

**TITLE 13 INSURANCE**  
**CHAPTER 14 TITLE INSURANCE**  
**PART 18 FORMS**

**13.14.18.1 ISSUING AGENCY:** Office of Superintendent of Insurance, Title Insurance Bureau.  
[13.14.18.1 NMAC - Rp, 13.14.18.1 NMAC, 3/1/2016]

**13.14.18.2 SCOPE:** This rule applies to all title insurers and all title insurance agents conducting title insurance business in New Mexico.  
[13.14.18.2 NMAC - Rp, 13.14.18.2 NMAC, 3/1/2016]

**13.14.18.3 STATUTORY AUTHORITY:** Sections 59A-30-4 and 59A-30-5 NMSA 1978.  
[13.14.18.3 NMAC - Rp, 13.14.18.3 NMAC, 3/1/2016]

**13.14.18.4 DURATION:** Permanent.  
[13.14.18.4 NMAC - Rp, 13.14.18.4 NMAC, 3/1/2016]

**13.14.18.5 EFFECTIVE DATE:** March 1, 2016, unless a later date is cited at the end of a section.  
[13.14.18.5 NMAC - Rp, 13.14.18.5 NMAC, 3/1/2016]

**13.14.18.6 OBJECTIVE:** The purpose of this rule is to provide title insurance forms and restrictions regarding their use.  
[13.14.18.6 NMAC - Rp, 13.14.18.6 NMAC, 3/1/2016]

**13.14.18.7 DEFINITIONS:** See 13.14.1 NMAC.  
[13.14.18.7 NMAC - Rp, 13.14.18.7 NMAC, 3/1/2016]

**13.14.18.8 PROMULGATED FORMS:** Policies, endorsements, binders, commitments, certificates, closing protection letters, notice of availability of owners title insurance and facultative reinsurance agreements are not to be filed with the superintendent for approval as the responsibility rests upon the title underwriting companies to see that only standard promulgated forms are used by themselves and their authorized agents to insure interests in New Mexico property.  
[13.14.18.8 NMAC - Rp, 13.14.18.8 NMAC, 3/1/2016]

**13.14.18.9 ALTERATION OR SUBSTITUTION OF FORMS PROHIBITED:**

**A.** No person, firm or organization may alter or otherwise change any title insurance form promulgated by the superintendent, or use any non-promulgated endorsement or rider, except (1) upon public hearing called for such purpose and upon a determination by the superintendent that the same be proper, or (2) in a manner specifically authorized by these regulations as amended from time to time.

**B.** Nothing in this regulation shall prevent a title insurer from (1) adding blanks, spaces, labels or brief instructions to the promulgated forms for the purpose of collecting statistical data or (2) from typesetting a promulgated form utilizing type styles, margins or paginations different from the promulgated forms; provided, however, that all language contained in each promulgated form must appear in each form printed or used by each title insurance underwriter or agent verbatim, and further provided that nothing may be added to a promulgated title insurance form which changes any of the terms of such form except as specifically provided by these regulations.

**C.** Nothing herein shall prohibit the use of the forms in any language other than English, provided, however, that any translated form shall contain the following language in bold-face type on the first page of the form in English and in the translated language: "This translation is provided as a convenience only. The English language version of this form shall control and shall be the operative document for all legal purposes."

**D.** The following language shall be added at the top of schedule A of all commitments and policies in a font not less than the font size of the remaining print of schedule A and be in bold italicized print: "Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, control and supervision by superintendent and title insurance regulation 13.14.18.10 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New

Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located.”

[13.14.18.9 NMAC - Rp, 13.14.18.9 NMAC, 3/1/2016]

**13.14.18.10 DELETION OF PREPRINTED TERMS, ADDITION OF UNAUTHORIZED TERMS, AND LETTERS OF INTERPRETATION OR WAIVER THAT CHANGE THE TERMS, PROHIBITED:**

**A.** None of the preprinted terms (or the terms required to be printed) in a promulgated title insurance form may be deleted from such form except in the manner specifically authorized by these rules.

**B.** Nothing may be added to, inserted in or typed upon a promulgated title insurance form except as specifically authorized by these rules; provided, however, that the information necessary to identify the insured, the insured’s estate or interest of record, the property description, all matters of record affecting the insured’s interest which are exceptions to the policy, all matters, facts and circumstances, whether or not shown by the public records, constituting a lien, claim, encumbrance, impairment or limitation upon the estate to be insured, whether arising by operation of law or by reason of no recorded information establishing the insured matters, the amount of liability of the policy and, in case of a commitment or binder, any matter constituting a requirement prior to issuance of a policy, may be inserted in the proper places in the various forms and that other information necessary to complete each form (such as the year in the tax exception clause and any required signature or countersignature) must be inserted in the form prior to its issuance.

**C.** Additional specific exceptions may be added to schedule B to except from coverage the effect of encroachments, overlaps, and physical evidence of easement or boundary line disputes, as revealed by a survey or inspection of the property. Additionally, a specific exception as to lack of access to the property may be taken when the search performed fails to reveal that insurable rights of access to the property exist.

**D.** No person, firm or organization may issue, publish or circulate a letter, memorandum or other writing which directly or indirectly modifies or waives the terms or any part of the terms of any promulgated form, nor may any person, firm or organization agree to directly or indirectly do or not do anything, the effect of which is or would be to offer insurance coverages other than those in the promulgated title insurance forms, whether the same be more, less, substitute, alternative, negative or affirmative coverages or risks, except as specifically authorized by these rules; except that insurers shall waive, at no cost or charge to the insured, either by endorsement or language added to schedule B of the policy, the right to demand arbitration pursuant to the conditions and stipulations of title insurance policies issued in New Mexico. The endorsement or the language added to schedule B of the policy shall read: “In compliance with Subsection D of 13.14.18.10 NMAC, the company hereby waives its right to demand arbitration pursuant to the title insurance arbitration rules of the American land title association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the company and the insured.”

**E.** In no event may any policy, endorsement, binder, commitment, letter, contract, memorandum or other writing or form issued by a title insurance underwriter or agent concerning an interest in New Mexico property contain coverages not expressly authorized by these rules or the superintendent pursuant to the New Mexico title insurance law.

[13.14.18.10 NMAC - Rp, 13.14.18.10 NMAC, 3/1/2016]

**13.14.18.11 ADDITIONAL AFFIRMATIVE COVERAGES:**

**A.** When issuing a commitment for an owner’s or loan policy, or issuing an owner’s or loan policy, exceptions as to easements, rights-of-way, and restrictions must detail any matters of violation, protrusion, encroachment or overlap on to easement, right-of-way, adjacent property, building set back lines or other violated restriction, which are revealed by an inspection or survey of the property.

**B.** In the case of commitments issued for loan policies, and in the issuance of said loan policies, but not in the case of commitments for owner’s policies, leasehold owner’s policies and contract purchaser’s policies, or the issuance of said policies, the following language may be added to each covenant, deed, or other recorded restriction exception: “Violations of this restriction (or these restrictions), if any, and any future violation thereof shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in schedule B. However, this policy insures that any violation of this restriction (or these restrictions) relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein.”

**C.** Additionally, and again only in commitments for or the issuance of loan policies, when protrusions, encroachments or overlaps into or upon easements, rights-of-way, adjacent property, the property to be insured, or building set-back lines (as described in restrictive covenants or plats filed of record) are revealed by a survey, the following paragraph may be added as a separate specific exception: “Encroachment (protrusion or overlap) of the improvements over (on, onto, in, into or upon) the (here describe the easement, right-of-way, adjacent property, the land to be insured, or building set-back line) as shown on a survey prepared by \_\_\_\_\_ dated \_\_\_\_\_. This policy insures the insured against loss or damage as defined in this policy by reason of the entry of any final decree entered in a court of competent jurisdiction and of last resort ordering the removal of said improvements presently situate on the land which constitute the (protrusion, overlap or encroachment).” This affirmative coverage language may be inserted into the foundation endorsement, NM form 61, in accordance with 13.14.10.44 NMAC.

**D.** Each insurer shall establish its written underwriting requirements necessary to offer these additional affirmative coverages or determine that it does not desire to offer said coverages under any circumstances. No company may provide affirmative coverage by the intentional omission of an exception to any adverse matter disclosed by inspection, or unrecorded survey or other evidence, or by a search and examination of the public records, or by any adverse matter arising by operation of law except as specifically authorized by these rules. [13.14.18.11 NMAC - Rp, 13.14.18.11 NMAC, 3/1/2016; A, 7/1/2018]

**13.14.18.12 PRINTING OF FORMS:** On and after May 1, 1988, all promulgated title insurance forms shall contain the headings and form designations used on the forms prescribed in this rule. [13.14.18.12 NMAC - Rp, 13.14.18.12 NMAC, 3/1/2016]

**13.14.18.13 APPROVED FORMS:** The forms published in the website of the office of the Superintendent of Insurance are hereby promulgated for use in New Mexico, and text of each form and its date of adoption are incorporated herein by reference. The repository of promulgated forms is found at <https://www.osi.state.nm.us/Title/officialtitleinsforms.aspx>. The forms as reproduced in that secure repository shall constitute the exclusive promulgated forms for use in New Mexico and none of those forms may be altered except to correct non-substantive errors or by proper amendments as provided in Section 14-4-1, *et seq.* NMSA 1978, or as otherwise required by law. [13.14.18.13 NMAC - Rp, 13.14.18.13 NMAC, 3/1/2016; A, 7/1/2018]

#### **HISTORY OF 13.14.18 NMAC:**

##### **Pre-NMAC History.**

ID 74-1, Article 10, Chapter 58, Rule 2, Regulations for Filing Title Insurance Forms and Rates, filed 3/7/1974.  
SCC-85-6, Insurance Department Regulation 30 - Title Insurance, filed 9/6/1985.  
SCC-86-1, Insurance Department Regulation 30 - Title Insurance, filed 5/9/1986.

##### **History of Repealed Material.**

13.14.18 NMAC, Forms, filed 5/9/1986 - Repealed effective 3/1/2016 and replaced with 13.14.18 NMAC, Forms, effective 3/1/2016.

##### **Other History.**

Re-promulgated portions of SCC-86-1, Insurance Department Regulation 30 - Title Insurance (filed 5/9/1986), was renumbered, reformatted, amended and replaced as 13 NMAC 14.2, Forms Provisions; 13 NMAC 14.2.A, Miscellaneous Forms; 13 NMAC 14.6.A, NM Form 1, Owner’s Policy; 13 NMAC 14.6.B, NM Form 4, Leasehold Owner’s Policy; 13 NMAC 14.6.C, NM Form 7, US Policy, ALTA 1963; 13 NMAC 14.6.D, NM Form 34, US Policy, ALTA 1991; 13 NMAC 14.7.A, NM Form 2, Loan Policy; 13 NMAC 14.7.B, NM Form 3, Construction Loan Policy; 13 NMAC 14.7.C, NM Form 5, Leasehold Loan Policy; 13 NMAC 14.7.D, NM Form 36, Limited Title Search Policy; 13 NMAC 14.7.E, NM Form 41, Foreclosure Guarantee Policy; 13 NMAC 14.7.F, NM Form 45, Residential Limited Coverage Junior Loan Policy; 13 NMAC 14.8.A, Endorsement Forms; effective 11/01/1996. 13 NMAC 14.2, Forms Provisions (filed 10/2/1996); 13 NMAC 14.2.A, Miscellaneous Forms (filed 10/2/1996); 13 NMAC 14.6.A, NM Form 1, Owner’s Policy (filed 10/2/1996); 13 NMAC 14.6.B, NM Form 4, Leasehold Owner’s Policy (filed 10/2/1996); 13 NMAC 14.6.C, NM Form 7, US Policy, ALTA 1963 (filed 10/2/1996); 13 NMAC 14.6.D, NM Form 34, US Policy, ALTA 1991 (filed 10/2/1996); 13 NMAC 14.7.A, NM Form 2, Loan Policy (filed 10/2/1996); 13 NMAC 14.7.B, NM Form 3, Construction Loan Policy (filed 10/2/1996); 13 NMAC 14.7.C, NM Form 5, Leasehold Loan Policy (filed 10/2/1996); 13 NMAC 14.7.D, NM Form 36, Limited Title Search Policy

(filed 10/2/1996); 13 NMAC 14.7.E, NM Form 41, Foreclosure Guarantee Policy (filed 10/2/1996); 13 NMAC 14.7.F, NM Form 45, Residential Limited Coverage Junior Loan Policy (filed 10/2/1996); and 13 NMAC 14.8.A, Endorsement Forms (filed 10/2/1996) were all renumbered, reformatted, amended and replaced by 13.14.18 NMAC, Forms, effective 5/15/2000, amended effective 7/31/2014.