

**SUBCHAPTER A. BASIC MANUAL OF RULES, RATES, AND FORMS FOR THE WRITING OF TITLE INSURANCE IN THE STATE OF TEXAS
28 TAC §§9.11, 9.21, 9.30, 9.31, and 9.40**

**SUBCHAPTER D. PERSONAL PROPERTY TITLE INSURANCE
28 TAC §9.501**

1. INTRODUCTION. The Texas Department of Insurance proposes the repeal of 28 Texas Administrative Code §§9.11, 9.21, 9.30, 9.31, 9.40, and 9.501. The repeal of these sections of the Texas Administrative Code is necessary because the amendments to the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas (Basic Manual)* that were adopted by reference in those TAC sections have been readopted by reference in 28 TAC §9.1, which superseded the TAC sections now proposed for repeal.

In compliance with Government Code §2001.039, which requires TDI to review a rule every four years and to readopt, readopt with amendments, or repeal the rule, a notice of the proposed rule review of Chapter 9, Title Insurance, was published in the December 28, 2012, issue of the *Texas Register*, (37 TexReg 10259). The General Counsel division reviewed and considered all of the sections in Chapter 9 for readoption, revision, or repeal. Repealing the sections is necessary because the sections have been superseded. Each of these sections adopted or amended certain title rules or forms, by reference, as part of the *Basic Manual*. In 2010, and several times before this, the entire *Basic Manual* was adopted by reference into 28 TAC §9.1. Because the title rules and forms that these sections incorporated into the *Basic Manual* were readopted as part of §9.1, the sections are duplicative and are no longer necessary. Their removal will help keep the TAC clear, relevant, and current.

TDI did not receive any comments on the review. The adopted rule review of Chapter 9 was published in the July 5, 2013, issue of the *Texas Register* (38 TexReg 4392).

2. FISCAL NOTE. Marilyn Hamilton, director of the Personal and Commercial Lines Office for the Property and Casualty Section, has determined that, for each year of the first five years the repeal of the sections is in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of this proposal. Additionally, Ms. Hamilton does not anticipate the proposal will have any measurable effect on local employment or the local economy.

3. PUBLIC BENEFIT/COST NOTE. Ms. Hamilton has determined that, for each year of the first five years the repeal of the sections is in effect, the anticipated public benefit will be the elimination of unnecessary provisions to help the TAC remain clear, relevant, and current. There is no anticipated economic cost to people who are affected by or required to comply with the proposed repeal. Additionally, there is no anticipated difference in compliance cost between small and large businesses.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. As required by the Government Code §2006.002(c), TDI has determined that this proposed repeal will not have an adverse economic effect on small or micro businesses because it is a repeal of rules that have

been superseded. Because there are no adverse economic effects, TDI is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal. This proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, so, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. If you wish to comment on this proposal you must do so in writing no later than 5 p.m. on February 24, 2014. Send comments to Sara Waitt, General Counsel, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov. Please simultaneously submit an additional copy of the comment to Marilyn Hamilton, Director, Personal and Commercial Lines Office, Property and Casualty Section, Mail Code 104-PC, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to marilyn.hamilton@tdi.texas.gov. You must submit any request for a public hearing separately to the Office of Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov before the close of the public comment period. If a hearing is held, you may present written and oral comments for consideration at the hearing.

7. STATUTORY AUTHORITY. TDI proposes the repeal of 28 TAC §§9.11, 9.21, 9.30, 9.31, 9.40, and 9.501 under Insurance Code §36.001 and §2551.003, and Government Code §2001.039. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state. Section 2551.003 authorizes the commissioner to adopt and enforce rules that prescribe underwriting standards and practices on which a title insurance contract must be issued; that define risks that may not be assumed under a title insurance contract; and that the commissioner determines are necessary to accomplish the purposes of Title 11, Insurance Code, which concerns the regulation of title insurance. Government Code §2001.039 requires TDI to review a rule every four years and to readopt, readopt with amendments, or repeal the rule.

8. CROSS REFERENCE TO STATUTE. This proposal implements the following statutes:

<u>Rule</u>	<u>Statute</u>
28 TAC §§9.11, 9.21, 9.30, 9.31, 9.40, and 9.501	Insurance Code §36.001 and §2551.003

9. TEXT.

SUBCHAPTER A. BASIC MANUAL OF RULES, RATES, AND FORMS FOR THE WRITING OF TITLE INSURANCE IN THE STATE OF TEXAS

§9.11. Amendments to the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas from a Public Hearing.

§9.21. Procedural Rule for Construction of Terms in a Policy of Title Insurance (USA).

§9.30. Procedural Rules, Rates, and Forms Relating to Home Equity.

§9.31. Rate Rule for Subsequent Issuance of Mortgagee Policy.

§9.40. Procedural Rules, Rates and Forms Relating to Mineral Interests.

SUBCHAPTER D. PERSONAL PROPERTY TITLE INSURANCE

§9.501. Amendments to the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas.

10. CERTIFICATION. This agency certifies that legal counsel has reviewed the proposed repeal and found it to be within the agency's legal authority to adopt.

Issued at Austin, Texas, on January 9, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance