

TITLE 13 INSURANCE
CHAPTER 14 TITLE INSURANCE
PART 18 FORMS

13.14.18.1 ISSUING AGENCY: Office of Superintendent of Insurance (“OSI”).
[13.14.18.1 NMAC – Rp, 13.14.18.1 NMAC, 1/1/2021]

13.14.18.2 SCOPE: This rule applies to all title insurers, title agencies, and title insurance agents conducting title insurance business in New Mexico.
[13.14.18.2 NMAC – Rp, 13.14.18.2 NMAC, 1/1/2021]

13.14.18.3 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.
[13.14.18.3 NMAC – Rp, 13.14.18.3 NMAC, 1/1/2021]

13.14.18.4 DURATION: Permanent.
[13.14.18.4 NMAC – Rp, 13.14.18.4 NMAC, 1/1/2021]

13.14.18.5 EFFECTIVE DATE: January 1, 2021, unless a later date is cited at the end of a section.
[13.14.18.5 NMAC – Rp, 13.14.18.5 NMAC, 1/1/2021]

13.14.18.6 OBJECTIVE: The purpose of this rule is provide conditions and restrictions regarding the use of promulgated forms.
[13.14.18.6 NMAC – Rp, 13.14.18.6 NMAC, 1/1/2021]

13.14.18.7 DEFINITIONS: See 13.14.1 NMAC.
[13.14.18.7 NMAC – Rp, 13.14.18.7 NMAC, 1/1/2021]

13.14.18.8 PROMULGATED FORMS: For purposes of Section 59A-30-5 NMSA 1978, the superintendent shall promulgate title insurance forms by order after conducting a hearing pursuant to 13.1.5 NMAC or 13.1.6 NMAC, as the circumstances require. On his own motion, or at the request of an interested person, the superintendent may, at any time, conduct a hearing to consider whether to promulgate a new form, to revoke a previously promulgated form, or to modify a previously promulgated form.

- A.** A title insurer or title insurance agency shall not use any new promulgated form unless:
- (1) the superintendent promulgates a rate for the form, if the order promulgating the form states that a rate is required to issue the form;
 - (2) the superintendent has promulgated a rule for the form, if the order promulgating the form states that use of the form is contingent on promulgating a rule; and
 - (3) the title insurer has provided to its title insurance agencies underwriting guidelines, compliant with these rules, to govern the use of the form.
- B.** A title insurer or title insurance agency shall not use any modified or replacement form unless:
- (1) the superintendent determines that the existing rate and rule, if applicable, for the form applies to the modified or replacement form, or the superintendent has promulgated a new rate and rule, if applicable, for the modified or replacement form; and
 - (2) the title insurer has provided to its title insurance agencies underwriting guidelines, compliant with these rules, to govern the use of the form.
 - (3) A title insurer shall only issue forms that match in all substantive respects the promulgated forms authorized by these rules.

[13.14.18.8 NMAC – Rp, 13.14.18.8 NMAC, 1/1/2021]

13.14.18.9 ALTERATION OF FORMS PROHIBITED; EXCEPTIONS; AND LETTERS OF INTERPRETATION OR WAIVER THAT CHANGE THE TERMS, PROHIBITED:

A. No person, firm or organization may alter or otherwise change any title insurance form promulgated by the superintendent, or use any non-promulgated endorsement, whether by deletion or omission of terms, except:

(1) upon a determination by the superintendent following a hearing pursuant to 13.1.5 or 13.1.6 NMAC, as applicable, that the same be proper; or

(2) in a manner specifically authorized by these regulations.

B. Factual information required to identify and describe the risk being undertaken may be inserted in an authorized form. This includes, but is not limited to, information necessary to identify the insured, the insured's estate or interest of record, the property description, all matters of record affecting the insured's interest which are exceptions to the policy, all matters, facts and circumstances, whether or not shown by the public records, constituting a lien, claim, encumbrance, impairment or limitation upon the estate to be insured, whether arising by operation of law or by reason of no recorded information establishing the insured matters, the amount of liability of the policy and, in case of a commitment, any matter constituting a requirement prior to issuance of a policy, may be inserted in the proper places in the various forms, provided that other information necessary to complete each form is inserted in the form prior to its issuance.

C. Additions to language in the promulgated form, if required to correctly identify and describe the risk being undertaken may be inserted in an authorized form. Any such modification must be approved by:

(1) Legal counsel for the insured; or

(2) An authorized representative of the insured in a transaction that does not involve one to four family residential property.

D. Nothing in this rule shall prevent a title insurer from:

(1) adding blanks, spaces, labels or brief instructions to the promulgated forms; or

(2) from typesetting a promulgated form utilizing type styles, margins or paginations different from the promulgated forms; provided, however, that all language contained in each promulgated form must appear verbatim in each form, and further provided that nothing may be added to a promulgated title insurance form which changes any of the terms of such form except as specifically provided by these rules.

E. Nothing in these rules prohibits use of translated language other than English, provided, however, that any translated form shall contain the following language in bold-face type on the first page of the form in English and in the translated language: "This translation is provided as a convenience only. The English language version of this form shall control and shall be the operative document for all legal purposes."

F. The following language shall be added at the top of schedule A of all commitments and policies in a font not less than the font size of the remaining print of schedule A and be in bold italicized print "Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, and title insurance rule 13.14.18.9 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located, except as authorized by law."

G. No title insurer or title insurance agency shall issue, publish or circulate a letter, memorandum or other writing which directly or indirectly modifies or waives the terms or any part of the terms of any promulgated form, nor shall any such person agree to directly or indirectly do or not do anything, the effect of which is or would be to offer insurance coverages other than those in the promulgated title insurance forms, whether the same be more, less, substitute, alternative, negative or affirmative coverages or risks, except as specifically authorized by these rules; except that a title insurer shall waive, at no cost or charge to the insured, either by endorsement or language added to schedule B of the policy, the right to demand arbitration pursuant to the conditions and stipulations of title insurance policies issued in New Mexico. The endorsement or the language added to schedule B of the policy shall read: "The company hereby waives its right to demand arbitration pursuant to the title insurance arbitration rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the company and the insured."

[13.14.18.9 NMAC – Rp, 13.14.18.9 NMAC, 1/1/2021]

13.14.18.10 ADDITIONAL AFFIRMATIVE COVERAGES: In a commitment issued for a loan policy, but not with respect to any other type of commitment or policy:

A. The following language may be added to each covenant, deed, or other recorded restriction exception: "Violations of this restriction (or these restrictions), if any, and any future violation thereof shall not

cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in Schedule B. However, this policy insures that any violation of this restriction (or these restrictions) relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein.”

B. When protrusions, encroachments or overlaps into or upon easements, rights-of-way, adjacent property, the property to be insured, or building set-back lines (as described in restrictive covenants or plats filed of record) are revealed by a survey, the following paragraph may be added as a separate specific exception: “Encroachment (protrusion or overlap) of the improvements over (on, onto, in, into or upon) the (here describe the easement, right-of-way, adjacent property, the land to be insured, or building set-back line) as shown on a survey prepared by _____ dated _____. This policy insures against loss or damage as defined in this policy by reason of the entry of any final decree entered in a court of competent jurisdiction and of last resort ordering the removal of said improvements presently situate on the land which constitute the (protrusion, overlap or encroachment).” This affirmative coverage language may also be inserted into the NM form 61. [13.14.18.10 NMAC – Rp, 13.14.18.10 NMAC, 1/1/2021]

13.14.18.11 PRINTING OF FORMS: Each title insurance form shall contain the headings and form designations included on the promulgated form. [13.14.18.11 NMAC – Rp, 13.14.18.12 NMAC, 1/1/2021]

13.14.18.12 [RESERVED]
[13.14.18.12 NMAC – Rp, 13.14.18.12 NMAC, 3/1/2016; Repealed 1/1/2021]

13.14.18.13 [RESERVED]
[13.14.18.13 NMAC - Rp, 13.14.18.13 NMAC, 3/1/2016; A, 7/1/2018; Repealed 1/1/2021]

HISTORY OF 13.14.18 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.

13.14.18 NMAC, Forms, filed 5/9/1986 - Repealed effective 3/1/2016 and replaced with 13.14.18 NMAC, Forms, effective 3/1/2016.

Other History.

Re-promulgated portions of SCC-86-1, Insurance Department Regulation 30 - Title Insurance (filed 5/9/1986), was renumbered, reformatted, amended and replaced as 13 NMAC 14.2, Forms Provisions; 13 NMAC 14.2.A, Miscellaneous Forms; 13 NMAC 14.6.A, NM Form 1, Owner’s Policy; 13 NMAC 14.6.B, NM Form 4, Leasehold Owner’s Policy; 13 NMAC 14.6.C, NM Form 7, US Policy, ALTA 1963; 13 NMAC 14.6.D, NM Form 34, US Policy, ALTA 1991; 13 NMAC 14.7.A, NM Form 2, Loan Policy; 13 NMAC 14.7.B, NM Form 3, Construction Loan Policy; 13 NMAC 14.7.C, NM Form 5, Leasehold Loan Policy; 13 NMAC 14.7.D, NM Form 36, Limited Title Search Policy; 13 NMAC 14.7.E, NM Form 41, Foreclosure Guarantee Policy; 13 NMAC 14.7.F, NM Form 45, Residential Limited Coverage Junior Loan Policy; 13 NMAC 14.8.A, Endorsement Forms; effective 11/01/1996. 13 NMAC 14.2, Forms Provisions (filed 10/2/1996); 13 NMAC 14.2.A, Miscellaneous Forms (filed 10/2/1996); 13 NMAC 14.6.A, NM Form 1, Owner’s Policy (filed 10/2/1996); 13 NMAC 14.6.B, NM Form 4, Leasehold Owner’s Policy (filed 10/2/1996); 13 NMAC 14.6.C, NM Form 7, US Policy, ALTA 1963 (filed 10/2/1996); 13 NMAC 14.6.D, NM Form 34, US Policy, ALTA 1991 (filed 10/2/1996); 13 NMAC 14.7.A, NM Form 2, Loan Policy (filed 10/2/1996); 13 NMAC 14.7.B, NM Form 3, Construction Loan Policy (filed 10/2/1996); 13 NMAC 14.7.C, NM Form 5, Leasehold Loan Policy (filed 10/2/1996); 13 NMAC 14.7.D, NM Form 36, Limited Title Search Policy (filed 10/2/1996); 13 NMAC 14.7.E, NM Form 41, Foreclosure Guarantee Policy (filed 10/2/1996); 13 NMAC 14.7.F, NM Form 45, Residential Limited Coverage Junior Loan Policy (filed 10/2/1996); and 13 NMAC 14.8.A, Endorsement Forms (filed 10/2/1996) were all renumbered, reformatted, amended and replaced by 13.14.18 NMAC, Forms, effective 5/15/2000, amended effective 7/31/2014.

13.14.18 NMAC, Forms, filed 3/1/2016, was repealed and replaced by 13.14.18 NMAC, Forms, effective 1/1/2021.