedules shall be retained in each
17 of the offices of the title insurance company in this state, and, upon request shall
18 be furnished to the public.

19 (d) No title insurance company shall make or impose any charge for escrow, settle-
20 ment or closing services when performed in connection with the issuance of a
21 policy of title insurance except in accordance with the schedule of such charges
22 filed with the Commissioner as required by this Section.

23 **N. OTHER PROVISIONS**

24 Section 157 *Open Section*

25 Section 158 *Open Section*

26 Section 159 *Open Section*

27 Section 160 *Disclosure - Mortgagee Policies:*

28 (a) Any title insurance company and any title insurance agent issuing mortgagee's
29 title insurance upon a loan made simultaneously with the purchase of all or a
30 part of the real estate securing such loan, where no owner's title insurance policy
31 has been ordered, shall, prior to the disbursement of the loan funds or the issuance
32 of the mortgagee's title policy, cause the mortgagor to be advised in writing that a
33 mortgagee's title insurance policy is to be issued, that such policy does not afford

1 title insurance protection to the mortgagor, and of the mortgagor's right to obtain
2 owner's title insurance for his protection. Should the mortgagor elect not to pur-
3 chase owner's title insurance, the title insurance company or the title insurance
4 agent shall obtain from said mortgagor a statement in writing that such notice has
5 been received, and that he waives his right to purchase owner's title insurance.
6 Such statement, or a durable copy thereof, shall be retained by the title insurance
7 company or the title insurance agent taking same for a period of not less than
8 five (5) years.

9 (b) The form of the written notice and waiver shall be in a form substantially as
10 follows:

11 *NOTICE AND WAIVER*

12 RE: _____

13 (Address or Brief Property Description)

14 Pursuant to Section 160 (one hundred sixty) of the Title Insurance Act of this
15 State notice is hereby given that a mortgagee's title insurance policy is to be
16 issued to your mortgage lender. Such policy does not afford title insurance pro-
17 tection to you in the event of a defect or claim of defect in title to the real estate
18 which you are acquiring. An owner's title insurance policy affording title insur-
19 ance protection to you in the amount of your purchase price (or for the amount
20 of your purchase price plus the cost of any improvements which you anticipate
21 making, may be purchased by you.

22 Said Section 160 (one hundred sixty) requires that you sign the statement below
23 if you do not wish to purchase an owner's title insurance policy.

24 _____
Name of Company Issuing Policy

25 This is to certify that we have received the foregoing notice and waive our right
26 to purchase an owner's title insurance policy for our protection. We acknowledge
27 that (*insert name of Company*) shall have no responsibility to us for the status of
28 the title to the real estate which we are acquiring.

29 _____
Signature of Mortgagors

30 Section 161 *Other Sections Applicable:*

31 In addition to the provisions of this Act, present laws governing insurance com-
32 panies, except as they are inconsistent with the provisions of this Act, shall apply
33 to the business of title insurance and to title insurance companies, and no law

1 hereafter enacted shall apply to title insurance companies, title insurance agents,
2 title insurance rating organizations or the business of title insurance unless it
3 specifically states that it is intended to be so applicable.

4 Section 162 *Repealer:*

5 All laws and parts of laws in conflict with the provisions of this Act are hereby
6 repealed insofar as they may be or have been applicable to the business of title
7 insurance, title insurance companies, title insurance agents, or title insurance rating
8 organizations, and, in case conflict should develop, the provisions of this Act shall
9 control and be effective.

10 Section 163 *Effect of this Act:*

11 The repeal by this Act of any provision of law shall not revive any law heretofore
12 repealed or superseded, nor shall this Act affect any act done, liability incurred,
13 or any right accrued or established, or any suit or prosecution, civil or criminal,
14 pending or to be instituted to enforce any right or penalty or punish any offense
15 under the authority of the repealed laws.

16 Section 164 *Effective Date:*

17 The provisions of this Act shall take effect (here insert the date on which it is
18 determined that the Act shall become effective).



Underwriters Section

Discussion of proposed zoning endorsements and commentaries on statistical compilation for rate filings were features of the Title Insurance and Underwriters Section meeting at the Mid-Winter Conference.

Following the opening remarks by Section Chairman Robert C. Dawson (Lawyers Title Insurance Corporation), ALTA Standard Title Insurance Forms Committee Chairman Marvin C. Bowling, Jr. (Lawyers Title) delivered a commentary that included discussion of the proposed zoning endorsements to be presented to the ALTA membership at the 1973 Mid-Winter General Session limited to active members. (As is reported elsewhere in this issue of *Title News*, members of the Association at this General Session voted to postpone further consideration of the proposed endorsements until the 1973 ALTA Annual Convention.)

Abstracters Section

A panel discussion on business flexibility, committee reports, and a dynamic presentation on motivation highlighted the Abstracters and Title Insurance Agents Section meeting at the Mid-Winter Conference.

After an opening commentary by Section Chairman Robert J. Jay (Land Title Abstract Company), reports from three of the Section's committees were presented by their chairmen. They are John B. Wilkie (Lawyers Title of Arizona), Organization and Claims Committee; Otto Zerwick (Abstract and Title Associates, Inc.), Plants and Photography Committee; and Ray Frohn (Nebraska Title Company), Schools Committee.

Next came the panel discussion, "Flexible Business Attitudes: The Key to Progress". Panelists were Drake Circle, chairman (West Coast Title Company); Robert G. Frederick (C. W. Lynn Abstract Company, Inc.); and Hugh B. Robinson (Carroll County Abstract Co.).

Section members were treated to a dramatic meeting windup when Somers

H. White, Phoenix-based authority on motivation in business and finance, made a presentation, "Motivation and Communications Says It All", that will be long remembered by all who were present for it.

Chairman Dawson then announced that the remainder of the agenda would be devoted to a subject of growing importance—statistical compilation for rate filings in states. Remarks by J. Mack Tarpley (Chicago Title Insurance Company), chairman of the ALTA Committee to Establish Liaison with the National Association of Insurance Commissioners, on the current state regulatory situation preceded a panel discussion of statistical compilation for rate filings including review of a related procedure in Ohio. Panelists were Leroy F. King (Commonwealth Land Title Insurance Company), chairman; Louis Fried (Title Insurance and Trust Company); and Dr. Nelson R. Lipshutz of Arthur D. Little, Inc.

MID-WINTER—Continued from page 5

dusty and invite you to submit your proposals to FNMA for our consideration. I believe that the development of an extensive secondary market for con-

ventional residential loans and the \$70 billion market which will be opened presents a significant opportunity for expansion of the mutually-necessary relationship between secondary market lenders and your industry."

(For the full text of Murray's address, please see the April, 1973, *Title News*.)

Another point of great interest regarding title insurance coverage arose in a closed General Session at Phoenix. After sharply differing views were expressed by a number of members present, it was voted to postpone further consideration of two proposed zoning endorsements until the 1973 ALTA Annual Convention in Los Angeles September 30-October 4.

Opponents of the proposed endorsements said zoning coverage is not a proper function of title insurance. Others argued that the proposed endorsements have been developed in consultation with title insurance customers and that zoning coverage should be offered. Comments from title insurance agents include doubts that many agents are qualified to deal with zoning matters regarding coverage. However, one agent said he now gives this type of cov-



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erage based upon an attorney's opinion.

Also among General Session highlights were a timely address on management responses to consumerism, presented by David A. Aaker, associate professor-business, University of California, Berkeley, and a number of outstanding reports from hard-working ALTA committees. In addition, outstanding programs were featured at the Mid-Winter meetings of the Association Abstracters and Title Insurance Agents Section and Title Insurance and Underwriters Section; these are reported upon elsewhere in this issue of *Title News*.

During the course of the Mid-Winter and on adjacent days, there were meetings of 19 different ALTA committees — attesting once again to the dedication and involvement of Association members. As the Conference drew to a close and member attention shifted to the upcoming Annual Convention in Los Angeles this fall, it was apparent from the Phoenix attendance that the Mid-Winter is well established as an event of major magnitude in the land title industry.

Interstate Land Sales Full Disclosure Act, Regulations, Concern Title Companies

In response to a request from the HUD Office of Interstate Land Sales Registration, ALTA is publishing the following letter concerning the Interstate Land Sales Full Disclosure Act and its implementing regulations:

“The purpose of this letter is to alert you to consequences which may ensue from your failure to understand fully the Interstate Land Sales Full Disclosure Act and its implementing regulations.

“The 1968 Interstate Land Sales Full Disclosure Act became effective April 28, 1969, and has now been operative for nearly four years. Although the Office of Interstate Land Sales Registration (OILSR) has processed thousands of registrations on both domestic and foreign subdivisions, it is nevertheless likely that an even larger number of subdivisions covered

by this Act are still unregistered.

“Unless exempt, any developer having 50 or more lots or parcels of subdivided land who sells these lots by using the U.S. mails or any other instruments of interstate commerce, without first registering with OILSR and providing the purchaser in advance of sale with an approved property report, is in violation of the law and may be sentenced to a jail term of 5 years or a \$5,000 fine, or both.

“In addition, all such contracts are voidable at the absolute and unconditional election of the purchaser. Besides refunding the purchase price of the lot, the developer may be required to pay the reasonable costs of all improvements on the lot or lots. Once an unregistered developer is faced with the wholesale repurchasing of properties previously sold, many of which have already been improved, his bankruptcy is more than a remote possibility. All developers should be forewarned to reassess their positions on the need for registration before it is too late.

“Since the Act defines a “developer” as “any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision,” real estate brokers who are active in promoting the sale of lots in any unregistered subdivision could be regarded as sharing the owner's responsibilities for complying with the Act.

“In addition to the direct penalties that the developer may face, there may be serious derivative consequences for the attorneys, accountants, bankers and title companies of unregistered developers under certain circumstances.

“We urge you to read and study

Opening of New Chelsea Title Branch Marks 51 Years of Successful Operation



Mayor Otto Bruyns (third from right) of Northfield, New Jersey turned the key at the recent formal opening of Chelsea Title and Guaranty's Northfield branch office. The colonial-style building houses complete settlement facilities as well as the entire Atlantic County title plant with its daily take-off operation. Also pictured, from left, are Robert F. Meyer, vice president of Chelsea Title; Paul C. Burgess, chairman of the board; Nicholas Kuchova, Northfield councilman; F. Kirkman, president; H. H. Lumley, senior vice president; F. Frederick Perone, Northfield municipal judge; and Walter Harris, vice president. Completion of the Northfield branch coincided with the beginning of Chelsea Title's fifty-first year of operation.

Continued on page 11

names
 names in the news
 names

John C. Lewis has been appointed assistant vice president and marketing manager of First American Title Company of San Francisco.

* * *

Industrial Valley Title Insurance Company has announced the following promotions: **Francis J. Gross** to title officer and manager of the IVT county search and examination department in Norristown, **Richard J. Leyfert** to assistant title officer in charge of the firm's examination department in the main office, and **James R. Calabria** to title officer in charge of the intrastate title search and examination operation.

* * *

Investors Title Company, Inc., has named **Donald F. Anderson** senior vice president, **Gary D. Akright** vice president, **Richard D. Finter** assistant vice president, **Charles N. Griffin** title officer and **Janet L. Cowden** closing secretary.

* * *

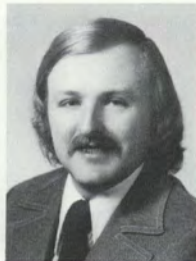
Robert S. DeLangie has been elected manager of the San Jose (Calif.) branch office of Lawyers Title Insurance Corporation.

* * *

Mississippi Valley Title Insurance Company has promoted **O. B. Taylor, Jr.**, president, to chairman of the board; **Rowan H. Taylor**, first vice president,



GROSS



LEYFERT



CALABRIA



ANDERSON



AKRIGHT



FINTER



GRIFFIN



COWDEN



DELANGIE



O. TAYLOR



R. TAYLOR



MATRICK



BAGGETT



GLOVER



SHAVE



LIPNACK

to president; **J. Morton Matrick** to vice president and secretary-treasurer; and **L. H. Baggett, Jr.**, to vice president.

* * *

Wayne Gollub has been appointed vice president of St. Paul Title Insurance Corporation, construction disbursing division, in St. Louis.

* * *

American Title Insurance Company has named **Frank B. Glover** executive vice president and chief administrative officer, **George W. Shave** director of agencies, and **Martin I. Lipnack** assistant counsel. **Robert S. Findlay, Jr.**, has rejoined the company as vice president after an absence of 2½ years.

* * *

Michael S. Moreland has been appointed southeastern division agency director for Stewart Title Guaranty Company.

* * *

David T. Griffith, Jr. has been elected vice president and general counsel of TICOR Mortgage Insurance, a subsidiary of the TI Corporation.

* * *

Title Insurance Company of Minnesota has named **Robert L. Manuele** counsel to the national division, **Mary Moran** manager of its new branch office in Tucson, Ariz., and **Jim Kramer** manager of its new branch office in Edina (Minn.).

* * *

Larry Feagans has been elected vice president—sales of First American Title Insurance Company.

* * *

Robert J. Seng has been named counsel of St. Paul Abstract and Title Guaranty Co.

* * *

USLIFE Title Insurance Company of New York has appointed **George E. Harvey** vice president in charge of sales for its Floral Park (N.Y.) office and **Walter J. Klodnicki** vice president—mid-west agency manager.



FINDLAY



MORELAND



MANUELE



MORAN



KRAMER



FEAGANS



SENG



HARVEY



KLODNICKI

Continental Theme



Models dressed as Continental soldiers set the theme for a recent open house at American Title Insurance Company's new office in Jacksonville, Fla. American Title's parent is The Continental Corporation. Assisting a Continental model in greeting guests are James W. Robinson, senior vice president, (left), and Frank B. Glover, executive vice president. Also on hand were Peter Araneo, consultant to American Title, and Wayne K. Spencer, vice president and manager of the Jacksonville office.

LAND SALES—Continued from page 9

the Interstate Land Sales Full Disclosure Act and the OILSR Regulations. We are ready at all times to answer any questions from concerned parties."

The letter is signed by George K. Bernstein, Interstate Land Sales Administrator.

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meeting timetable



1973

May 3-5, 1973

Texas Land Title Association
Camino Real Hotel
Mexico City, Mexico

May 6-8, 1973

Iowa Land Title Association
Hyatt House
Des Moines, Iowa

May 10-12, 1973

New Mexico Land Title Association
Airport Marina Hotel
Albuquerque, New Mexico

May 10-12, 1973

Washington Land Title Association
Evergreen Inn
Olympia, Washington

May 23-25, 1973

California Land Title Association
Newporter Inn
Newport Beach, California

June 3-5, 1973

Pennsylvania Land Title Association
Host Corral
Lancaster, Pennsylvania

June 7-10, 1973

New England Land Title Association
Stratton Mountain Inn
Stratton Mountain, Vermont

June 8-9, 1973

South Dakota Land Title Association
Holiday Inn
Mitchell, South Dakota

June 14-16, 1973

Idaho, Montana and Wyoming Land Title
Associations
Pink Garter Plaza
Jackson, Wyoming

June 20-22, 1973

Illinois Land Title Association
Drake Hotel
Chicago, Illinois

June 21-23, 1973

Colorado and Utah Land Title Associations
Manor Vail
Vail, Colorado

June 21-23, 1973

Oregon Land Title Association
Ka-Nee-Tah Lodge
Warm Springs, Oregon

June 24-26, 1973

Michigan Land Title Association
Hidden Valley
Gaylord, Michigan

July 12-14, 1973

New Jersey Land Title Association
Seaview Country Club
Absecon, New Jersey

August 6-9, 1973

American Bar Association Annual Meeting
Sheraton-Park Hotel
Washington, D.C.

August 22-25, 1973

New York State Land Title Association
Whiteface Inn
Lake Placid, New York

August 23-25, 1973

Minnesota Land Title Association
Quadna Mountain Lodge
Hill City, Minnesota

August 24-25, 1973

Kansas Land Title Association
Wichita Holiday Plaza
Wichita, Kansas

September 6-8, 1973

Ohio Land Title Association
Salt Fork Lodge
Cambridge, Ohio

September 13-14, 1973

Wisconsin Land Title Association, Inc.
The Dome Resort
Marinette, Wisconsin

September 13-15, 1973

North Dakota Land Title Association
Villager Motel
Lincoln, Nebraska

September 14-16, 1973

Missouri Land Title Association
Hotel Muehlebach
Kansas City, Missouri

September 30-October 4, 1973

ALTA Annual Convention
Century Plaza
Los Angeles, California

October 22-24, 1973

Mortgage Bankers Association of America
New York Hilton, and the Americana
New York, New York

October 28-30, 1973

Indiana Land Title Association
Atkinson Hotel
Indianapolis, Indiana

November 2-3, 1973

Land Title Association of Arizona
Francisco Grande Hotel and Motor Inn
Casa Grande, Arizona

November 7-10, 1973

Dixie Land Title Association
Sheraton-Biloxi
Biloxi, Mississippi

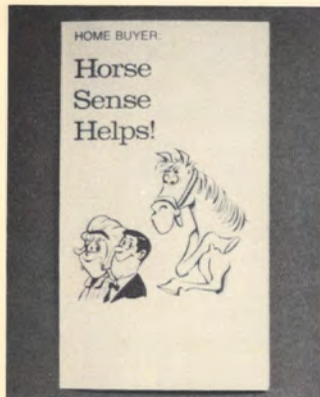
November 9-15, 1973

National Association of Real Estate Boards
Sheraton Park, and Hilton Hotels
Washington, D.C.

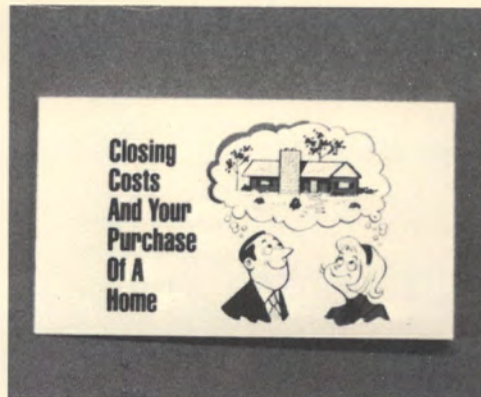
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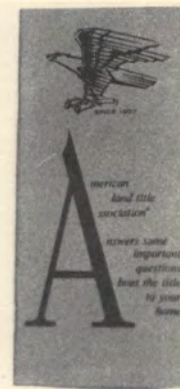
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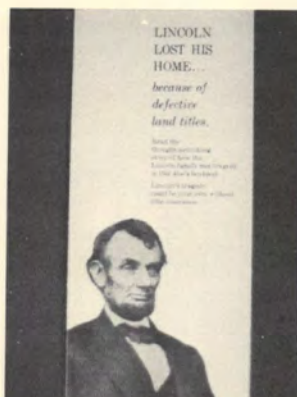
CLOSING COSTS AND YOUR PURCHASE OF A HOME. A guidebook for home buyer use in learning about local closing costs. Gives general pointers on purchasing a home and discusses typical settlement sheet items including land title services. 1-11 dozen, \$2.25 per dozen; 12 or more dozen, \$2.00 per dozen.



AMERICAN LAND TITLE ASSOCIATION ANSWERS SOME IMPORTANT QUESTIONS ABOUT THE TITLE TO YOUR HOME. Includes the story of the land title industry. \$16.00 per 100 copies of the booklet.



HOW FHA HELPS THE HOME BUYER. This public education folder was developed in cooperation with FHA and basically explains FHA-insured mortgages and land title services. \$5.50 per 100 copies.



LINCOLN LOST HIS HOME... BECAUSE OF DEFECTIVE LAND TITLES... A memorable example of the need for land title protection is described in this folder. \$5.00 per 100 copies is the cost for this publication.



THE IMPORTANCE OF THE ABSTRACT IN YOUR COMMUNITY. An effectively illustrated booklet that uses art work from the award-winning ALTA film, "A Place Under The Sun", to tell about land title defects and the role of the abstract in land title protection. Room for imprinting on back cover. \$12.00 per 100 copies.

(RIGHT) **BLUEPRINT FOR HOME BUYING.** Illustrated booklet contains consumer guidelines on important aspects of home buying. Explains roles of various professionals including broker, attorney and titleman. \$18.00 per hundred copies, 20 cents each on 99 or fewer copies. (RIGHT) **ALTA FULL-LENGTH FILMS:** "BLUEPRINT FOR HOME BUYING." Colorful animated 16 mm. sound film, 14 minutes long, with guidance on home selection, financing, settlement. Basis for popular booklet mentioned above. \$95 per print. "A PLACE UNDER THE SUN." Award winning 21 minute animated 16 mm. color sound film tells the story of the land title industry and its services. \$135 per print.



American Land Title Association

