

**WSR 21-20-092  
PROPOSED RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2021-10—Filed October 1, 2021, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-14-064.

Title of Rule and Other Identifying Information: Title agent county declarations.

Hearing Location(s): On November 15, 2021, at 9:00 a.m., virtual format - Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of insurance commissioner (OIC) website <https://www.insurance.wa.gov/title-agent-county-declarations-r-2021-10>. Due to the COVID-19 public health emergency, this hearing will be held via Zoom. Comments can be emailed to RulesCoordinator@OIC.WA.GOV.

Date of Intended Adoption: November 19, 2021.

Submit Written Comments to: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, email [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov), fax 360-586-3109, by October 27, 2021.

Assistance for Persons with Disabilities: Contact Melanie Watteness, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email [MelanieW@oic.wa.gov](mailto:MelanieW@oic.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purposes of these regulations are to require title agents to submit a declaration to OIC, which identify their insurance business as operating in certain counties and provide proof of the ownership or leasing rights for the applicable tract indexes, as required by RCW 48.29.160.

Reasons Supporting Proposal: The commissioner is considering rule making to enhance the reporting requirements for title agents, specifically in regard to their county declarations and ownership or leasing of tract indexes. An entity applying for a title agent license is required to submit the Declaration of Title Insurance Agent form as part of the application process. The purposes of the form are for the title agent to identify which counties they will be doing business in and verify that the title agent either owns or leases a complete set of tract indexes for those counties, as required per RCW 48.29.160. Unfortunately, the licensing records do not reflect the original documents which define what counties these title agents own or lease the required tract indexes in, nor is there a regulation or statute which requires them to report any expansion of business into additional counties. There likewise is no current requirement for title agents to verify that they own or lease the proper tract indexes for their counties of operations, as required per RCW 48.29.160. The proposed regulations will require title agents to submit a declaration to OIC, which will identify their counties of operations, and provide proof of ownership or leasing rights for the applicable tract indexes.

Statutory Authority for Adoption: RCW 48.02.060(3) and 48.29.005.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7036; Implementa-

tion and Enforcement: Todd Dixon, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(iii). Under RCW 34.05.328 (5)(b)(iii), rule making is exempt from a cost-benefit analysis if the proposed rules are adopting or incorporating by reference without material change Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rules. Here, OIC is adopting by reference without material change RCW 48.29.160 into WAC 284-29-130, which will regulate the same subject matter and conduct as the adopting rules, including license requirements for title agents and county tract indexes. No additional costs are required for title agents to comply with these regulations. Title agents already submit the Title Insurance Agent Declaration form, with an attestation for applicable tract indexes. The proposed rules verify a current statutory requirement in RCW 48.29.160 as a regulation for licensure and compliance.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(g)(ii).

Explanation of exemptions: Under RCW 34.05.310 (4)(g)(ii) rule making is exempt from the small business economic impact statement (SBEIS) requirement (chapter 19.85 RCW) if the rules adopt a filing or related process requirement for applying to an agency for a license or permit. This rule making will provide process requirements for agents of a title insurer applying to OIC for licensure and qualifies for the SBEIS exemption contained in RCW 34.05.310 (4)(g)(ii). Currently, an entity applying for a title agent license is required to submit the Declaration of Title Insurance Agent form as part of the application process with OIC. Additionally, to be licensed as an agent of a title insurer, the applicant must own or lease and maintain a complete set of tract indexes of the county or counties in which such agent will do business (RCW 48.29.160). This rule making will require title agents to verify that they own or lease and maintain rights to the applicable tract indexes (as required by RCW 48.29.160) during their license application process with OIC.

Under RCW 34.05.310 (4)(c) rule making is exempt from the SBEIS requirement (chapter 19.85 RCW) if the rules adopt or incorporate by reference without material change Washington state statutes, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule. This rule making is in-

incorporating a statutory requirement (RCW 48.29.160) by reference, without material change, and regulates the same subject matter as the adopting rule, title agent ownership of applicable tract indexes. RCW 48.29.160 requires that title agents own or lease and maintain a complete set of tract indexes of the county or counties in which such agent will do business. No additional costs are required for title agents to comply with the proposed regulations. Title agents already submit the Title Insurance Agent Declaration form, with an attestation for applicable tract indexes, as part of the application process with OIC. Therefore, this rule making qualifies for an exemption from the SBEIS under RCW 34.05.310 (4) (c).

October 1, 2021  
Mike Kreidler  
Insurance Commissioner

### OTS-3290.1

AMENDATORY SECTION (Amending WSR 09-20-070, filed 10/5/09, effective 11/5/09)

**WAC 284-29-130 ((Report)) Reporting required.** (1) The title insurance agent report of affiliated business ownership must be filed with the commissioner annually by March 15th.

(2) If there is any change or addition to the ownership information contained in the annual report, then the title insurance agent must file an amended report with the commissioner within fifteen days after the end of the month in which the title insurance agent learns of the change or addition.

(3) Changes to the information regarding the percent of title orders originating from each of the producers do not need to be filed with the commissioner except with the annual filing. If the title insurance agent discovers or reasonably should have discovered that the information contained in the annual filing was not correct, then the title insurance agent must file an amended report within fifteen days after the end of the month in which the title insurance agent discovered the incorrect information.

(4) Before conducting business in any counties, title insurance agents must report to the commissioner, declaring the county or counties the business will operate in and providing proof of ownership or leasing rights for the applicable tract indexes. If business is to be conducted in an additional county not included on previous declarations, then the title insurance agent must submit an updated declaration listing the added business areas and including proof of ownership or leasing rights to the applicable tract indexes, in accordance with RCW 48.29.160.

Proof shall come in the form of real property ownership documents, copies of leases, or other documentation verifying ownership or rights to the applicable tract indexes.

[Statutory Authority: RCW 48.02.060, 48.29.005, and 48.29.015. WSR 09-20-070 (Matter No. R 2008-22), § 284-29-130, filed 10/5/09, effective 11/5/09.]