

**TITLE 13 INSURANCE**  
**CHAPTER 14 TITLE INSURANCE**  
**PART 9 GENERAL RATE PROVISIONS**

**13.14.9.1 ISSUING AGENCY:** Office of Superintendent of Insurance (“OSI”).  
[13.14.9.1 NMAC – Rp, 13.14.9.1 NMAC, 1/1/2021]

**13.14.9.2 SCOPE:** This rule applies to all title insurers, title insurance agencies, and title insurance agents conducting the business of title insurance in New Mexico.  
[13.14.9.2 NMAC – Rp, 13.14.9.2 NMAC, 1/1/2021]

**13.14.9.3 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.  
[13.14.9.3 NMAC – Rp, 13.14.9.3 NMAC, 1/1/2021]

**13.14.9.4 DURATION:** Permanent.  
[13.14.9.4 NMAC – Rp, 13.14.9.4 NMAC, 1/1/2021]

**13.14.9.5 EFFECTIVE DATE:** January 1, 2021, unless a later date is cited at the end of a section.  
[13.14.9.5 NMAC – Rp, 13.14.9.5 NMAC, 1/1/2021]

**13.14.9.6 OBJECTIVE:** To establish matters related to the promulgation of title insurance rates and charges.  
[13.14.9.6 NMAC – Rp, 13.14.9.6 NMAC, 1/1/2021]

**13.14.9.7 DEFINITIONS:** See 13.14.1 NMAC.  
[13.14.9.7 NMAC – Rp, 13.14.9.7 NMAC, 1/1/2021]

**13.14.9.8 SCHEDULE OF PREMIUM RATES:** The rates and charges authorized by these rules shall be established by order of the superintendent in a title rate case conducted pursuant to Subsection A of Section 59A-30-8 NMSA 1978, or as amended or supplemented by order issued after a hearing conducted pursuant to Subsection B of Section 59A-30-8 NMSA 1978. All references to rates and charges shall mean the rates and charges established by the superintendent’s order in the most recent rate hearing case, including any amending or supplementing order, in effect at the time the premium or charge is incurred. On his own motion, or at the request of an interested person, the superintendent may, at any time, conduct a formal or informal hearing to consider whether to promulgate a new or amended rate or charge.  
[13.14.9.8 NMAC – Rp, 13.14.9.8 NMAC, 1/1/2021]

**13.14.9.9 COMBINATIONS OF CREDITS OR DISCOUNTS:** No title insurer or title insurance agency shall grant more than one premium credit, reduction or discount for a single transaction, unless one original owner policy premium in the largest amount is charged; provided, however, that a simultaneous issue rate regulation may be combined with any appropriate single issue rate regulation.  
[13.14.9.9 NMAC – Rp, 13.14.9.9 NMAC, 1/1/2021]

**13.14.9.10 PREMIUM RATES INCLUSIVE:** The premium rates and charges established by the superintendent include all premiums for title insurance, examination of the title or titles to be insured, determining that each insured estate has been created, conveyed or modified as shown in the policy, and determining what exceptions, if any, to insert in or delete from the policies to be issued as provided in these rules. No other rates or charges may be charged for title insurance or title services.  
[13.14.9.10 NMAC – Rp, 13.14.9.10 NMAC, 1/1/2021]

**13.14.9.11 PAYMENTS OF PREMIUM TO OTHERS:** No portion, split or percentage of any premium shall be paid either directly or indirectly to any person, firm or organization for title insurance, title examination, or determining status of title as set forth above, except a division of premium between an insurer admitted to transact title insurance business in New Mexico and its New Mexico title insurance agency pursuant to their agency

agreement, or between New Mexico title insurance agencies (or title insurance agencies who do not have agency agreements in a county where some of the property is located) who are cooperating to close a transaction involving New Mexico property situated in more than one county to be insured in a single policy when each title insurance agency or title insurer is rendering part of the services included in the premiums established in a title rate case. Any title insurance agency who has cancelled its agency agreement or had its agency agreement cancelled by an underwriter may prepare endorsements to existing policies then in force at the time of cancellation upon request by the insured and approval by the underwriter. Any such endorsement shall be signed by an officer of the underwriter. The premium for any such endorsement shall be collected by the cancelled title insurance agent and divided according to the controlling promulgated rates at the time of issuance of the endorsement(s). The payment or receipt of referral fees by or between title insurers or agencies and any person is prohibited.  
[13.14.9.11 NMAC – Rp, 13.14.9.11 NMAC, 1/1/2021]

**13.14.9.12 REBATES AND UNAUTHORIZED DISCOUNTS:** A title insurance agency or title insurer shall charge the applicable rates and charges for each transaction and shall not offer or grant a credit, discount or rebate that is not authorized.  
[13.14.9.12 NMAC – Rp, 13.14.9.12 NMAC, 1/1/2021]

**13.14.9.13 ROUNDING TO THE NEAREST DOLLAR:** All premiums charged for title insurance policies, endorsements, or commitments shall be rounded to the nearest dollar after all necessary computations have been performed. Fifty cents or more shall be rounded up; 49 cents or less shall be rounded down.  
[13.14.9.13 NMAC – Rp, 13.14.9.13 NMAC, 1/1/2021]

**13.14.9.14 FRACTIONAL THOUSAND DOLLARS OF LIABILITY:** To compute any premium, a \$1,000 fraction of coverage shall be calculated as a full \$1,000.  
[13.14.9.14 NMAC – Rp, 13.14.9.14 NMAC, 1/1/2021]

**13.14.9.15 NON-DISCRIMINATION IN AUTHORIZED DISCOUNTS:** A title insurance agency or title insurer shall charge premiums rates, charges and fees on a non-discriminatory basis for like risks and like insureds.  
[13.14.9.15 NMAC – Rp, 13.14.9.15 NMAC, 1/1/2021]

**13.14.9.16 ADDITIONAL CHARGES:** Whenever the search or examination conducted for the issuance of a policy involves either an extra chain of title or other unusual complexity, fees shall be charged for each additional chain of title pertaining to platted tracts and for each tract of unusual complexity of search and examination. If the separate values for each tract are not apportioned in the policy, their values for the purposes of this section shall be in the same proportions as their areas bear to the entire area insured.  
[13.14.9.16 NMAC – Rp, 13.14.9.16 NMAC, 1/1/2021]

**13.14.9.17 CANCELLATION FOR NON-PAYMENT OF PREMIUM:** In the event that all premium due is not paid in full within 15 days of the issuance of any policy or endorsement, the title insurer shall cancel the policy or endorsement. The title insurer shall mail the insured(s) and lender notice of the cancellation by certified mail, return receipt requested, to the last known address, and by first class mail. Cancellation shall be effective 10 days after mailing notice to the insured. A title insurance agency shall promptly notify the title insurer of the non-receipt of premiums within the period specified herein.  
[13.14.9.17 NMAC – Rp, 13.14.9.17 NMAC, 1/1/2021]

**13.14.9.18 [RESERVED]**  
[13.14.9.18 NMAC – 13.14.9.18 NMAC - Rn, 13 NMAC 14.9.8.11 & A, 5/15/2000; A, 5/31/2000; A, 8/1/2000; A, 3/1/2002; A, 7/1/2003; A, 7/1/2004; A, 7/1/2005; A, 7/1/2006; A, 9/1/2007; A, 7/1/2008; A, 8/1/2009; A, 10/1/2012; A, 8/15/2014; A/E, 7/1/2018; A, 12/27/2018; Repealed 1/1/2021]

**13.14.9.19 NON-POLICY CHARGES:**

**A.** A charge shall be collected for the initial six months and for each additional six-month renewal or extension (or portion thereof) of a commitment. If a new version of a commitment is issued to correct an error by the title insurer or agency, the new version shall be issued at no charge.

**B.** If the transaction fails to close and no policy is issued, the title insurer or agency shall charge a cancellation fee.

C. The charge for a pro forma policy shall be established in a title rate case. If a pro forma is issued to correct an error by the issuing title insurer or agency, the corrected version shall be issued at no charge.  
[13.14.9.19 NMAC – Rp, 13.14.9.19 NMAC, 1/1/2021]

**3.14.9.20 ORIGINAL OWNER’S POLICY SINGLE ISSUE RATES:** Original owner’s policies not issued simultaneously with another policy or policies and not as a reissue of an owner’s policy shall be issued at the basic premium rate according to the schedule in effect as of the date of the policy.  
[13.14.9.20 NMAC – Rp, 13.14.9.20 NMAC, 1/1/2021]

**13.14.9.21 ORIGINAL POLICY INSURING LEASEHOLD ESTATE SINGLE ISSUE RATES:** Original policies insuring a leasehold estate, not issued simultaneously with another policy and not as a reissue of a policy insuring a leasehold estate, shall be charged at the basic premium rate according to the schedule in effect as of the date of the policy. Original policies insuring a leasehold estate which are reissues of original owner’s policies, including a policy pertaining to a sale and leaseback transaction, shall qualify for the reissue rate.  
[13.14.9.21 NMAC – Rp, 13.14.9.21 NMAC, 1/1/2021]

**13.14.9.22 ORIGINAL LOAN POLICY RATES:** Premiums for an original loan policy shall be determined in a title rate case.  
[13.14.9.22 NMAC – Rp, 13.14.9.22 NMAC, 1/1/2021]

**13.14.9.23 [RESERVED]**  
[13.14.9.23 NMAC – 13.14.9.23 NMAC - Rn, 13 NMAC 14.9.10.4, 5/15/2000; Repealed 1/1/2021]

**13.14.9.24 ABSTRACT RETIREMENT CREDIT:** When the applicant for an owner’s policy transfers, at the time of application for the policy, to the title insurance agency or title insurer ownership of the abstract of title covering all or part of the premises to be insured, a credit shall be determined based on a percentage of the appropriate premium for the owner’s policy.  
[13.14.9.24 NMAC – Rp, 13.14.9.24 NMAC, 1/1/2021]

**13.14.9.25 [RESERVED]**  
[13.14.9.25 NMAC – 13.14.9.25 NMAC - Rn, 13 NMAC 14.9.10.6, 5/15/2000; Repealed 1/1/2021]

**13.14.9.26 REPLACEMENT POLICY RATE:** When a title insurer is placed in receivership, and a replacement title insurance policy is issued by a title insurance agency, the title insurance agency’s division of premium shall be computed in accordance with the current division ordered by the superintendent. If a title insurer issues the policy directly, the title insurer shall retain the full premium.  
[13.14.9.26 NMAC – Rp, 13.14.9.26 NMAC, 1/1/2021]

**13.14.9.27 [RESERVED]**  
[13.14.9.27 NMAC – Rp, 13.14.9.27 NMAC, 1/1/2021]

**13.14.9.28 LIMITED PRE-FORECLOSURE TITLE INSURANCE POLICY AND DOWNDATED ENDORSEMENT:** The premium for NM form 41 and 42 shall be established in a title rate case. If an NM 41 form is issued and an owner’s policy is issued following completion of the foreclosure, the owner’s policy shall qualify for a reissue rate ordered by the superintendent in a title rate case. All liability insured above the amount of the foreclosure title insurance policy for a new owner’s policy must be computed at the basic premium rates in the applicable bracket. If an NM form 41 is issued and if the foreclosure is not completed or is terminated by reinstatement of the pertinent security instrument, and a new owner’s policy is issued to a new purchaser within one year of the date of the NM form 41, a percentage of the premium paid for the NM form 41 shall be credited toward the new owner’s policy premium as established by the superintendent in a title rate case.  
[13.14.9.28 NMAC – Rp, 13.14.9.28 NMAC, 1/1/2021]

**13.14.9.29 [RESERVED]**  
[13.14.9.29 NMAC – 13.14.9.29 NMAC - Rn, 13 NMAC 14.9.10.10, 5/15/2000; Repealed 1/1/2021]

**13.14.9.30 [RESERVED]**

[13.14.9.30 NMAC – 13.14.9.30 NMAC - Rn, 13 NMAC 14.9.11.1, 5/15/2000; Repealed 1/1/2021]

**13.14.9.31 [RESERVED]**

[13.14.9.31 NMAC – 13.14.9.31 NMAC - Rn, 13 NMAC 14.9.11.2, 5/15/2000; Repealed 1/1/2021]

**13.14.9.32 SIMULTANEOUS ISSUE MULTIPLE OWNER’S POLICIES ON SAME LAND:** When two or more owner’s policies, including leasehold owner’s policies, covering the same land are:

**A.** issued simultaneously to different insureds, the applicable owner’s rate shall apply to the policy in the largest amount; or

**B.** issued to different insureds where a policy is issued in one transaction and one or more policies are issued within 30 days in a subsequent transaction or transactions, provided,

**(1)** each transaction covers identical land;

**(2)** all conveyances relating to the land to be insured in the subsequent transaction(s) are recorded no more than 30 days after the conveyances of the first transaction are recorded and all policies are issued by the same title insurer or title insurance agency no later than 30 days after the first transaction; and

**(3)** an owner’s policy is issued insuring the interest of each and every owner created by the subsequent transaction(s), the premium for the first policy shall be the applicable owner’s rate in effect as of the date of the first policy. If any subsequently issued policy exceeds the amount of insurance written in the first policy, the premium for the difference must be computed at the basic premium rates by brackets.

[13.14.9.32 NMAC – Rp, 13.14.9.32 NMAC, 1/1/2021]

**13.14.9.33 [RESERVED]**

[13.14.9.33 NMAC – 13.14.9.33 NMAC - Rn, 13 NMAC 14.9.11.4, 5/15/2000; Repealed 1/1/2021]

**13.14.9.34 [RESERVED]**

[13.14.9.34 NMAC – Rp, 13.14.9.34 NMAC, 1/1/2021]

**13.14.9.35 [RESERVED]**

[13.14.9.35 NMAC – 13.14.9.35 NMAC - Rn, 13 NMAC 14.9.12.1, 5/15/2000; A, 3/1/2002; Repealed 1/1/2021]

**13.14.9.36 SECOND MORTGAGES OR SUBSEQUENT ISSUES:** The premium for a loan policy insuring any mortgage granted by the owner of property subsequent to the original date of his owner’s policy shall be determined by the superintendent in a title rate case. In no event shall the premium collected be less than the regular minimum promulgated rate for an owner’s policy.

[13.14.9.36 NMAC – Rp, 13.14.9.36 NMAC, 1/1/2021]

**13.14.9.37 COMPUTATION OF RATES WHEN INSURED PROPERTY IS NOT IDENTICAL:**

When only a portion of the land previously insured is being insured by a reissue owner’s policy or by a subsequent issue loan policy, or when the land previously insured is only a portion of the land being insured by a reissue owner’s policy or by a subsequent issue loan policy, the rates shall be adjusted in proportion to the areas insured in the original policy and the current policy. For example, if the original policy insured one acre and the current policy insures three acres, the reissue rates will apply to one-third of the current value up to the face amount of the original policy; but, if the situation is reversed, the reissue rates will only apply up to one-third of the face amount of the original policy. In no event shall the reissue rates be applied to allow more than 100% of the face amount of the original policy to be used cumulatively in the computation of reissue rates.

[13.14.9.37 NMAC – Rp, 13.14.9.37 NMAC, 1/1/2021]

**13.14.9.38 COMPUTATION OF RATES UPON CONVERSION OF LEASEHOLD OWNER’S POLICY TO STANDARD OWNER’S POLICY:** When a leasehold owner’s policy is converted to a standard owner’s policy and more insurance is desired or required under the standard owner’s policy than was written in the leasehold owner’s policy, the difference must be computed at the basic premium rates in the applicable bracket or brackets in the same manner as excess liability is computed.

[13.14.9.38 NMAC – Rp, 13.14.9.38 NMAC, 1/1/2021]

**13.14.9.39 SUBSTITUTION RATE ON LOANS TO TAKE UP, RENEW, EXTEND OR SATISFY AN EXISTING INSURED LOAN:**

**A.** For purpose of the premium discount on refinanced property pursuant to Section 59A-30-6.1 NMSA 1978, the term “same borrower” in Section 59A-30-6.1 NMSA 1978 shall have the same meaning as “insured” as defined in Paragraph 1 (D) of the conditions set forth in NM form 1.

**B.** The term “same property” in Section 59A-30-6.1 NMSA 1978 shall mean the identical property or any portion thereof. The reduction in rate pursuant to Section 59A-30-6.1 NMSA 1978 shall not apply in any case where any additional property not covered by the original policy or policies is included in the policy to be issued.

**C.** If two or more previous loan policies insuring different properties are presented to the title insurance agency or title insurer for a refinance discount pursuant to Section 59A-30-6.1 NMSA 1978, and provided that the new policy will contain the same properties as shown in said previous policies, the discount will be computed as follows: title insurance agency or title insurer shall base the discount on the date of issue of the oldest previous policy and upon a liability amount equal to the sum of the liability amounts of the previous policies. In no event shall the premium collected be less than the regular minimum promulgated rate for an owner’s policy.

**D.** This rule, may be applied in connection with the issuance of a series of mortgage policies issued by reason of noted being apportioned to individual units in connection with a master policy covering the aggregate indebtedness, including improvements. Individual loan policies must be issued at the original first loan single issue rate.

[13.14.9.39 NMAC – Rp, 13.14.9.39 NMAC, 1/1/2021]

#### **13.14.9.40 INSURING CONSTRUCTION LOANS AND DELETING STANDARD EXCEPTION 4 IN LOAN POLICIES:**

**A.** A loan policy may be issued to insure a construction loan mortgage if the loan policy contains the following two-year claims made limitation: “Notwithstanding any other provision of this policy, the company shall be liable only for such loss or damage insured against by this policy which is actually sustained by the insured and reported to the company as provided in the conditions and stipulations on or before two years after the recording of the mortgage described in Schedule A. (Upon payment to the company of the required full loan policy premium prior to the expiration of said policy, the term limitation may be deleted from this policy).”

**B.** A construction loan policy or a loan policy containing the two-year claims made limitations pursuant to Subsection A of this section may be extended beyond its initial two-year term for additional premium.

**C.** The issuance of a construction loan policy, or a standard loan policy with a two-year claims made limitation, may not be used as the basis for claiming a credit or discount on a refinanced property premium pursuant to Section 59A-30-6.1, NMSA 1978; a subsequent issue, or a substitution issue loan.

[13.14.9.40 NMAC – Rp, 13.14.9.40 NMAC, 1/1/2021]

**13.14.9.41 SINGLE POLICY MULTIPLE COUNTIES:** In the event a proposed insured requests that a single policy be issued insuring multiple New Mexico properties that may be located in more than one county, the amount of insurance shall be allocated to each county based upon a supported amount as provided in writing by the proposed insured. The premium shall be calculated as if a policy was being issued separately in each county and the aggregated gross premiums shall be combined to determine the gross premium for the single policy. A New Mexico title insurance agency or title insurer that maintains a title insurance agency or direct operation in one of the counties in which the property is located (“direct operation”) (collectively “issuing company”) must issue the policy and disburse, or direct the payee to disburse, the gross premium attributable to each county to the title insurance agency or direct operation in such county for such policy to be remitted to the title insurer in accordance with the division of premium rule in affect at the time of issuance. The policy schedules applicable to the land located in each county shall be countersigned by the title insurance agency or direct operation and provided to the issuing company. The issuing company shall provide each title insurance agency or direct operation with a complete copy of the final policy which shall be maintained in accordance with underwriter and regulatory requirements. Each title insurance agency or direct operation shall report the policy utilizing the combined policy number but only the gross premium it received attributable to the property within its county shall be reported. Issuance of a single policy shall not be used when the transaction involves property outside of New Mexico. This rule shall not be interpreted to allow a title insurer to issue what is commonly referred to as home office issued policies.

[13.14.9.41 NMAC – Rp, 13.14.9.41 NMAC, 1/1/2021]

#### **13.14.9.42 [RESERVED]**

[13.14.9.42 NMAC – N, 3/1/2016; A, 7/1/2018; Repealed 1/1/2021]

#### **HISTORY OF 13.14.9 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.**

13.14.9 NMAC- General Rate Provisions, filed 6/16/1986 was repealed and replaced by 13.14.9 NMAC – General Rate Provisions, 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 14.9, General Rate Provisions, effective 11/01/1996.

13 NMAC 14.9, General Rate Provisions (filed 10/2/1996), was renumbered, reformatted, amended and replaced by

13.14.9 NMAC, General Rate Provisions, effective 5/15/2000, amended effective 8/15/2014.

13.14.9 NMAC, General Rate Provisions, effective 8/15/2014, amended effective, 3/1/2016.

13.14.9 NMAC, General Rate Provisions, effective 3/1/2016, amended effective, 7/1/2018.