

TITLE 13 INSURANCE
CHAPTER 14 TITLE INSURANCE
PART 2 LICENSING AND REPORTING REQUIREMENTS

13.14.2.1 ISSUING AGENCY: Office of Superintendent of Insurance (“OSI”).
[13.14.2.1 NMAC – Rp, 13.14.2.1 NMAC, 1/1/2021]

13.14.2.2 SCOPE: This rule applies to all title insurers, title insurance agencies, and title insurance agents conducting title insurance business in New Mexico.
[13.14.2.2 NMAC – Rp, 13.14.2.2 NMAC, 1/1/2021]

13.14.2.3 STATUTORY AUTHORITY: Sections 59A-2-8, 59A-2-9, 59A-30-4, 59A-30-6, 59A-30-6.1, 59A-30-6.2 and 59A-30-8 NMSA 1978.
[13.14.2.3 NMAC – Rp, 13.14.2.3 NMAC, 1/1/2021]

13.14.2.4 DURATION: Permanent.
[13.14.2.4 NMAC – Rp, 13.14.2.4 NMAC, 1/1/2021]

13.14.2.5 EFFECTIVE DATE: January 1, 2021, unless a later date is cited at the end of a section.
[13.14.2.5 NMAC – Rp, 13.14.2.5 NMAC, 1/1/2021]

13.14.2.6 OBJECTIVE: The purpose of this rule is to establish title insurance agency and agent licensing and reporting requirements.
[13.14.2.6 NMAC – Rp, 13.14.2.6 NMAC, 1/1/2021]

13.14.2.7 DEFINITIONS: See 13.14.1 NMAC.
[13.14.2.7 NMAC – Rp, 13.14.2.7 NMAC, 1/1/2021]

13.14.2.8 LICENSING:

A. OSI shall inspect or cause to be inspected any title plant owned, operated, or controlled within this state.

(1) An agency shall maintain its title plant for a period of at least 20 years immediately prior to the date of application for license.

(2) An agency shall keep its title plant not more than 30 days in arrears in posting, unless such arrearage is caused by delay in indexing of the public records in the county for which such plant is maintained, or by other factors that OSI deems as being undue hardships in obtaining the public records or facsimiles thereof, in which event the title plant must at least be current with the public records as then indexed.

B. If a title plant is not in compliance with the provisions of Section 59A-12-13 NMSA 1978 or of this rule at the time of such inspection, OSI will require that such plant be brought into compliance within a specified period of time. If the plant is not compliant within such period of time, OSI may suspend the license of the title insurance agency using the plant until the title plant is compliant, and any title insurer that has appointed the title insurance agency will be notified.

C. A title insurer shall notify OSI in writing of the cancellation of the appointment of any title insurance agent or agency within 30 days of the cancellation’s effective date.

D. An agency shall notify title insurers in writing of the termination of any employee appointed as an agent by said title insurer within 30 days of the termination’s effective date.

E. An escrow officer shall be licensed as a title insurance agent.
[13.14.2.8 NMAC – Rp, 13.14.2.8 NMAC, 1/1/2021]

13.14.2.9 OWNS, OPERATES OR CONTROLS: For purposes of Section 59A-12-13 NMSA 1978 “owns, operates, or controls” include the following activities:

A. “Owns” - holding legal or equitable title or controlling interest in a title plant, either as sole or joint proprietor, any partner of a general partnership, or the general partner of a limited partnership, holder of more than ten percent of the voting stock of a corporation, or as a lessee under a written lease agreement or lease purchase agreement.

B. “Operates” - directly responsible for the maintenance, updating or retrieval of information contained in a title plant or the searching, abstracting, or examining of title to real property or preparation of abstracts, searches, or commitments relating to real property derived from research from a title plant.

C. “Controls” - ultimate regulating authority or any intermediate supervisory authority over any person directly responsible for the operation of a title plant, who promulgates or administers the general policies providing for the direction and management of a title plant, including general policies of maintenance, updating, and retrieval of information from a title plant or the purchase, sale, or leasing of a title plant. A lease of a title plant shall qualify as “control” if the following conditions are met:

(1) All initial leases for a title plant must contain the terms of a minimum of five years and renewals for a minimum term of three years. No early termination of leases shall be allowed without the express written consent of OSI.

(2) A lease agreement shall be invalid unless approved by OSI.

(3) Access to a title plant under a lease agreement has not been terminated, suspended or denied.

(a) If the lessee is denied access to a leased title plant, the lessee shall notify OSI of the date of denial of access and the reason.

(b) Upon notification of a lessee’s denial of access to a leased title plant, OSI shall notify each title insurer who has appointed the lessee of such denial of access.

[13.14.2.9 NMAC – N, 1/1/2021]

13.14.2.10 MAINTENANCE ASSESSMENTS: The superintendent shall annually issue a directive establishing the maintenance assessment authorized by Section 59A-30-12 NMSA 1978 on policies written during the preceding calendar year insuring property or interests in property in New Mexico for each fiscal year commencing on July 1 and ending on June 30. The directive shall be issued at least 30 days before it is to become effective and shall include a brief statement describing how the maintenance assessment was determined. A title insurer shall correctly calculate its assessment based upon its New Mexico gross premium for the most recent preceding full calendar year and shall remit the same to OSI as specified in the superintendent’s directive. A title insurer’s assessment shall be rounded to the nearest dollar after computation has been performed. Fifty cents or more shall be rounded up; 49 cents or less shall be rounded down.

[13.14.2.10 NMAC – Rp, 13.14.2.12 NMAC, 1/1/2021]

13.14.2.11 AUDITS: OSI may at any time audit any title insurance agent, agency, or title insurer. If the audit provides cause for additional examination, such examination shall be conducted pursuant to Article 4 of Section 59A NMSA 1978, as applicable.

[13.14.2.11 NMAC – N, 1/1/2021]

13.14.2.12 TITLE INSURANCE AGENCIES CEASING OPERATION: Prior to ceasing the business of title insurance, an agency shall comply with the following requirements:

A. Forty-five days prior to its ceasing of operations, the agency shall notify each of the following of the cessation date:

(1) OSI title insurance bureau;

(2) all appointing title insurers; and

(3) the public by prominently displaying on the front of the business and on the landing page of the agency website, a notice reading, “Notice: this title insurance agency will cease operations on “[date].”

B. The agency and its appointing insurers shall conduct a final audit of the agency’s trust fund accounts, the records pertaining thereto and the unused forms in the agency’s possession.

(1) The final audit and final accounting required by this section shall be delivered to OSI and to each appointing insurer within 90 days after the agency ceases operations.

(2) If an appointing title insurer does not receive a final audit report within 90 days, the title insurer shall:

(a) report the non-receipt to OSI not later than the 100th day after the cessation date; and

(b) use its best efforts to complete and submit a final audit to OSI within 150 days of the cessation date. The title insurer shall provide written explanation and justification to OSI documenting those portions of the final audit that the title insurer was not able to complete, and describing the records and personnel available to the title insurer and the efforts used in the attempt to complete the final audit.

C. No later than 10 days after providing notice to OSI, the agency shall confer with OSI to develop a wind down plan. If the agency does not fulfill this requirement, OSI will contact each appointing insurer of that agency, who shall make arrangements satisfactory to OSI for the collection and preservation of the agency records.

D. The affiliation of any licensed title insurance agent employed by an agency who ceases business shall automatically terminate upon cessation of the business.

[13.14.2.12 NMAC – N, 1/1/2021]

13.14.2.13 [RESERVED]

13.14.2.13 NMAC - Rn, 13 NMAC 14.3.13.1, 5/15/2000, Repealed 1/1/2021]

13.14.2.14 [RESERVED]

13.14.2.14 NMAC - Rn, 13 NMAC 14.3.13.3 & A, 5/15/2000; A, 1/1/2001; A, 3/1/2002; A, 7/1/2005, Repealed 1/1/2021]

13.14.2.15 [RESERVED]

[13.14.2.15 NMAC - Rn, 13 NMAC 14.3.14, 5/15/2000, Repealed 1/1/2021]

HISTORY OF 13.14.2 NMAC:

Pre-NMAC History:

ID 74-1, Article 10, Chapter 58, Rule 2, Regulations for Filing Title Insurance Forms and Rates, 3/7/1974

SCC-85-6, Insurance Department Regulation 30 - Title Insurance, 9/6/1985

SCC-86-1, Insurance Department Regulation 30 - Title Insurance, 5/9/1986

NMAC History:

Re-promulgated a portion of SCC-86-1, Insurance Department Regulation 30 - Title Insurance, as 13 NMAC 14.3, Licensing and Reporting Requirements, filed 10/2/1996

Recompiled 13 NMAC 14.3, Licensing and Reporting Requirements, as 13.14.2 NMAC, Licensing and Reporting Requirements, filed 4/28/2000

13.14.2 NMAC, Licensing and Reporting Requirements, filed 5/15/2000, amended 3/1/2016

13.14.2 NMAC, Licensing and Reporting Requirements, filed 5/15/2000, was repealed and replaced by 13.14.2 NMAC, Licensing and Reporting Requirements, effective 1/1/2021.

History of Repealed Material:

ID 74-1, Article 10, Chapter 58, Rule 2, Regulations for Filing Title Insurance Forms and Rates - Superseded 9/6/1985

SCC-85-6, Insurance Department Regulation 30 - Title Insurance - Superseded 5/9/1986

13 NMAC 14.3.13.2 - Repealed 7/1/1997

13.14.2.16 NMAC - Repealed 1/1/2001

13.14.2.11 NMAC - Repealed 3/1/2016

13.14.2 NMAC, Licensing and Reporting Requirements, filed 5/15/2000, was repealed and replaced by 13.14.2 NMAC, Licensing and Reporting Requirements, effective 1/1/2021.