

TITLE 13 INSURANCE
CHAPTER 14 TITLE INSURANCE
PART 6 OWNER'S, LEASEHOLD OWNER'S, AND CONTRACT PURCHASER'S POLICIES

13.14.6.1 ISSUING AGENCY: Office of Superintendent of Insurance, Title Insurance Bureau.
[4-1-96; 13.14.6.1 NMAC - Rn & A, 13 NMAC 14.6.1, 5-15-00; A, 7-31-14]

13.14.6.2 SCOPE: This rule applies to all title insurers and title insurance agents conducting title insurance business in New Mexico.
[4-1-96, 11-1-96; 13.14.6.2 NMAC - Rn, 13 NMAC 14.6.2, 5-15-00]

13.14.6.3 STATUTORY AUTHORITY: NMSA 1978 Section 59A-30-4.
[6-16-96, 4-1-96; 13.14.6.3 NMAC - Rn, 13 NMAC 14.6.3, 5-15-00]

13.14.6.4 DURATION: Permanent.
[4-1-96; 13.14.6.4 NMAC - Rn, 13 NMAC 14.6.4, 5-15-00]

13.14.6.5 EFFECTIVE DATE: June 16, 1986, unless a later date is cited at the end of a section.
[6-16-86, 11-1-96; 13.14.6.5 NMAC - Rn & A, 13 NMAC 14.6.5, 5-15-00]

13.14.6.6 OBJECTIVE: The purpose of this rule is to establish requirements for title insurance policy provisions.
[11-1-96; 13.14.6.6 NMAC - Rn & A, 13 NMAC 14.6.6, 5-15-00]

13.14.6.7 DEFINITIONS: See 13.14.1 NMAC.
[11-1-96; 13.14.6.7 NMAC - Rn, 13 NMAC 14.6.7, 5-15-00]

13.14.6.8 OWNER'S POLICIES:

A. Owner's policies shall be written to protect the estate or interest in land held by the insured (e.g., fee simple, easement, etc.). Except as otherwise provided herein, all owner's policies shall be issued for the amount of the current sales price of the land and any existing improvements appurtenant thereto, plus, at the option of the insured, the cost of improvements immediately contemplated to be erected thereupon.

B. If no sale is being made, at time of issuance of policy, all owner's policies shall be issued for an amount equal to the value of the land and any existing improvements appurtenant thereto, with the same option concerning immediately contemplated improvements.

C. In either instance, an owner's policy insuring such contemplated improvements shall contain a pending improvements clause or endorsement. In the event the owner's policy is issued at the time of payoff of a real estate contract and recording of a warranty deed, the owner's policy shall be issued for the amount of the contract price, except if the purchaser requests, and provides evidence of value, then it may be issued for the amount equal to the value of the land and any existing improvements appurtenant thereto.

D. An owner's policy may be endorsed to reflect the current value of the estate insured (upon payment of the current basic premium according to the schedule less the amount previously paid for said policy) if the insurer's underwriting standards are met; provided, however, that the effective date of the policy shall remain unchanged and no affirmative coverages or down dates shall be added to the policy. Owner's policies may insure multiple tracts acquired from different parties at the same or different times.

E. NM form 55, named insured endorsement, shall be provided to all insureds requesting the endorsement on owner's policies previously issued prior to August 1, 2008 without the endorsement.
[6-16-86...3-1-91; 13.14.6.8 NMAC - Rn, 13 NMAC 14.6.8, 5-15-00; 13.14.6.8 NMAC - A, 8-1-01; A, 3-1-02; A, 8-17-09; A, 3-1-16]

13.14.6.9 LEASEHOLD OWNER'S POLICIES:

A. Leasehold owner's policies shall be issued to insure leasehold estates and in the amount, at the option of the insured, of (1) the total amount of the rentals payable under the lease contract, or (2) the value of the land and any existing improvements, or (3) the value of the land and any existing improvements and the cost of the improvements immediately contemplated to be erected thereupon. In the latter case, the leasehold policy must contain a pending improvements clause or endorsement.

B. Unless otherwise specifically stated, a leasehold owner's policy shall contain the same standard exceptions, be subject to the same premium rates and be subject to deletion of the same standard exceptions in the same manner as an owner's policy.

C. A leasehold owner's endorsement shall be attached to an owner's policy to create a leasehold owner's policy. A leasehold owner's policy may be converted to a standard owner's policy by the issuance of an owner's leasehold conversion endorsement NM form 31.

D. The premium for such conversion shall be as prescribed by 13.14.9.38 NMAC, and no additional premium shall be charged for the owner's leasehold conversion and endorsement, NM form 31.

E. NM form 55, named insured endorsement, shall be provided to all insureds requesting the endorsement on leasehold owner's policies previously issued prior to August 1, 2008 without the endorsement. [6-16-86, 3-1-89; 13.14.6.9 NMAC - Rn, 13 NMAC 14.6.9, 5-15-00; 13.14.6.8 NMAC - A, 8-1-01; A, 3-1-02; A, 3-1-16]

13.14.6.10 CONTRACT PURCHASER'S POLICIES:

A. Contract purchaser's policies, utilizing NM form 1, owner's policy, shall be written to insure the estate or interest in land upon which the insured holds a contractual interest by virtue of a recorded real estate contract or agreement, or a sufficient recorded memorandum thereof. Unless otherwise specifically provided, contract purchaser's policies shall be subject to all rules and regulations applicable to owner's policies, and in the same manner.

B. The estate or interest in the land insured in schedule A under a contract purchaser's policy shall be automatically converted to "fee simple" without the requirement for a policy endorsement, if the contract purchaser acquires the fee title interest by the filing of the deed from the contract seller under the recorded real estate contract or agreement, or a sufficient memorandum recorded in lieu thereof, which transaction was previously insured. The date of policy will not be changed or down dated. No additional premium shall be charged for this conversion.

C. Upon request of the insured under a contract purchaser's policy, a contract purchaser's policy may be converted and down dated to a standard owner's policy by the issuance of a contract purchaser's conversion endorsement, NM form 91. The premium for such endorsement shall be as prescribed by 13.14.10.63 NMAC and no additional premium shall be charged for the contract purchaser's conversion endorsement, NM form 91.

D. Each insurer shall establish written instructions and specific underwriting standards concerning the issuance of contract purchaser's policies and the contract purchaser's conversion endorsement, NM form 91. [3-1-89; 13.14.6.10 NMAC - Rn, 13 NMAC 14.6.10, 5-15-00; A, 3-1-16]

13.14.6.11 STANDARD EXCEPTIONS: All owner's policies insuring New Mexico property shall contain in schedule B the standard exceptions numbered 1 through 8 in 13.14.5.9. NMAC except as otherwise provided by these rules. Said standard exceptions may be preprinted in schedule B and, when specifically authorized, may be deleted by crossing out the words as specifically indicated in the rules immediately following, or by notation in schedule B or endorsement stating, "exceptions numbered _____ are hereby deleted" or "exception numbered 3 is hereby amended to read, "shortages in area". Standard exception number 5 shall refer to "spouse of the vestee" in all owner's policies and in all situations where the vestee and insured are not the same. [6-16-86, 2-6-87; 13.14.6.11 NMAC - Rn, 13 NMAC 14.6.11, 5-15-00; A, 3-1-16]

13.14.6.12 PARTIES IN POSSESSION - STANDARD EXCEPTION 1: The standard exception numbered 1 in 13.14.5.9 NMAC may be deleted from an owner's policy when the company or agent has been furnished satisfactory proof that there are no parties in possession of the property being insured other than those claiming rights or possession in the property through matters of public record. Each insurer shall establish underwriting standards concerning the necessary proof to be furnished to it or its agents. [6-16-86; 13.14.6.12 NMAC - Rn, 13 NMAC 14.6.12, 5-15-00]

13.14.6.13 UNRECORDED EASEMENTS - STANDARD EXCEPTION 2: The standard exception numbered 2 in 13.14.5.9 NMAC may be deleted in its entirety from an owner's policy when the insurer or its agent has been furnished a survey of the property being insured which it determines to be satisfactory to determine that there are no easements or claims of easements affecting the insured property other than those shown by the public records. In addition to the survey, the insurer may require as a part of its underwriting standards an inspection of the property or other documentation that it may determine is necessary. [6-16-86; 13.14.6.13 NMAC - Rn, 13 NMAC 14.6.13, 5-15-00]

13.14.6.14 SURVEY COVERAGE - STANDARD EXCEPTION 3:

A. The standard exception numbered 3 in 13.14.5.9 NMAC may be deleted from an owner's policy in either of two ways. In both instances, the additional premium required by 13.14.10.10 NMAC must be paid and the insurer or its agent must be furnished with a recent survey of the insured property meeting the insurer's underwriting standards prior to the deletion being made.

B. If the insurer considers the additional risk acceptable, the entire language of this standard exception may be deleted from the policy, thereby insuring the surveyor's computation of area.

C. If the insurer does not consider the shortage-in-area risk acceptable but considers the remaining additional hazard insurable, the words "Encroachments, overlaps, conflicts in boundary lines" and the words "or other matters which would be disclosed by an accurate survey and inspection of the premises" may be deleted, leaving the exception to read "shortages in area."

D. There are no other circumstances under which this standard exception may be deleted from the policy or otherwise modified.

[6-16-86; 13.14.6.14 NMAC - Rn, 13 NMAC 14.6.14, 5-15-00]

13.14.6.15 MECHANICS' AND MATERIALMEN'S LIEN COVERAGE - STANDARD EXCEPTION 4:

A. The standard exception numbered 4 in 13.14.5.9 NMAC may be deleted in its entirety from an owner's policy under two circumstances. In both instances the construction of all improvements on the insured property must have been fully completed and accepted by the insured owner and the appropriate additional premiums required by 13.14.10.9 NMAC must be paid prior to the exception being deleted.

B. In one instance the statutory period for filing mechanics' or materialmen's liens will have expired prior to the date of the policy and Subsection A of 13.14.10.9 NMAC will apply; in the other instance, some or all of the improvements will be "new construction" (or recently completed), the statutory period for the filing of said liens will not have expired as of the date of the policy and Subsection B of 13.14.10.9 NMAC will apply. There are no other circumstances under which this standard exception may be deleted from the policy or otherwise modified.

[6-16-86; 13.14.6.15 NMAC - Rn, 13 NMAC 14.6.15, 5-15-00]

13.14.6.16 SPOUSAL RIGHTS - STANDARD EXCEPTION 5: The standard exception numbered 5 in 13.14.5.9 NMAC may be deleted in its entirety from an owner's policy if the vestee named in such policy is a corporation, partnership or other artificial entity, or a person holding title as trustee.

[6-16-86; 13.14.6.16 NMAC - Rn, 13 NMAC 14.6.16, 5-15-00]

13.14.6.17 [RESERVED]

[4-3-95; 13.14.6.17 NMAC - Rn, 13 NMAC 14.6.17, 5-15-00; Repealed, 9-15-09]

13.14.6.18 REISSUED OWNER'S POLICIES:

A. Owner's policies shall qualify for the reissue rates of 13.14.9.35 NMAC only when insuring either of the following:

(1) A purchaser or lessee of the same real estate from one whose title thereto as owner has been insured by any company in a previous policy issued prior to the application for a new policy; or

(2) A purchaser or lessee of the same real estate from an insured under a loan policy of any company which has acquired title to the same property described in said loan policy by foreclosure or by voluntary conveyance in extinguishment of the debt.

B. In either case the company issuing the reissue rate policy shall maintain proof of the previous policy in its files for at least two years. In order for the reissue rate to apply, proof of the previous policy shall be in the possession of the company issuing the reissue rate policy prior to the commencement of the title search for said policy. Proof, as used in this context, shall mean a copy of the previous policy, which shall include the following information: issuing company/underwriter, policy number, date of issue, policy amount, legal description of insured property, name of insured, as well as complete copies of schedules A and B (and C, if applicable), and any attached endorsements.

[6-16-86...3-1-92; 13.14.6.18 NMAC - Rn, 13 NMAC 14.6.18, 5-15-00]

13.14.6.19 U.S. POLICIES:

A. NM form 34 shall contain standard exceptions as provided in 13.14.6.11 NMAC and subject to their deletion as provided in 13.14.6.12 NMAC through 13.14.6.16 NMAC.

B. NM form 34 does not act as an interim binder but requires the use of a standard commitment. NM form 34 is prescribed by the department of justice. Each insurer shall establish written instructions and specific underwriting standards concerning the issuance of NM form 34 policies.
[6-16-86; 4-1-93; 13.14.6.19 NMAC - Rn, 13 NMAC 14.6.19, 5-15-00; A, 7-31-14]

13.14.6.20 SUBDIVIDERS OR CONSTRUCTION BULK RATE QUALIFICATIONS:

A. For the purpose of 13.14.9.23 NMAC, an insured owner will qualify for the discount provided therein only when said insured owner acquires title directly from a person who meets either of the following conditions: (1) either (a) owns of record at the same time two or more lots in the same county recorded subdivision holding the same for immediate sale upon completion of building improvements thereon, or (b) owns two or more unsold vacant lots or acreage tracts at the same time in the same county recorded subdivision and has contracted with the insurer to purchase an owner's policy on each and every lot or tract as the same is sold; or (2) when the person owning of record two or more lots or tracts in the same county recorded subdivision (a) is a subdivider or builder who subdivides property for 1 to 4 family residential use or (b) builds 1 to 4 family residences or residential condominium units for immediate resale upon completion of improvements and said lots or tracts are restricted to or zoned for 1 to 4 family residential use or residential condominium use or actually improved by 1 to 4 family or condominium use at the time the policy is issued.

B. The words "county recorded subdivision" as used in the section mean a map or plat or condominium plans filed for record in the office of the county clerk and showing the location and dimensions of lots, blocks, tracts, units or other such similarly designated parcels.
[6-16-86; 3-1-91; 13.14.6.20 NMAC - Rn, 13 NMAC 14.6.20, 5-15-00]

13.14.6.21 U.S. POSTAL SERVICE AS INSURED: Whenever the United States Postal Service acquires title to property being insured, it is permissible to (1) amend the New Mexico U.S. Policy (NM form 7) by striking therefrom in all places the name "United States of America" and substituting in lieu thereof the name "United States Postal Service" and (2) to insert the following paragraph to the conditions and stipulations: "9. In the event that the interests of the United States Postal Service with respect to the land referred to in this policy are not represented by the attorney general of the United States at the time any election, notice, request, permission, cooperation, assistance, or statement is required or permitted by these conditions and stipulations, then such election, notice, request, permission, cooperation, assistance, or statement, as so required or permitted, and otherwise conforming hereto, should be given or furnished by or to the United States Postal Service."
[2-6-87; 13.14.6.21 NMAC - Rn, 13 NMAC 14.6.21, 5-15-00]

13.14.6.22 ISSUANCE OF REPLACEMENT OWNER'S POLICY:

A. When an authorized insurer is placed in permanent or temporary receivership for purpose of liquidation with a finding of insolvency by a court of competent jurisdiction, (insolvent insurer), a replacement policy of title insurance can be purchased by an insured covered under an owner's policy issued pursuant to 13.14.6 NMAC.

B. The insured shall surrender the existing policies of said insolvent insurer to the company when placing the order for a replacement policy. A copy of the existing policies obtained from the issuing agent can be surrendered in lieu of the existing original policy. If a copy of the existing policies is obtained from the original agent that issued it, an additional charge can be made to the insured in an amount that is reasonable considering the nature and extent of the services rendered. The date of policy for the replacement policy shall be the same date of policy as the existing policy.

C. No replacement policy shall be issued without exceptions to coverage for defects, liens, encumbrances, adverse claims or for other matters known to exist by the insured on the date of issuance of the replacement policy, including but not limited to claims known by any owner or other insured and claims reported under existing policies or claims that have been made against the receiver for the insolvent insurer or agent who represented the insolvent insurer. All replacement policies shall contain the following exception on schedule B: defects, liens, encumbrances, adverse claims or other matters not known to the issuing agent and/or insurer at the issue date of this replacement policy, but known to any owner or other insured claimant and not disclosed in writing to the agent and/or insurer by the insured claimant prior to the date the insured claimant became insured under this policy.

D. The replacement owner's policy shall be issued in the amount of insurance shown on the existing owner's policy. Agents and/or insurers must issue a replacement policy when request therefore is made by an insured who has satisfied the requirements of this regulation and those of 13.14.9.26 NMAC. No search or

examination of title or evidence thereof is required of the agent or insurer issuing a replacement policy pursuant to this regulation. However, agents and insurers may conduct a search and examination at no additional expense to the insured other than as set forth in 13.14.9.26 NMAC.

E. All replacement policies shall be marked as such by adding the words “replacement policy; NO SEARCH REQUIRED,” prior to the policy number on the cover page of the policy and on the top center of all other pages not considered a policy cover or jacket. Subsequent to the words “replacement policy; NO SEARCH REQUIRED,” the date the replacement policy was issued shall be indicated after the word “issued” is typed.

F. When an insured submits as evidence either a replacement owner’s policy or an owner’s policy of an insolvent insurer or a copy of the same, they will qualify for credit afforded in 13.14.9.12.1 NMAC, reissue owner’s or leasehold rates and also 13.14.9.36 NMAC, substitution loans, second mortgages and subsequent issues. No other regulations affording credits, discounts, reduction in premium shall apply to replacement policies other than as stated herein and in 13.14.9.26 NMAC.

[6-15-91; 13.14.6.22 NMAC - Rn, 13 NMAC 14.6.22, 5-15-00; A, 3-1-16]

13.14.6.23 [RESERVED]

[6-1-97; 13.14.6.23 NMAC - Rn, 13 NMAC 14.6.23, 5-15-00; Repealed, 9-15-09]

13.14.6.24 [RESERVED]

[13.14.6.24 NMAC - N, 7-1-05; Repealed, 9-15-09]

HISTORY OF 13.14.6 NMAC:

Pre-NMAC History.

ID 74-1, Article 10, Chapter 58, Rule 2, Regulations for Filing Title Insurance Forms and Rates, 3-7-74.

SCC-85-6, Insurance Department Regulation 30 - Title Insurance, 9-6-85.

SCC-86-1, Insurance Department Regulation 30 - Title Insurance, 5-9-86.

NMAC History.

Re-promulgated a portion of SCC-86-1, Insurance Department Regulation 30 - Title Insurance, as 13 NMAC 14.6, Owner’s, Leasehold Owner’s, and Contract Purchaser’s Policies, filed 10-2-96.

Recompiled 13 NMAC 14.6, Owner’s, Leasehold Owner’s, and Contract Purchaser’s Policies, as 13.14.6 NMAC, Owner’s, Leasehold Owner’s, and Contract Purchaser’s Policies, filed 4-28-00, amended effective 7-31-14.

Owner’s Leasehold Owner’s and Contract Purchaser’s Policies, filed 7-31-14, amended effective 3-1-16.

History of Repealed Material.

ID 74-1, Article 10, Chapter 58, Rule 2, Regulations for Filing Title Insurance Forms and Rates - Superseded 9-6-85.

SCC-85-6, Insurance Department Regulation 30 - Title Insurance- Superseded 5-9-86.