

President
Rodney Anderson



Executive Vice President & CEO
Leslie Midgley, CAE

November 14, 2023

The Honorable Cassie Brown
Commissioner of Insurance
Texas Department of Insurance
Mail Code COI
P.O. Box 12030
Austin, TX 78711-2030

Jessica Barta
General Counsel
Texas Department of Insurance
Mail Code GC
P.O. Box 12030
Austin, TX 78711-2030

Re: Comments on Proposed Changes to the Title Insurance Basic Manual Docket no. 2841

Dear Commissioner Brown and Ms. Barta:

Please accept the following comments on the Petition filed on September 1, 2023 by the Texas Land Title Association (TLTA) which TDI has assigned Docket Number 2841 and which will be heard on November 15, 2023. TLTA is a statewide trade association that represents the Texas title insurance industry and serves over 16,000 professionals. Its membership comprises over 80 percent of all title insurance agents and underwriters licensed to do business in Texas. Our comments will address Agenda Items Exhibit 8, Exhibit 10, Exhibit 12, Exhibit 14, Exhibit 15, Exhibit 17, Exhibit 19, and Exhibit 20.

We have identified a needed clarification in Agenda Item Exhibit 8 updating the Insured Closing Service Letter (“ICL”, T-50). Section number 10 requires further clarification to establish the exact event that triggers the time period within which to submit an ICL claim. TLTA suggests adding language that a claim must be received within two years from the “date of the transmittal of Funds” versus simply saying “within two years of Funds.” TLTA requests that the submitted Agenda Item Exhibit 8 be replaced by the new Exhibit 8 attached to this comment letter as **Exhibit A**.

Additionally, in discussions with TDI staff, the question was asked: Instead of repealing the current T-54 Severable Improvements Endorsement and replacing it with the new series, would it be preferable to retain this endorsement for projects where such coverage is desired but does not fit into the categories accommodated by the proposed Energy Endorsement series? This observation is duly noted and TLTA agrees.

TLTA requests that the submitted Agenda Item Exhibit 10 be replaced by the new Exhibit 10 attached to this comment letter as **Exhibit B**. The existing T-54 has remained unamended and now includes a rate consistent with the originally proposed T-54 series. The new endorsements have been renumbered and include T-55, T-55.1, T-55.2, T-55.3, T-55.4, and T-55.5. These were originally numbered in the proposal to include T-56 and T-57, but these form numbers are already utilized elsewhere. The existing P-72 language is incorporated into the amended P-72.

Regarding Exhibit 12, in the section amending R-16, there is redundant language inadvertently left in the exhibit. In the submitted R-16, Subsection B. (3.) should be omitted. Please replace our original proposal with the attached **Exhibit C** where the unnecessary language is omitted with a double strike through.

Please find, as **Exhibit D** to these comments, a new Exhibit 14 which contains additional language that is a direct result of conversations between TLTA and TDI staff. In those conversations, TDI staff suggested, and TLTA agrees, that an explanation on why section (2) (b) is “Intentionally Deleted” is warranted. To that end, we suggest the following language: “This section is intentionally deleted because of an Amendment to the Texas Constitution.” This additional clarification will help avoid consumer confusion and preemptively answer anticipated questions about the deleted item.

In discussion with TDI staff, regarding Exhibit 15, staff recommended that when signatures are not required for endorsements that the endorsement should be attached to the policy. TLTA agreed and widened the discussion of the rule within the TLTA membership. This discussion resulted in members raising concerns about some potential confusion resulting from the proposed rule change. In the abundance of caution and in order to allow for continued discussion and revision, TLTA withdraws Agenda Item Exhibit 15.

TLTA withdraws Agenda Item Exhibit 17 from the 2023 rulemaking agenda in recognition that TDI has proposed Agenda items as a part of this rulemaking which accomplishes the goal of this item. In TLTA’s discussions with TDI staff, staff recommended making the relevant forms a Declaration instead of simply dropping the currently required notarization. TLTA agrees with this approach.

After Exhibit 19 was filed it was determined that the effort to incorporate plain language into the section dealing with proposed changes to R-5 (F.) materially changed the meaning from the prior informally submitted and discussed version of this Agenda Item. At a minimum, the language invited potential confusion about the proper interpretation. Therefore, TLTA requests that the Department replace the Exhibit 19 submitted with the petition entirely with the attached new Exhibit 19, attached as **Exhibit E** to this comment letter. This is the exhibit originally presented as part of the rulemaking process.



Finally, TLTA withdraws Agenda Item Exhibit 20. This item is duplicative of an Agenda Item Exhibit 21 proposed by the Department which amends Internal Control No. 5 to allow for electronic signatures on escrow checks. TLTA agrees with the Department's proposed item currently Exhibit 21.

TLTA appreciates your consideration of these comments containing amendments to our previously submitted petition.

Sincerely,



Roland Love
Chair, TLTA Regulatory Committee



Aaron Day
TLTA Director of Government Affairs &
Counsel

Exhibit A

**TLTA PROPOSED
RULE CHANGES
EXHIBIT 8
FORM T-50**

CITATION

Section V, FORM T-50: INSURED CLOSING SERVICE of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas.*

ISSUE AND JUSTIFICATION

The American Land Title Association (ALTA) has recently made significant revisions to its model Closing Protection Letter, the national equivalent to Form T-50. TLTA recommends revising Form T-50 to adopt appropriate revisions made to the ALTA Insured Closing Service Letter to maintain consistency as much as possible with the rest of the country. For example, Form T-50 currently does not include important exclusions for computer related fraud. These exclusions are, however, now included in the American Land Title Association (ALTA) Insured Closing Service Letter. The proposed language incorporates many, but not all the changes adopted by ALTA.

Presented language includes the phrase "Your loss is solely caused by..." The ICL is not a policy of insurance nor a guarantee or warranty and is only intended to cover the actions of the Title Company's appointed Title Agent. The change clarifies that the actions or omissions of third parties with which Title Companies have no relationship or over which they have no control are not part of any ICL coverage.

The ALTA forms committee as part of the process provided drafts and an opportunity for comment to Fannie Mae, Freddie Mac, Federal Housing Administration (FHA), the U.S. Department of Housing and Urban Development (HUD), the largest national banks (such as Wells Fargo, Bank of America) and other lenders, the American college of Mortgage Attorneys, The American College of Real Estate Attorneys and any other parties who may have expressed an interest. After reviews and comments, the form was adopted by the board of the ALTA. At such time an additional 30 day period was provided for anyone who may have had additional comments. The proposed form incorporates changes that were vetted by the numerous parties who would be affected by such changes

Note, this exhibit has been amended and subsequently presented as part of a comment letter to the Texas Department Insurance.

PROPOSED REVISIONS

INSURED CLOSING SERVICE LETTER (T-50) BLANK TITLE INSURANCE COMPANY

Name and Address of Addressee:

Date:

Texas Title Insurance Agent (hereafter, "Issuing Agent"): [Issuing Agent appears here.]

Transaction (the "Real Estate Transaction"):

[Includes GF No., Property, and Borrower's Name]

Re: Insured Closing Service

Dear

In consideration of your acceptance of this letter, Blank Title Insurance Company (the "Company"), agrees to indemnify You for actual loss of Funds incurred by You in connection with the closing of the Real Estate Transaction conducted by the Issuing Agent on or after the date of this letter, subject to the Requirements, Conditions and Exclusions set forth below:

REQUIREMENTS

1. The Company issues or is contractually obligated to issue a Policy for Your protection in connection with the closing of the Real Estate Transaction.
2. You are to be a lender secured by the insured mortgage.
3. Your loss is solely caused by:
 - a. A failure of the Issuing Agent to comply with Your written closing instructions that relate to:
 - i. the disbursement of Funds necessary to establish the status of the Title to the land or the validity, enforceability, or priority of the lien of the Insured Mortgage; or
 - ii. the obtaining of any document, specifically required by You, but only to the extent that the failure to obtain the document adversely affects the status of the Title to the Land or the validity, enforceability, or priority of the lien of the

Insured Mortgage.

- b. Fraud, theft, or dishonesty, or misappropriation of the Issuing Agent in handling Your funds or documents in connection with the closing, but only to the extent that the fraud, theft, dishonesty, or misappropriation adversely affects the status of the Title to the Land or to the validity, enforceability, or priority of the lien of the Insured Mortgage.

CONDITIONS AND EXCLUSIONS

- 1. Your transmittal of Funds or documents to the Issuing Agent for the Real Estate Transaction constitutes Your acceptance of this letter.
- 2. For purposes of this letter:
 - a. "Commitment" means the Company's written contractual agreement to Issue the Policy.
 - b. "Funds" means the money received by the Issuing Agent for the Real Estate Transaction.
 - c. "Policy" or "Policies" means the contract or contracts of title insurance, each in a form adopted for use in the State of Texas, issued or to be issued by the Company in connection with the closing of the Real Estate Transaction.
 - d. "You" or "Your" means: the Addressee of this letter; subject to all rights and defenses relating to a claim under this letter that the Company would have against the Addressee, and:
 - i. the assignee of the Insured Mortgage, provided such assignment was for value and the assignee was, at the time of the of the assignment, without Knowledge of facts that reveal a claim under this letter; and
 - ii. the warehouse lender in connection with the Insured Mortgage.
 - e. "Indebtedness," "Insured Mortgage," "Knowledge" or "Known,"

"Land," and "Title" have the same meaning given them in the Loan Policy of Title Insurance (Form T-2).

3. The Company shall have no liability under this insured closing service letter for any loss arising from any:
 - a. failure of the Issuing Agent to comply with Your closing instructions that require title insurance protection inconsistent with that set forth in the Commitment. Your written closing instructions received and accepted by the Issuing Agent after issuing the Commitment that require the removal, where allowed by state law, rule, or regulation, of specific Schedule B Exceptions from Coverage or compliance with the requirements contained in the Commitment shall not be deemed to require inconsistent title insurance protection;
 - b. Loss or impairment of Your funds in the course of collection or while on deposit with a bank due to bank failure, insolvency or suspension, except loss or impairment resulting from failure of the Issuing Agent to comply with Your written closing instructions to deposit the Funds in a bank that You designated by name;
 - c. Any constitutional or statutory lien or claim of lien that arises from services, labor, materials, or equipment, if any Funds are to be used for the purpose of construction, alteration, or renovation. This Section 3.c does not affect the coverage, if any, as to any lien for services, labor, materials, or equipment afforded in the Policy;
 - d. Defect, lien, encumbrance, or other matter in connection with the Real Estate Transaction. This Section 3.d does not affect the coverage afforded in the Policy;
 - e. Fraud, theft, misappropriation, dishonesty or negligence by You or Your employee, agent, attorney or broker;
 - f. Fraud, theft, dishonesty, or misappropriation by anyone other than the Company or Issuing Agent;
 - g. Your settlement or release of any claim by You without the Company's written consent;

- h. Any matters created, suffered, assumed or agreed to or known by You.
 - i. Failure of the Issuing Agent to determine the validity, enforceability, or the effectiveness of a document required by Your closing instructions. This Section 3.i does not affect the coverage afforded in the Policy;
 - j. Federal consumer financial law, as defined in 12 U.S.C. §5481 (14), actions under 12 U.S.C. §5531, or other federal or state laws relating to truth-in-lending, a borrower's ability to repay a loan, qualified mortgages, consumer protection, or predatory lending, including any failure of the Issuing Agent to comply with Your closing instructions relating to those laws;
 - k. Federal or state laws establishing the standards or requirements for asset-backed securitization including, but not limited to, exemption from credit risk retention, including any failure of the Issuing Agent to comply with Your closing instructions relating to those laws;
 - l. The periodic disbursement of Funds to pay for construction, alteration, or renovation on the Land relating to the Real Estate Transaction; or
 - m. The Issuing Agent acting in the capacity of a qualified intermediary or facilitator for tax deferred exchange transactions as provided in Section 1031 of the Internal Revenue Code; or
 - n. Wire fraud, mail fraud, telephone fraud, facsimile fraud, unauthorized access to a computer, network, email, or document production system, business email compromise, identity theft, or diversion of Funds to a person or account not entitled to receive the Funds perpetrated by anyone other than the Company of Issuing Agent.
4. If the closing is to be conducted by the Issuing Agent, a Commitment in connection with the Real Estate Transaction must have been received by You prior to the transmittal of Your final closing instructions to the Issuing Agent.

5. When the Company shall have indemnified You pursuant to this letter, it shall be subrogated to all rights and remedies You have against any person or property had You not been indemnified. The Company's liability for indemnification shall be reduced to the extent that You have impaired the value of this right of subrogation.
6. The Company's liability for loss under this letter shall not exceed the least of:
 - a. the amount of Your Funds;
 - b. the Company's liability under the Policy at the time written notice of a claim is made under this letter;
 - c. the value of the lien of the Insured Mortgage;
 - d. the value of the Title to the Land insured or to be insured under the Policy at the time written notice of a claim is made under this letter;
or
7. The Company will be liable only to the holder of the Indebtedness at the time that payment is made.
8. Payment to You or to the owner of the Indebtedness under either the Policy or Policies or from any other source shall reduce liability under this letter by the same amount. Payment in accordance with the terms of this letter shall constitute a payment pursuant to the Conditions of the Policy.
9. The Issuing Agent is the Company's agent only for the limited purpose of issuing Policies. The Issuing Agent is not the Company's agent for the purpose of providing other closing or settlement services. The Company's liability for Your loss arising from closing or settlement services is strictly limited to the contractual protection expressly provided in this letter. Other than as expressly provided in this letter, the Company shall have no liability for loss resulting from the fraud, theft, dishonesty, misappropriation, or negligence of any party to the Real Estate Transaction, the lack of creditworthiness of any borrower connected with the Real Estate Transaction, the failure of any collateral to adequately secure a loan connected with the Real Estate Transaction, or the failure of

any collateral to adequately secure a loan connected with the Real Estate Transaction.

10. In no event shall the Company be liable for a loss if the written notice of a claim is not received by the Company within two years from the date of the transmittal of Funds. The condition that the Company must be provided with written notice under this provision shall not be excused by lack of prejudice to the Company;
11. You must promptly send written notice of a claim under this letter to the Company at its principal office at _____ If the Company is prejudiced by Your failure to provide prompt notice, the Company's liability to You under this letter shall be reduced to the extent of the prejudice.
12. Whenever requested by the Company, You, at the Company's expense, shall:
 - a. give the Company all reasonable aid in:
 - i. securing evidence, obtaining witnesses, prosecuting, or defending any action or proceeding, or effecting any settlement; and
 - ii. any other lawful act that in the opinion of the Company may be necessary to enable the Company's investigation and determination of its liability under this letter;
 - b. deliver to the Company any records, in whatever medium maintained, that pertain to the Real Estate Transaction or any claim under this letter; and
 - c. submit to an examination under oath by any authorized representative of the Company with respect to any such records, the Real Estate Transaction, any claim under this letter or any other matter reasonably deemed relevant by the Company.
13. The Company shall have no liability under this letter if:
 - a. the Real Estate Transaction has not closed within one year from the

date of this letter; or

b. at any time after the date of this letter, but before the Real Estate Transaction closes, the Company provides written notice of termination of this letter to the Addressee at the address set forth above.

14. The protection of this letter extends only to real estate in Texas, and any court or arbitrator shall apply the law of the jurisdiction where the Land is located to interpret and enforce the terms of this letter. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law. Any litigation or other proceeding under this letter must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.
15. There shall be no right for any claim under this letter to be arbitrated or litigated on a class action basis.
16. Either the Company or You may demand that any claim arising under this letter be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association, unless You have a Policy for the Real Estate Transaction with an Amount of Insurance greater than \$2,000,000. There shall be no right for any claim under this letter to be arbitrated or litigated on a class action basis. If You have a Policy for the Real Estate Transaction with an Amount of Insurance greater than \$2,000,000, a claim arising under this letter may be submitted to arbitration only when agreed to by both the Company and You.

This closing protection letter supersedes and cancels any previous letter or similar agreement for closing protection that applies to the Real Estate Transaction.

BLANK TITLE INSURANCE COMPANY BY:

Authorized Signatory

INSURED CLOSING SERVICE (T-50) BLANK TITLE INSURANCE COMPANY

Name and Address of Addressee: Date:

Name of Issuing Agent (hereafter, "Issuing Agent"):

[Identity of Issuing Agent appears here.] Re: Insured Closing Service

Dear

~~Blank Title Insurance Company (the "Company") agrees, subject to the Conditions and Exclusions set forth below, to reimburse you for actual loss incurred by you in connection with closings of real estate transactions conducted by the Issuing Agent, provided:~~

~~—— (A) title insurance of the Company is specified for your protection in connection with the closing;~~

~~—— (B) you are to be the lender secured by a mortgage (including any other security instrument) of an interest in land, its assignees or a warehouse lender; and~~

~~—— (C) provided the loss arises out of:~~

~~————— 1. Failure of the Issuing Agent to comply with your written closing instructions to the extent that they relate to (a) the status of the title to that interest in land or the validity, enforceability and priority of the lien of the mortgage on that interest in land, including the obtaining of documents and the disbursement of funds necessary to establish the status of title or lien, or (b) the obtaining of any other document, specifically required by you, but only to the extent the failure to obtain the other document affects the status of the title to that interest in land or the validity, enforceability and priority of the lien of the mortgage on that interest in land, and not to the extent that your instructions require a determination of the validity, enforceability or the effectiveness of the other document, or~~

~~————— 2. Fraud or dishonesty of the Issuing Agent in handling your funds or documents in connection with the closings to the extent that fraud or dishonesty relate to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land. If you are a lender protected under the foregoing paragraph, your assignee and your warehouse lender in connection with a loan secured by a mortgage shall be protected as if this letter were addressed to them.~~

~~Conditions and Exclusions~~

~~1. The Company will not be liable to you for loss arising out of:~~

~~A. failure of the Issuing Agent to comply with your closing instructions which require title insurance protection inconsistent with that set forth in the title insurance binder or commitment issued by the Company. Instructions which~~

require the removal of specific exceptions to title or compliance with the requirements contained in the binder or commitment shall not be deemed to be inconsistent.

~~B. Loss or impairment of your funds in the course of collection or while on deposit with a bank due to bank failure, insolvency or suspension, except as shall result from failure of the Issuing Agent to comply with your written closing instructions to deposit the funds in a bank which you designated by name.~~

~~C. Defects, liens, encumbrances or other matters in connection with your loan transactions except to the extent that protection against those defects, liens, encumbrances or other matters is afforded by a policy of title insurance not inconsistent with your closing instructions.~~

~~D. Fraud, dishonesty or negligence of your employee, agent, attorney or broker.~~

~~E. Your settlement or release of any claim without the written consent of the Company.~~

~~_____ F. Any matters created, suffered, assumed or agreed to by you or known to you.~~

~~_____ 2. When the Company shall have reimbursed you pursuant to this letter, it shall be subrogated to all rights and remedies which you would have had against any person or property had you not been so reimbursed. Liability of the Company for reimbursement shall be reduced to the extent that you have knowingly and voluntarily impaired the value of this right of subrogation.~~

~~_____ 3. The Issuing Agent is the Company's agent only for the limited purpose of issuing title insurance policies. The Issuing Agent is not the Company's agent for the purpose of providing other closing or settlement services. The Company's liability for your losses arising from those other closing or settlement services is strictly limited to the protection expressly provided in this letter. Any liability of the Company for loss~~

~~does not include liability for loss resulting from the negligence, fraud or bad faith of any party to a real estate transaction other than an Issuing Agent, the lack of creditworthiness of any borrower connected with a real estate transaction, or the failure of any collateral to adequately secure a loan connected with a real estate transaction.~~

~~However, this letter does not affect the Company's liability with respect to its title insurance binders, commitments or policies.~~

~~_____ 4. Either the Company or you may demand that any claim arising under this letter be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association, unless you have a policy of title insurance for the~~

~~applicable transaction with an Amount of Insurance greater than \$2,000,000. If you have a policy of title insurance for the applicable transaction with an Amount of Insurance greater than \$2,000,000, a claim arising under this letter may be submitted to arbitration only when agreed to by both the Company and you.~~

~~— 5. You must promptly send written notice of a claim under this letter to the Company at its principal office at _____. The Company is not liable for a loss if the written notice is not received within two years from the date of the closing.~~

~~— 6. The protection herein offered extends only to real property transactions in Texas.~~

~~Any previous closing protection letter or similar agreement is hereby cancelled, except for closings of your real estate transactions for which you have previously sent (or within 30 days hereafter send) written closing instructions to the Issuing Agent.~~

~~BLANK TITLE INSURANCE COMPANY~~

~~By: _____~~

Exhibit B

TLTA
PROPOSED RULE CHANGES
EXHIBIT 10
FORMS T-54,T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5
RATE RULE R-37
PROCEDURAL RULE P-72

CITATION

Section II, Insuring Forms, Form T-54: Severable Improvements Endorsement of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

Section III, Rate Rule, R-37: Premium for Energy Project Endorsements (T-54, T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5) of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

Section IV, Procedural Rules, P-72: Energy Project Endorsements (T-54, T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5) of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

ISSUE AND JUSTIFICATION

Currently, *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas* does not include a promulgated rate for Form T-54. Since the Commissioner of Insurance adopted Form T-54, the American Land Title Association (ALTA) has created more specific and transaction tailored endorsements to address the energy project scenarios Form T-54 was originally envisioned to cover. The marketplace and technology have become increasingly sophisticated, and consumers that utilize these coverages have requested the same in Texas as available in other states.

The Texas Land Title Association (TLTA) suggests keeping Form T-54 but adding the six ALTA endorsements. Additionally, TLTA suggests adopting a corresponding Rate Rule for each endorsement. TLTA recommends a rate of 5% of the premium for each endorsement, based on comparable coverages with higher rates in other states.

The existing T-54 should be maintained despite the creation of new more energy project specific endorsements due to its remaining value as an option for certain consumers. The severable improvement endorsement has applications for projects such as call and data centers, carbon adsorption plants, and refineries that still require the location of very intensive and expensive equipment with high associated relocation costs.

The new proposed endorsements provide additional coverages to all parties to

energy transactions. Energy projects take up large swaths of land. Developers, tenants and owners need to access and use all of the parcels to properly construct, operate, maintain and repair an electrical facility. A loss or damage to one parcel impacts the value of the whole. These endorsements address this concern by valuing title as an integrated project when determining loss. Additionally, under paragraph 5 of these endorsements additional items of loss are covered including rent and easement payments, fair market value of leaseholds or easements, damages from breach of leases or easements, costs for rezoning, obtaining government permits, architectural and engineering services, environmental testing as well as others listed. The endorsements provide coverage for the greater value of the constructed projects versus a simple valuation of the salvage value of the severable improvements. The endorsements further provide coverage for the facility as a whole, as opposed to just components if there is a title loss or other interference.

The proposed rate is justified by the costs and risks associated with their issuance. There are significant and costly additional examination and closing efforts required to produce these endorsements. A full sovereignty search must be performed from patent forward to find all mineral severances, conveyances and leases and other instruments which affect the mineral interests. All of the mineral interests then need to be fully abstracted to obtain the current outstanding interests and parties. Then all of those instruments need to be reviewed/examined to determine what rights the mineral holder has in and to the land, have there been surface waivers, are there surface use agreements, are there pooling or unitization agreements, etc.

Often, it will be necessary for the abstractor to go to the local courthouses to do this type of search if the agent's plant is not a sovereignty plant or if their records are not as complete or legible. Most times this type of mineral research will involve the retention of land men to complete the research as they are more skilled in these types of mineral searches. The landman's reports will then need to be reviewed/examined to determine the outstanding mineral interests.

In a normal transaction under the rules, the title company is authorized to merely take the broad mineral exception and does not have to deal with these issues. In most instances of underwriting these endorsements, an oil and gas production report will be necessary to determine if various oil and gas leases are still active, as most leases have a provision that the lease continues in effect as long as there is production. These types of searches generally involve a third-party research group that does their research at the Texas Railroad Commission. Those reports then need to be reviewed and examined to determine the status of oil and gas leases and production on the land.

Surface waivers and surface use agreements, as well as other instruments, affect the ability of the energy surface user's rights to use the land. All of those documents must be reviewed and examined to determine if they will impact the surface use by the

energy company and if the title insurer can provide the coverages being requested. Additionally, a geological analysis is often performed by a third-party service to determine the likelihood of potential future production. These reports also need to be reviewed and examined to determine if coverages may be provided.

As noted, energy transactions often involve hundreds or thousands of acres of land. As such to provide even normal types of coverages requires substantial time to review all of the outstanding encumbrances on the land as well as the surveys for these types of transactions. In reviewing the surveys for an energy transaction, the parties will often overlay their planned development onto the survey to indicate where the improvements, usually solar arrays or wind turbines will be located as well as where drill sites and drill corridors or easements to facilitate the improvements may be located.

Most of the energy transactions involve multiple parties with varying interests the projects, fee owners, leasehold owners, easement owners as well as the associated lenders for each of the interests. All of these types of transactions involve complicated ownership structures and lending facilities that require extensive review and underwriting. Should any outstanding mineral interests or documents be missed or improperly examined as to the mineral owner's rights or existence, these will have a very detrimental effect on the project's viability, and the loss under any issued policy would be extensive as these types of projects often run into the hundreds of millions and even billions of dollars. Given the additional work and risk involved in these types of transactions the rate proposed is appropriate. The 5% proposed rate (R-37) is consistent with or less than the rates charged for the same coverage in similarly situated states such as those surrounding Texas or in states with significant mineral production. The Proposed P-72 establishes the conditions for issuance of the endorsements.

Note, this exhibit has been amended and subsequently presented as part of a comment letter to the Texas Department Insurance. Changes include a renumbering of the proposed energy endorsements and a revision to the rate and procedural rules to also facilitate the issuance of the Severable Improvements Endorsement (T-54).

PROPOSED REVISIONS

New Insuring Forms T-55, T-55.1, T-55.2, T-55.3, T-55.4, and T-55.5

ENERGY PROJECT – LEASEHOLD/EASEMENT OWNER'S ENDORSEMENT (Form T-55)

Attached to Policy No. _____

Issued by _____

[Title Company]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.
2. For purposes of this endorsement only:
 - a. "Constituent Parcel" means one of the parcels of Land described in Schedule A that together constitute one integrated project.
 - b. "Easement" means each easement described in Schedule A.
 - c. "Easement Interest" means the right of use granted in the Easement for the Easement Term.
 - d. "Easement Term" means the duration of the Easement Interest, as set forth in the Easement, including any renewal or extended term if a valid option to renew or extend is contained in the Easement.
 - e. "Electricity Facility" means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
 - f. "Evicted" or "Eviction" means (a) the lawful deprivation, in whole or in part, of the right of possession or use insured by this policy, contrary to the terms of any Lease or Easement or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease or the Easement, as applicable, in either

case as a result of a matter covered by this policy.

- g. "Lease" means each lease described in Schedule A.
 - h. "Leasehold Estate" means the right of possession granted in the Lease for the Lease Term.
 - i. "Lease Term" means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
 - j. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) _____ dated _____, last revised, _____ and designated as (insert name of project or project number) consisting of _____ sheets.
 - k. "Remaining Term" means the portion of the Easement Term or the Lease Term remaining after the Insured has been Evicted.
 - l. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
3. Valuation of Title as an Integrated Project:
- a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate or the Easement Interest for the Remaining Term, as applicable, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease or Easement as computed in Section 3(b) below.

- b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.
- c. The Insured Claimant shall have the right to have the Leasehold Estate, the Easement Interest, and any Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent or use payments no longer required to be paid for the Remaining Term.
- d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:

- a. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.
- b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees or expenses) relating to:
 - i. the attachment, perfection or priority of any security interest in any Severable Improvement;
 - ii. the vesting or ownership of title to or rights in any Severable

Improvement;

- iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
- iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted, shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(ii) of the Conditions.

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.
- b. Rent, easement payments or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate or the Easement Interest, as applicable, may be obligated to pay to any person having paramount title to that of the lessor in the Lease or the grantor in the Easement, as applicable.
- c. The amount of rent, easement payments or damages that, by the terms of the Lease or the Easement, as applicable, the Insured must continue to pay to the lessor or grantor after Eviction with respect to the portion

of the Leasehold Estate or Easement Interest, as applicable, from which the Insured has been Evicted.

- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease, sublease or easement specifically permitted by the Lease or Easement, as applicable, and made by the Insured as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.
 - e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees or easement or subeasement grantees on account of the breach of any lease or sublease or easement or subeasement specifically permitted by the Lease or the Easement, as applicable, and made by the Insured as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.
 - f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate or a replacement easement reasonably equivalent to the Easement Interest, as applicable.
 - g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.
6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

ENERGY PROJECT – LEASEHOLD/EASEMENT – LOAN ENDORSEMENT (Form T-55.1)

Attached to Policy No. _____

Issued by

[Title Company]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
 - a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.

 - b. “Easement” means each easement described in Schedule A.

 - c. “Easement Interest” means the right of use granted in the Easement for the Easement Term.

 - d. “Easement Term” means the duration of the Easement Interest, as set forth in the Easement, including any renewal or extended term if a valid option to renew or extend is contained in the Easement.

 - e. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage,

switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.

- f. "Evicted" or "Eviction" means (a) the lawful deprivation, in whole or in part, of the right of possession or use insured by this policy, contrary to the terms of any Lease or Easement or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease or the Easement, as applicable, in either case as a result of a matter covered by this policy.

- g. "Lease" means each lease described in Schedule A.

- h. "Leasehold Estate" means the right of possession granted in the Lease for the Lease Term.

- i. "Lease Term" means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.

- j. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated _____, last revised _____, designated as (insert name of project or project number) _____ consisting of _____ sheets.

- k. "Remaining Term" means the portion of the Easement Term or the Lease Term remaining after the Insured has been Evicted.

- l. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

m. "Tenant" means the tenant under the Lease or a grantee under the Easement, as applicable, and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.

3. Valuation of Title as an Integrated Project:

a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate or the Easement Interest for the Remaining Term, as applicable, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease or Easement as computed in Section 3(b) below.

b. A computation of loss or damages resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.

c. The Insured Claimant shall have the right to have the Leasehold Estate, the Easement Interest, and any Electricity Facility affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent or use payments no longer required to be paid for the Remaining Term.

d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:

a. In the event of an Eviction, the calculation of the loss shall include (but not

to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.

- b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees or expenses) relating to:
 - i. the attachment, perfection or priority of any security interest in any Severable Improvement;
 - ii. the vesting or ownership of title to or rights in any Severable Improvement;
 - iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
 - iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(iii) of the Conditions:

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of

the Eviction.

- b. Rent, easement payments or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate or the Easement Interest, as applicable, may be obligated to pay to any person having paramount title to that of the lessor in the Lease or the grantor in the Easement, as applicable.

- c. The amount of rent, easement payments or damages that, by the terms of the Lease or the Easement, as applicable, the Insured must continue to pay to the lessor or grantor after Eviction with respect to the portion of the Leasehold Estate or Easement Interest, as applicable, from which the Insured has been Evicted.

- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease, sublease or easement specifically permitted by the Lease or Easement, as applicable, and made by the Tenant as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.

- e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees or easement or subeasement grantees on account of the breach of any lease or sublease or easement or subeasement specifically permitted by the Lease or the Easement, as applicable, and made by the Tenant as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.

- f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate or a replacement easement reasonably equivalent to the Easement Interest, as applicable.

- g. If any Electricity Facility is not substantially completed at the time of

Eviction, the actual cost incurred by the insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

ENERGY PROJECT – LEASEHOLD – OWNER’S ENDORSEMENT (Form T-55.2)

Attached to Policy No. _____

Issued by _____

[Title Company]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
 - a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.

 - b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.

 - c. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of any Lease or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.

- d. "Lease" means each lease described in Schedule A.
- e. "Leasehold Estate" means the right of possession granted in the Lease for the Lease Term.
- f. "Lease Term" means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
- g. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated _____, last revised _____, designated as (insert name of project or project number) consisting of _____ sheets.
- h. "Remaining Term" means the portion of the Lease Term remaining after the Insured has been Evicted.
- i. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

3. Valuation of Title as an Integrated Project:

- a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate for the Remaining Term, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease as computed in Section 3(b) below.

- b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.
 - c. The Insured Claimant shall have the right to have the Leasehold Estate and any Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent no longer required to be paid for the Remaining Term.
 - d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.
4. Valuation of Severable Improvements:
- a. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.
 - b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees or expenses) relating to:
 - i. the attachment, perfection or priority of any security interest in any Severable Improvement;
 - ii. the vesting or ownership of title to or rights in any Severable Improvement;

- iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
- iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(ii) of the Conditions.

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.
- b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- c. The amount of rent or damages that, by the terms of the Lease , the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate from which the Insured has been Evicted.

- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease specifically permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate.

 - e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease specifically permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate.

 - f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.

 - g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.
6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

ENERGY PROJECT – LEASEHOLD LOAN – LOAN ENDORSEMENT (Form T-55.3)

Attached to Policy No.

Issued by

[Title Company]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
 - a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.

 - b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.

 - c. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of any Lease or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.

 - d. “Lease” means each lease described in Schedule A.

- e. "Leasehold Estate" means the right of possession granted in the Lease for the Lease Term.
- f. "Lease Term" means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
- g. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated _____, last revised _____, designated as (insert name of project or project number) consisting of _____ sheets.
- h. "Remaining Term" means the portion of the Lease Term remaining after the Insured has been Evicted.
- i. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
- j. "Tenant" means the tenant under the Lease and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.

3. Valuation of Title as an Integrated Project:

- a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate for the Remaining Term, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease as computed in Section 3(b) below.
- b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.

- c. The Insured Claimant shall have the right to have the Leasehold Estate and any Electricity Facility affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent no longer required to be paid for the Remaining Term.
 - d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.
4. Valuation of Severable Improvements:
- a. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.
 - b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees or expenses) relating to:
 - i. the attachment, perfection or priority of any security interest in any Severable Improvement;
 - ii. the vesting or ownership of title to or rights in any Severable Improvement;
 - iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
 - iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(iii) of the Conditions:

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.
- b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- c. The amount of rent or damages that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate from which the Insured has been Evicted.
- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease specifically permitted by the Lease and made by the Tenant as lessor of all or part of the Leasehold Estate.
- e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease specifically permitted by the Lease and made by the Tenant as lessor of all

or part of the Leasehold Estate.

- f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.
 - g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.
6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

ENERGY PROJECT – FEE ESTATE – OWNER’S ENDORSEMENT (Form T-55.4)

Attached to Policy No. _____

Issued by

[Title Company]

1. The insurance provided by this endorsement is (a) only effective for the parcel or those parcels of the Land as to which the Title is fee simple and (b) subject to the exclusions in Section 6 of this endorsement and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
 - a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together with any other parcel or parcels of Land described in Schedule A constitute one integrated project.

 - b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.

 - c. “Ejected” or “Ejection” means (a) the lawful divestment, in whole or in part, of the Title to the Land or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement, as applicable, in either case as a result of a matter covered by this policy.

 - d. “Plans” means the survey, site and elevation plans or other depictions or

drawings prepared by (insert name of architect or engineer) dated _____, last revised _____, designated as (insert name of project or project number) consisting of _____ sheets.

- e. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
3. Valuation of Title as an integrated project:
- a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Ejection, then, as to that portion of the Land from which the Insured is Ejected, that value shall consist of (i) the value of the fee estate including any Electricity Facility existing on the date of the Ejection, and, if applicable, (ii) any reduction in value of another insured Constituent Parcel as computed in Section 3(b) below.
 - b. A computation of loss or damage resulting from an Ejection affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Ejected.
 - c. The Insured Claimant shall have the right to have the fee estate, any Constituent Parcel, and any Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately.
 - d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:

- a. In the event of an Ejection, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Ejection, reduced by the salvage value of the Severable Improvement.
- b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees, or expenses) relating to:
 - i. the attachment, perfection or priority of any security interest in any Severable Improvement;
 - ii. the vesting or ownership of title to or rights in any Severable Improvement;
 - iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
 - iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured is Ejected, the following items of loss, if applicable to that portion of the Land from which the Insured is Ejected, shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(ii) of the Conditions.

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Ejection, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Ejection.

- b. Payments or damages for use and occupancy of the Land prior to the Ejection that the Insured may be obligated to pay to any person having paramount title to that of the Insured.

- c. The fair market value, at the time of the Ejection, of the estate or interest of the Insured in any lease or easement, as applicable, made by the Insured as lessor or grantor of all or part of the Title.

- d. Damages caused by the Ejection that the Insured is obligated to pay to lessees or easement grantees on account of the breach of any lease or easement, as applicable, made by the Insured as lessor or grantor of all or part of the Title.

- e. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a fee estate in a replacement parcel of land reasonably equivalent to the parcel that is the subject of the Ejection.

- f. If any Electricity Facility is not substantially completed at the time of Ejection, the actual cost incurred by the Insured up to the time of Ejection, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Ejected. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage, or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

ENERGY PROJECT – FEE ESTATE – LOAN ENDORSEMENT (Form T-55.5)

Attached to Policy No. _____

Issued by

[Title Company]

1. The insurance provided by this endorsement is (a) only effective for the parcel or those parcels of the Land as to which the Title is fee simple and (b) subject to the exclusions in Section 6 of this endorsement and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
 - a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together with any other parcel or parcels of Land described in Schedule A constitute one integrated project.

 - b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale, or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.

 - c. “Ejected” or “Ejection” means (a) the lawful divestment, in whole or in part, of the Title to the Land or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement, as applicable, in

either case as a result of a matter covered by this policy.

- d. "Plans" means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated _____, last revised, _____ designated as (insert name of project or project number) consisting of _____ sheets.
 - e. "Severable Improvement" means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
 - f. "Vestee" means the party in which the Title is vested as stated in Schedule A and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.
3. Valuation of Title as an integrated project:
- a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Ejection, then, as to that portion of the Land from which the Vestee is Ejected, that value shall consist of (i) the value of the fee estate including any Electricity Facility existing on the date of the Ejection, and, if applicable, (ii) any reduction in value of another insured Constituent Parcel as computed in Section 3(b) below.
 - b. A computation of loss or damage resulting from an Ejection affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Ejected.
 - c. The Insured Claimant shall have the right to have the fee estate, any Constituent Parcel, and any Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately.

d. The provisions of this Section 3 shall not diminish the Insured's rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:

a. In the event of an Ejection, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Ejection, reduced by the salvage value of the Severable Improvement.

b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys' fees, or expenses) relating to:

i. the attachment, perfection or priority of any security interest in any Severable Improvement;

ii. the vesting or ownership of title to or rights in any Severable Improvement;

iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or

iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy and thereafter is Ejected,

the following items of loss, if applicable to that portion of the Land from which the Insured is Ejected, shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(iii) of the Conditions:

- a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Ejection, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Ejection.

- b. Payments or damages for use and occupancy of the Land prior to the Ejection that the Insured may be obligated to pay to any person having paramount title to that of the Insured.

- c. The fair market value, at the time of the Ejection, of the estate or interest of the Insured in any lease or easement, as applicable, made by the Vestee as lessor or grantor of all or part of the Title.

- d. Damages caused by the Ejection that the Insured is obligated to pay to lessees or easement grantees on account of the breach of any lease or easement, as applicable, made by the Vestee as lessor or grantor of all or part of the Title.

- e. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a fee estate in a replacement parcel of land reasonably equivalent to the parcel that is the subject of the Ejection.

f. If any Electricity Facility is not substantially completed at the time of Ejection, the actual cost incurred by the Insured up to the time of Ejection, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Ejected. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage, or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

[Title Company]

Section III, Rate Rule, R-37

R-37. Premium for Severable Improvements Endorsement(T-54) and Energy Project Endorsements (T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5)

- A. The premium for the Severable Improvements Endorsement (Form T-54) is five percent of the Basic Premium Rate.
- B. The premium for the Energy Project – Leasehold/Easement Owner’s Policy Endorsement (Form T-55) is five percent of the Basic Premium Rate.
- C. The premium for the Energy Project – Leasehold/Easement Loan Policy Endorsement (Form T-55.1) is five percent of the Basic Premium Rate.
- D. The premium for the Energy Project – Leasehold Owner’s Policy Endorsement (Form T-55.2) is five percent of the Basic Premium Rate.
- E. The premium for the Energy Project – Leasehold Loan Policy Endorsement (Form T-55.3) is five percent of the Basic Premium Rate.
- F. The premium for the Energy Project – Fee Estate Owner’s Policy Endorsement (Form T-55.4) is five percent of the Basic Premium Rate.
- G. The premium for the Energy Project – Fee Estate Loan Policy Endorsement (Form T-55.5) is five percent of the Basic Premium Rate.

Section IV, Procedural Rules, P-72

P-72. Severable Improvements Endorsement (T-54) and Energy Project Endorsements (T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5)

- A A Company may issue the Severable Improvements Endorsement (Form T-54), Energy Project – Leasehold/Easement Owner’s Policy Endorsement (Form T-55), Energy Project – Leasehold/Easement Loan Policy Endorsement (Form T-55.1), Energy Project – Leasehold Owner’s Policy Endorsement (Form T-55.2), Energy Project – Leasehold Loan Policy Endorsement (Form T-55.3), Energy

Project – Fee Estate Owner’s Policy Endorsement (Form T-55.4), or Energy Project – Fee Estate Loan Policy Endorsement (Form T-55.5) if:

1. The Land is not Residential Real Property;

2. A Severable Improvement Endorsement (T-54) may be issued to a Loan Policy (Form T-2) or Owner’s Policy (Form T-1) on land which contains improvements, and the area and boundary amendment is made pursuant to Procedural Rule P-2.

3. An Energy Project Endorsement (Form T-55, T-55.1, T-55.2, T-55.3, T-55.4, T-55.5) may be issued if:
 - a. Severable Improvements that would constitute an Electricity Facility are affixed to the Land, or to be affixed to the Land in locations according to the Plans, as those terms are used in the corresponding Energy Project Endorsement;

 - b. The estate or interest in the Land that is insured:
 - i. by the Owner’s Policy (Form T-1) includes:
 - (a) both a leasehold estate and an easement estate in the case of an Energy Project – Leasehold/Easement Owner’s Policy Endorsement (Form T-55),

 - (b) a leasehold estate in the case of an Energy Project – Leasehold Owner’s Policy Endorsement (Form T-55.2), or

(c) ~~iii~~ a fee simple estate in the case of an Energy Project – Fee Estate Owner’s Policy Endorsement (Form T-55.4);

ii ~~b~~ by the Loan Policy (Form T-2) includes:

(a) ~~i~~ both a leasehold estate and an easement estate in the case of an Energy Project – Leasehold/Easement Loan Policy Endorsement (Form T-55.1);

(b) ~~ii~~ a leasehold estate in the case of an Energy Project – Leasehold Loan Policy Endorsement (Form T-55.3); or

(c) ~~iii~~ a fee simple estate in the case of an Energy Project – Fee Estate Loan Policy Endorsement (Form T-55.5); and

4. ~~It’s~~ The Company’s underwriting requirements are met.

B. When an Energy Project Endorsement or Severable Improvement Endorsement is issued, the Amount of the policy must include the value of the Severable Improvements.

C. In a transaction where an Electricity Facility is completed and existing, the company may delete from an endorsement the definition of Plans and the references thereto.

D. The Company may add any exception to an Energy Project Endorsement or Severable Improvement Endorsement that it considers, in its sole discretion, to be appropriate. The

Company shall delete any insuring provision in whole or in part if it does not consider that risk acceptable.

- E. Any matter covered by an Energy Project Endorsement or a Severable Improvement Endorsement may be insured only by use of that endorsement.

Exhibit C

TLTA
PROPOSED RULE CHANGES
EXHIBIT 12
PROCEDURAL RULE P-1 u.
RATE RULE R-16

CITATION

Section IV, Procedural Rules of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

Section III, Rate Rules of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

ISSUE AND JUSTIFICATION

The absence of a clear definition of residential real property has created challenges for escrow officers and consumers when attempting to classify a given property in a transaction. The increasing Texas population as well as other factors has increased the popularity of homes and/or residential use in traditionally agriculturally productive parts of the state. The ambiguity regarding the factors used to determine whether a parcel of real property is residential can result in different answers from different Title Agents, Direct Operations, or Title Companies. Proper classification results in a consistent selection of the correct form of Owner's Policy and application of rates to endorsements – all benefitting the consumer. Texas Land Title Association (TLTA) suggests amending procedural rule P-1 to address this issue.

In addition to P-1, TLTA identified a necessary improvement to R-16 to conform its existing language to the proposed new definition.

Note, this exhibit has been amended and subsequently presented as part of a comment letter to the Texas Department Insurance.

PROCEDURAL RULE P-1. DEFINITIONS

...

u. Residential ~~Real~~ Property

~~(1) — Any real property which has improvements thereon designed principally for the occupancy of from one to four families (including individual units of condominiums and cooperatives) and either (a) situated in a platted subdivision of record, or (b) consisting of five acres or less; or~~

~~(2) — Any real property which has improvements thereon designed principally for the occupancy of from one to four families and consisting of more than five acres but not more than 200 acres used for agricultural production by individual insureds (according to the information known by the Company at the time of issuance of the policy of title insurance). (Rule P-38)~~

1. For this definition, the word "Improvements" means improvements designed primarily for the occupancy of from one to four families and includes:
 - a. Improvements existing at Date of Policy; and
 - b. immediately contemplated Improvements when the cost of such Improvements is included in the Amount of Insurance
2. Residential Real Property is any real property with Improvements which at Date of Policy consists of:
 - a. a lot or lots in a platted residential subdivision;
 - b. one or more individual residential condominium and cooperative units;
 - c. 10 acres or less; or
 - d. more than 10 acres, but not more than 200 acres, when the Insured in an Owner's Policy or the Borrower in a Loan Policy is a natural person or persons.

...

R-16. Amendment of Exception as to Area, Boundaries, etc.

~~Applicable only as provided in Rules P-2 and P-8.a.(2) — the Exception as to area and boundaries, etc., may be amended in an Owner or Mortgagee Policy upon the payment of an additional premium (in the case only of an Owner Policy) therefore equivalent to (1) 15% of the Basic Rate in an Owner Policy (T-1), or (2) 5% of the Basic Rate in a Residential Owner Policy of Title Insurance— One to Four Family Residences (Form T-1R), with a minimum premium of \$20.00.~~

- A. The premium for amending the exception as to area and boundaries, etc. in a Loan Policy (Form T-2 or Form T-2R) is \$0.

- B. The premium for amending the exception as to area and boundaries, etc. in an Owner's Policy (form T-1 or Form T-1R) is:
 - 1. 15 percent of the Basic Premium Rate on the Policy Amount when the Land is not Residential Real Property, or

 - 2. 5 percent of the Basic Premium Rate on the Policy Amount when the Land is Residential Real Property, but not less than \$20.00.

 - ~~3. 5 percent of the Basic Rate for a single issue policy when the property is Residential Real Property, with a minimum premium of \$20.00.~~

Exhibit D

TLTA
PROPOSED RULE CHANGES
EXHIBIT 14
FORM T-42

CITATION

Section II, Insuring Forms, Form T-42: Equity Loan Mortgage Endorsement of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

ISSUE AND JUSTIFICATION

The Texas Land Title Association (TLTA) proposes the following “housekeeping” amendment to the Equity Loan Mortgage Endorsement (T-42) by striking the language in Section 2 (b) and replacing it with “[INTENTIONALLY DELETED].”

The section of the Texas Constitution referenced in this subsection has been amended rendering this section of the endorsement obsolete. The proposed language appropriately updates the form. Additionally, the use of the bracketed language and preservation of the numbering avoids unnecessary costs associated with form changes and potentially cross references in other rules and forms.

Note, this exhibit has been amended and subsequently presented as part of a comment letter to the Texas Department Insurance.

EQUITY LOAN MORTGAGE ENDORSEMENT T-42

Attached to and made a part of _____ Title Insurance Company

Loan Policy No. _____,

dated the _____ day of _____, 20____.

Issued by

BLANK TITLE INSURANCE COMPANY

The policy is hereby amended as follows:

1. The following new Subsection (n) is inserted in Section 1 of the Conditions:

(n) "consumer credit protection law": any applicable federal or state regulation, law or constitutional provision relating to consumer credit protection. For purposes of the policy and paragraph 5 of the Exclusions from Coverage, consumer credit protection law includes, but is not limited to, the provisions of Subsections (a)(6), (g), and (t) of Section 50, Article XVI, Texas Constitution, and any statutory or regulatory requirements for a mortgage made pursuant to Subsection (a)(6)."
2. Notwithstanding the specific provisions of paragraph 5 of the Exclusions from Coverage relating to consumer credit protection laws, the Company insures the insured against loss, if any, sustained by the insured under the terms of the policy because of invalidity or unenforceability of the lien of the insured mortgage by reason of the following:
 - a. ~~(a)~~ The failure of the insured mortgage to be created under a written agreement with the consent of each owner of the estate or interest described in Schedule A and each owner's spouse, as set forth in Subsection (a)(6)(A) of Section 50, Article XVI, Texas Constitution.
 - b. ~~(b) The land being homestead property designated for agricultural use as provided by statutes governing property tax, as set forth in Subsection (a)(6)(I) of Section 50, Article XVI, Texas Constitution. [This section is intentionally deleted because of an Amendment to the~~

Texas Constitution.]

- c. ~~(c)~~The indebtedness secured by the lien of the insured mortgage on the land not being the only debt secured by a valid lien on the land at the time the extension of credit is made pursuant to the insured mortgage unless the other debt was made for a purpose described by Subsections (a)(1) through (a)(5) or Subsection (a)(8) of Section 50 of Article XVI, Texas Constitution, as set forth in Subsection (a)(6)(K) of Section 50, Article XVI, Texas Constitution.
 - d. ~~(d)~~The extension of credit secured by the lien of the insured mortgage closing before the first anniversary of the closing date of any other extension of credit described by Subsection (a)(6) of Section 50 of Article XVI, Texas Constitution, and secured by a valid lien on the land, as set forth in Subsection (a)(6)(M)(iii) of Section 50, Article XVI, Texas Constitution.
 - e. ~~(e)~~The failure of the insured mortgage to contain a disclosure that the extension of credit is the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution, as set forth in Subsection (a)(6)(Q)(vi) of Section 50(a)(6), Article XVI, Texas Constitution.
3. Provided the insured mortgage secures a home equity line of credit, the Company insures the Insured that any disbursements under the home equity line of credit made subsequent to the date of this policy as provided in the insured mortgage shall be deemed to have been made as of the date of this policy and such disbursements and accrued interest shall have the same priority as any advances made as of the date of this policy, except as to (i) bankruptcies affecting the estate or interest described on Schedule "A" hereof prior to the date of any such advance or disbursement; and (ii) taxes, costs, charges, damages and other obligations to the government secured by statutory liens arising or recorded subsequent to the date of the Policy.
 4. Except as provided in paragraph 2 above, the Company does not insure against invalidity or unenforceability of the lien of the insured mortgage, which arises out of the transaction evidenced by the insured mortgage and is based on any consumer credit protection law.
 5. ~~6.~~ This endorsement does not insure against invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, arising out of usury or truth in

lending laws.

This endorsement when countersigned below by an Authorized Countersignature is made a part of said Policy. Except as expressly modified by the provisions hereof, this endorsement is subject to the following policy matters: (i) Insuring provisions; (ii) Exclusions from Coverage; (iii) Schedule "B" Exceptions; (iv) the Conditions; and (v) any prior endorsements. Except as stated herein, this endorsement does not: (i) extend the effective date of the policy and/or any prior endorsements; or (ii) increase the face amount of the policy.

Exhibit E

TLTA
PROPOSED RULE CHANGES
EXHIBIT 19
RATE RULE R-5. B,C,D,F

CITATION

Section III, Rate Rules, R-5: Simultaneous Issuance of Owner's and Loan Policies, of *The Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

ISSUE AND JUSTIFICATION

The new language in R-5.B, C and D make it clear that the simultaneous issue rate for an owner's policy and loan policy is available even when there may be another rate discount applicable. R-1 provides "In no event shall two or more Rate Rules be combined in the calculation of the premium for the subject transaction...." The application of the simultaneous rate was never intended to preclude the use of an available discount, such as with construction, and it is unfair to the consumer to use the language of R-1 in this fashion. The proposed changes make this clear.

In 2019, TLTA proposed and the Texas Department of Insurance (TDI) adopted a change to R-5.F to extend the simultaneous issue rate for certain transactions. Rate Rule R-5.F. was adopted to accommodate frequent large commercial transactions where the buyer and seller had a hard closing date in the contract, but additional time was needed to complete financing. In recent years, there has been increased pressure to close quickly and pay the purchase price in cash, while the lender has needed additional time, even in the context of smaller commercial transactions. In order to accommodate these market realities which also occur at a lower threshold for commercial transactions and ensure uniformity in the application of the credit, TLTA proposes reducing the \$5,000,000 threshold to \$1,000,000 and explicitly clarifying that this rule is not intended for residential transactions. Prices for residential transactions do cross over this lower threshold at times and the Rule was never intended for residential transactions, which notably are primarily purchased with a traditional mortgage pursuant to a TREC contract. Moreover, as treatment as a simultaneous issuance, this 90 day window is only appropriate when the same title insurance company or companies issues both the Owner's Policy and Loan Policy.

Note, this exhibit has been amended and subsequently presented as part of a comment letter to the Texas Department Insurance.

R-5. Simultaneous Issuance of Owner's and Loan Policies

- A. An Owner's Policy must be issued at the Basic Rate, and the premium for each Loan Policy must be \$100.00, if:
1. all policies are issued simultaneously;
 2. all policies bear the same date;
 3. each Loan Policy covers the same land—or part of the land—covered by the Owner's Policy and covers no other land;
 4. the Owner's Policy shows the lien(s) insured by each Loan Policy as an exception; and
 5. the amount of the Loan Policy(ies) does not exceed the amount of the Owner's Policy.
- B. When the amount of the Loan Policy(ies) exceeds the amount of the Owner's Policy:
1. the Basic Rate must be charged for the Owner's Policy; and
 2. the premium charged for the Loan Policy(ies) must be:
 - a. the Basic Rate for the combined Loan Policy amounts; minus
 - b. the Basic Rate for the Owner's Policy; plus
 - c. \$100.00 for each Loan Policy; if:
 - i. all policies are issued simultaneously;
 - ii. all policies bear the same date;
 - iii. each Loan Policy covers the same land—or part of the land—covered by the Owner's Policy and covers no other land; and

iv. the Owner's Policy shows the lien(s) insured by each Loan Policy as an exception.

C. When there is an existing Owner's Policy(ies) and improvements are now immediately contemplated:

1. the premium for the new Owner's Policy must be reduced by a credit as provided in Rate Rule R-3, if the new policy:
 - a. covers the identical property covered by the existing Owner's Policy(ies);
 - b. is dated within four years of the existing Owner's Policy(ies); and
 - c. includes the exception and liability paragraph provided in Procedural Rule P-8.a.
2. The credit applies only when the ownership of the property has not changed.
3. The premium for the Owner's Policy must not be less than the minimum Basic Rate.
4. The premium for each Loan Policy must be \$100.00, if:
 - a. all policies are issued simultaneously;
 - b. all policies bear the same date;
 - c. each Loan Policy covers the same land—or part of the land—covered by the Owner's Policy and covers no other land; and
 - d. the Owner's Policy shows the lien(s) insured by each Loan Policy as an exception.

- D. When there is an existing Owner's Policy(ies) insuring residential property that did not include the exception and liability paragraph provided in Procedural Rule P-8.a and improvements are now completed:
1. The premium for a new Owner's Policy(ies) must be reduced by a credit as provided in Rate Rule R-3, if the new Owner's Policy:
 - a. is in an amount greater than the existing Owner' Policy(ies);
 - b. covers the identical property covered by the existing Owner's Policy(ies);
and
 - c. is dated within four years of the existing Owner's Policy(ies);
 2. The credit only applies when the ownership of the property has not changed; and
 3. The premium collected for the Owner's Policy must not be less than the minimum Basic Rate.
 4. The premium for each Loan Policy must be \$100.00, if:
 - a. all policies are issued simultaneously;
 - b. all policies bear the same date;
 - c. each Loan Policy covers the same land—or part of the land—covered by the Owner's Policy and covers no other land; and
 - d. the Owner's Policy shows the lien(s) insured by each Loan Policy as an exception.
- E. When an Owner's Policy is issued as provided in Rate Rule R-2.b, and the Loan Policy is Issued as provided in Rate Rule R-2.a,
1. the premium for the Owner's Policy must be \$100.00, and the premium for the Loan Policy must be the Basic Rate, if:
 - a. both policies are issued simultaneously;

- b. both policies bear the same date;
 - c. the amount of the Owner's Policy(ies) does not exceed the amount of the Loan Policy;
 - d. the Owner's Policy covers the same land—or part of the land—covered by the Loan Policy and covers no other land; and
 - e. both policies include the exception and the liability paragraph or the pending disbursement paragraph, as applicable, provided in Procedural Rule P-8.
2. When the amount of the Owner's Policy(ies) exceeds the amount of the Loan Policy, the premium charged for the Owner's Policy must be:
- a. the Basic Rate; plus
 - b. \$100.00; minus
 - c. the Basic Rate for the Loan Policy to be paid as provided in Rate Rule R-2.a.
3. The credit provided in Rate Rule R-3 must be given against the premium for the new Loan Policy, if:
- a. the existing Owner's Policy(ies) covers the identical property to be covered by the new Owner's Policy; and
 - b. ownership of the property has not changed.
- F. When an Owner's Policy is issued with a policy amount of ~~\$5,000,000.00~~ \$1,000,000 or more on land that is not residential real property and bears the date ~~and time of recording~~ of the insured instrument was recorded:
- 1. the premium for each Loan Policy ~~is~~ must be \$100.00, if:
 - a. the Loan Policy(ies) is issued within 90 days after the date of the Owner's Policy;

- b. the Loan Policy(ies) covers the same land—or part of the land—covered by the Owner's Policy and covers no other land;
 - c. ownership of the Land property has not changed since the Owner's Policy was issued; ~~and~~
 - d. the Loan Policy(ies) is issued by the same Title Insurance Company(ies) that issued the Owner's Policy; and
 - e. ~~d.~~ the amount of the Loan Policy(ies) does not exceed the amount of the Owner's Policy, and
2. if the conditions in paragraphs F.1.a, F.1.b, ~~and F.1.c,~~ and F.1.d are met, but the amount of the Loan Policy(ies) exceeds the amount of the Owner's Policy, the premium ~~charged~~ for the Loan Policy(ies) ~~must be~~ is:
- a. the Basic Rate for the combined Loan Policy amounts; ~~minus~~
 - b. minus the Basic Rate for the Owner's Policy amount; ~~plus~~
 - c. plus \$100.00 for each Loan Policy.

THIS RULE MAY NOT BE APPLIED in connection with the issuance of a series of Loan Policies issued by reason of notes being apportioned to individual units in connection with a master policy covering the aggregate indebtedness, including improvements. Except as otherwise provided in this rule, individual Loan Policies must be issue at the Basic Rate.