

TITLE 13 INSURANCE
CHAPTER 14 TITLE INSURANCE
PART 6 OWNER'S, LEASEHOLD OWNER'S, AND CONTRACT PURCHASER'S POLICIES

13.14.6.1 ISSUING AGENCY: Office of Superintendent of Insurance ("OSI").
[13.14.6.1 NMAC – Rp, 13.14.6.1 NMAC 1/1/2021]

13.14.6.2 SCOPE: This rule applies to all title insurers, title insurance agencies, and title insurance agents conducting title insurance business in New Mexico.
[13.14.6.2 NMAC – Rp, 13.14.6.2 NMAC 1/1/2021]

13.14.6.3 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.
[13.14.6.3 NMAC – Rp, 13.14.6.3 NMAC 1/1/2021]

13.14.6.4 DURATION: Permanent.
[13.14.6.4 NMAC – Rp, 13.14.6.4 NMAC 1/1/2021]

13.14.6.5 EFFECTIVE DATE: January 1, 2021, unless a later date is cited at the end of a section.
[13.14.6.5 NMAC – Rp, 13.14.6.5 NMAC 1/1/2021]

13.14.6.6 OBJECTIVE: The purpose of this rule is to establish requirements for title insurance policy provisions.
[13.14.6.6 NMAC – Rp, 13.14.6.6 NMAC 1/1/2021]

13.14.6.7 DEFINITIONS: See 13.14.1 NMAC.
[13.14.6.7 NMAC – Rp, 13.14.6.7 NMAC 1/1/2021]

13.14.6.8 OWNER'S POLICIES:

A. An owner's policy shall be written to protect the estate or interest in land held by the insured (e.g., fee simple, easement, etc.). Except as otherwise provided herein, an owner's policy shall be issued for the amount of the sales price of the land and any existing appurtenant improvements, or at the option of the insured, the cost of improvements immediately contemplated to be erected thereupon.

B. If no sale is being made at time of a policy issuance, an owner's policy shall be issued for an amount equal to the value of the land and any existing appurtenant improvements. If an owner's policy is issued at the time of payoff of a real estate contract and recording of a warranty deed, the owner's policy shall be issued for the amount of the contract price, except if the purchaser requests and provides evidence of value, then the owner's policy may be issued for the amount equal to the value of the land and any existing improvements, with the same option concerning immediately contemplated improvements.

C. An owner's policy may be endorsed to reflect the current value of the estate insured (upon payment of the current basic premium according to the current schedule less the insured current basic premium previously paid for the policy) if the insurer's underwriting standards are met; provided, however, that the effective date of the policy shall remain unchanged and no affirmative coverages or down dates shall be added.

D. NM form 55 shall be provided to any insured requesting the endorsement on an owner's policy issued prior to August 1, 2008 without the endorsement.

E. Owner's policy insuring a leasehold estate: An owner's policy shall be issued to insure the leasehold estate in the amount, at the option of the insured, of:

- (1) the total amount of the rentals payable under the lease contract; or
- (2) the value of the land and any existing improvements.

(3) Unless otherwise specifically stated, an owner's policy insuring a leasehold estate shall contain the same standard exceptions, be subject to the same premium and be subject to deletion of the same standard exceptions in the same manner as a standard owner's policy.

(4) An NM form 20 shall be attached to an owner's policy to create a leasehold owner's policy. An owner's policy insuring a leasehold estate may be endorsed to insure a fee simple estate by attaching an NM form 31.

F. Owner's policy insuring contract purchaser's interest:

(1) An owner's policy to insure a contract purchaser's interest shall be written to insure the estate or interest in land upon which the insured holds a contractual interest because of a recorded real estate contract or agreement, or a sufficient recorded memorandum thereof. Unless otherwise specifically provided, an owner's policy to insure a contract purchaser's interest shall be subject to all rules and regulations that apply to an owner's policy, and in the same manner.

(2) The estate or interest in the land insured in schedule A under an owner's policy insuring contract purchaser's interest shall be automatically converted to fee simple without the requirement for a policy endorsement, if the contract purchaser acquires the fee title interest by the filing of the deed from the contract seller for the transaction that was previously insured. The effective date of the policy shall not change. No additional premium shall be charged.

(3) Upon request of an insured, an owner's policy to insure a contract purchaser's interest may be converted and down dated to a standard owner's policy by the issuance of NM form 91.

[13.14.6.8 NMAC – Rp, 13.14.6.8 NMAC, 1/1/2021]

13.14.6.9 U.S. POLICIES:

A. NM form 34 shall contain standard exceptions subject to deletion as provided in these rules.

B. Whenever the United States postal service acquires title to property being insured, it is permissible to:

(1) amend the NM form 34 by striking therefrom in all places the name "United States of America" and substituting in lieu thereof the name "United States Postal Service;" and

(2) to insert the following paragraph to the conditions and stipulations: "In the event that the interests of the United States postal service with respect to the land referred to in this policy are not represented by the attorney general of the United States at the time any election, notice, request, permission, cooperation, assistance, or statement is required or permitted by these conditions and stipulations, then such election, notice, request, permission, cooperation, assistance, or statement, as so required or permitted, and otherwise conforming hereto, should be given or furnished by or to the United States postal service."

[13.14.6.9 NMAC – N, 1/1/2021]

13.14.6.10 STANDARD EXCEPTIONS: An owner's policy shall contain standard exceptions 1 through 7, except as otherwise provided by these rules.

[13.14.6.10 NMAC – Rp, 13.14.6.11 NMAC, 1/1/2021]

13.14.6.11 REISSUE OWNER'S POLICIES:

A. An owner's policy shall qualify for reissue rates only when insuring one of the following:

(1) a purchaser or lessee of the same real estate from one whose title thereto as owner's has been insured by any company in a previous policy issued prior to the application for a new policy; or

(2) a purchaser or lessee of the same real estate from an insured under a loan policy of any company which has acquired title to the same property described in said loan policy by foreclosure or by voluntary conveyance in extinguishment of the debt.

B. The proof of a prior title insurance policy requires a complete copy of all schedules of the prior policy.

C. The title insurer or agency which issues the reissue rate policy shall maintain proof of the prior policy for at least two years. The reissue rate shall apply, only if proof of the prior policy is in the possession of the title insurance insurer or agency issuing the reissue rate policy before the commencement of the title search for that policy.

D. The title insurer or agency may request the prior owner's policy from the prior title insurance agency or title insurer. Within five days, the prior title insurance agency or title insurer shall provide a copy of that policy in response to the request. The prior title insurance agency or title insurer may charge a reasonable retrieval fee for providing the copy of the prior title policy as authorized by these rules.

[13.14.6.11NMAC – N, 1/1/2021]

13.14.6.12 SUBDIVIDERS OR CONSTRUCTION BULK RATE QUALIFICATIONS: An insured owner qualifies for a subdivider or construction bulk rate only if the owner acquires title directly from a person who meets at least one of the following conditions:

- A.** owns of record at the same time two or more lots in the same approved subdivision holding the same for immediate sale upon completion of building improvements thereon;
- B.** owns two or more unsold vacant lots or acreage tracts at the same time in the same approved subdivision and has contracted with the insurer to purchase an owner’s policy on each and every lot or tract as the same is sold; or
- C.** is the owner of record of two or more lots or tracts in the same approved subdivision, and:
 - (1)** is a subdivider or builder who subdivides property for one to four family residential property use; or
 - (2)** builds one to four family residential property for immediate resale upon completion of improvements and said lots or tracts are restricted to or zoned for one to four family residential property use or actually improved by one to four family residential property use at the time the policy is issued.

[13.14.6.12 NMAC – N, 1/1/2021]

13.14.6.13 REPLACING OWNER’S POLICY UPON RECEIVERSHIP:

- A.** A title insurer or agency may sell a replacement policy to the insured of a title insurer under receivership.
- B.** A title insurer shall require the insured to surrender the existing policy before providing a replacement policy. A copy of the existing policy may be received in lieu of the original policy. The date of policy for the replacement policy shall be the same date as for the replaced policy. If a copy of an existing policy is requested from the prior title insurance agency or title insurer, a reasonable retrieval fee may be charged by the prior title insurance agency or title insurer.
- C.** A title insurer shall not issue a replacement policy without exceptions to coverage for defects, liens, encumbrances, adverse claims or for other matters known to exist by the insured on the date of issuance of the replacement policy, including but not limited to claims known by any owner’s or other insured and claims reported under existing policies or claims that have been made against the receiver. A replacement policy shall contain the following exception on schedule B: “defects, liens, encumbrances, adverse claims or other matters not known to the issuing title insurance agency or title insurer at the issue date of this replacement policy, but known to any owner’s or other insured claimant and not disclosed in writing to the title insurance agency or title insurer by the insured claimant prior to the date the insured claimant became insured under this policy.”
- D.** A replacement owner’s policy shall be issued in the amount of insurance shown on the replaced owner’s policy. No search or examination of title or evidence thereof is required of a title insurance agency or insurer issuing a replacement policy pursuant to this rule. However, a title insurance agency or title insurer may conduct a search and examination at no additional expense to the insured, unless otherwise provided in these rules.
- E.** A replacement policy shall be marked as such by the words “REPLACEMENT POLICY; NO SEARCH REQUIRED,” prior to the policy number on the cover page of the policy and on the top center of all other pages not considered a policy cover or jacket. After the words “REPLACEMENT POLICY; NO SEARCH REQUIRED,” the date the replacement policy was issued shall be indicated after the word “issued” is typed.
- F.** A title insurer or agent shall accept as evidence either a replacement owner’s policy or an owner’s policy of an insurer under receivership, or a copy of the same, for purposes of the reissue rate.

[13.14.6.13 NMAC – N, 1/1/2021]

13.14.6.14 – 13.14.6.24 [RESERVED]

[13.14.6.14 – 13.14.6.24 NMAC – Rn, 13 NMAC 14.6.14-24, 5/15/2000; Repealed 1/1/2021]

HISTORY OF 13.14.6 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 14.6, Owner's, Leasehold Owner's, and Contract Purchaser's Policies, filed 10/2/1996.

Recompiled 13 NMAC 14.6, Owner's, Leasehold Owner's, and Contract Purchaser's Policies, as 13.14.6 NMAC, Owner's, Leasehold Owner's, and Contract Purchaser's Policies, filed 4/28/2000, amended effective 7/31/2014.

Owner's Leasehold Owner's and Contract Purchaser's Policies, filed 7/31/2014, amended effective 3/1/2016.

Owner's Leasehold Owner's and Contract Purchaser's Policies, filed 3/1/2016, amended effective 7/1/2018.

13.14.6 NMAC, Owner's, Leasehold Owner's, And Contract Purchaser's Policies, filed 5/15/2000 was repealed and replaced by 13.14.6 NMAC, Owner's, Leasehold Owner's, And Contract Purchaser's Policies, 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.