



**I-N-D-E-X**

**WITNESSES**

**PAGE**

MR. AARON DAY

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MS. JANET MINKE

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P-R-O-C-E-E-D-I-N-G-S

MAY 27, 2015

9:30 A.M.

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COMMISSIONER MATTAX: Good morning.

I call to order the hearing in Docket No. 2778;  
it's approximately 9:32 a.m.

I'm David Mattax, Commissioner of  
Insurance. Today's hearing concerns proposed  
updates to the Basic Manual of Rules, Rates and  
Forms for the Writing of Title Insurance in the  
State of Texas.

TDI published notice of today's  
hearing May 1, 2015, at 40 **Texas Register** 2391.  
Any member of the public wishing to speak this  
morning should fill out a witness card, that looks  
like this, and submit it to the deputy chief clerk.  
I'll call on you and then ask you to identify  
yourself for the record. You may also submit  
written comments through 5 p.m. Central time,  
June 1, 2015.

I'll begin by calling Marianne Baker,  
with the Property and Casualty Office at the Texas  
Department of Insurance. Thank you.

1 MS. BAKER: As you noted, I'm  
2 Marianne Baker, Program Specialist in the Property  
3 & Casualty Office.

4 The proposed Texas Disclosure form,  
5 Form T-64, and Procedural Rule P-73 are designed to  
6 provide complete and correct disclosure of title  
7 insurance costs. They were created in response to  
8 the new federal Closing Disclosure that the  
9 Consumer Financial Protection Bureau created to  
10 replace both the current HUD-1 settlement statement  
11 and the final Truth-in-Lending disclosure.

12 The federal Closing Disclosure, which  
13 is designed to be easier for consumers to  
14 understand, does two things that raised issues:  
15 First, it removes or simplifies items that were  
16 listed in detail on the HUD-1; and second, it  
17 requires title agents to incorrectly state how a  
18 discount is applied when a consumer buys both a  
19 loan policy and an owner's policy, what we  
20 typically call a simultaneous issue transaction.

21 In Texas, title agents are required  
22 to itemize all relevant details of a transaction,  
23 including who receives any part of a premium or  
24 real estate commission, and what all the different  
25 fees are. This shows consumers where their money

1 is going and allows title agents to demonstrate  
2 that they are correctly accounting for everything  
3 and complying with laws, such as those prohibiting  
4 rebates, discounts and overcharges.

5 The Texas Disclosure gives title  
6 agents a place to itemize all those details. It  
7 also includes a signature line to authorize the  
8 title agent to make disbursements.

9 Additionally, consumers get a  
10 discount in simultaneous issue transactions, which,  
11 again, is where they buy both a loan policy and an  
12 owner's policy. Texas gives a discount to the loan  
13 policy premium but the federal Closing Disclosure  
14 requires the discount to be placed on the owner's  
15 policy. The new Texas Disclosure will show the  
16 discount correctly applied under Texas rules.

17 So to provide complete and correct  
18 disclosure to consumers, proposed Rule P-73 will  
19 require title agents to use the Texas Disclosure in  
20 any real estate transaction where they are required  
21 to use the federal Closing Disclosure.

22 If this rule is adopted, both the  
23 Texas Disclosure and the federal Closing Disclosure  
24 will become effective on August 1, 2015.

25 I'm happy to answer any questions.

1                   COMMISSIONER MATTAX: Very briefly.  
2 I understand you mentioned in your comments that  
3 the federal rule is actually requiring us to -- if  
4 this federal transaction, the federal sheet was  
5 done by itself, it could be misleading to  
6 consumers. Is that correct?

7                   MS. BAKER: That is correct.

8                   COMMISSIONER MATTAX: Can you  
9 explain a little bit more on that and how our form  
10 is going to correct that potential confusion?

11                  MS. BAKER: Certainly. Well, it has  
12 to do with the, again, as I said, where they put  
13 the discount. In Texas, when you buy an owner's  
14 policy and loan policy at the same time, you pay  
15 the full premium for the owner's policy, and the  
16 loan policy costs \$100 because you get a discount.

17                  The way the rules for the federal  
18 form are set up, they say that if you buy those two  
19 policies at the same time, the owner's policy has  
20 to show the lower rate, the \$100 rate, and the loan  
21 policy has to show the full rate. And that can be  
22 misleading, especially because in Texas, quite  
23 often in transactions the seller will agree to pay  
24 for the owner's policy and the buyer pays for the  
25 loan policy. So they will see the federal Closing

1 Disclosure that shows that the seller is only going  
2 to pay a little bit and the owner is going to pay a  
3 lot. Whereas in Texas, the way it typically works,  
4 is the seller pays for the owner's policy, the big  
5 amount, and the buyer pays for the loan policy, the  
6 \$100.

7 So the Closing Disclosure will show  
8 the correct way that those prices are allocated.  
9 The total premium will be the same in either case,  
10 the bottom line, but it will show correctly who  
11 pays what.

12 COMMISSIONER MATTAX: So is it fair  
13 to say that this rule is necessary to avoid any  
14 confusion caused by the federal government?

15 MS. BAKER: Yes, sir, that's correct.

16 COMMISSIONER MATTAX: Thank you. I  
17 have nothing further right now, thanks.

18 As I mentioned, if people wanted to  
19 fill out witness cards -- I have two here, so last  
20 chance if you want to fill some out. So let me  
21 call on Aaron Day. Please come up, state your  
22 name, who you're representing and provide any  
23 comments you would like. Thank you.

24 MR. DAY: Good morning, Commissioner.  
25 My name is Aaron Day; I represent the Texas Land

1 Title Association.

2 And, really, I can't add on much more  
3 than what Marianne laid out just now, except I do  
4 want to say that we do appreciate TDI staff's  
5 leadership on this issue. They really got their  
6 arms around the problem quickly and developed a  
7 solution. And we're here rising here today to  
8 support that solution.

9 We also have Janet Minke here, who  
10 can talk more about the details of the problems  
11 that it's solving, but I will note that this  
12 conflict that we're addressing today in Texas  
13 exists in 26-plus states throughout the country  
14 and, actually, those are the more populous states.  
15 So, really, it's going to create a problem in the  
16 majority of the transactions in the nation. And so  
17 Texas is really providing a great deal of  
18 leadership for the rest of the nation, in terms of  
19 how to address this problem and correct it so  
20 consumers aren't left confused.

21 COMMISSIONER MATTAX: So is it your  
22 view, then, that the form that's being proposed in  
23 this rule will help on the purchasers and sellers  
24 of real estate understanding the transaction  
25 better?

1 MR. DAY: Absolutely.

2 COMMISSIONER MATTAX: Thank you;  
3 appreciate your comments.

4 I now call Janet Minke.

5 MS. MINKE: I'm Janet Minke, with  
6 Alliant National Title, here on behalf of the TLTA.  
7 I support everything that Marianne has said and  
8 Aaron has said as well, and I'm available to answer  
9 any questions, if you have any, that I can assist  
10 with.

11 COMMISSIONER MATTAX: I'll just ask  
12 the same question. Do you agree that the forms  
13 that we're proposing in this rule are going to help  
14 clarify the transactions so that purchasers and  
15 sellers in real estate will understand the true  
16 nature of the transaction they're entering into?

17 MS. MINKE: Yes, I do.

18 COMMISSIONER MATTAX: Thank you so  
19 much for your testimony; I appreciate it.

20 I have no further witness cards, so  
21 we'll say going, going, gone on the witness cards.  
22 So I appreciate you-all being here.

23 Let the record reflect that those  
24 desiring to comment have done so. I will issue a  
25 decision after considering the record of today's

1 hearing and any written comments we receive. And,  
2 again, as I noted earlier, you can still provide  
3 written comments through June 1, 2015, at 5 p.m.

4 Thank you for participating in the  
5 hearing. The hearing for Docket No. 2778 is  
6 adjourned.

7 Thank you very much.

8 **(Whereupon, the hearing was**  
9 **adjourned.)**

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