

TITLE 13 INSURANCE
CHAPTER 14 TITLE INSURANCE
PART 7 LOAN POLICIES

13.14.7.1 ISSUING AGENCY: Office of Superintendent of Insurance (OSI).
[13.14.7.1 NMAC – Rp, 13.14.7.1 NMAC, 1/1/2021]

13.14.7.2 SCOPE: This rule applies to all title insurers, all title insurance agencies, and all title insurance agents conducting title insurance business in New Mexico.
[13.14.7.2 NMAC – Rp, 13.14.7.2 NMAC, 1/1/2021]

13.14.7.3 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.
[13.14.7.3 NMAC – Rp, 13.14.7.3 NMAC, 1/1/2021]

13.14.7.4 DURATION: Permanent.
[13.14.7.4 NMAC – Rp, 13.14.7.4 NMAC, 1/1/2021]

13.14.7.5 EFFECTIVE DATE: January 1, 2021, unless a later date is cited at the end of a section.
[13.14.7.5 NMAC – Rp, 13.14.7.5 NMAC, 1/1/2021]

13.14.7.6 OBJECTIVE: The purpose of this rule is to establish requirements for loan policies.
[13.14.7.6 NMAC – Rp, 13.14.7.6 NMAC, 1/1/2021]

13.14.7.7 DEFINITIONS: See 13.14.1 NMAC.
[13.14.7.7 NMAC – Rp, 13.14.7.7 NMAC, 1/1/2021]

13.14.7.8 LOAN POLICIES:

A. A loan policy shall be issued for the face amount of the loan or loans insured. When the land covered in the policy represents only part of the security of the loan(s), the policy shall be written in the amount of the value of such land or the amount of the loan(s) insured, whichever is less. When requested by an insured, a loan policy may be issued in an amount equal to the original principal amount of the indebtedness plus interest (capitalized or otherwise) not to exceed twenty percent of the principal amount.

B. A loan policy may insure liens on multiple tracts in the same manner as an owner's policy.

C. A title insurer or title insurance agency issuing a loan policy shall deliver the new owner's(s) NM form 9, containing all of the required information available at that time and shall ask the owner's(s) to indicate whether an owner's policy is declined. The title insurer or title insurance agency shall retain a copy of the completed NM form 9 with a copy of the loan policy for at least two years whenever an owner's policy is declined.

D. Unless otherwise provided in these rules, a loan policy with a leasehold loan endorsement shall contain the same standard exceptions, be subject to the same premium and be subject to deletion of the same standard exceptions as a standard loan policy. A leasehold loan endorsement shall be attached to a loan policy to create a loan policy insuring a leasehold estate.

[13.14.7.8 NMAC – Rp, 13.14.7.8 NMAC, 1/1/2021; A/E, 1/24/2024; N, 07/16/2024]

13.14.7.9 [RESERVED]
[13.14.7.9 NMAC – Rn, 13 NMAC 14.7.9, 5/15/2000; A, 3/1/2002, Repealed, 1/1/2021]

13.14.7.10 STANDARD EXCEPTIONS: A loan policy shall contain standard exceptions 1 through 7 except as otherwise provided by these rules.
[13.14.7.10 NMAC – Rp, 13.14.7.10 NMAC, 1/1/2021]

13.14.7.11 [RESERVED]
[13.14.7.11 NMAC – Rn, 13 NMAC 14.7.9, 5/15/2000; A, 10/1/2012, Repealed, 1/1/2021]

13.14.7.12 [RESERVED]

[13.14.7.12 NMAC – Rn, 13 NMAC 14.7.12, 5/15/2000; A, 10/1/2012, Repealed, 1/1/2021]

13.14.7.13 [RESERVED]

[13.14.7.13 NMAC – Rn, 13 NMAC 14.7.13, 5/15/2000; A, 10/1/2012, Repealed, 1/1/2021]

13.14.7.14 [RESERVED]

[13.14.7.14 NMAC – Rn, 13 NMAC 14.7.14, 5/15/2000; A, 10/1/2012, A, 7/31/2014, A, 3/1/2016, Repealed, 1/1/2021]

13.14.7.15 [RESERVED]

[13.14.7.15 NMAC – Rn, 13 NMAC 14.7.15, 5/15/2000; A, 10/1/2012, Repealed, 1/1/2021]

**13.14.7.16 POLICY INSURING A CONSTRUCTION LOAN - PENDING DISBURSEMENT
CLAUSE:**

A. When a title insurer or agency issues a loan policy insuring a construction loan mortgage, the title insurer may require a specific pending disbursement clause. Such clause may be in the form directed by the title insurer, or it may be in the following form: “Pending disbursement of the full proceeds of the loan secured by the mortgage or deed of trust set forth under schedule A hereof, this policy insures only to the extent of the amount actually disbursed but increases as each disbursement is made, in good faith, and without knowledge of any defect in, or objections to, the title, up to the face amount of the policy.” Prior to each disbursement of the loan proceeds, the title shall be down dated for possible liens or objections intervening between the date hereof and the date of such disbursement.

B. At the time of each disbursement, NM form 22 may be issued showing any changes in title to the insured property and stating the total amount of the proceeds of the construction loan advanced by the lender at the date the endorsement is issued.

[13.14.7.16 NMAC – N, 1/1/2021]

13.14.7.17 REPLACING LOAN POLICY UPON RECEIVERSHIP: Issuance of a replacement loan policy shall be governed by the rules applicable to a replacement owner’s policy, except that a title insurer or agency shall accept as evidence either a replacement loan policy or a loan policy of an insurer under receivership, or a copy of the same, for purposes of providing any applicable discount.

13.14.7.17 NMAC – N, 1/1/2021]

13.14.7.18 LIMITED PRE-FORECLOSURE TITLE INSURANCE POLICY: NM form 41 and, if desired, NM form 42 may be issued upon receipt of an order in anticipation of the filing of an action to judicially foreclose a mortgage, or other lien or security instrument encumbering title, or to non-judicially foreclose a deed of trust. No commitment shall be issued in connection with the policy. The amount of coverage shall be equal to the unpaid principal indebtedness due under the lien or note secured by the security instrument to be foreclosed. The policy shall be furnished solely for the purpose of facilitating the foreclosure.

[13.14.7.18 NMAC – Rp, 13.14.7.22 NMAC, 1/1/2021]

13.14.7.19 RESIDENTIAL LIMITED COVERAGE JUNIOR LOAN POLICY: A title insurer or title insurance agency may, issue NM form 45 if all of the following conditions exist:

- A.** the real property to be insured is one to four family residential property;
- B.** the real property is located within an approved and recorded subdivision;
- C.** the title insurance agency or title insurer has a complete copy of the loan policy issued to an insured senior lender before the commencement of the title search; and
- D.** the loan is less than or equal to \$125,000.

[13.14.7.19 NMAC – N, 1/1/2021]

13.14.7.20 [RESERVED]

[13.14.7.20 NMAC - Rn, 13 NMAC 14.7.20, 5/15/2000; A, 3/1/2016, Repealed 1/1/2021]

13.14.7.21 RESIDENTIAL LIMITED COVERAGE MORTGAGE MODIFICATION POLICY: A title insurer or title insurance agency may issue NM form 90 if all of the following conditions exist:

A. the amount of the policy shall not exceed the outstanding principal balance of the loan on the date of the policy;

B. the policy shall not increase the amount of coverage under the prior policy;

C. the real property to be insured is one to four family residential property; and

D. the title insurer or title insurance agent has a complete copy of the prior loan policy before the commencement of the title search.

[13.14.7.21 NMAC – Rp, 13.14.7.27 NMAC, 1/1/2021]

13.14.7.22 [RESERVED]

[13.14.7.22 NMAC - Rn, 13 NMAC 14.7.22, 5/15/2000; A, 7/1/2004; A, 9/15/2010; A, 3/1/2016; A, 7/1/2018, Repealed 1/1/2021]

13.14.7.23 [RESERVED]

[13.14.7.23 NMAC - Rn, 13 NMAC 14.7.23, 5/15/2000, Repealed 1/1/2021]

13.14.7.24 [RESERVED]

[13.14.7.24 NMAC - N, 7/1/2004; Repealed, 9/15/2009]

13.14.7.25 [RESERVED]

[13.14.7.25 NMAC - N, 7/1/2004; A, 7/1/2005; Repealed, 9/15/2009]

13.14.7.26 [RESERVED]

[13.14.7.26 NMAC - N, 9/15/2010; A, 10/1/2012; A, 3/1/2016, Repealed 1/1/2021]

HISTORY OF 13.14.7 NMAC:

Pre-NMAC History.

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

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

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

History of Repealed Material. 13.14.7 NMAC, Loan, Leasehold Loan, and Construction Loan Policies, (filed 5/15/2000), was repealed and replaced by 13.14.1 NMAC, Loan Policies effective 1/1/2021.

Other History.

Re-promulgated a portion of SCC-86-1, Insurance Department Regulation 30 - Title Insurance (filed 5/9/1986) and renumbered, reformatted and replaced as 13 NMAC 14.7, Loan, Leasehold Loan, and Construction Loan Policies, effective 11/01/1996.

13 NMAC 14.7, Loan, Leasehold Loan, and Construction Loan Policies (filed 10/2/1996), was renumbered reformatted, amended and replaced by 13.14.7 NMAC, Loan, Leasehold Loan, and Construction Loan Policies, effective 5/15/2000, amended effective 7/31/2014.

13 NMAC 14.7, Loan, Leasehold Loan, and Construction Loan Policies effective 7/31/2014, amended effective 3/1/2016.

13.14.7 NMAC, Loan, Leasehold Loan, and Construction Loan Policies effective 3/1/2016, amended effective 7/1/2018.

Justification: The purpose of the change is to make the rule consistent with the promulgated NM Form 2, Loan 13.14.7 NMAC, Loan, Leasehold Loan, and Construction Loan Policies, filed 5/15/2000, was repealed and replaced by 13.14.7 NMAC, Loan Policies, effective 1/1/2021.

13.14.7 NMAC, Loan, Leasehold Loan, and Construction Loan Policies, effective 1/1/2021, was amended effective 1/24/2024 to delete former Subsections D and E of 13.14.7.8 NMAC, which addressed NM Form 63, which has been withdrawn.