

## Underwriting Bulletin: UNTX-2024-014

Date: October 23, 2024

To: Texas Agents

From: FNTI Underwriting Department

RE: **Significant Changes to the Basic Manual – effective November 01, 2024**

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Effective November 01, 2024, significant changes to the Basic Manual will go into effect. Below is an outline of the changes. For a complete redlined version of the additions and changes, please see here:

<https://www.tdi.texas.gov/rules/2024/documents/9401exhibits.pdf>

Like always, please reach out to your favorite underwriter if you have any questions about any of these changes.

### **Rate Rule Changes:**

1. **Assignment of Mortgage: Rule R-11.A: (P-9.b.1 and P-9.b.2 – Loan Policies)**  
Amended to provide an additional \$100 to premium for each additional full or partial 12-month period after the first anniversary of the date of the policy.
2. **Loan Modification Endorsement: Rule R-11.B: T-38 (P-9.b.3 – Loan Policies)**  
Amended to increase the base premium to the Minimum Basic Premium Rate, and the additional premium per year increased from \$10 to \$25.
3. **Down Date Endorsement: Rule R-15.B: (P-9.a.3 – Owner Policies/Construction)**  
Form T-3 OTP Down Date/Increased Coverage Endorsement amended premium to \$100 for nonresidential construction projects and remain \$50 for residential construction projects.
4. **Down Date Endorsement: Rule R-11.C: (P-9.b.4 – Loan Policies/Construction)**  
Form T-3 LP Down Date Endorsement increased rate for non-residential to \$100.
5. **Access Endorsement Rule R-30: (P-54 – OTP and LP/improved, non-residential only)**  
T-23 access endorsement amended premium from \$100/policy to \$100 for each endorsement (access street).
6. **Simultaneous Issuance of Owner's Policy and Loan Policy: Rule R-5:**  
Threshold amount to give property purchases a 90-day window to secure loan financing and still receive the simultaneous issue rate reduced from \$5 million to **\$1 million**, limited to transactions in which the land is **not residential** real property, and is for transactions in which the loan policy is issued by the **same company** that issued the owner's policy.  
Revised subsections B, C, and D to clarify that the simultaneous issue discount was available when applying other discounts to the rate.
7. **Amendment of Exception as to Area, Boundaries, etc.: New/Revised Rule R-16:**  
Premium now calculated based on the type of property (residential vs. non-residential) instead of the type of OTP issued.

**Definition Change: Residential Real Property:**

**Procedural Rule P-1.(u): Residential Real Property**

Change in definition of *Residential Real Property*:

1. Immediately contemplated residential improvements considered residential property;
2. Agricultural production requirement removed for large residential properties (rural) between 10 and 200 acres; and
3. Residential property references in **Rate Rule R-16** establishes rates for survey coverage.

**Endorsement Changes:**

1. **T-16 Aggregation Endorsement, Procedural Rule P-9.b(13); Rate Rule R-11.j**  
T-16 repealed and replaced with an ALTA version of aggregation endorsement for aggregate coverage amounts across simultaneously issued loan policies to cover separate mortgages securing the same indebtedness or loan.
2. **T-19 Surface Damage Coverage Endorsement in T-19, T-19.1, T-19.2, & T-19.3**  
T-19 series updated to be more consistent and less ambiguous across all T-19 endorsements;  
Added *Flood* as an exception to coverage across all T-19 endorsements;  
T-19.2 and T-19.3 updated to conform with ALTA form equivalents;  
T-19.2 updated to mirror the excluded improvements damages found in T-19.1, including expanded exclusion for “crops, landscaping, lawn, shrubbery, or trees”;  
T-19.2 and T-19.3 endorsements do not insure against loss or damage resulting from: contamination, explosion, fire, fracturing, vibration, earthquake, flood, or subsidence; or negligence by a person or an entity exercising a right to extract or develop minerals or other subsurface substances.
3. **T-19.4 Energy Project, Severable Improvements, Mineral Extraction, Procedural Rule P-50.2; Rate Rule R-29.2 (NEW)**  
Endorsement T-19.4 enacted to provide surface damage coverage for severable improvements that would not be insured under the other endorsement forms that cover surface damage related to mineral extraction.  
**Note: Pursuant to P-50.2, T-19.4 is issued with one of the new Energy Project T-55 Series Endorsements** (detailed below); and Subparagraph c. of the T-19.4 must be completed according to the instructions in the form by inserting the word *None* or identifying the interest excepted from the description of the Land in Schedule A or specifically excepted in Schedule B intended to be excluded from coverage.
4. **T-26: Additional Insured Endorsement, Procedural Rule P-57**  
T-26 Endorsement amended to broaden availability of the endorsement to allow more legal entities used in estate planning to be an additionally insured, including Trusts, Family Partnerships, Family Corporations, *and new with this change*, family-owned limited liability companies, and family-owned limited partnerships.
5. **T-35 Revolving Credit Endorsement, Procedural Rule P-9.b.8; Rate Rule R-11.f**  
T-35 language updated to confirm T-35 cannot be issued for construction policies or any other policies containing the P-8 exceptions. Term *Future Advance* removed from endorsement title confirming endorsement is limited to coverage for revolving credit—not future advances.
6. **T-42 Equity Loan Mortgage Endorsement**  
Subsection 2.b of endorsement deleted to reflect Constitutional amendment that eliminated the prohibition of home equity loans secured by land with agricultural (“ag”) exemption.

7. **T-54 Severable Improvements Endorsement**

New Rate Rule (R-37) created to allow issuance of T-54 for Severable Improvements for nonenergy facilities.

8. **T-55 Energy Project Endorsement Series, Procedural Rule P-72; Rate Rule R-37 (NEW)**

Six ALTA Energy Project Endorsements adopted specifically tailored for different scenarios, including: Form T-55 Energy Project-Leasehold/Easement Owner's Endorsement (New)

Form T-55.1 Energy Project-Leasehold/Easement Loan Endorsement (New)

Form T-55.2 Energy Project-Leasehold-Owner's Endorsement (New)

Form T-55.3 Energy Project-Leasehold-Loan Endorsement (New)

Form T-55.4 Energy Project-Fee Estate-Owner's Endorsement (New)

Form T-55.5 Energy Project-Fee Estate-Loan Endorsement (New)

These endorsements provide that in valuation of a title loss affecting a parcel of land that is part of the whole energy project, the computation of loss will include the resulting loss or diminution in value to the entire energy project as a whole, not just the portion affected. These endorsements can cover the valuation of severable improvements in the same manner, but also the cost to disassemble and remove severable improvements, relocation and re-assembly and additional items of loss.

These endorsements do not provide coverage for environmental damage or contamination.

**Not Yet Due and Payable Coverage Change:**

**Revised Tax Exception P-20.C: Not Yet Due and Payable Coverage**

Amended to allow a company to fill in the tax year that coverage applies to, rather than requiring coverage be tied to the year when the policy or binder is issued. This amendment allows the Not Yet Due and Payable endorsement to be issued after tax bills have been sent out and the taxes paid prior to or at closing.

**Area and Boundaries Coverage Clarification:**

Forms T-1 and T-2 are amended to clarify that there is no coverage through Covered Risk 2(c) in the jacket of the policy if Exception B#2 is left in the policy in its entirety. The coverage in Covered Risk 2(c) in the jacket of the policy is provided only when survey coverage is purchased, and the area and boundaries exception (B#2) is amended. This revision is intended to clarify the interaction between Covered Risk 2(c) in the jacket of the policy and the area and boundaries exception (B#2).

If the Amendment of Exception to Area and Boundaries is not requested, Schedule B#2 now includes the following final note:

"2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements. Covered Risk 2(c) is hereby deleted."

**T-47 and T-47.1 (NEW):**

Form T-47 was amended to add a blank for the **Date of the Survey**. The certification by the seller/borrower was revised to state that: *To the best of my knowledge, since the **Date of the Survey**, there have been no ....*

Form T-47.1 (NEW) was adopted, which has the same content as the T-47 Affidavit but—unlike the T-47 Affidavit—it is an *unsworn* declaration pursuant to Section 132.001 of the Texas Civil Practices and Remedies Code and not required to be notarized. It may be used in lieu of the T-47 Affidavit per an amendment to Procedural Rule P-2.

### **Insured Closing Service Letter (T-50):**

The insured closing letter was completely re-written to conform more closely to the ALTA version.

- The number of exclusions from the protection has grown from 6 to 14. New exclusions relate to: *Wire fraud, mail fraud, telephone fraud, facsimile fraud, unauthorized access to a computer, network, email, or document production system, business email compromise, identity theft, or diversion of Funds to a person or account not entitled to receive the Funds perpetrated by anyone other than the Company of Issuing Agent.*
- Date of transmittal of the funds starts the 2-year limitations—changed from *the date of closing*.
- *Assignee of the Insured Mortgage* is now expressly included under 2.d of the Conditions and Exclusions.

### **Administrative Changes:**

**Section V of Basic Manual, Internal Control No. 5** revised to permit electronic signatures on escrow checks.

**Section VI of the Basic Manual, Admin Rules, Licensing Forms** revised to remove requirement for notarization of signatures and allow use of unsworn declaration pursuant to Section 132.001 of the Texas Civil Practices and Remedies Code for FINT forms.

**Statistical Plan** amended to make sure the rate codes accurately describe the R-8 credits available and to assign new rate codes for new endorsements.

**Form PC – 150 Auditor Opinion Letter** for the annual audit of escrow accounts was updated to align with Texas State Board of Public Accountancy Standards.

**Multiple forms** update of the mailing address for the Texas Department of Insurance.

*This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.*