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SUBCHAPTER A. BASIC MANUAL OF RULES, RATES AND FORMS FOR THE WRITING OF TITLE INSURANCE IN THE STATE OF TEXAS 28 TAC §9.1

INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC §9.1, which adopts by reference amendments to the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (Basic Manual)*. The amendments are adopted with changes to the proposed text published in the June 29, 2018, issue of the *Texas Register* (43 TexReg 4422).

REASONED JUSTIFICATION. The amendments to the *Basic Manual* implement House Bill 2491, 84th Legislature, Regular Session (2015), Senate Bill 807, 84th Legislature, Regular Session (2015), and Senate Bill 1307, 84th Legislature, Regular Session (2015). The amendments also streamline the Texas Title Insurance Act licensing and continuing education processes and reduce the regulatory burden on license holders and title insurance businesses. Additionally, the amendments make nonsubstantive changes for clarity and to conform with current TDI style guidelines.

In response to comment, the department has changed the proposed effective date of the *Basic Manual* as amended, adopting an effective date for it of March 7, 2019.

The item numbers below identify the adopted amendments. Each item number represents amendments to a specific rule or form in the *Basic Manual*. The item numbers in this order match the numbers used in the proposal. The item numbers are for organizational purposes only and do not represent formal agenda items from a call for rulemaking.

TDI adopts amendments to the following items as described:

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Item 2018-1: Amend Section VII – Administrative Rules ("Administrative Rules"), Definitions, to place the definitions in alphabetical order and to make nonsubstantive changes, including changing "shall mean" to "means."

In Section A (previously Section N), amend the definition of "assumed name" to only reference the statutory definition in Texas Business and Commerce Code §71.002, to prevent any potential conflict between the statutory definition and the *Basic Manual*.

In Section B (previously Section E), amend the definition of "business of title insurance" to only reference the statutory definition in Texas Insurance Code §2501.005, to prevent any potential conflict between the statutory definition and the *Basic Manual*.

Redesignate Section H as Section C.

Amend Section D, defining "company," to remove the reference to Section IV - Procedural Rule (Procedural Rule) P-1. Only referencing the statutory definition will prevent any potential conflict between the statutory definition and the *Basic Manual*.

In Section E (previously Section I), amend the definition of "control" to include the language from Procedural Rule P-28, Section A, Subsection 2 within the definition, instead of only referencing it.

In Section F (previously Section M), amend the defined term to change it from "designated manager" to "designated on-site manager" to be more descriptive. Amend the definition to refer to the new Title Insurance Licensing Biographical Information (FINT08) form, instead of referring to the current form TDI uses to obtain biographical information. Delete the portion of the definition that contains qualifying language for serving as the designated on-site manager, because this qualifying language is addressed in the adopted FINT08 form.

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In Section G (previously Section B), amend the definition of "direct operation" to only reference the statutory definition in Insurance Code §2501.003, to prevent any potential conflict between the statutory definition and the *Basic Manual*.

In Section H (previously Section G), amend the definition of "entity" to more closely conform to the statutory requirements in Insurance Code §2651.002(c)(1)(C) and to define it based on the substance of the type of business formation instead of defining it based on whether the entity is registered with the Office of the Texas Secretary of State. Insurance Code §2651.002(c)(1)(C) does not reference an entity's registration with the Office of the Texas Secretary of State.

In response to comment, TDI has revised the adopted definition to state "corporation *or* limited liability company," (emphasis added) instead of referring to a limited liability company as a subset of a corporation. The department agrees to this change, because it properly treats a limited liability company as a separate type of entity.

In Section I (previously Section L), amend the defined term to change it from "Federal Identification Number" to "Federal Tax Identification Number," and amend the definition to remove the portion of the definition that limits how the number may be used by an applicant. This limitation is addressed within the substantive portion of the Administrative Rules.

In response to comment, TDI has added Section J to define "officer." TDI has defined an "officer" to encompass the highest level executive staff of a company. TDI has re-lettered the remaining sections as a result.

In Section K (previously Section F), amend the definition of "partnership" to more closely conform to the statutory requirements in Insurance Code §2651.002(c)(1)(B) and to define it based on the substance of the type of business formation instead of defining it based on whether the partnership is registered with the Office of the Texas Secretary of

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State. A partnership's registration with the Office of the Texas Secretary of State is not relevant in the statutory requirements in Insurance Code §2651.002(c)(1)(B).

In response to comment, TDI has added to the adopted definition that, "An association or firm is composed of only Texas residents if all persons in control of the association or firm are Texas residents." Insurance Code §2651.002(c)(1)(B) states that, to be licensed as a title insurance agent, the license application must state that an applicant association or firm is "composed only of Texas residents." TDI is interpreting that statutory language to be referring only to those in control of the association or firm.

Add new Section M to define "sole proprietorship" to include definitions for all organizational types addressed in Insurance Code §2651.002(c)(1).

In Section N (previously Subsection C), amend to add "TDI" as a defined term. "Department" is maintained as an alternative term, though "TDI" is used in the amended portions of the Administrative Rules, as adopted, to conform with current TDI style guidelines.

In Section O (previously Section A), amend the defined terms to change them from "agent" and "title agent" to "title insurance agent," to conform with the statutory term used in Insurance Code, Title 11. Amend the definition to reference only the statutory definition of "title insurance agent" in Insurance Code §2501.003, which will prevent any potential conflict between the statutory definition and the *Basic Manual*. The meaning of the terms "agent" and "title agent" where used in the Administrative Rules will be clear from the context.

Delete Section J, because the full term "title insurance agent license" is used within the amended portions of the Administrative Rules where the meaning of the term "license" will not be clear from the context. The meaning of the term "license" used in the portions of the Administrative Rules TDI is not amending should be clear.

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Item 2018-2. Amend Administrative Rule L-1 to make organizational changes, including making the citation of different sections easier. Section I addresses general title insurance agent requirements; Section II addresses title insurance agent license application requirements and license issuance; Section III addresses title insurance agent appointments; Section IV addresses title insurance agent license expiration, renewal, the effect of a suspension, and surrender; and Section V addresses requirements regarding changes in operation.

Delete the undesignated first paragraph, because its substantive content is addressed elsewhere within Administrative Rule L-1, as adopted.

In Section I, Subsection A, Paragraph 1 (previously undesignated second paragraph), amend to more closely conform to the requirements of Insurance Code §2651.001, including removing the language in number 3 in the second paragraph and adding Subparagraph c. In addition to addressing the bond or deposit requirements in Insurance Code §2651.001(a)(2) in Subparagraph c, TDI addresses the escrow officer bond or deposit requirements in Insurance Code, Chapter 2652, Subchapter C, because a title insurance agent is responsible for the bond or deposit requirements of an appointed escrow officer. Previously, this was only addressed in Administrative Rule L-2.

Add new Section I, Subsection A, Paragraphs 2 and 3 to address the requirements for title insurance agents employing an escrow officer, which was previously only addressed in Administrative Rule L-2. Additionally, the paragraph addresses the new appointment requirements under HB 2491. These requirements conform to Insurance Code §2652.001. These provisions are added here because they are requirements of title insurance agents, not escrow officers.

Add new Section I, Subsection B to inform title insurance agents of their obligations regarding their records.

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Add new Section I, Subsection C to address information TDI has deleted from the undesignated first paragraph of Administrative Rule L-1, and to provide that forms may be submitted to TDI electronically.

Add new Section I, Subsection D to change the procedure for the Abstract Plant Information T-52 (FINT120) form. As adopted, title insurance agents must maintain a current and complete FINT120 form, but TDI will only require title insurance agents to submit it on request, in order to reduce the regulatory burden.

Add new Section I, Subsection E to specify that license holders who meet certain qualifications pertaining to their military service or the military service of their spouse may request a waiver, extension, exemption, or alternative licensing requirements for the license holder to comply with certain licensing requirements as provided in 28 TAC §19.803.

Delete the undesignated third paragraph, because sponsoring title insurance companies will no longer be required to submit the FINT120 form, Agent Contract, or Agent Contract Submission (FINT141) form with the title insurance agent license application. Appointing title insurance companies will only need to attest that the title insurance agent has met the abstract plant requirements and that the title insurance agent has an agent contract with the title insurance company in the Title Insurance Agent or Direct Operation Appointment (FINT10) form in order to reduce the regulatory burden. The title insurance agent will only be responsible for maintaining a current and completed FINT120 form available for TDI inspection.

In Section II (previously Section I), amend to reorganize for clarity, including addressing all business organization types together within each application requirement, instead of restating each requirement in separate sections for each business organization type.

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Add new Section II, Subsection A, Paragraph 1 to address existing requirements for a title insurance agent license and using the defined terms, as adopted.

Add new Section II, Subsection A, Paragraph 2 to address the limitation previously within the definition of "Federal Identification Number" and the undesignated first paragraph of Administrative Rule L-1. Other references to this limitation are deleted.

Add new Section II, Subsection B, Paragraph 1 to address existing fingerprint requirements under 28 TAC §1.503 and §1.504.

In response to comment, TDI has separated the reference to fingerprint requirements and the FINT08 submission requirement into two different paragraphs. TDI has renumbered the remaining provisions in Subsection B as a result.

In Section II, Subsection B, Paragraph 2 (previously Section I, Subsection A, Paragraph 1; Section I, Subsection B, Paragraph 1; and Section I, Subsection C, Paragraph 1), Section A of the previously used Application for Texas Title Insurance Agent License (FINT143) form, the biographical information portion, is separated out into its own form, the new FINT08 form. TDI adopts new Subparagraphs a - d to specify who must submit the new FINT08 form. Subparagraphs a-d do not add any new requirements, but use the defined terms, as adopted.

In response to comment, TDI has clarified that the manager referred to in Subparagraph c of the proposal is a limited liability company manager and replaced "partner and shareholder" in Subparagraphs c and d of the proposal with "person" to fully include all individuals and entities that may control an applicant.

Delete Section I, Subsection A, Paragraph 2; Section I, Subsection B, Paragraph 2; and Section I, Subsection C, Paragraph 2, because the new Application for Title Insurance Agent or Direct Operation License (FINT143) form provides instructions on how it should be completed.

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Redesignate Section I, Subsection A, Paragraph 3; Section I, Subsection B, Paragraph 3; and Section I, Subsection C, Paragraph 4, as Section II, Subsection B, Paragraph 3.

In Section II, Subsection B, Paragraph 4 (previously Section I, Subsection A, Paragraph 4; Section I, Subsection B, Paragraph 4; and Section I, Subsection C, Paragraph 6), address existing appointment requirements and incorporate a new approach to licenses and appointments. Section C of the previously used FINT143 form, the initial appointment portion, is separated out into its own form, the FINT10 form. The new FINT10 form will be used for all filings associated with title insurance companies authorizing or de-authorizing a title insurance agent to bind the insurer to issue a title insurance policy. Additionally, in order to reduce the regulatory burden, title insurance companies will no longer be required to submit a FINT141 form, the title insurance agent contract, a FINT120 form, a Title Agent Update (FINT129) form, or a Schedule D form with each appointment. Instead, appointing title insurance companies will only be required to attest that the title insurance agent has a current Schedule D, has an agent contract, and meets the requirements regarding abstract plants.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in Subparagraph c in order to use a more commonly understood term.

In Section II, Subsection B, Paragraph 5 (previously Section I, Subsection A, Paragraph 6; Section I, Subsection B, Paragraph 6; and Section I, Subsection C, Paragraphs 8-9), address existing title insurance agent and escrow officer bond or deposit requirements and add detail on how an applicant can demonstrate compliance.

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Add new Section II, Subsection B, Paragraph 6 to require that an applicant demonstrate compliance with the capitalization requirements in Insurance Code §2652.012.

Redesignate Section I, Subsection A, Paragraph 5; Section I, Subsection B, Paragraph 5; and Section I, Subsection C, Paragraph 7, as Section II, Subsection B, Paragraph 7.

Add new Section II, Subsection B, Paragraph 8 to clarify existing requirements regarding appointment fees.

Delete Section I, Subsection B, Paragraph 7, and Section I, Subsection C, Paragraph 3, because the new FINT143 form instructs partnerships and entities to submit this information.

Delete Section I, Subsection C, Paragraph 5, because franchise tax documentation will no longer be required in order to reduce the regulatory burden.

In Section III, Subsection A, Paragraph 1 (previously Section II), incorporate a new approach to licenses and appointments. A title insurance company will only be required to submit the new FINT10 form and, in order to reduce the regulatory burden, will no longer be required to submit a FINT141 form, the title insurance agent contract, a FINT120 form, a FINT129 form, a Schedule D form, or a Notification of Appointment (FINT142) form with each appointment. Instead, appointing title insurance companies will only be required to attest that the title insurance agent has a current Schedule D, has an agent contract, and meets the requirements regarding abstract plants.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in Clause iii in order to use a more commonly understood term.

Add new Section III, Subsection A, Paragraph 2 to address the date an appointment is effective under Insurance Code §2651.009(c-2).

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In response to comment, TDI has specified that the notice of appointment is complete when TDI receives a complete Title Insurance Agent or Direct Operation Appointment (FINT10) form and the required fee. This clarifies how the effective date is calculated for an appointment.

Add new Section III, Subsection A, Paragraph 3 to specify that title insurance agents may act for multiple title insurance companies in a county, as allowed under Insurance Code §2651.009(a).

In Section III, Subsection A, Paragraph 4 (previously Section IV, Subsection A), amend the language for clarity.

In Section III, Subsection B, Paragraph 1 (previously Section V, Subsection A, Paragraph 3), incorporate the new approach to licenses and appointments. A title insurance company will only be required to submit the new FINT10 form and, in order to reduce the regulatory burden, will no longer be required to submit the title insurance agent contract or amendments, a FINT141 form, a FINT120 form, or a FINT129 form with each change in county. Instead, the title insurance company will only be required to attest that the title insurance agent has a current Schedule D, has an agent contract, and meets the requirements regarding abstract plants.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in Subparagraph c in order to use a more commonly understood term.

In Section III, Subsection B, Paragraph 2 (previously Section VI, Subsection E), specify that a title insurance agent may not operate in an additional county on behalf of a title insurance company until the earlier of the eighth business day following the date the complete FINT10 form is submitted, unless TDI notified the title insurance company that the appointment was rejected; or when TDI's website reflects the additional counties.

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In Section III, Subsection C (previously Section III), amend the language to only address appointment terminations in the subsection and to use the term "termination" for the ending of an appointment, instead of "cancellation." "Termination" is the statutory term used. Section III, Subsection B, which previously addressed the surrender of a license, is addressed in adopted Section IV, Subsection D.

Add new Section III, Subsection C, Paragraph 1 to specify the effect of terminating an appointment.

Add new Section III, Subsection C, Paragraph 2 to specify that an appointment with a title insurance company is terminated when a title insurance agent is no longer authorized to operate in any counties.

In Section III, Subsection C, Paragraph 3 (previously Section III, Subsection D), amend the language for clarity and to specify that if the title insurance agent is seeking a new appointment, the new appointment must be actively pursued within the existing license period in line with existing provisions regarding license suspensions.

In Section III, Subsection C, Paragraph 4, Subparagraph a (previously Section III, Subsection A), amend the language to no longer require the title insurance company state the reason for a termination, unless it is for cause, and to specify that the FINT10 form must be used to give TDI notice of appointment terminations.

Based on TDI's own review and determination, TDI has removed the reference to Administrative Rule D-1 in Paragraph 4. Administrative Rule D-1 is not relevant to the termination notice procedures required in Paragraph 4 and is only relevant once a termination has been affected. TDI has also made a nonsubstantive change, replacing "the" with "an" in Paragraph 4.

In Section III, Subsection C, Paragraph 4, Subparagraph b (previously Section III, Subsection C), amend the language to align the notification requirement to that of the

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title insurance company under Section III, Subsection C, Paragraph 4, Subparagraph a, as adopted, and to no longer require a title insurance agent state the reason that the title insurance agent is terminating the appointment in order to reduce the regulatory burden.

In Section III, Subsection D, Paragraph 1 (previously Section IV, Subsection B), amend the language to reference Insurance Code §2651.010.

In Section III, Subsection D, Paragraph 2 (previously Section IV, Subsection B, Paragraph 2), amend the language for clarity and to reference the new appointment provision.

Add new Section III, Subsection D, Paragraph 3 to specify that the requirements of Administrative Rule D-1 still apply to a suspended license.

Amend Section IV, Subsection A by deleting the second sentence, because the issue is more directly addressed in the adopted Section III, Subsection A, Paragraph 4.

Delete Section IV, Subsection C, because, although TDI will continue sending notices of renewal, TDI does not believe it is necessary to have this provision within the *Basic Manual*.

In Section IV, Subsection B, Paragraph 1 (previously Section IV, Subsection D), amend the language to reference the new Title Insurance Agent or Direct Operation Renewal Application (FINT03) form and to no longer require title insurance agents to submit franchise tax documentation in order to reduce the regulatory burden.

Redesignate Section IV, Subsection E as Section IV, Subsection B, Paragraph 2.

In Section IV, Subsection B, Paragraph 3 (previously Section IV, Subsection F), clarify existing requirements regarding licenses renewed after expiration.

In Section IV, Subsection B, Paragraph 4 (previously Section IV, Subsection G), specify the effect of a license being ineligible for renewal. This does not modify existing requirements.

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Redesignate Section IV, Subsection B, Paragraph 1 as Section IV, Subsection C, Paragraph 1.

In Section IV, Subsection C, Paragraphs 2-3 (previously Section IV, Subsection I), specify that a license that is suspended on its expiration is not eligible for renewal and that a valid appointment must be received by TDI prior to the expiration of the suspended license for it to be eligible for renewal.

Redesignate Section III, Subsection B as Section IV, Subsection D.

Amend Section V to reorganize for clarity and to incorporate a new approach to changes in operation. Previously, certain ownership changes in a title insurance agent partnership or entity required the cancellation of all existing title insurance agent and escrow officer licenses and appointments, and for new licenses and appointments to be acquired. In order to reduce the regulatory burden, TDI will allow title insurance agents and escrow officers to keep their existing licenses and appointments when these certain changes in ownership occur. TDI only requires a notice of the changes.

In Section V, Subsection A, Paragraph 1 (previously Section V, Subsection B), specify that a new license is only required if it expires, is surrendered, or is revoked under the new approach to changes in operation and that the business of title insurance may not be conducted until a new license is acquired.

Add new Section V, Subsection A, Paragraph 2 to clarify that a title insurance agent license is non-transferable.

In response to comment, TDI has clarified that the purchase of a title insurance agent's stock or membership interest is not considered a transfer of a title insurance agent license.

In Section V, Subsection B (previously Section V, Subsection A), amend the language to reorganize for clarity and to incorporate the new approach to changes in

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operation. Subsection B is broadly organized based on the type of form or other documentation required instead of listing required documentation under each of the addressed changes in operation. Additionally, TDI is addressing different categories of changes in operation more broadly to provide more clarity, instead of addressing more specific circumstance as it was previously. Last, the new approach replaces the various forms previously required for different changes in operations with only the FINT129 and FINT08 forms in order to reduce the regulatory burden.

Add new Section V, Subsection B, Paragraph 1, Subparagraph a to address existing notification requirements for all mergers, exchanges, and conversions. This provision reduces the documentation required with the notification in order to reduce the regulatory burden and will not add to any existing requirements.

Add new Section V, Subsection B, Paragraph 1, Subparagraph b to address existing notification requirements for a merger of two or more title insurance agents in which one existing title insurance agent survives the merger. This provision reduces the documentation required with the notification in order to reduce the regulatory burden and will not add to any existing requirements. Additionally, Clause iii specifies that TDI will combine all existing title insurance company appointments and escrow officer appointments of the merged title insurance agents into the surviving title insurance agent.

In Section V, Subsection B, Paragraph 1, Subparagraph c (previously Section V, Subsection A, Paragraphs 4-5), combine the two separate existing provisions for title insurance agent's name and assumed name changes to reduce the documentation required with the notification in order to reduce the regulatory burden. This provision does not add to any existing requirements.

In Section V, Subsection B, Paragraph 1, Subparagraph c, Clause iii (previously Section VI, Subsection C), broaden the requirement to cover any name change.

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Add new Section V, Subsection B, Paragraph 1, Subparagraph d to address existing notification requirements for a change in the ownership percentages of the title insurance agent. This provision reduces the documentation required with the notification in order to reduce the regulatory burden and will not add to any existing requirements.

In response to comment, TDI has clarified that a purchase of a stock or membership interest by a new owner only requires notice to TDI and not a new license.

In Section V, Subsection B, Paragraph 1, Subparagraph e (previously Section V, Subsection A, Paragraph 2), specify that the notification is required for a change in the physical or mailing address. A notice for a change in branch office address is no longer required to reduce the regulatory burden.

Add new Section V, Subsection B, Paragraph 2 to address when the FINT08 form is required for a change in operations. These provisions do not add to any existing requirements.

In response to comment, in Subparagraph a, TDI has clarified that the manager referred to in the proposal is a limited liability company manager and has replaced "partner and shareholder" from the proposal with "person" to fully include all individuals and entities that may control a title insurance agent.

In Section V, Subsection B, Paragraph 3 (previously Section V, Subsection A, Paragraph 9), amend the language to no longer require notification for changes in the title insurance agent's title plant in order to reduce the regulatory burden. In line with the new approach to title plant documentation, TDI only requires the title insurance agent to update the title insurance agent's records with the changes and to make those records available on request.

In response to comment, TDI has replaced the term "subscription" with "lease" in order to use a more commonly understood term.

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In Section V, Subparagraph B, Paragraph 4 (previously Section IV, Subsection H), amend the language to no longer require notification for changes in the bonds or deposits in order to reduce the regulatory burden. TDI only requires the title insurance agent to update the title insurance agent's records with the changes and to make those records available on request.

Delete Section VI, Subsections A, B, and D, because these provisions are no longer necessary with the new approach to changes in operation.

Delete Section VII, because it was meant to only apply temporarily and is no longer necessary.

Item 2018-3. Adopt the Application for Title Insurance Agent or Direct Operation License (FINT143) form for a title insurance agent or direct operation license applicant to use to apply for a license under Administrative Rule L-1, Section II, and Administrative Rule L-3, Section II, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified that the manager referred to in the proposed form is a limited liability company manager.

-Replaced "partner and shareholder" from the proposed form with "person" to fully include all individuals and entities that may control a title insurance agent or direct operation.

-Clarified that only a *copy* of a surety bond, letter of credit, or cash deposit is required.

-Modified the form to not require a Tripartite agreement (Form T-S2), because it is duplicative when filing a title insurance agent's unencumbered assets certification (Form T-S1) and proof of minimum capitalization.

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-Replaced "Letter of Authority," the name of the document from the Secretary of State's Office, with "Certificate of Filing," because it is the proper term to use.

-Added a place for a date next to the place for the signature on the form.

Item 2018-4. Adopt the Title Insurance Licensing Biographical Information (FINT08) form for a title insurance agent or direct operation license applicant and other associated individuals to use to provide personal background information to TDI as required under Administrative Rule L-1, Section II, Subsection B, Paragraph 1, and Administrative Rule L-3, Section II, Subsection B, Paragraph 1, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified that the manager referred to in the proposed form is a limited liability company manager.

-Replaced "partner and shareholder" from the proposed form with "person" to fully include all individuals and entities that may control a title insurance agent or direct operation.

-Added a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

-Replaced the term "owner" with shareholder.

-Clarified that "manager" means "LLC manager."

-Removed the requirement to attach copies of continuing education certificates from courses taken in the past 2 years.

-Clarified that only a certified *copy* of the listed documentation regarding criminal history is required, not originals.

-Added a place for a date next to the place for the signature on the form.

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Based on TDI's own review and determination, TDI has reorganized the check boxes regarding positions held to group like positions together.

Item 2018-5. Adopt the Title Insurance Agent or Direct Operation Appointment (FINT10) form for a title insurance company to use when authorizing or de-authorizing a title insurance agent or direct operation to bind the insurer to issue a title insurance policy. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Added a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

-Added a place for a date next to the place for the signature on the form.

Item 2018-6. Adopt the Title Insurance Agent or Direct Operation Renewal Application (FINT03) form for a title insurance agent or direct operation to renew their license under Administrative Rule L-1, Section IV, Subsection B, and Administrative Rule L-3, Section IV, Subsection B, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified that the required late fee is in addition to the normally required renewal application fee.

-Added a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

-Clarified that only a certified *copy* of the listed documentation regarding criminal history is required, not originals.

-Removed the reference to administrative actions in the confirmation.

-Added a place for a date next to the place for the signature on the form.

Item 2018-7. Adopt the Title Insurance Agent or Direct Operation Change Request (FINT129) form for a title insurance agent or direct operation to provide information as

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specified in Administrative Rule L-1, Section V, Subsection B, Paragraph 1, and Administrative Rule L-3, Section V, Subsection B, Paragraph 1, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

- Added a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

- Replaced "owners, firms, or people" with "shareholders, members, or partners" to be consistent with the terms used in the rules.

- Clarified what information the form requires regarding ownership changes.

- Clarified that the manager referred to in the proposal is a limited liability company manager.

- Replaced "partner and shareholder" from the proposal with "person" to fully include all individuals and entities that may control a title insurance agent or direct operation.

- Changed the reference to "officers and directors" to "officers, directors, limited liability company managers, or designated on-site managers" to fully encompass the individuals being asked about.

- Replaced "Officer Name" with "Name," because more than just officers are being asked about.

- Removed the requirement to attach documents that give details about the change.

- Added a place for a date next to the place for the signature on the form.

Based on TDI's own review and determination, TDI has corrected the form to refer to a "licensed" entity or partnership, not an "applicant."

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Item 2018-8. Amend the Texas Title Insurance Agent/Direct Operation Bond to update the reference to Insurance Code Article 9.38 to the codified provision of Insurance Code §2651.101 and to make non-substantive changes.

In response to comment, TDI has removed the requirement to list DBAs.

Item 2018-9. Amend the Texas Escrow Officers Schedule Bond to update the reference to Insurance Code Article 9.45 to the codified provision of Insurance Code §2652.101 and to make non-substantive changes.

In response to comment, TDI has removed the requirement to list DBAs.

Item 2018-10. Amend Administrative Rule L-2 to implement HB 2491 and to replace the existing staggered license renewal system with one consistent with the renewal system established under SB 876, 84th Legislature, Regular Session (2015). Additionally, revise the language to make organizational changes. Section I addresses general requirements; Section II still addresses the application for and issuance of an escrow officer license; Section III still addresses escrow officer appointments; Section IV addresses the expiration, renewal, and surrender of an escrow officer license; and Section V addresses changes of name, address, or contact information.

Amend Section I, Subsection A to conform to Insurance Code §2501.003.

Amend Section I, Subsection B to implement HB 2491 by adding that a title insurance agent or direct operation may not employ *or appoint* an unlicensed escrow officer and to note that a deposit may be made instead of acquiring a bond under Insurance Code §2651.102 and §2652.102.

Amend Section I, Subsection C to implement HB 2491 by indicating that escrow officers must be appointed by a title insurance agent or direct operation prior to performing the duties of an escrow officer.

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Amend Section I, Subsection D to implement HB 2491 by indicating that escrow officers must be appointed prior to performing the duties of an escrow officer.

Amend Section I, Subsection E to implement HB 2491 by indicating that escrow officers must be appointed prior to performing the duties of an escrow officer and to use the new defined terms.

In Section I, Subsection F (previously undesignated first sentence), specify that the required forms are available on the TDI website and that they may be submitted electronically if such submission is available.

Add new Section I, Subsection G to specify that license holders who meet certain qualifications pertaining to their military service, or that of their spouse, may request a waiver, extension, exemption, or alternative licensing requirements for the license holder to comply with certain licensing requirements as provided in 28 TAC §19.803.

In Section II, Subsection A (previously Section II, first undesignated provision), implement HB 2491 by indicating that the responsibility of obtaining and maintaining the escrow officer license is now with the escrow officer.

In Section II, Subsection A, Paragraph 1 (previously Section II, Subsection A), amend to reference the new Application for Escrow Officer License (FINT132) form.

Add new Section II, Subsection A, Paragraph 2 to specify that the new Escrow Officer Appointment (FINT09) form must be submitted in order to obtain an escrow license.

In Section II, Subsection A, Paragraph 3 (previously Section II, Subsection B), specify that the fee may be paid by either the escrow officer license applicant or the appointing title insurance agent or direct operation.

In Section II, Subsection B (previously Section II, Subsection C), specify that the appointing title insurance agent or direct operation is responsible for updating and

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maintaining the appointed escrow officer's bond or deposit under Insurance Code, Chapter 2652, Subchapter C, and reference provisions in Administrative Rules L-1 and L-3 that address escrow officer bond or deposit requirements. Delete Paragraph 1, because escrow officers are not responsible for their bond or deposit requirements and this information is addressed in Administrative Rules L-1 and L-3. Delete Paragraph 2, because the required bond form is adopted by reference.

TDI has updated a reference to a provision in Administrative Rule L-1 from the proposal to reflect the changed paragraph number of that provision.

Add new Section II, Subsection C to specify that TDI will not prorate the initial license application fee for a license period shorter than 24 months.

Add new Section II, Subsection D to specify that an escrow officer appointment fee is not required for the first appointment made with a license application.

In Section III, Subsection A (previously Section III), amend to address escrow officers holding multiple appointments to implement HB 2491, instead of addressing title insurance agents using multiple escrow officers.

Add new Section III, Subsection A, Paragraph 1 to implement HB 2491 by specifying that an escrow officer is not required to obtain an additional license to be employed or appointed by additional title insurance agents or direct operations.

In Section III, Subsection A, Paragraph 2 (previously Section III, Subsection C), specify that each title insurance agent or direct operation must separately appoint the escrow officer and to not require the submission of documentation regarding the changes in the escrow officer's schedule bond with new appointments.

In Section III, Subsection A, Paragraph 3 (previously Section III, Subsections A-B), implement HB 2491 by referencing the new FINT09 form and specifying the amount of the appointment fee required under Insurance Code §2652.1511(c)(1).

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Add new Section III, Subsection A, Paragraph 4 to implement HB 2491 by specifying when an escrow officer appointment is effective under Insurance Code §2652.1511(e).

Add new Section III, Subsection B, Paragraph 1 to implement HB 2491 by specifying when an appointment expires under Insurance Code §2652.1511(d).

In Section III, Subsection B, Paragraph 2 (previously Section IV, Subsection A, Paragraph 1), amend the language to implement HB 2491 by addressing the cancellation of an escrow officer's appointment instead of the escrow officer's license and to no longer require the submission of the updated bond to reduce the regulatory burden.

In Section III, Subsection B, Paragraph 3 (previously Section IV, Subsection C), implement HB 2491 by addressing the cancellation of an escrow officer's appointment instead of the escrow officer's license and deleting the reference to the submission of the updated bond to reduce the regulatory burden.

In Section III, Subsection B, Paragraph 4 (previously Section IV, Subsection A, Paragraph 2), amend the language to no longer require the submission of documentation regarding changes to the escrow officer's schedule bond as a result of the escrow officer ceasing to act as an escrow officer for a title insurance agent or direct operation in order to reduce the regulatory burden.

In Section IV, Subsection A, Paragraph 1 (previously Section V, Subsection A), replace the existing staggered license renewal system with one consistent with the renewal system created under SB 876. Set escrow officer license expiration dates as specified in Insurance Code §4003.001, except that the expiration date will be extended to the last day of the escrow officer license holder's birth month. This method gives effect to the intent of SB 876, which generally set license expirations on a license holder's birthday; however, it does not raise the same privacy concerns. Additionally, revise to provide that any license fee will not be increased based on an extended initial license

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period and that an escrow officer is not required to obtain additional continuing education credit hours during an extended license period.

In Section IV, Subsection A TDI has changed the date to which the provisions in the exhibit apply to unexpired licenses to be March 18, 2019.

Add new Section IV, Subsection A, Paragraph 2 to give effect to the intent of SB 876 by providing for the expiration date alignment of a new escrow officer license to that of any other existing license. Additionally, revise to provide that the application fee will not be decreased or increased based on the length of the initial license period and that an escrow officer is not required to obtain additional continuing education credit hours during an extended license period.

Add new Section IV, Subsection A, Paragraph 3, Subparagraph a to set the first expiration date under the new system for all escrow officer licenses held by an individual on the last day of the individual's birth month after the expiration date of the escrow officer license with the longest remaining term in order to align all existing escrow officer licenses. After this initial alignment period, an escrow officer will only hold one license. Aligning to the longest existing licensing period will prevent any added regulatory burden on escrow officer license holders during the transition to a single escrow officer license as established by HB 2491 and promote the efficient use of state resources by avoiding proration issues. Additionally, the new language specifies that, after the alignment period, expiration dates are determined under Administrative Rule L-2, Section IV, Subsection A, Paragraph 1.

Add new Section IV, Subsection A, Paragraph 3, Subparagraph b to specify that TDI will not charge an additional fee or require a renewal application before the renewal date for license terms extended beyond two years. This will prevent any added regulatory

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burden on escrow officer license holders during the transition to a single escrow officer license and promote the efficient use of state resources.

Add new Section IV, Subsection A, Paragraph 3, Subparagraph c to specify that escrow officer license holders are not required to obtain additional continuing education during an extended license period. This will prevent any added regulatory burden on escrow officer license holders during the transition to a single escrow officer license.

In Section IV, Subsection A, Paragraph 3 TDI has changed the date in the provision which addresses red escrow officer licenses.

In Section IV, Subsection B, Paragraph 1 (previously Section V, Subsection B), delete the reference to the existing staggered renewal system, to specify that the fee may be paid by the escrow officer license holder or the appointing title insurance agent or direct operation, and to clarify that meeting existing continuing education requirements under Insurance Code §2652.058(a) and Procedural Rule P-28 is a requirement for license renewal. Also, delete the provision in Paragraph 2 regarding proration, because an escrow officer license would not be renewed for less than two years.

In Section IV, Subsection B, Paragraph 2 (previously Section V, Subsection C), implement HB 2491 by specifying that the responsibility for renewing a license is on the escrow officer license holder, and delete the reference to the proper rider for the escrow officer's bond being required, as updated bond documentation will no longer be required.

In Section IV, Subsection B, Paragraph 3 (previously Section V, Subsection D), specify the amount of the late fee, and state that it is one-half of the original license renewal fee.

In Section IV, Subsection B, Paragraph 4 (previously Section V, Subsection E), provide that, if a license is expired for more than 90 days, all escrow officer appointments

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are canceled. Additionally, provide more detail regarding the existing new licensure requirement.

In Section IV, Subsection C, Paragraph 1 (previously Section IV, Subsection B), implement HB 2491 by specifying that only escrow officers may surrender their license, and reduce the regulatory burden by reducing the documentation required for the surrender of the license.

In Section IV, Subsection C, Paragraph 2 (previously Section IV, Subsection C), specify that the surrender of a license is effective when TDI receives the written notice, and delete the reference to the updated bond.

Add new Section IV, Subsection C, Paragraph 3 to implement HB 2491 by specifying that all current appointments under the escrow officer license are canceled on termination of the license in accordance with Insurance Code §2652.1511(d).

Add new Section IV, Subsection C, Paragraph 4 to specify that a title insurance agent or direct operation may remove an individual from its escrow officer's schedule bond and decrease the aggregate amount of the bond on the surrender of that individual's escrow officer license.

In Section V (previously Sections VII and VIII), require notification of a change in mailing and email address and telephone number, in addition to a change in residential address, and reference the new Escrow Officer Name or Address Change Request (FINT01) form. For a notice of escrow officer name change, shift the responsibility of an escrow officer name change notice from the title insurance agent or direct operation to the escrow officer, to reduce the amount of documentation required with the notice in order to reduce the regulatory burden.

Delete Section VI, because this provision is no longer required with HB 2491.

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Item 2018-11. Adopt the Application for Escrow Officer License (FINT132) form for an escrow officer license applicant to use to apply for an escrow officer license under Administrative Rule L-2, Section II, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified that the form is asking for the "*home* mailing address" and "*home* physical address."

-Clarified that only a certified *copy* of the listed documentation regarding criminal history is required, not originals.

-Added a place for a date next to the place for the signature on the form.

Item 2018-12. Adopt the Escrow Officer Appointment (FINT09) form for a title insurance agent or direct operation to use to appoint an escrow officer and to cancel the appointment of an escrow officer. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Added a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

-Added a place for a date next to the place for the signature on the form.

Item 2018-13. Adopt the Escrow Officer License Renewal Application (FINT02) form for an escrow officer to use to renew their license under Administrative Rule L-2, Section IV, Subsection B, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified that the required late fee is in addition to normally required renewal application fee.

-Clarified that only a certified *copy* of the listed documentation regarding criminal history is required, not originals.

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-Removed the reference to administrative actions in the confirmation.

-Added a place for a date next to the place for the signature on the form.

Item 2018-14. Adopt the Escrow Officer Name or Address Change Request (FINT01) form for an escrow officer to use to notify TDI if an escrow officer's name, home, mailing, or email address, or telephone number changes, as required under Administrative Rule L-2, Section V, as adopted. Information within brackets is subject to change.

In response to comment, TDI has made the following changes:

-Clarified when 30 day count for the notice begins.

-Added a place for a date next to the place for the signature on the form.

Item 2018-15. Amend Administrative Rule L-3 to make organizational changes so different sections can be more easily cited. The changes to Administrative Rule L-3 are intended to align to Administrative Rule L-1, as adopted. Section I addresses general requirements of direct operations; Section II addresses direct operation license application requirements and license issuance; Section III addresses the appointment of a direct operation by another title insurance company; Section IV addresses direct operation license expiration, renewal, and surrender; and Section V addresses requirements regarding changes in operation.

Delete the undesignated first paragraph, because the substantive content of this paragraph is addressed elsewhere within Administrative Rules, L-3, as adopted.

Add new Section I, Subsection A, Paragraphs 1 – 2 to address the statutory requirements in Insurance Code §2651.051.

Add new Section I, Subsection A, Paragraph 3 to address the bond or deposit required to act as a direct operation. A direct operation is responsible for the bond or deposit requirements of an appointed escrow officer.

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Add new Section I, Subsection A, Paragraph 4 to address the requirements for direct operations employing an escrow officer, including the new appointment requirements under HB 2491. These requirements conform to Insurance Code §2652.001. This topic was previously only addressed in Administrative Rule L-2. These requirements are being added here because they are requirements of direct operations, not escrow officers.

Add new Section I, Subsection B to clearly inform direct operation license holders of their obligations regarding their records.

Add new Section I, Subsection C to address information TDI is deleting from the first paragraph of Administrative Rules, L-3, and to note that forms may be submitted to TDI electronically.

Add new Section I, Subsection D to address TDI's change regarding the FINT120 form. As adopted, direct operations must maintain a current and complete FINT120 form, but, in order to reduce the regulatory burden, TDI will only require direct operations to provide it on request.

Add new Section II, Subsection A to address the previous limitation within the definition of "Federal Identification Number" and the first paragraph of Administrative Rules, L-3. Delete the other references to this limitation.

In Section II, Subsection B (previously Section I, Subsection 1), specify that a direct operation license applicant must use the new FINT143 form, instead of the previously used Application for Texas Direct Operation License (FINT130) form.

Add new Section II, Subsection B, Paragraph 1 to address existing fingerprint requirements under 28 TAC §1.503 and §1.504.

Based on comment, TDI has removed the requirement to submit the FINT08.

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Add new Section II, Subsection B, Paragraph 2 to require a copy of the applicant's Assumed Name Certificate if an assumed name is used.

Add new Section II, Subsection B, Paragraph 3, Subparagraph a to require a direct operation license applicant to attest that the direct operation has a current Schedule D.

In Section II, Subsection B, Paragraph 3, Subparagraph b (previously Section I, Subsection 3), no longer require the submission of the FINT120 form, in order to reduce the regulatory burden. TDI will only require the direct operation to attest that its abstract plant has met requirements and keep a current and completed FINT120 form available for TDI inspection.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in order to use a more commonly understood term.

In Section II, Subsection B, Paragraph 4 (previously Section I, Subsection 5), address existing bond or deposit requirements and add detail on how an applicant can demonstrate compliance. Additionally, add provisions regarding escrow officer bond or deposit requirements that previously existed in Administrative Rule L-2 here because the bond or deposit requirements are obligations of the title insurance agent or direct operation, not the escrow officer. TDI is not adopting any new requirements for bonds or deposits.

In response to comment, TDI has removed the requirement to demonstrate compliance with the capitalization requirements in Insurance Code §2651.012 and renumbered the remaining two provisions in Subsection B as a result.

Redesignate Section I, Subsection 4 as Section II, Subsection B, Paragraph 5.

Redesignate Section I, Subsection 2 as Section II, Subsection B, Paragraph 6.

Add new Section III to address appointments of direct operations by other title insurance companies. The requirements of Section III are consistent with the requirements

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of Administrative Rule L-1, Section III, as adopted, with the exception of the provisions that do not apply to direct operations.

Add new Section III, Subsection A, Paragraph 1 to specify what must be submitted to TDI to make an appointment.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in Subparagraph c in order to use a more commonly understood term.

Add new Section III, Subsection A, Paragraph 2 to address the date an appointment is effective under Insurance Code §2651.009(c-2).

In response to comment, TDI has specified that the notice of appointment is complete when TDI receives a complete Title Insurance Agent or Direct Operation Appointment (FINT10) form and the required fee. This clarifies how the effective date is calculated for an appointment.

Add new Section III, Subsection A, Paragraph 3 to specify that direct operations may act for multiple title insurance companies in a county under Insurance Code §2651.009(a).

Add new Section III, Subsection A, Paragraph 4 to specify that appointments do not need to be renewed under Insurance Code §2651.009(e).

In Section III, Subsection B, Paragraph 1 (previously Section II, Subsection C), amend to incorporate the new approach to licenses and appointments. A title insurance company will only be required to submit the new FINT10 form and, in order to reduce the regulatory burden, will no longer be required to submit the agent contract, a FINT141 form, a FINT120 form, or a FINT129 form with each change in county under an appointment. Instead, the title insurance company will only be required to attest that the

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direct operation has a current Schedule D, has an agent contract, and meets the requirements regarding abstract plants.

In response to comment, TDI has replaced "a subscription agreement" with "an abstract plant lease" in Subparagraph c in order to use a more commonly understood term.

Add new Section III, Subsection B, Paragraph 2 to address the date an appointment to an additional county is effective.

Add new Section III, Subsection C, Paragraph 1 to explain the effect of terminating an appointment in accordance with Insurance Code §2651.009(f).

Add new Section III, Subsection C, Paragraph 2 to specify that an appointment is terminated when a direct operation is no longer authorized to operate in any counties.

Add new Section III, Subsection C, Paragraph 3 to specify how a direct operation or title insurance company may terminate the direct operation's appointment.

In Section IV, Subsection A (previously Section IV, Subsection A-B), modify the existing staggered renewal system and set a direct operation's license expiration at two years after the date of issuance, as authorized under Insurance Code §2651.054.

In Section IV, Subsection B, Paragraph 1 (previously Section IV, Subsection B), delete the reference to when the license expires, as that will be addressed in Section IV, Subsection A, as adopted. Additionally, delete the reference to proration, because a license should not be renewed for less than the full two year term.

In response to comment, TDI has deleted the reference to a license that has been revoked or surrendered because the license would not exist to be renewed if it had been revoked or surrendered.

Redesignate Section IV, Subsections C-D as Section IV, Subsection B, Paragraphs 2 - 3.

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In Section IV, Subsection B, Paragraph 4 (previously Section IV, Subsection E), specify the effect of a license being ineligible for renewal. This does not modify existing requirements.

Delete Section III, Subsection A, because TDI only needs notice from the direct operation regarding cancellation of its license.

In Section IV, Subsection C (previously Section III, Subsection B), replace the term "cancellation" with "surrender," which is the statutorily used term.

In Section V (previously Section II), reorganize to be consistent with Administrative Rule L-1, Section V, as adopted. Subsection A will address circumstances requiring a new license and Subsection B will address circumstances not requiring a new license.

Add new Section V, Subsection A, Paragraph 1 to specify the only circumstances when a new license is required. This does not change existing requirements.

Add new Section V, Subsection A, Paragraph 2 to clarify that a direct operation license is non-transferable.

In response to comment, TDI has clarified that the purchase of a title insurance company's stock is not considered a transfer of an associated direct operation's license.

Add new Section V, Subsection B, Paragraph 1, Subparagraph a to require notification of all mergers, exchanges, and conversions prior to the transaction.

Add new Section V, Subsection B, Paragraph 1, Subparagraph b to require a direct operation notify TDI if its name or assumed name changes and to specify that a new name may not be used until the direct operation has been notified by TDI that the license has been updated with the new name.

In Section V, Subsection B, Paragraph 1, Subparagraph c (previously Section II, Subsection A), specify that the new FINT129 form is required.

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Add new Section V, Subsection B, Paragraph 2 to require direct operations notify TDI of each new designated on-site manager.

Based on TDI's own review and determination, TDI has removed the requirement to notify TDI of a new manager. It is not necessary to require this type of notice.

In Section V, Subsection B, Paragraph 3 (previously Section II, Subsection B), no longer require written notification of changes to a direct operation's title plant, in order to reduce the regulatory burden. Direct operations will only be required to update its records and make them available to TDI on request.

In response to comment, TDI has replaced the term "subscription" with "lease" in order to use a more commonly understood term.

In Section V, Subsection B, Paragraph 4 (previously Section IV, Subparagraph F), no longer require that a direct operation file documentation of changes to its bond or deposit, in order to reduce the regulatory burden. A direct operation will only be required to update its documentation regarding changes in its bonds or deposits and make the documentation available to TDI on request.

In Section V, Subsection B, Paragraph 5 (previously Section II, Subsection C), only require that the direct operation submit the new FINT10 form and attest that the direct operation has a current Schedule D and meets the requirements regarding abstract plants.

In response to comment, TDI has replaced the term "a subscription agreement" with "an abstract plant lease" in Clause ii in order to use a more commonly understood term.

Item 2018-16. Amend Procedural Rule P-28 to implement HB 2491 and to shift the responsibility of reporting course credit hours from license holders to continuing education course providers. Shifting responsibility to course providers will create a more efficient system to verify continuing education compliance and will reduce the regulatory

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burden on license holders. As part of the implementation of HB 2491, which added Insurance Code §2652.058(g), TDI is amending the provisions of Procedural Rule P-28 to make them consistent with the provisions of TAC Title 28, Chapter 19, Subchapter K, which sets out the rules for continuing education requirements established by Insurance Code, Chapter 4004. Additionally, amend the language to reference the TDI Administrator throughout to implement HB 2491, and to clarify and reorganize existing requirements.

Delete Section A, Subsection 1, because the substantive information detailed is addressed in other portions of Procedural Rule P-28, as adopted.

In Section I, Subsection A, Paragraph 1 (previously Section A, Subsection 2, Paragraph c), amend the definition of "licensee" to only refer to individuals who are required to complete continuing education under Insurance Code §2651.204 and §2652.058.

In Section I, Subsection A, Paragraph 2 (previously Section B, Subsection 1), amend the definition of "management personnel" to only refer to each individual who is a designated on-site manager or who is responsible for the management of day-to-day operations of the title insurance agent or direct operation in Texas.

In response to comment, TDI has limited the definition to exclude those who are not responsible for day-to-day operations.

In Section I, Subsection A, Paragraph 3 (previously Section A, Subsection 2, Paragraph d), amend the definition of "provider" to add that a provider is an entity, partnership, or individual that provides title insurance continuing education or professional training courses.

In Section I, Subsection A, Paragraph 4 (previously Section A, Subsection 2, Paragraph b), amend the defined term to replace "department" with "TDI" to conform with current TDI style guidelines.

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Add new Section I, Subsection A, Paragraph 5 to define "TDI Administrator," to implement HB 2491.

Delete Section A, Subsection 2, Paragraph a, which defines "Continuing Education Coordinator," because the term will no longer be used in Procedural Rule P-28, as adopted.

Delete Section A, Subsection 2, Paragraph e, which defines "Certified Transcript," because the term will no longer be used in Procedural Rule P-28, as adopted.

Delete Section A, Subsection 2, Paragraph f, which defines "control," because the term will not be used as previously defined in Procedural Rule P-28.

Delete Section A, Subsection 2, Paragraph g, which defines "entity," because the term will no longer be used in Procedural Rule P-28.

In Section I, Subsection B (previously Section A, Subsection 10), amend the language to simply specify that forms are available from the TDI website and on request from TDI. Further, specify that forms may be submitted electronically if such submission is available.

Add new Section I, Subsection C to implement HB 2491 by referencing the escrow officer continuing education provider registration and course certification fees required under Insurance Code Chapter 4004, Subchapter C, and established in 28 TAC §19.1012(b).

In Section II, Subsection A (previously Section A, Subsection 7), implement HB 2491 by aligning the provisions to the registration requirements established in 28 TAC §19.1005.

In Section II, Subsection A, Paragraph 1 (previously Section A, Subsection 7), implement HB 2491 by detailing the information TDI may require in a provider registration application and specifying that the application must include the applicable registration or renewal fee under 28 TAC §19.1012(b)(1).

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Add new Section II, Subsection A, Paragraph 2 to specify that a failure to submit a completed application and all of the requested items will result in the rejection of the application.

Add new Section II, Subsection A, Paragraph 3 to specify that a provider may only obtain one registration and that the provider's registration is not contingent on the provider certifying and offering a course.

Add new Section II, Subsection A, Paragraph 4 to implement HB 2491 by specifying that a provider registration expires after two years and that a provider may renew its registration up to 90 days in advance of the expiration date.

Add new Section II, Subsection A, Paragraph 5 to implement HB 2491 by requiring providers who are currently offering certified title insurance continuing education courses, but are not registered as providers, to register.

In Section II, Subsection B (previously Section A, Subsection 9), implement HB 2491 by aligning the provisions to the certification requirements established in 28 TAC §19.1007.

In Section II, Subsection B, Paragraph 1 (previously Section A, Subsection 9, Paragraph a), implement HB 2491 by detailing the information TDI may require in a course certification application and specifying that the application must include the applicable submission fee under 28 TAC §19.1012(b)(2). Additionally, amend the language to no longer automatically approve and certify courses 30 days after the application is filed.

In response to comment, TDI has added Subparagraph i to request an explanation of how the course at issue complies with relevant requirements relating to classroom equivalent courses and updated the following subparagraph letters as a result.

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Add new Section II, Subsection B, Paragraph 2 to specify that a failure to submit a completed application and all of the requested items will result in the rejection of the application.

Redesignate Section A, Subsection 9, Paragraph d as Section II, Subsection B, Paragraph 3.

Add new Section II, Subsection B, Paragraph 4 to implement HB 2491 by specifying that a course certification expires after two years and that, if a course is significantly changed, the course requires a new certification.

Delete Section A, Subsection 9, Paragraph b, because TDI will award credit hours for successfully completed State Bar of Texas courses without the course being certified by TDI under Procedural Rule P-28, Section II, Subsection I, Paragraph 3.

Delete Section A, Subsection 9, Paragraph c, because this provision was only temporarily effective.

In Section II, Subsection C (previously Section A, Subsection 7, Paragraph i), align the requirements for the assignment of a course to 28 TAC §19.1008. Paragraph 1 addresses the items TDI may require in order to approve or disapprove a course's assignment; Paragraph 2 addresses the restrictions on an assignment; Paragraph 3 addresses assignor and assignee responsibilities regarding course information demonstrating compliance with the certification requirements under Procedural Rule P-28, Section II, Subsection B; Paragraph 4 specifies that an assignment does not affect the certification period; Paragraph 5 specifies that an assignee is responsible for complying with Procedural Rule P-28 with respect to the assigned course; Paragraph 6 specifies that TDI may not act on any parties behalf in a dispute; Paragraph 7 specifies when an assignment terminates; and Paragraph 8 specifies that an assignee may not offer an expired course, unless the assignor recertifies the course.

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In Section II, Subsection D, Paragraph 1 (previously Section A, Subsection 5, Paragraph a), delete the portion of the sentence regarding assisting customers in making informed decisions regarding their insurance needs, because courses should cover broader issues.

Redesignate Section A, Subsection 5, Paragraphs b – d as Section II, Subsection D, Paragraphs 2 – 4.

In Section II, Subsection D, Paragraph 5 (previously Section A, Subsection 5, Paragraph e), specify that the requirement to conduct/instruct a class and provide appropriate feedback on questions only applies to classroom courses. This change was made in response to comment.

In Section II, Subsection D, Paragraph 6 (previously Section A, Subsection 5, Paragraph f), amend to list the topics in subparagraphs and to clarify some of the topics to more closely align to Insurance Code §2651.204(c) and §2652.058(c).

In Section II, Subsection D, Paragraph 7 (previously Section A, Subsection 5, Paragraph g), add a reference to the State Board of Public Accountancy.

Redesignate Section A, Subsection 5, Paragraph i as Section II, Subsection D, Paragraphs 8.

Add new Section II, Subsection E to implement HB 2491 by addressing instructor requirements established in 28 TAC §19.1005. Paragraph 1 requires providers to certify that course instructors meet specific qualifications and Paragraph 2 requires providers to maintain a written statement from the instructor certifying compliance with Paragraph 1.

In response to comment, TDI has made the following changes in Paragraph 1:

-Modified Subparagraph a to require teaching *or co-teaching* at least three *of the last five years*. This broadens the provision to include more qualified instructors.

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-Modified Subparagraph c to include more than just national designation certifications, such as state-level designation certifications.

-Added Subparagraph e to allow those with substantial industry experience to qualify as instructors.

In Section II, Subsection F, Paragraph 1 (previously Section A, Subsection 6, Paragraph a), implement HB 2491 by amending the requirements of a classroom course to align to 28 TAC §19.1009. Specifically, amend the language to require certain monitoring of attendance, a minimum of three students be involved in each presentation of the course, a question and answer and discussion period, that the course pace be set by the instructor, and that the course does not allow for independent completion of the course by students.

In response to comment, TDI has specified that classroom courses may include *real time* lectures and noted that webinars qualify. TDI has also clarified that student attendees do not need to be licensees to count towards the three student requirement.

In response to comment, TDI has added new Section II, Subsection F, Paragraph 2 to create a classroom equivalent category. TDI has also renumbered the following provision as a result.

In Section II, Subsection F, Paragraph 3 (previously Section A, Subsection 6, Paragraph b), implement HB 2491 by amending to align to 28 TAC §19.1009. Specifically, amend the language to specify that the course must be designed in such a manner as to ensure that the course cannot be completed by the typical enrollee in less time than the period for which the course is certified.

In response to comment, TDI has specified that a self-study course is primarily a text-based course to distinguish it from a classroom equivalent course. TDI has also corrected an error by changing "insure" to "ensure."

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In Section II, Subsection G, Paragraph 1 (previously Section A, Subsection 8, Paragraph a), implement HB 2491 by aligning the language with the requirements to 28 TAC §19.1011. Specifically, specify that attendance rosters or attendance forms must be used and that another assessment measure may not be used in an attendance roster's place. Specifying that sign-in and sign-out sheets requiring certain student information must be used. Additionally, delete the reference to partial credit for a course, because partial credit will no longer be given.

In response to comment, TDI has specified that attendance forms may also be used, instead of only attendance rosters. TDI has also clarified that each student must attend at least 90 percent of the course *to receive credit*.

In response to comment, TDI has added Section II, Subsection G, Paragraph 2 to specify the requirements of a classroom equivalent course. The requirements are set to ensure the authentication of the student's identity and participation. TDI is giving providers flexibility in how they ensure participation. TDI has also renumbered the following provision as a result.

In Section II, Subsection G, Paragraph 3 (previously Section A, Subsection 8, Paragraph b), implement HB 2491 by aligning the language with the requirements to 28 TAC §19.1011. Specifically, specify that a written, online, or computer-based examination may be used as a means of completion of the course, a provider is not required to monitor the final examination, and that certain records regarding examination attempts must be kept.

Redesignate Section A, Subsection 8, Paragraph b, Subparagraphs 1 – 7 as Section II, Subsection G, Paragraph 2, Subparagraphs a – g.

Add new Section II, Subsection G, Paragraph 2, Subparagraphs h – k to specify what type of examination questions may be used, the number of questions required, what

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materials may be used by the license holder when taking an exam, and that the examination must be mailed or delivered directly to the provider to align with 28 TAC §19.1011.

In response to comment, TDI has removed the maximum question limitation for the final examination, which conflicted with the language following it that gave discretion to have more.

In Section II, Subsection H, Paragraph 1 (previously Section A, Subsection 8, Paragraph c), implement HB 2491 by requiring providers to issue certificates of completion within 30 calendar days of the completion of the course if requested by the student and to add detail regarding the requirements of certificates of completion to align with 28 TAC §19.1007 and §19.1011. Additionally, delete the reference to a certificate of completion or certified transcript covering multiple licenses, because multiple licenses will no longer be held.

In response to comment, TDI has modified the provision to only require the provision of the certificate of completion if a student requests it. TDI has also clarified that a third-party vendor of the provider may be used to prepare, print, or complete a certificate of completion.

Add new Section II, Subsection H, Paragraph 2 to require that providers report course completions in electronic format to TDI or the TDI Administrator within 30 calendar days.

In response to comment, TDI has specified that course completions must be reported in electronic format.

In Section II, Subsection I (previously Section A, Subsection 7), implement HB 2491 by amending the language to align credit hour calculations with 28 TAC §19.1010 and replace the terms "teach" or "teacher" with "instruct" or "instructor" throughout.

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In Section II, Subsection I, Paragraph 1 (previously Section A, Subsection 7, Paragraph a), amend to grant credit hours at a rate of one hour for every 50 minutes of actual instruction time, plus additional partial hours of credit in half-hour increments.

In response to comment, TDI has specified that classroom equivalent course credit hours will be calculated in the same way as classroom course credit hours.

In Section II, Subsection I, Paragraph 2 (previously Section A, Subsection 7, Paragraph b), amend to award credit based on the average completion time or the average number of hours of the credit hours other states award.

In Section II, Subsection I, Paragraph 3 (previously Section A, Subsection 7, Paragraph c and Section A, Subsection 5, Paragraph h), amend to award credit hours for State Board of Public Accountancy courses in addition to State Bar of Texas courses.

In Section II, Subsection I, Paragraph 4 (previously Section A, Subsection 7, Paragraph d), specify that law school courses may also qualify for credit hours.

In Section II, Subsection I, Paragraph 5 (previously Section A, Subsection 7, Paragraph e), amend to set the number of credit hours awarded for course preparation equal to the number of hours of course instruction and no longer require that a course provider report course preparation hours of an instructor.

Delete Section A, Subsection 7, Paragraph f, because TDI will no longer grant partial credit for partially completed courses.

In Section II, Subsection I, Paragraph 6 (previously Section A, Subsection 7, Paragraph g), provide that credit for any single course will only be given once in a reporting period, whether instructing the course or completing it as a student.

Delete Subsection A, Subsection 7, Paragraph h, because license holders will no longer be required to report continuing education credit hours. Providers will be responsible for reporting course completions.

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In Section III, Subsection A, Paragraph 1 (previously Section A, Subsection 3, Paragraph a), specify the number of credit hours required within this provision and add that credit hours may only be applied to a single reporting period and that excess hours may not be carried forward to the next reporting period. Additionally, increase the number of required ethics hours from one credit hour to two credit hours to improve industry knowledge of ethics issues and bring about greater protection of the public. The total number of required credit hours is not being modified.

Redesignate Section A, Subsection 3, Paragraphs b as Section III, Subsection A, Paragraphs 2.

In Section III, Subsection A, Paragraph 3 (previously Section A, Subsection 3, Paragraph c), amend to only address the proration of continuing education requirements for new license holders with initial reporting periods of less than 24 months. Modify the proration chart to evenly distribute the credit hours through the 23 month prorated period; each month period's credit hour requirement is rounded down to the nearest whole credit hour. The chart will begin at six months, because initial license periods should no longer be less than six months. Additionally, amend to require two ethics credit hours regardless of the length of the reporting period.

Add new Section III, Subsection A, Paragraph 4 to specify the circumstances when self-study courses may be completed under Insurance Code §2651.204(d) and §2651.058(d) and to limit the total amount of self-study credit hours allowed.

In response to comment, TDI modified this provision to add classroom equivalent courses.

Add new Section III, Subsection A, Paragraph 5 to specify that a license holder must complete at least 50 percent of their required continuing education hours in classroom or classroom equivalent courses.

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In response to comment, TDI modified this provision to add classroom equivalent courses.

In Section III, Subsection B, Paragraph 1 (previously Section A, Subsection 4), combine Paragraphs a and b, and to modify some of the requirements regarding documentation in order to broaden what may be submitted to support the application.

Add new Section III, Subsection B, Paragraph 2 to specify that license holders who meet certain qualifications pertaining to their military service or that of their spouse may request an extension of time for the license holder to comply with the continuing education requirements or an exemption from all or part of the requirements as provided in 28 TAC §19.803.

Delete Section A, Subsection 12, Paragraph a, because the substance of this provision is sufficiently addressed in Section III, Subsection A, as adopted.

Delete Section A, Subsection 12, Paragraph b, because providers will be responsible for reporting course completions, not license holders.

In Section III, Subsection C, Paragraph 1 (previously Section A, Subsection 13, Paragraph a), amend the language to no longer require license holders to submit evidence of course completion, to specify that records of course completion only need to be maintained if the course completion has not been reported to TDI by the provider or is not reflected in TDI's records, and to specify that relevant records must be maintained if the records or the licensee's compliance is the subject of an investigation or audit.

In response to comment, TDI has modified the provision as a result of the change to not require that providers automatically give certificates of completion to every student. To make that change effective, TDI cannot require students to keep certificates of completions for every course they complete. Otherwise, students would need to request a certificate of completion for every course to comply with the requirement in

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Paragraph 1, as proposed. As a result, TDI will only require students maintain certificates of completion if the course is not reported to TDI by the provider and reflected in TDI's records.

In Section III, Subsection C, Paragraph 2 (previously Section A, Subsection 12, Paragraph c), amend the language to reflect the new requirement that providers report course completions and delete the reference to certified transcripts, because they will no longer be used to show course completions.

In response to comment, TDI has replaced the term "licensee compliance" with "course completion" to reflect the change in Paragraph 1.

In Section III, Subsection C, Paragraph 3 (previously Section A, Subsection 13, Paragraph b), align the provision with 28 TAC §19.1014. Specifically, add detail regarding what records must be maintained.

Add new Section III, Subsection C, Paragraph 4 to require providers to furnish course completion information to TDI or the TDI Administrator, if requested, to align with 28 TAC §19.1014.

In Section III, Subsection C, Paragraph 5 (previously Section A, Subsection 13, Paragraph c), align the provision with 28 TAC §19.1014. Specifically, state that TDI or the TDI Administrator may conduct an audit without prior notice and attend courses without identifying themselves as employees of TDI or the TDI Administrator. Further, delete the reference to licensees, because this provision will only pertain to providers.

Add new Section III, Subsection C, Paragraph 6 to specify that TDI will rely on provider records and that it is an individual's responsibility to notify TDI of any inaccuracies.

In Section III, Subsection D, Paragraph 1 (previously Section A, Subsection 14, Paragraph a), add a reference to an extension.

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In Section III, Subsection D, Paragraph 2 (previously Section A, Subsection 14, Paragraph b), specify that a provider may also be subject to disciplinary action beyond having their courses removed from the list of certified courses.

In Section III, Subsection D, Paragraph 3 (previously Section A, Subsection 14, Paragraph c), amend the language to allow continuing education to be completed during the 90 day late renewal period and to specify that a license is not eligible for renewal, unless continuing education requirements have been met.

Delete Section A, Subsection 11, because TDI has determined that these provisions are not necessary or required under statute.

Delete Section B, Subsection 2, because it repeats provisions more appropriately addressed in Administrative Rule L-1.

In Section IV, Subsection A, Paragraph 1 (previously Section B, Subsection 3), replace some of the previously existing language with the "management personnel" defined term and clarify that direct operation management personnel are also subject to professional training requirements. Further, delete the previously applicable implementation language.

In Section IV, Subsection A, Paragraph 2 (previously Section B, Subsection 4), amend the language to include experience with a direct operation.

Add new Section IV, Subsection A, Paragraph 3 to specify that management personnel who are required to complete professional training must submit proof of compliance with their title insurance agent or direct operation license application.

Redesignate Section B, Subsection 7 as Section IV, Subsection A, Paragraph 4.

In Section IV, Subsection B, Paragraph 1 (previously Section B, Subsection 10), require that providers of professional training courses register in compliance with Section II, Subsection A.

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In Section IV, Subsection B, Paragraph 2 (previously Section B, Subsection 5, Paragraph a), require that providers certify their courses in compliance with Section II, Subsection B.

Redesignate Section B, Subsection 5, Paragraph b as Section IV, Subsection B, Paragraph 3.

Redesignate Section B, Subsection 9 as Section IV, Subsection B, Paragraph 4.

Add new Section IV, Subsection B, Paragraph 5 to specify that providers of professional training courses may assign courses under Section II, Subsection C.

Add new Section IV, Subsection B, Paragraph 6 to specify that providers must comply with Section II, Subsections E and G relating to instructor requirements and course requirements for successful completion, respectively.

In Section IV, Subsection B, Paragraph 7 (previously Section B, Subsection 8), reference the new Section II, Subsection H, Paragraph 1 regarding certificates of completion.

Based on the change made to Section II, Subsection H, Paragraph 1 in response to comment, TDI has specified that certificates of completion for professional training courses must be provided to all students whether they ask for the certificate or not. Applicants must provide certificates of completion with their license application. TDI has also corrected an inadvertent error from the proposal by changing "profession" to "professional."

Add new Section IV, Subsection B, Paragraph 8 to specify that professional training course credit hours will be calculated under Section II, Subsection I.

SUMMARY OF COMMENTS AND AGENCY RESPONSE

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Commenters: TDI received two comments from the Texas Land Title Association (TLTA). In its first comment, TLTA formally opposed all items in the proposal. In its second comment, TLTA wrote in support of the proposal with changes.

Item 2018-1 (Administrative Rule Definitions)

Comment: In Administrative Rule Definitions.H, a commenter asks TDI to clarify that "entity" means a corporation *or* a limited liability company. The definition, as proposed, treated a limited liability company as a subcategory of a corporation.

Agency Response: TDI agrees with the comment and has clarified that "entity" means a corporation or a limited liability company.

Comment: In Administrative Rule Definitions.K, a commenter requests that a "partnership" not be limited to a Texas partnership. The commenter states that foreign domiciled partnerships should be eligible for licensing.

Agency Response: TDI disagrees with the comment, but has modified this limitation to only apply to persons in control of the partnership. Insurance Code §2651.002(c)(1)(B) states that, to be licensed as a title insurance agent, the license application must state that an applicant association or firm is "composed only of Texas residents."

Comment: A commenter asks TDI define the term "officer" as it is used through the rules.

Agency Response: TDI agrees with the comment and has added a definition for "officer."

Item 2018-2 (Administrative Rule L-1)

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Comment: In Administrative Rule L-1.II.B.1, a commenter asks TDI to specify and restrict the fingerprint requirement to sole proprietors and partners. Additionally, TLTA asks TDI to address the FINT08 form in a separate paragraph.

Agency Response: TDI disagrees with the first portion of the comment and declines to specify and restrict the fingerprint requirement to sole proprietors and partners. Addressing fingerprint requirements for title insurance licensing and other regulated persons within 28 TAC §1.503 maintains consistency and avoids rule conflicts. TDI agrees with the second portion of the comment and has created a separate paragraph to address the FINT08 form.

Comment: In Administrative Rule L-1.II.B.4.c, a commenter asks TDI to use the term "abstract plant lease" as opposed to "subscription agreement," which is a term of art not understood by all.

Agency Response: TDI agrees and has replaced "a subscription agreement" with "an abstract plant lease" throughout the adopted rules.

Comment: In Administrative Rule L-1.II.B.8, a commenter asks TDI to reference the FINT10 form because its submission is required.

Agency Response: TDI disagrees with the comment and declines to reference the FINT10 form. The form is referenced in Administrative Rule L-1.II.B.4 as a form required with the license application.

Comment: In Administrative Rule L-1.III.A.2, a commenter asks TDI to clarify how the effective date is calculated for an appointment. The commenter says it is not clear when the counting of days starts.

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Agency Response: TDI agrees with the comment and has specified that the notice of appointment is complete when TDI receives a complete FINT10 form and the required fee.

Comment: In reference to the deletion of previous Administrative Rule L-1.IV.C, a commenter says that it would appreciate TDI continuing to send out renewal notices prior to the expiration of a license.

Agency Response: TDI intends to continue sending renewal notices prior to the expiration of a license. TDI deleted the provision because TDI does not believe a rule requirement imposed on TDI is necessary and could potentially limit innovative ways to achieve the same notification goal.

Comment: In Administrative Rule L-1.IV.B.3, a commenter asks TDI to clarify that a license holder may continue to conduct business during the 90-day late renewal period. Lenders have questioned title insurance agent's ability to continue business during this grace period.

Agency Response: TDI agrees that a title insurance agent may continue to operate as long as the license is renewed. However, at this time, TDI does not agree with the commenter that this needs to be addressed in the rule and declines to add language to the rule concerning this issue.

Comment: In Administrative Rule L-1.IV.D.1, a commenter asks TDI to clarify that a notice of surrender may be submitted either electronically or in a traditional method by letter.

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Agency Response: TDI agrees that a notice of surrender may be submitted either electronically or by letter, but declines to modify the provision. Rather than adopt instructions in a rule, TDI plans to provide submission instructions through TDI's website.

Comment: In Administrative Rule L-1.V.A.2, a commenter asks TDI to add language to clarify what is contemplated when there is an ownership change through a sale of stock or membership interest.

Agency Response: TDI agrees with the commenter's request and has specified that the purchase of a title insurance agent's stock or membership interest is not considered a transfer of a title insurance agent license. TDI has also referenced this type of transaction under Administrative Rule L-1.V.B.1.d.

Comment: In Administrative Rule L-1.V.B.2.a, a commenter asks TDI to clarify that a "manager" is a limited liability company manager and list a limited liability company member because a member is not technically a shareholder.

Agency Response: TDI agrees with the comment and has clarified that a "manager" is a limited liability company manager, but has determined that instead of listing "partner, shareholder, and member," the term "person" should be used. This term will encompass all three terms. TDI has also replaced similar references throughout the adopted rule with the term "person."

Item 2018-3 (Application for Title Insurance Agent or Direct Operation License (FINT143) Form)

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Comment: A commenter asks TDI to only require copies of surety bonds, letters of credit, or cash deposits, not original documents.

Agency Response: TDI agrees with the comment and has clarified that TDI is only seeking copies of these documents.

Comment: A commenter asks that a Tripartite agreement (Form T-S2) not be required because it is duplicative when filing a title insurance agent's unencumbered assets certification (Form T-S1) and proof of minimum capitalization.

Agency Response: TDI agrees with the commenter's request and has removed the reference to the Tripartite agreement (Form T-S2).

Comment: A commenter asks TDI to replace "Letter of Authority," the name of the document from the Secretary of State's Office, with "Certificate of Filing."

Agency Response: TDI agrees with the commenter's request and has replace the term as suggested.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature. TDI has also added a place for a date next to the place for the signature in all other new forms TDI is adopting.

Item 2018-4 (Title Insurance Licensing Biographical Information (FINT08) Form)

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Comment: A commenter asks TDI to add a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

Agency Response: TDI agrees with the commenter's request and has added a place for the Firm ID. TDI has also added a place for the Firm ID in all other forms where it asks for the TDI license number.

Comment: A commenter asks TDI to not use the term "owner" when specifying a person's position because that term is not defined and could include a shareholder, partner, or member.

Agency Response: TDI agrees with the commenter's comment and has replaced the term "owner" with "shareholder."

Comment: A commenter asks TDI to clarify that "manager" means a limited liability company manager.

Agency Response: TDI agrees with the commenter's request and has clarified that "manager" means a limited liability company manager.

Comment: A commenter asks TDI to remove the requirement that continuing education certificates be submitted because it is without authority.

Agency Response: TDI agrees with the commenter's request and has removed this requirement.

Comment: A commenter asks TDI to modify the requirement for "original certified copies" when reporting criminal history to only ask for certified copies, not originals.

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Agency Response: TDI agrees with the commenter's request and has clarified that only certified copies are required. TDI has also clarified this throughout the remaining forms where criminal history is reported.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-5 (Title Insurance Agent or Direct Operation Appointment (FINT10) Form)

Comment: A commenter asks TDI to add a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

Agency Response: TDI agrees with the commenter's request and has added a place for the Firm ID.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-6 (Title Insurance Agent or Direct Operation Renewal Application (FINT08) Form)

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Comment: A commenter asks TDI to add a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

Agency Response: TDI agrees with the commenter's request and has added a place for the Firm ID.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-7 (Title Insurance Agent or Direct Operation Change Request (FINT129) Form)

Comment: A commenter asks TDI to add a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

Agency Response: TDI agrees with the commenter's request and has added a place for the Firm ID.

Comment: A commenter asks TDI to use the language from the rule in the forms when referring to owners. Shareholders are only one type of owner.

Agency Response: TDI agrees with the commenter's request and has added references to members and partners.

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Comment: A commenter asks TDI to not require an organizational chart. The commenter says there is no requirement in statute or rule for it, it has nothing to do with a change in the owners, and it can be time-consuming to create one.

Agency Response: TDI disagrees with the comment and declines to remove the requirement for an organizational chart. The type of organizational chart referred to in this context is one showing the ownership structure going up to the ultimate controlling person. An organizational chart is an important tool for TDI to use in understanding the reported changes in ownership. Simply reporting the percentage of ownership of only the title insurance agent or direct operation at issue does not always give a full picture of the reported transaction.

Comment: A commenter asks TDI to refer to more than just officers and directors. The commenter says TDI should refer to officers, directors, limited liability company managers, and designated on-site managers. Additionally, the commenter says TDI should not refer to "Officer Name" because more than just officers are reported.

Agency Response: TDI agrees with the comment and has added references to limited liability company managers and designated on-site managers, and replaced "Officer Name" with just "Name."

Comment: A commenter says that the requirement to "give details about the change" is ambiguous. The commenter asks that TDI not require an organizational chart if that is what is referred to.

Agency Response: TDI agrees with the comment and has removed this requirement.

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Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Items 2018-8 & 2018-9 (Title Insurance Agent/Direct Operation Bond (FINT122) Form & Texas Escrow Officers Schedule Bond (FINT123) Form)

Comment: On both forms, A commenter asks TDI to not require the listing of a title insurance agent or direct operation's DBAs. TLTA states that the entity's legal name is sufficient and the bond is binding without listing the DBAs

Agency Response: TDI agrees with the commenter's request and has removed the requirement to list DBAs.

Item 2018-10 (Administrative Rule L-2)

Comment: In Administrative Rule L-2.IV.A, a commenter asks TDI to extend the time of applicability to October to allow time for the education of system participants.

Agency Response: TDI agrees with the comment. Because of the date of adoption, TDI has pushed the time of applicability beyond the requested date to March 2019.

Comment: In Administrative Rule L-2.IV.A.1, a commenter asks TDI to incorporate the language of Insurance Code §4003.001 instead of just referencing it. This would make the *Basic Manual* more user-friendly and easier to understand.

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Agency Response: TDI disagrees with the comment and declines to incorporate the language of Insurance Code §4003.001 into Administrative Rule L-2.IV.A.1. Referencing the statute instead of incorporating it will prevent inconsistencies that may come about due to future statutory changes.

Comment: In Administrative Rule L-2.V.A, a commenter asks TDI to provide more time to file the Escrow Officer Name or Address Change Request (FINT01) form. The commenter suggests 45 days instead of 30.

Agency Response: TDI disagrees with the commenter's request and declines to provide more time. Thirty days after a name change becomes official or after an address change is sufficient time to submit a notice to TDI.

Item 2018-11 (Application for Escrow Officer License (FINT132) Form)

Comment: A commenter asks TDI to clarify that physical address means residential address.

Agency Response: TDI agrees with the commenter's request and has clarified that TDI is asking for a home mailing address and a home physical address.

Comment: A commenter asks TDI to modify the requirement for "original certified copies" when reporting criminal history to only ask for certified copies, not originals.

Agency Response: TDI agrees with the commenter's request and has clarified that only certified copies are required.

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Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-12 (Escrow Office Appointment (FINT09) Form)

Comment: A commenter asks TDI to add a place for the Firm ID to avoid confusion in whether "TDI license number" refers to the license number or the Firm ID.

Agency Response: TDI agrees with the commenter's request and has added a place for the Firm ID.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-13 (Escrow Officer License Renewal Application (FINT02) Form)

Comment: A commenter asks TDI to clarify that the \$17.50 late fee is an additional fee.

Agency Response: TDI agrees with the commenter's request and has clarified that the \$17.50 late fee is an additional fee on top of the normally required \$35 renewal fee.

Comment: A commenter asks TDI to modify the requirement for "original certified copies" when reporting criminal history to only ask for certified copies, not originals.

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Agency Response: TDI agrees with the commenter's request and has clarified that only certified copies are required.

Comment: A commenter asks TDI to remove the requirement to certify that the escrow officer has reported any required administrative actions.

Agency Response: TDI agrees with the commenter's request and has removed the certification requirement. TDI has also removed this requirement in the Title Insurance Agent or Direct Operation Renewal application (FINT03) form.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-14 (Escrow Officer Name or Address Change Request (FINT01) Form)

Comment: A commenter asks TDI to provide more time to file the FINT01 form. The commenter suggests 45 days instead of 30.

Agency Response: TDI disagrees and declines with the commenter's request to provide more time. Thirty days after a name change becomes official or after an address change is sufficient time to submit a notice to TDI.

Comment: A commenter asks TDI to add a place for a date next to the place for the signature on the form.

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Agency Response: TDI agrees with the commenter's request and has added a place for a date next to the place for the signature.

Item 2018-15 (Administrative Rule L-3)

Comment: A commenter asks TDI to modify Administrative Rule L-3.IA.1-2 because many title insurance companies own abstract plants in counties where they do not operate a direct operation. The commenter suggests modifying it to state that a *direct operation* can only operate in a county with a valid appointment.

Agency Response: TDI disagrees with the comment and declines to modify the provisions. This language is consistent with the language in Insurance Code §2651.051.

Comment: In Administrative Rule L-3.II.B.1, a commenter asks TDI to remove the requirement to submit the FINT08 form and fingerprints with the FINT143 form. The commenter says that this has not been a requirement in the past because a title insurance company must submit this information to TDI Company Licensing staff when applying for its title insurance company license. The commenter asserts that the requirements are duplicative and impose additional costs. Additionally, the commenter notes that 28 TAC §1.503 does not apply to direct operations.

Agency Response: TDI agrees that the requirement to submit the FINT08 form adds costs that were not addressed in the proposal. Therefore, TDI will not require the submission of the FINT08 form with the FINT143 form for direct operations. TDI disagrees with the comments regarding fingerprints and declines to modify the language regarding fingerprints. Because this provision only references the requirements of §1.503, it does not impose any new requirements. Currently, §1.503 does not require individuals

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associated with a direct operation to submit fingerprints, but by referencing that provision these rules will stay consistent with TDI's general fingerprint requirements.

Comment: In Administrative Rule L-3.II.B.5, a commenter asks TDI to not require direct operations demonstrate compliance with the capitalization requirements in Insurance Code §2651.012. The commenter says that direct operations are not subject to the minimum capitalization requirements. The commenter asserts that title insurance companies are already subject to more substantial capitalization requirements in Insurance Code §2551.053.

Agency Response: TDI agrees with the comment that TDI should not require direct operations to demonstrate compliance with Insurance Code §2651.012 when applying for a direct operation license. TDI has removed this requirement.

Comment: In Administrative Rule L-3.III.A.1.b, a commenter asks TDI to add "if applicable" to the requirement to attest that the direct operation has an agency contract with the title insurance company it is being appointed to.

Agency Response: TDI disagrees with the commenter's request and declines to add "if applicable." A direct operation should have an agency contract with the separate title insurance company it is being appointed by.

Comment: In Administrative Rule L-3.IV.B, a commenter asks TDI to remove the reference to "revoked or surrendered" licenses because in that case there would be no license to renew.

Agency Response: TDI agrees with the commenter's request and has removed the reference.

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Comment: In Administrative Rule L-3.V.A.2, a commenter asks TDI to clarify that an asset sale requires a new license application, but a transfer of stock does not.

Agency Response: TDI agrees with the commenter's request and has clarified that the purchase of a title insurance company's stock is not considered a transfer of an associated direct operation's license. TDI has also clarified related provisions in Administrative Rule L-1.

Item 2018-16 (Procedural Rule P-28)

Comment: In Procedural Rule P-28.I.A.2, a commenter asks TDI to limit the definition of "management personnel" to individuals responsible for the day-to-day operations of the title insurance agent or direct operation.

Agency Response: TDI agrees with the commenter's request and has limited the definition to each individual who is a designated on-site manager or who is responsible for the management of the day-to-day operations of the title insurance agent or direct operation in Texas.

Comment: In Procedural Rule P-28.I.A, a commenter asks TDI to define and allow "live" and "on-demand" classroom courses.

Agency Response: TDI disagrees with defining these terms, but has clarified that live and on-demand courses qualify for certification.

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Comment: In Procedural Rule P-28.II.B.1.i, a commenter asks TDI to modify the requirements to automatically qualify a recording of a previously certified live course as an on-demand course.

Agency Response: TDI disagrees with the commenter's request and will not automatically qualify a recording of a previously certified classroom (live) course as a classroom equivalent (on-demand) course. Certain requirements differ between classroom and classroom equivalent courses.

Comment: In Procedural Rule P-28.II.B.3, a commenter asks TDI to add the ability to email the notice.

Agency Response: TDI agrees that notices may be submitted electronically but declines to revise the procedural rule specify this within the rule text. TDI will provide submission instructions on its website.

Comment: In Procedural Rule P-28.II.D.5, a commenter asks TDI to modify the requirements to only require feedback on questions in live courses where the instructor is in a position to provide feedback.

Agency Response: TDI agrees with the commenter's request and has modified the requirements to only require feedback on questions in classroom (live) courses and not classroom equivalent (on-demand) courses.

Comment: In Procedural Rule P-28.II.E.1.a, a commenter asks TDI to modify the requirements to allow credit for co-teaching courses and to require teaching experience for at least three of the last five years instead of simply the last three years.

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Agency Response: TDI agrees with the commenter's request and has modified the requirements as suggested.

Comment: In Procedural Rule P-28.II.E.1.c, a commenter asks TDI to modify the requirement to allow for state-level designations, instead of just national designations.

Agency Response: TDI agrees with the commenter's request and has allowed for state-level designations.

Comment: In Procedural Rule P-28.II.E.1, a commenter asks TDI to add a category for instructors with experience in the title industry in at least three of the last five years and who have knowledge and experience in the subject the instructor will teach.

Agency Response: TDI agrees with the commenter's request and has added a category for instructors with experience in the title industry, but has set the amount of experience at five years.

Comment: In Procedural Rule P-28.II.F, a commenter asks TDI to replace the proposed classroom course type with language suggested by the commenter. Additionally, the commenter asks that course attendance sizes not be limited and instructors not be required to have a question and answer period or set the pace of the course. Additionally, the commenter asserts that students should be able to complete classroom courses that are recorded.

Agency Response: TDI agrees with the commenter that the proposed language regarding course types needed modification to clarify that recorded courses qualify for certification. TDI has modified the course types to add a third category, classroom equivalent. Recorded courses will fall into this category. This category does not have

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attendance size limitations, an instructor question and answer period, or an instructor set pace. However, TDI disagrees that these requirements should be removed for live classroom courses and has not removed them. These requirements are consistent with 28 TAC §19.1009 and ensure that providers offer quality educational courses. TDI has clarified that classroom courses include real time lectures and webinars and that student attendees do not need to be licensees to count towards the attendance size. TDI has also clarified that self-study courses are primarily text-based courses.

Comment: In Procedural Rule P-28.II.G, a commenter asks TDI to allow the use of attendance forms instead of only attendance rosters. Additionally, the commenter asks TDI to allow partial credit for partially completed courses.

Agency Response: TDI agrees with the commenter that providers should be able to use attendance forms instead of only attendance rosters and has modified the requirement to provide for their use. However, TDI disagrees that partial credit should be allow. At this time, it would be overly complicated for TDI to track and register partial credit for partial completions of courses.

Comment: In Procedural Rule P-28.II.G.3.i, a commenter asks TDI to eliminate the conflicting language regarding the 50 question maximum and the provider's discretion to have more.

Agency Response: TDI agrees with the commenter's request and has removed the 50 question maximum.

Comment: In Procedural Rule P-28.II.G, a commenter asks TDI to allow on-demand courses and to add suggested requirements for on-demand courses.

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Agency Response: TDI agrees with the commenter's request and has added requirements similar to TLTA's suggested requirements, but with more flexibility, for classroom equivalent (on-demand) courses.

Comment: In Procedural Rule P-28.II.H.1, a commenter asks TDI to only require providers to give students certificates of completion if it is requested by the student because the information is being reported to TDI. Additionally, the commenter asks TDI to allow providers to use third-party vendors to perform routine administrative tasks.

Agency Response: TDI agrees with the commenter's requests and has modified the certificate of completion requirement so providers must only give a certificate if requested by a student and clarified that providers may use a third-party vendor to complete routine administrative tasks.

Comment: In Procedural Rule P-28.II.H.2, a commenter asks TDI to allow providers to report course completions electronically to reduce costs and improve efficiencies.

Agency Response: TDI agrees with the commenter's request and has specified that course completions must be reported in electronic format.

Comment: In Procedural Rule P-28.II.I.1, a commenter asks TDI to allow for 30-minute courses. Additionally, the commenter asks whether the calculation of credit hours need to be adjusted because 90 percent course attendance does not match with the 25 and 50 minute instruction time requirement.

Agency Response: TDI disagrees with the commenter and declines to make changes to this provision. A one hour minimum is consistent with 29 TAC §19.1010. Also, the 90 percent course attendance requirement is an independent requirement from the

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instruction time requirements. Instruction time requirements are considered during course certification while the 90 percent course attendance requirement is on the individual student in order for that individual student to earn the amount of credit hours established during certification.

Comment: In Procedural Rule P-28.III.A.4, a commenter asks TDI to allow students to complete as much as 50 percent of the required continuing education hours in on-demand courses.

Agency Response: TDI agrees with the comment, and has also revised the procedural rule to treat classroom equivalent courses as equal to classroom courses. Licensees must complete at least 50 percent of their required continuing education credit hours in classroom or classroom equivalent courses.

STATUTORY AUTHORITY. TDI amends 28 TAC §9.1 under Insurance Code §§2551.003, 2651.0021, 2651.204, 2652.058, 2703.208, 4003.002, and 36.001, and Occupations Code §55.002 and §55.004.

Insurance Code §2551.003 authorizes the Commissioner to adopt and enforce rules that TDI determines are necessary to accomplish the purposes of Title 11, Insurance Code, concerning title insurance regulation.

Insurance Code §2651.0021 provides that the Commissioner adopt by rule a professional training program for a title insurance agent and the management personnel of the title insurance agent.

Insurance Code §2651.204 provides that the Commissioner adopt rules to administer that section, which relates to the required continuing education of title insurance agents.

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Insurance Code §2652.058 provides that the Commissioner adopt rules to administer that section, which relates to the required continuing education of escrow officers.

Insurance Code §2703.208 allows additions or amendments to the *Basic Manual* to be proposed and adopted by reference by publishing notice of the proposal or adoption in the Texas Register.

Insurance Code §4003.002 provides that the Commissioner may adopt by rule a system under which licenses expire on various dates during a licensing period.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.002 provides a state agency that issues a license adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency, that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Occupations Code §55.004 provides that a state agency that issues a license adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state, or held the license in Texas within the five years preceding the application date.

TEXT.

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

§9.1. *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas.*

The Texas Department of Insurance adopts by reference the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas* as amended, effective March 7, 2019. The document is available from and on file at the Texas Department of Insurance, Mail Code 104-PC, PO Box 149104, Austin, Texas 78714-9104. The document is also available on the TDI website at www.tdi.texas.gov, and by email from ChiefClerk@tdi.texas.gov.

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

Issued in Austin, Texas, on December 7, 2018.

/s/ Norma Garcia

Norma Garcia
General Counsel
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §9.1.

/s/ Kent C. Sullivan

Kent C. Sullivan
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **2018-5739**