

WSR 21-24-021
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2021-10—Filed November 19, 2021, 12:07 p.m., effective January 1, 2022]

Effective Date of Rule: January 1, 2022.

Purpose: The purposes of these regulations are to require title agents to submit a declaration to the office of the insurance commissioner (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. These rules 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 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 exact counties of operations, and provide proof of ownership or leasing rights for the applicable tract indexes.

Citation of Rules Affected by this Order: Amending WAC 284-29-130.

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

Adopted under notice filed as WSR 21-20-092 on October 1, 2021.

Changes Other than Editing from Proposed to Adopted Version: The proposed rules stated that title insurance agents must submit a declaration to the commissioner indicating their county or counties of operation, prior to doing business (WAC 284-29-130(4)). A rule-making comment was received that requested revisions for clarity, such as adding the terms title insurance to the phrase *prior to doing business*. The commenter believed that since title agents provide ancillary services, such as escrow business or contract collections, the commissioner should make it clear that the only business considered in the rule is *title insurance business*.

The commissioner drafted the rule to apply to title insurance business, being located in chapter 284-29 WAC, in the section for title agent insurance reports required (WAC 284-29-130), and having a definition in law that states selling, soliciting, or negotiating insurance is the business of a title insurance agent (RCW 48.17.010(16)).

However, the commenter identified the goal the commissioner is attempting to achieve with this rule making, preventing title insurance business from occurring with undeclared title insurance agents who are not meeting statutory duties. Additionally, the revision requested did not make the rule substantially different from that proposed (RCW 34.05.340(1)); the general subject matter of the adopted

rule will remain the same as the proposed rule (applying to title insurance business) (RCW 34.05.340(3)); and the issues determined in the proposed rule or the anticipated effects of the adopted rule would not differ from those of the proposed rule (RCW 34.05.340(3)).

Therefore, the proposed rule was revised to include the term 'title insurance' in front of the word business.

A final cost-benefit analysis is available by contacting Michael Walker, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, phone 360-725-7036, fax 360-586-3109, TTY 360-586-0241, email RulesCoordinator@oic.wa.gov, website OIC.WA.GOV.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 19, 2021.

Mike Kreidler
Insurance Commissioner

OTS-3290.2

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 title insurance 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 title

insurance 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.]