

The new Wind-down Plan Requirement (Administrative Rule D-1)

Administrative Rule D-1(II)(C) now states: “Each title insurance agent operating in Texas shall prepare a plan for winding down the title agent’s operations by the Company should the title insurance agent fail to wind down its own operations, including the title insurance agent’s immediate cessation of business due to title insurance agent or Company action.”

There are three components to the wind-down plan:

1. The plan needs to identify the location where title agency stores all of their guaranty files, so that the underwriter(s) will know where to find the files if an agent does not wind down its operations properly (disappears).
2. The plan needs to identify the location where title agency maintains its escrow accounts, so that the underwriter(s) will know where to find the remaining escrow funds if an agent does not wind down its operations properly (disappears).
3. The plan should provide some type of statement that the underwriter(s) will have access to the escrow accounts for the purposes of winding down the operations to the extent the law may allow. This might not guarantee access, but it would at least indicate to the bank that the agent intended for the underwriter to have access in the event that agent does not wind down its operations properly (disappears).

The rest of the rule states: “The title insurance agent’s plan and authorization must be furnished to each Company and the Department. The title insurance agent’s plan must be reviewed by the title insurance agent annually and updated as necessary. The title insurance agent’s plan shall be implemented by the Company immediately upon receipt of written notification by the Department that the Department has determined that the title agent has failed to wind down its own operations.”

There are a couple of things to keep in mind when checking for compliance with this new rule (which became effective on February 1, 2010).

- Due to confusion about how to comply with this rule, TDI is allowing a 90-day grace period to come into compliance with this new requirement. The due date for submission of the wind-down plans is now May 1, 2010 (instead of February 1st). Title agencies should not be cited for non-compliance until after May 1, 2010.
- Auditors should currently be requesting a copy of the wind-down plan for each title agent they audit. If the agency has not yet prepared their wind-down plan, please remind them of the approaching deadline.
- A copy of the wind-down plan should be submitted to each underwriter that has appointed the agency - in addition to the copy sent to TDI.

TDI’s copy should be mailed to:

Texas Department of Insurance
Title Examinations **Mail Code 106-2T**
P.O. Box 149104
Austin, Texas 78714-9104