

Lending Law Update



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How Will the Recent Changes to the Delaware Title Insurance Rating Manual Affect You and Your Mortgage Loan Customers?

Effective January 1, 2021, and amended effective March 16, 2021, the Delaware Insurance Department approved the Delaware Title Insurance Rating Bureau (“DTIRB”) Rate/Rule Filing that revised the DTIRB Rating Manual for title insurance. Notably, these Rating Manual revisions affect Delaware banks and their mortgage loan customers by eliminating lower reissue rates; simplifying the rate calculation for insuring mortgage assignments; increasing the rates applicable to certain mortgage modifications; increasing the rates applicable to simultaneously-issued title insurance policies; and eliminating negotiated rates for certain customers. The net effect is an increase in closing costs for many loan transactions.

Reissue Rate Elimination: Prior to the 2021 revisions, lower rates applied to the reissuance of a lender’s or owner’s title insurance policy (up to the liability amount of the previously-issued title insurance policy for the same property) within five (5) years prior to the application for the new policy. The 2021 revisions eliminate the application of these lower reissue rates to such lender’s and owner’s title insurance policies.

Mortgage Assignments: In the event of a mortgage assignment within ten (10) years from the date of the mortgage’s execution, a new title insurance policy or an endorsement to the existing policy providing coverage up to and including the mortgage assignment’s recordation date will now be issued at a rate equal to thirty percent (30%) of the loan policy rate, provided that the policy is issued by the same insurer that issued the original policy. This revision simplified the calculation of the applicable mortgage assignment rate by eliminating the previously-used separate rate table and, instead, applying a fixed percentage.

Mortgage Modifications: For extensions or modifications of mortgages that do not increase the unpaid principal balance, rates for new title insurance policies or endorsements of existing policies will now be calculated on the unpaid principal balance immediately prior to the extension or modification at a rate equal to fifty percent (50%) of the loan policy rate, provided that the initial policy was issued within the preceding five (5) years (previously this calculation was based on fifty percent (50%) of the lower reissue rate). Unchanged is the application of one hundred percent (100%) of the loan policy rate to any extensions or modifications of mortgages that involve initial policies issued before the preceding five (5) years or with respect to an increase in the unpaid principal balance.

Simultaneously-Issued Policies: Prior to the 2021 revisions, rates for simultaneously-issued owner’s and lender’s title insurance policies were based on an owner’s policy rate and a lower lender’s policy rate, respectively. The 2021 revisions provide that the owner’s policy rate (and not the lower lender’s policy rate) is to be applied to the policy with the higher liability amount, even if the policy with the higher liability amount is the lender’s title insurance policy.

Negotiated Rates Elimination: Prior to the 2021 revisions, the State of Delaware or any of its political subdivisions, the United States Government, and certain charitable and educational entities had the right to subject their title insurance rates to competitive bidding or a negotiated agreement. The elimination of this right by the 2021 revisions subjects all such parties to the rates set forth in the revised Rating Manual.