



**TEXAS DEPARTMENT OF INSURANCE / FINANCIAL REGULATION DIVISION  
FINANCIAL EXAMINATIONS / TITLE EXAMINATIONS**

**SUMMARY OF OPERATIONS FOR 3RD QUARTER, FY 2016  
MARCH, 2016 – MAY, 2016  
for presentation to the  
Texas Title Insurance Guaranty Association Board of Directors  
JULY 26, 2016**

**COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS**

	Qtr	FY 16	FY 15	FY 14	FY 13	FY 12	FY 11
Field audits completed	76	194	308	286	340	343	300
Field audit reports processed	66	184	317	276	344	333	298
Section 2651.151 audit reports received	352	506	553	566	569	580	612
Section 2651.151 audit reports reviewed	419	530	542	565	558	576	604

**Analysis of Title Insurance Agencies Licensed as of 5/31/16**

		<b>Breakdown of Comprehensive Audit Status</b>			
<b>Region</b>	<b># of agencies</b>	<b>Agencies audited within last 2 years</b>	<b>Agent's last audit was 2 - 3 years ago</b>	<b>Agent's last audit was over 3 years ago</b>	<b># of (new) Agents Never Audited</b>
		<b>NTX</b>	197	164	21
<b>CTX</b>	115	113	2	0	0
<b>WTX</b>	98	86	12	0	0
<b>HOU</b>	131	124	3	0	4
<b>STX</b>	35	34	1	0	0
<b>Totals:</b>	<b>576</b>	<b>521</b>	<b>39</b>	<b>4</b>	<b>12</b>
	% of Total:	90.4%	6.8%	0.7%	2.1%

**REVISED Goal:** In order to comprehensively audit every agent at least once every 2 years, we need to conduct 288 comprehensive audits per year, which amounts to 72 audits per quarter.

Last 12 months (6/1/15 – 5/31/16): 275 audits (within 13 of goal)

Last 3 months (3/1/16 – 5/31/16): 76 audits (4 over goal)

**EXPERIENCE REPORT LIMITED REVIEWS**

Out of 76 comprehensive audits completed during the quarter, 53 (70%) included a limited review of the agent's latest experience report. The following results were reported.

	QTR	FY 16	FY 15	FY 14	FY 13	FY 12
Number of experience reports reviewed.	53	151	159	180	238	178
1. No material discrepancies noted.	53	150	155	172	228	170
2. Income and/or expense amounts reported in wrong categories.	0	1	1	2	4	4
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	0	3	6	6	4

**Order signed by Commissioner Mattax during quarter (1):**

DATE	Order #	AGENCY/PERSON	REASON	FINE AMT
5/9/16	4456	Harry Wilbanks, Houston	Fraudulent or dishonest acts.	\$20,000 fine, \$16,305 rest. + E.O. lic. rvkd..

**Active cases in Financial, Enforcement & Fraud:**

	Active cases at 3/1/16	Cases referred Qtr. 16-3	Cases cleared Qtr. 16-3	Active cases at 5/31/16
<b>Financial</b>				
Confidential Supervision	0	0	0	0
Receivership	3	0	0	3
Troubled title agents	6	0	0	6
<b>Enforcement</b>				
Miscellaneous violations of the TIC	11	0	7	4
Rebating	0	3	0	3
License revocation (agent and/or escrow officer)	7	1	2	6
Late escrow audit rept. &/or stat rept. &/or guaranty fees	2	0	0	2
<b>Fraud Unit</b>				
Misappropriation of fiduciary funds	27	2	1	28
Total	56	6	10	52

**RESULTS OF COMPLIANCE AUDITS DURING QUARTER**

Listed below are audit findings for March through May, 2016, the 3rd quarter of the State's fiscal year 2016. Numbers represent the number of agencies where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY	QTR	YTD
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**INSOLVENCY**

Financial statements indicated agent was insolvent or had cash flow problems.	1	3
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**ABSTRACT PLANT**

Abstract plant not in compliance with Section 2601.004 and Procedural Rule P-12.	3	6
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	0	1

**TEXAS INSURANCE CODE**

§ 101.102 – Conducted unauthorized business of insurance.	0	0
Section 2502.051 (formerly Art. 9.30) – Gave/received thing of value for referral of title insurance business.	0	0
Section 2704.001 (formerly Art. 9.34) – Policy not based on evidence from a legal abstract plant and/or no attempt made to contact out-of-county agents for title evidence.	0	0
Section 2704.001 (Art. 9.34) – Issued policies for property in county where not licensed.	1	7
Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	6	14
Section 2651.002 (formerly Art. 9.36) – Agent used an unlicensed name or dba name.	0	3
Section 2651.301 (formerly Art. 9.37B) – Misappropriation or conversion to own use of money belonging to another person.	0	0
Section 2651.301 (formerly Art. 9.37B) – Failed to maintain separate escrow account (commingled escrow & operating funds).	4	14
Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond.	1	3
Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	3	7
Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer.	4	6

<b>VIOLATION OR DISCREPANCY</b>	<b>QTR</b>	<b>YTD</b>
<b>Section 2602.151 (formerly Art. 9.48) and Administrative Rule G-1</b> – Failure to collect Policy Guaranty Fee or failure to maintain the policy fees in an escrow account.	0	0
<b>Section 2602.103 (Art. 9.48)</b> – Failure to produce requested files or other records.	1	1
<b>Section 2702.053 (formerly Art. 9.53)</b> – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	32	83

#### **TITLE BULLETINS**

<b>Title Bulletin No. 152</b> – Policy dates incorrect.	0	2
<b>Title Bulletin No. 160</b> – All parties receiving portions of the real estate commission not disclosed on settlement statement.	26	60

#### **PROCEDURAL RULES**

P-18: Commitment not issued as required in rule or commitment incomplete.	1	3
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	17	47
P-22: No T-00's in files or T-00's incorrect or incomplete.	12	31
P-27 (“Good Funds”) violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	3	9
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued.	2	2
P-61: Failure to issue title policy timely.	1	2
P-73: Failure to prepare/maintain Form T-64 (TD) when CD used.	17	20

#### **RATE RULES**

Incorrect premium charged (violation of one or more rate rules).	11	22
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	1	2
R-2: Premium remittances to underwriters not timely or amounts incorrect.	1	3
R-2: Premium collected in installments or premium not collected at all.	0	0
R-8: Refinance credit not given or not calculated correctly.	2	5

#### **MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS**

#1 - Monthly escrow trial balances not prepared or not prepared timely.	1	2
#1 - Testing proved escrow trial balances unreliable.	0	0
#1 - Escrow trial balances not prepared correctly.	2	7
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	1	2
#2 - Escrow trial balances and/or book balances and/or reconciled bank balances not in agreement. Differences unreconciled.	1	1
#2 - Bank reconciliations, book balances, or three-way reconciliations prepared incorrectly.	2	7
#3 – Reconciliations not approved by management or reviewed by another employee.	1	1
#4 - Accounting duties not segregated sufficiently and reconciliations not reviewed by manager or owner.	1	1
#5 - Only one signature on escrow checks when agency's size required two signatures.	4	6
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	8	21
#7A - Invested escrow accounts not styled correctly.	1	3
#7B - No written authorization to invest escrow funds.	1	1
#7C - Invested escrow account used agent's tax ID number instead of that of beneficiary.	0	0
#7D – No control ledger for invested escrow accounts. Interest not posted timely.	0	0
#8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction.	0	3

<b>VIOLATION OR DISCREPANCY</b>	<b>QTR</b>	<b>YTD</b>
#9 - Escrow bank accounts not styled as "escrow" or "trust".	10	21
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	5	16
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	1	2
#13 - Seller not properly notified of NSF checks.	0	0
#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents.	0	3
#15 - Disbursement sheets missing, incomplete or incorrect.	15	38
#16 - Every disbursement not supported by invoice or sufficient other evidence.	30	64
#17 - Escrow receivables not cleared timely.	6	11
#18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections.	0	0
#19 - Signed, pre-numbered receipts not issued for cash.	2	3
#20 - Images of checks did not meet requirements.	4	7
#21 - Escrow bank account not maintained at a financial institution in Texas.	0	0

#### **AGENCY**

Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing".	0	0
Failed to disclose affiliated business arrangement as required by RESPA § 3500.15.	1	3

#### **ESCROW ACCOUNTING**

Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems].	0	0
Deposits and/or disbursements not booked in appropriate month.	1	10
Receivable(s) created by depositing into one bank account and disbursing from another account.	0	2
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	2	3
Pattern of posting errors.	3	7
Signature on checks not on bank signature card or previous employees still on bank signature card.	3	3
Outstanding checks not cleared timely.	23	72
Deposit-in-transit list and/or outstanding check list prepared incorrectly.	6	16

#### **GUARANTY FILES**

Original legal documents found in guaranty files after title policies issued.	0	0
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	10	30
Cash or disbursement check found in file.	0	0
Funds not disbursed or escheated to state.	15	33

#### **MINIMUM CAPITALIZATION RULES**

S.1: Form T-S1 not submitted as required or agent failed to meet Min. Cap. requirement.	3	6
S.2: Solvency account deposits not calculated correctly.	2	4
S.5: Quarterly tax report not submitted timely.	7	11