

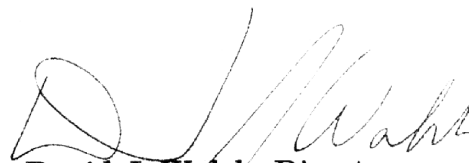
**TITLE INSURANCE RATES  
AMENDMENT TO ORDER NO. R92-14**

On January 1, 1993, Order R92-14 took effect and disapproved previously in force rate schedules. New rate schedules had been filed, approved and are now in force. Substantial question has been presented concerning the disapproval of the Subdivider's rate. On February 3, 1993, a meeting will be held at the Z.J. Loussac Library Conference Room, 3600 Denali Street, Anchorage, Alaska from 2:00 p.m. to 7:00 p.m. to discuss that rate. This discussion will seek appropriate kinds of support of the risk and expense portions of the rate for that area of title insurance. **In the meantime, the effective date for the Subdivision rate items D, I, and J under Order No. R92-14 is amended from January 1, 1993 until April 1, 1993.**

**Additionally, Section N is amended to read as follows, "A discounted policy rate for any policy following a foreclosure, trustee sale or deed in lieu of foreclosure rate is unsupported and no discounts shall apply."**

This amendment is effective immediately.

DATED this 11th day of January, 1993.

  
David J. Walsh, Director  
Division of Insurance

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# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

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### TITLE INSURANCE RATES ORDER NO. R92-14

The Director of Insurance does hereby find as follows:

#### Background

1. In late fall 1991, the Division of Insurance completed a series of examinations of title insurance agents in the Anchorage recording district. The examinations were designed to test compliance with Alaska Statutes governing rates, escrow charges and rebates. Compliance with previously issued Order 81-3 was also tested.
2. The examinations revealed a number of issues which were addressed individually as recommendations in the various exam reports. The nature of the marketplace, however, is such that individual implementation of the recommendations could result in a competitive disadvantage. It was felt that a uniform application of the recommendations to all title business was the only reasonable method of implementation. An industry title ad hoc working group was formed. In its initial meeting, a concern over the rating schedule was addressed. A preliminary conclusion was that the division needed to address the rate schedule since there were antitrust concerns by the industry ad hoc group if they attempted any such work.
3. In March 1992, a Notice of Public Hearing was published proposing a regulatory hearing to disapprove title rate schedules. The hearing was held on April 27, 1992 and October 30, 1992 at the Z.J. Loussac Library in Anchorage, Alaska.

#### Unsupported Rates

4. A review of all title insurers rates revealed numerous discounts that were unsupported and, in some cases, do not reflect the insurers' financial risk. The discounted rates on file had no statistical plan, experience rating factors or any other data reasonably supporting why the discount was appropriate. In many cases, the discount did not adequately reflect the risk or expense of producing the title project.

#### Charge for Services

5. On June 25, 1981, the director issued Order 81-3. In that order, it was affirmed that the title plant is required of a title insurer or its agent. It represents a substantial investment in its initial creation and in its maintenance. It exists to facilitate the examination of title for the purpose of insuring title. This fact led to Sections B and C of that order which read:

"B. Any class of service including, but not limited to, issuance of title insurance policies, preliminary reports, property profiles, listing packages, or packets, delivered or provided in this state by a title insurance company or title insurance agent, which relies in whole or in part upon documents contained

in the title plant or the public record, must bear a charge commensurate with the cost of delivering or providing that class of service."

"C. A charge required under "B" of this order may not be waived, except that a preliminary report need not be charged if it is replaced by a title policy."

6. Order 81-3, however, did not address the issue of timing on billings for title plant based activities. The division's examiners have found situations where the billing of a preliminary commitment for title insurance:
  - o was delayed for substantial periods of time because the transfer of property was delayed;
  - o was delayed or did not occur because the deal fell through with the proposed buyer;
  - o did not occur even when the order was placed elsewhere or canceled;
  - o did not occur for reasons which were not detected; or
  - o did not occur because of a change to another order.
7. Part of the problem was the vagueness of timing of a billing collection, and application of charges associated with access to the title plant noted in Order 81-3 B and C.

#### **Conclusion**

8. Rate schedules must be reduced to items that can be supported in accordance with AS 21.66.380 and AS 21.66.390.
9. Order 81-3 B and C must be reinforced to assure compliance. Additional language developed to clarify cancellation procedures involved in Order 81-3 B and C.

#### **The Director of Insurance hereby orders:**

- A. Section B of Order R92-1 issued on May 4, 1992 is reaffirmed as follows.

A class of service delivered or provided in this state by a title insurance company or title insurance agent which relies in whole or in part upon documents contained in the title plant or public record, shall bear a charge commensurate with the cost of delivering or providing that class of service. A class of service does not include property profiles, listing packages, or copies of individual documents and maps, on a single property. The charge shall be billed when the service is provided. The charge shall be collected within 30 days of the first billing. The charge for service may be credited to the subsequent issue of a title insurance policy in accordance with the underwriter's filed rate schedule. Delayed payment or nonpayment of premium due for a class of service as noted above may be viewed as a rebate or inducement under AS 21.66.310.

- B. Item D of Order 81-3 is reaffirmed as follows:

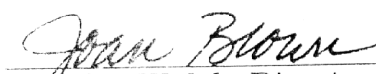
A short-term rate may only be offered on an owner's or leasehold policy that has been issued by a title insurance company within 24 months of placing of

the current title order. The amount charged may not be less than 80% of the otherwise applicable charge unless the title insurer can provide factual support for a lesser charge on that class of business.

- C. A discounted rate for lenders reorganization is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- D. A discounted rate for builders and/or subdividers is unsupported and appears to be unfairly discriminatory, therefore, a discount other than that permitted in (B) of this order.
- E. A discounted rate for a sale with a binder to insure a sale is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- F. A discounted rate for government contracts is unsupported and appears to be unfairly discriminatory as provided in AS 21.36 and AS 21.66. A discount other than that permitted in (B) of this order is not permitted.
- G. A discounted rate for a conversion of an insured leasehold estate to title fee is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- H. A discounted rate for a binder is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- I. A discounted rate for a subdivision is unsupported and appears to be unfairly discriminatory as provided in AS 21.36 and AS 21.66. A discount other than that permitted in (B) of this order is not permitted.
- J. A discounted rate for an interim construction or development loan is unsupported and appears to be unfairly discriminatory as provided in AS 21.36 and AS 21.66. Therefore, a discount other than that permitted in (B) of this order is not permitted.
- K. A discounted rate for a policy ensuring a vendee or optionee subsequent policy (Section B) is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- L. A discounted rate for an owners policy insuring a vendee or optionee subsequent policy (Section B) is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- M. An employee rate is a rebate, is unsupported, and appears to be unfairly discriminatory as provided in AS 21.36 and AS 21.66. A discount other than that permitted in (B) of this order is not permitted.
- N. A discounted policy rate for any policy following a foreclosure, trustees sale or deed in lieu of foreclosure rate is unsupported and a discount other than that permitted in (B) of this order is not permitted.
- O. A discounted rate for refinance is unsupported and a discount other than that permitted in (B) of this order is not permitted.

- P. (1) Each order for title insurance which results in the issuance of a form of title evidence is subject to an immediate billing for the amount of insurance ordered or the cancellation charge on file for the underwriting title insurer.
- (2) If the order for insurance does not result in the issuance of a policy within 12 months, is cancelled, or is replaced with a subsequent order, the initial order is subject to the billing and collection of the filed cancellation charge.
- (3) If an order subject to a filed cancellation charge in P.(2) is replaced with a title insurance policy within 12 months of the date ordered, the full amount of the charge for the initial order shall be credited to the charge for the resultant policy.
- (4) If an order subject to a filed cancellation charge in P.(2) is replaced with a subsequent title insurance order on the same property within 12 months of the date of the initial order, the full amount of the charge for the initial order may be credited to the charge for the subsequent order.
- (5) If an order subject to a filed cancellation charge in P.(2) is replaced with a title insurance policy after 12 months but within 24 months of the date ordered, not more than 50% of the cancellation charge for the initial order may be credited to the charge for the resultant policy.
- (6) If an order subject to a filed cancellation charge in P.(2) is replaced with a subsequent title insurance order on the same property after 12 months of the date of the initial order but within 24 months of the date of the initial order, not more than 50% of the cancellation charge for the initial order may be credited to the charge for the subsequent order.
- (7) In no event may the cancellation charge or part of a cancellation charge for an order subject to a filed cancellation charge in P.(2) be credited to the issuance of a title insurance policy or subsequent title insurance order after 24 months from the date of the initial order.
- Q. All currently filed and approved rate schedules remain approved to the extent not inconsistent with this order.
- R. This order takes effect on January 1, 1993.

DATED this 17<sup>th</sup> day of December, 1992

  
for David J. Walsh, Director  
Division of Insurance