

2023 FLORIDA SEMINAR

POLICY PREMIUM & RATES IN FLORIDA

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**ALLIANT
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TITLE INSURANCE COMPANY

INTRODUCTION

What we're going to cover...

- Overview of title policies and coverages
- Rates and their application in Florida
- Let's look at mortgage modifications
- The ethical way to charge premiums and rate a policy
- Comparison of our rates to other ways rates can be calculated



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WHAT IS TITLE INSURANCE?

- Simple definition is a contract of indemnity with a right and a duty to cure defects if possible.
- We insure ownership of real property or in other words, title to real property
- We insure history.
- We only get paid once (bummer)



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THE TITLE POLICY



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POLICY TYPES

- The American Land Title Association (ALTA) has two primary types of Title Insurance policies we use in Florida:
 - ALTA 2021 Owner’s Policy (with Florida Modifications)
“Owner Policy”
 - ALTA 2021 Loan Policy (with Florida Modifications)
“Loan Policy”



PARTS OF A TITLE POLICY

Policies consist of five (5) main parts:

- 1. COVERED RISKS – the “Giveth” section
- 2. EXCLUSIONS FROM COVERAGE – the “Taketh” section
- 3. CONDITIONS – the “Explaineth” section
- 4. Schedule A – DETAILS OF INSURED
- 5. Schedule B - EXCEPTIONS (VS. EXCLUSIONS)



POLICY COVERAGES AND EXCLUSIONS

I have likened this to a mathematical formula.

The insuring provisions on the cover;

- Minus “exclusions” from coverage;
- Minus “exceptions” to coverage;
- + Plus any endorsements adding coverage or altering the terms and conditions;
- +/- Plus and Minus: the Conditions of the policy as they apply to any given situation;
- = Equals the coverage of the policy



APPLYING RATES IN FLORIDA



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RATES AND THEIR APPLICATION IN FLORIDA

In Florida we have a Promulgated Rate.

- The Office of Insurance Regulation sets the rates through their rule making authority.
- All insurer's and agents are required to charge the same premium
- The share of the premium charged that is retained by the agent is also set by rule.
- How does OIR set these rates?
 - They use the Data Calls to discover the data needed to set rates. The rates they set, have to take into account the solvency of the insurers.
 - Important to note that the solvency of our issuing agent's is not their duty under the statutes and rules.



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RATES AND THEIR APPLICATION IN FLORIDA

Everyone charges the same amount, right?

- Well not so much. A court case we refer to as the Butler case has allowed for deviation in what a consumer actually pays.
- This is known as the Butler Rebate. An agent may rebate to the person paying the premium a portion of the premium they get to keep.
- Butler dealt with the agent's share. Some of the insurers that write business directly take the position that they can rebate as well. There is no case that holds this.



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RATING AN OWNER'S POLICY

Amount of the Policy

- An Owner's policy must be issued for the "full insurable value of the premises".
- In other words, a policy should not be issued for a fraction of the actual value.
- In an arms length sale, the full insurable value can be equated to the sales price.
- What if the proposed insured plans on investing more in the property? Can it be issued for that anticipated investment too?



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RATING AN OWNER'S POLICY

There are three rates we will focus on.

1. Original Issue
2. Reissue, and
3. New Home Purchase Discount



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RATING AN OWNER'S POLICY

Original Issue

- This is the “full” rate that is charged for a policy when no other rate is applicable. It is the highest rate in Florida.
- The rates start at \$5.75 per thousand and decrease to a low of \$2.00 per thousand on policies over 10 million.
- Your share as agents starts with 70% of the total and decreases to a low of 60% on those policies over 5 million.
- Rates are specified by the thousand, but are actually charged in increments of \$100, always rounding up to the next \$100.



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RATING AN OWNER'S POLICY

Reissue

- This is a discounted rate. (It is not a credit, back in the old days there was a reissue credit).
- If certain circumstances are met, the rate starts at \$3.30 per thousand and reduces to a low of \$1.50 per thousand.
- Your share of the premium stays at 70% throughout the range.



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RATING AN OWNER'S POLICY

Relssue

When does this apply?

1. The seller has a title policy
2. If the property is improved, the policy has to have been issued (policy date) no more than 3 years from the new policy's date (closing date)
3. If the property is unimproved, then the time limit does not apply.
4. You must retain a copy of the seller's policy in your file. We recommend sending it in with your remittance and reporting of the policy you are issuing as well.



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RATING AN OWNER'S POLICY

Reissue

Let's do a sample, assuming the rate is applicable.

- \$150,000 new owner's policy.
- \$90,000 Seller's policy
- \$90,000 at \$3.30 per thousand \$297.00 (reissue rate)
- \$10,000 at \$5.75 per thousand \$ 57.50 (original issue rate at the 100,000 rate)
- \$50,000 at \$5.00 per thousand \$ 250.00 (original issue rate at the 100,000 + rate)
- Total premium \$604.50 Contrast to original rates of \$825



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RATING AN OWNER'S POLICY

New Home Purchase Discount

When does this apply?

- Improved residential property (1-4 family)
- It is the first sale after a CO has been issued
- The seller has not previously leased or occupied the premises
- The seller has a title policy insuring a prior loan on the property
- The discount is for the premium paid on the seller's loan policy.
- If the loan policy was for multiple units, the discount is prorated (total premium divided by number of units)
- Minimum premium is \$200.00



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RATING A LOAN POLICY

Amount of the Policy?

- A Loan policy must be issued for the amount of the debt secured by the mortgage being insured. The policy can be issued for up to 125% of the principal debt if the lender requests it.
- What if the loan is for \$1,000,000 and the lender wants a policy insuring the \$1,000,000 on a commercial purchase, but also wants to secure the loan with a mortgage on the borrower's house?
- What rate do you charge for the separate policy on the borrower's house?
- Are there alternatives?



RATING A LOAN POLICY

There are four rates we will focus on.

1. Original Issue
2. Reissue
3. Simultaneous
4. Substitution



RATING A LOAN POLICY

Original Issue

- This is the “full” rate that is charged for a policy when no other rate is applicable. It is the highest rate in Florida.
- The rates start at \$5.75 per thousand and decrease to a low of \$2.00 per thousand on policies over 10 million.
- Your share as agents starts with 70% of the total and decreases to a low of 60% on those policies over 5 million.
- Rates are specified by the thousand, but are actually charged in increments of \$100, always rounding up to the next \$100.



RATING A LOAN POLICY

Reissue

- This is a discounted rate. (It is not a credit, back in the old days there was a reissue credit).
- If certain circumstances are met, the rate starts at \$3.30 per thousand and reduces to a low of \$1.50 per thousand.
- Your share of the premium stays at 70% throughout the range.



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RATING A LOAN POLICY

Reissue

When does this apply?

1. Normally used in a refinance transaction
2. The borrower has an owner's policy (no age restrictions for the rate)
3. The discounted rate applies to the amount of the loan up to the amount of the owner's policy. After that the rate is at original issue.
4. You must retain a copy of the borrower's owner's policy in your file. We recommend sending it in with your remittance and reporting of the policy you are issuing as well.
5. The reissue rates can be used at anytime after the issuance of the owner's policy.



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RATING A LOAN POLICY

Reissue

Let's do a sample, assuming the rate is applicable.

- \$150,000 existing owner's policy for the borrower
- \$175,000 new loan to be insured.
- \$100,000 at \$3.30 per thousand \$330.00 (reissue rate)
- \$50,000 at \$3.00 per thousand \$150.00 (reissue rate)
- \$25,000 at \$5.00 per thousand \$125.00 (original issue rate)
- Total premium \$605.00 Contrast to original rates of \$950



RATING A LOAN POLICY

Simultaneous

- This is a discounted rate.
- The rule provides the rate to be a minimum of \$25.00 so long as the amount of the loan is less than or equal to the amount of the Owner's policy it is being issued with.
- Amounts in excess of the owner's policy carry applicable original issue rates.



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RATING A LOAN POLICY

Simultaneous

When does it apply?

1. This rate is available when the loan to be insured is part of the same transaction resulting in an owner's policy
2. The policy date for the owner and loan policies must be the same.
3. The loan being insured must be an exception in Schedule B of the owner's policy
4. Both policies must be issued on the same insurer



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RATING A LOAN POLICY

Substitution

- This is a discounted rate.
- It is designed to be insurance on a replacement loan.
- The rates are based upon the age of the Original Loan
 - 3 years or less 30%
 - 3-4 years 40%
 - 4-5 years 50%
 - 6-10 years 60%
 - Over 10 years, no discount



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RATING A LOAN POLICY

Substitution

When does it apply?

1. Same borrower and same lender
2. If the balance on the loan is in excess of \$250,000 it does not need to be the same lender
3. Same property
4. New loan or a modification of the existing insured loan
5. The age of the original loan is the policy/effective date or the date of the last endorsement to the policy
6. The discounted rate applies to the outstanding principal balance of the loan at the time of the new loan/modification. Amounts advanced over that are at original issue rates.



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RATING A MORTGAGE MODIFICATION, RULE 690-186,005(13)

No premium is due if the modification makes only the following changes:

- extend the time for repayment;
- decrease the interest rate, provided the cap on a variable rate mortgage is not more than the original cap or the cap is not more than the original fixed rate;
- increase the interest rate, ***provided the endorsement contains an exception for the loss of priority resulting from the increase;***
- change the amortization schedule to extend the term;
- release a portion of secured property;
- make a correction to either perfect the lien of the Insured Mortgage or comply with the terms of the lender's original commitment.



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**Substitution Rate
applies to insuring any
other modification**



INSURING MODIFICATIONS



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WHEN DO YOU ISSUE A NEW POLICY VS. AN ENDORSEMENT TO AN EXISTING POLICY?



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INSURING MODIFICATIONS

To issue a modification of mortgage endorsement the policy must have been written on the same insurer. In other words, Alliant National can only endorse an Alliant National Policy.



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INSURING MODIFICATIONS

If Substitution rate applies to insure the modification, an endorsement to the existing policy may be issued or a new policy may be issued. The charge is the same. A new policy would give the opportunity to issue a 2021 policy which is preferable to us, and may be preferable to an insured lender. The endorsement cannot be used to “upgrade” the existing policy to the new form.



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INSURING MODIFICATIONS

A determination that no premium is due (since the changes fit within the rule) for the modification is not the same as a determination that there has been no loss of priority as a result of the modification.

If there are intervening matters of record, a decision as to whether the modification will cause the mortgage to lose priority must be made.



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INSURING MODIFICATIONS

FUTURE ADVANCES are the loaning of new money and are rated accordingly. If the modification changes no terms of the mortgage but simply provides for a future advance pursuant to a future advance clause in the priority of the lien of the mortgage is unaffected. If other liens and matters are recorded after the original mortgage, they remain subordinate to the future advances.



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INSURING MODIFICATIONS

SPREADER AGREEMENTS

There are two situations that result in a spreader agreement. In both situations the total amount of insurance under the original policy remains the same.



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INSURING MODIFICATIONS

SPREADER AGREEMENTS

1. Modifications adding property to the existing mortgage. This is a new set of risks and a new chain of title to be insured. This type of modification requires charging substitution rate on the policy amount.
2. A spreader as a part of a construction loan with a revolving note and mortgage. These have their own special rule and requires additional premium based upon the value of the new parcel(s) being added to the mortgage, or the security allocated to the new parcel by the lender.



INSURING MODIFICATIONS

Other types of modifications include:

- Consolidation Agreements
- Cross Default and Cross Collateralization



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ETHICAL CONSIDERATIONS REGARDING RATING



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ETHICAL CONSIDERATIONS

Do NOT charge the wrong rate!

- Florida Statute Section 627.780 tells us to charge only the promulgated rate and it is illegal to knowingly quote, charge, accept, collect or receive a different premium
- We interpret the correct rate to be the lowest rate we can provide the proposed insureds under the promulgation order.



ETHICAL CONSIDERATIONS

Example:

Reissue rate must be used if it applies. If the seller has a policy that qualifies for the reissue rate, we must use that policy to provide reissue.

Is it OK to not ask for the prior policy to avoid the issue?

No, you should always let the parties know of the possible discounts or lower rates available and ask for the appropriate documentation (e.g. their prior policy)



ETHICAL CONSIDERATIONS

Example:

Can you charge original rate when reissue applies? No

What if you charged original rates anyway, could you remit to Alliant National based on the reissue rate? No, you must remit based upon the charge for the premium you have made.

However, if you recognize the “mistake”, a refund should be issued to the person who paid original rates and then the remittance to us should be on the corrected amount.



ETHICAL CONSIDERATIONS

Example:

What if more than one discount applies? An example would be reissue rate and new home purchaser rates. In that case, calculate both and extend the best rate to the person paying for the insurance.

Both discounted rates cannot be combined.



ETHICAL CONSIDERATIONS

Example:

Simultaneous issue: Is it OK to charge more than the \$25 minimum? The current rules include no cap. However, we recommend that you charge the minimum and add additional amounts to cover your work to other costs like your closing fees.

If you charge over the minimum, you should remit to us based upon the increased amount.



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RATE COMPARISONS



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RATE COMPARISONS

If the rules and statutes in Florida were to change, there are other ways to calculate rates.

There are a number of systems around the country, for example:

- File and use
- Use and File
- File with Approval or
- Promulgated rates (what FL has)



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RATE COMPARISONS

File and Use

The insurer decides the appropriate rate with the regulator and begins to use the premium submitted. Most of the 18 states I took a look, at use this system.

Rates can and do vary insurer to insurer



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RATE COMPARISONS

Use and File

This is a variation on File and Use, but allows the insurer to immediately begin using the rates, even before filing them with the regulator.

There are issues with this system since many of the states will penalize the issuer if the rate is not approved. Penalties are usually refunding the premium received in excess of what is ultimately approved.

Rates vary from insurer to insurer



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RATE COMPARISONS

File with Approval

The filing is made with the regulator who then either approves or does not approve the filing, The rates cannot be used until there is a formal approval.

Rates can vary insurer to insurer



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RATE COMPARISONS

Promulgated

This is our system. Of the states I looked at there are only two. There are more around the country, but this is the least used system.

The regulator tells the insurers and agents what is to be charged through rule making.



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RATE COMPARISONS

STATE:	PREMIUM SPLIT		NET TO AGENT	RATE STRUCTURE
•Texas:	2940	85/15	2499	promulgated
•Florida:	2575	70/30	1802.50	promulgated
•Colorado	1836	85/15	1560.60	file and use
•Minnesota	1313	85/15	1116.50	file and use
•South Carolina	1170	60/40*	702	file and use
*Split is regulated				
•North Carolina (rating bureau)	1046	70/30 to 85/15	732.2 to 889.1	file and use
•Alabama	1390	70/30 to 85/15	973 to 1181.5	file and use
•Missouri	450	50/50 to 80/20	225 to 360	file and use



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RATE COMPARISONS

Final Thought for the Day

The two highest rates in the chart are those in promulgated states. Texas has a different split for the agents, but the agents do much more of the work than in Florida. They must maintain or lease title plants; and provide their own searches and examinations.

The range of premium an agent keeps in my simple example is a low of \$225 and a high of \$2499 with Florida on the upper side



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Thank You!

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