

**CHAPTER 20. TITLE INSURANCE****SUBCHAPTER 3. OKLAHOMA TITLE INSURANCE POLICIES****365:20-3-1. Definitions**

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

**"Simultaneous issue"** means a loan policy, an owner's policy, or leasehold policy insuring the same real property and containing the same effective date.

**"Title insurance business" or "business of title insurance"** means:

- (A) issuing or offering to issue a title insurance policy;
- (B) transacting or proposing to transact any of the following activities when conducted or performed in contemplation of the issuance of a title insurance policy:
  - (i) negotiating on behalf of a title insurer, the issuance of a title insurance policy;
  - (ii) guaranteeing, warranting or otherwise insuring the correctness of title searches;
  - (iii) executing or countersigning title insurance policies;
  - (iv) abstracting, searching or examining titles, preliminary to the issuance of a commitment;
  - (v) doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this chapter.

**"Title insurance policy"** means any written instrument purporting to show the title to real or personal property or any interest therein or encumbrance thereon, or to furnish such information relative to real property, which written instrument in express terms purports to insure or guarantee such title or the correctness of such information. The contract shall, at a minimum, indemnify against loss or damage arising from any or all of the following, existing on or before the policy date:

- (A) defects in or liens or encumbrances on the insured title;
- (B) unmarketability of insured title; or
- (C) invalidity or unenforceability of liens or encumbrances on the stated property.

"Title insurance policy" includes a preliminary report, binder, or commitment. For purposes of this definition, a commitment or binder means any written instrument, or verbal representation which creates an obligation (whether conditional or not) to issue a title insurance policy.

**"Title insurer"** means any foreign or domestic stock insurer authorized by its corporate charter to engage in the business of title insurance, pursuant to 36 O.S. § 5001 et seq.

[Amended at 15 Ok Reg 3228, eff 7-13-98]

**365:20-3-2. Statutory requirements**

No title insurer shall issue, permit or cause to be issued, either directly or by an agent, a binder, commitment or policy of title insurance until either the title insurance company or its

authorized agent shall have obtained an opinion of title by an attorney licensed to practice law in the State of Oklahoma based upon an examination of a duly certified abstract of title prepared by a bonded and licensed abstractor. For purposes of this section, a duly certified abstract means an abstract certified by a licensed and bonded abstractor with a Certificate date of not more than *one hundred eighty (180)* days prior to the effective date of the title insurance policy. The above statutory requirements will not be satisfied by an examination or certification merely of copies of documents found in a search of the title record, or of the records of the Court Clerk or County Clerk.

### **365:20-3-3. Documentation**

(a) All title insurers engaged in the business of title insurance in this state, other than reinsurance, shall attach to or include in the title insurer's copy of the title insurance policy the following:

(1) A signed and dated copy of the preliminary abstractor's certificate as required by 74 O.S. § 227.10, et seq., along with the final title report or final abstractor's certificate shall be reproduced and attached to each policy.

(2) A copy of an opinion of title covering the real property insured under said policy shall be reproduced and attached to each policy. Said opinion of title shall be issued by an attorney licensed to practice in this state; and the Oklahoma Bar Association Number of the attorney issuing the opinion shall be prominently displayed upon the opinion.

(3) The title insurance policy shall be countersigned in accordance with the provisions of 36 O.S. § 5001(C). The function of making a title insurance coverage decision, based upon the title opinion of a licensed attorney, is the "countersignature" function. The countersignature function shall not be exercised by anyone other than an individual licensed title agent. In accordance with the provisions of 36 O.S. § 5001(C), only an individual actively and lawfully engaged in the real estate title business, possessing a current license, and maintaining an office in the state shall be permitted to exercise the countersignature function.

(4) If the title insurance policy is being issued directly by the title insurer, all of the requirements in (a)(1), (a)(2) and (a)(3) of this rule shall be attached to or included in the title insurer's copy of the policy, concurrently with the issuance thereof. If the title insurance policy is issued by a duly appointed agent of the title insurer, all of the requirements in (a)(1), (a)(2) and (a)(3) of this rule must be furnished to the title insurer not later than one hundred eighty (180) days from the effective date of the title insurance policy. In the case where a loan policy, owner's policy or leasehold policy are simultaneously issued, the required documentation need only be attached to the owner's policy. The documentation required under this section shall be permanently maintained by the title insurer in a manner which is readily accessible and open to inspection by the Insurance Commissioner or his duly authorized representative.

(b) No title insurance policy shall be issued in this state until a duly certified abstract of title has been prepared, in accordance with the Oklahoma Abstractors Law, and examined by an attorney licensed to practice in this state. The abstract need only be prepared once prior to the issuance of the title insurer's commitment and policy. Before a title insurance policy can be issued pursuant to a commitment, an abstractor licensed by the Oklahoma Abstractors Board in the county where the insured property is located shall prepare either of the following:

(1) an extension of the abstract; or

(2) a final title report after a final title search has been conducted. The report shall include all information as mandated by Title 80:10-5-3(b) of the Oklahoma Administrative Code: Rules and Regulations Governing the Oklahoma Abstractors Law.

[Source: Amended at 15 Ok Reg 3228, eff 7-13-98; Amended at 19 Ok Reg 1309, eff 7-14-02; Amended at 31 Ok Reg 1896, eff 9-15-14; Amended at 32 Ok Reg 1953, eff 9-15-15]

**365:20-3-4. Penalties for non-compliance**

Failure to comply with this section may result after hearing in censure, suspension or revocation of the certificate of authority of the title insurer or of a fine of not more than Five Thousand Dollars (\$5,000.00) for each occurrence pursuant to 36 O.S. § 619.

**365:20-3-5. Reporting requirements**

(a) Every title insurance agent shall report in writing to the insurer the amount of title insurance premium actually charged, and the title insurer shall pay to the State of Oklahoma the amount of tax due on such reported title insurance premium.

(b) Every title insurer holding a Certificate of Authority from the Oklahoma Department of Insurance shall conduct a policy inventory audit, in accordance with its accepted company practice, of each of its licensed agents periodically, but at least every two years. Such policy inventory audit is defined as an audit of the unused forms in the possession of each of its licensed title insurance agents so as to determine that all used policy forms have been reported to the title insurer. A report of each such audit shall be made to the Oklahoma Insurance Department in writing in a form acceptable to the Insurance Commissioner. Interested parties may upon request obtain a copy of an approved title policy inventory audit report form from the Oklahoma Insurance Department.

(c) The reporting requirements contained in this rule shall become effective January 1, 1998.

[Source: Added at 14 Ok Reg 2960, eff 7-14-97]