

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

DEPUTY SUPERINTENDENT

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DEPUTY SUPERINTENDENT

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SUPERINTENDENT OF INSURANCE

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NEW MEXICO TITLE AGENT'S STATISTICAL REPORT

INSTRUCTIONS

All title agencies whether independent (non-affiliated), affiliated, or direct operations, must complete all parts of this statistical report. The statistical report must reflect all activities of an agency occurring within the State of New Mexico. Agencies must report activity from all counties on one report. All agencies must submit a hard-copy, signed report to the Superintendent. Additionally, all agencies must submit an electronic copy of the report via electronic mail (Title.insurance@state.nm.us). The format of the electronic copy must be Microsoft Excel version 5.0 or newer. Any incomplete reports will be returned to the agent and will be marked as late or not received. In order to avoid penalty, please make certain all parts of this report are complete and in the correct format before submittal.

SCHEDULE A: STATEMENT OF INCOME AND EXPENSES

All Agent's Statistical Reports must be prepared on a calendar year basis.

- A. Complete top section with Agency Name, Address and Contact Name

- B. **Check one box for type of Agency**
 - (1) Independent (Non-Affiliated) – Title insurance agencies that are independently owned and write title insurance business for one or more title insurance underwriters

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- (2) Affiliated – Title insurance agencies with 10% or greater ownership by a title insurance underwriter, including wholly-owned agencies
- (3) Direct – Agency-type operations performed by the home or branch office of a title insurance underwriter (this does NOT include wholly-owned agencies)

SCHEDULE A - PART A REVENUES:

Line A-1 and Schedule B Column (2) Title Insurance Written Premiums

Defined as a full 100% of the premiums charged to the policyholders by you as a Title Insurance Agent. This line should consist of the gross premiums charged. This premium amount includes both your portion of the premium as well as that portion remitted or to be remitted to the title underwriting company. Include all premiums written on title policies, binders, endorsements, etc. during the calendar year and reported to your underwriter. Enter on Schedule A the sum of amounts reported in Column (2), Schedule B.

Line A-2 and Schedule B Column (3) Remitted Title Insurance Premiums

Defined as that portion of the title insurance premiums written during the calendar year and remitted to or owed to the title underwriting companies that you represent as a title insurance agent. In the case of a direct operation, a portion of the gross premium shall be deemed remitted for the purpose of this report. The amount deemed remitted shall be determined by applying the same percentage to the gross premiums written by the direct operations as is remitted by the underwriters' non-affiliated agents on gross premiums written by them. Enter on Schedule A the sum of amounts reported in Column (3), Schedule B.

Line A-3 and Schedule B Column (4) Retained Title Insurance Premiums

Defined as that portion of the title insurance premiums written during the calendar year and retained by or owed to you, the title insurance agent. In the case of a direct operation, the amount of gross premiums written by the direct operation less the portion deemed remitted to the underwriter shall be deemed retained by the direct operation. Enter on Schedule A the sum of amounts reported in Column (4), Schedule B.

Line A-4 and Schedule C

Item A Closing fees: Defined as those fees collected for performance of a closing, also to include gross receipts tax.

Item B Abstracting: Defined as those fees collected for production of products to include associated copies and gross receipts tax.

Item C Recording fees: Defined as fees collected for filing documents of public record in the office of the County Clerk. These fees are reimbursed in most cases, though the closing and the net effect of these charges must be reflected. Example: If the agency paid a total of \$200.00 in recording fees for the year and collected \$175.00 from closing, the net effect will be negative income and shall be shown as (\$25.00) on this report. If \$175.00 was paid and \$200.00 was collected a positive income figure \$25.00 shall be reflected. These charges are restricted to the amount the County Clerk charges for the recording of instruments.

Item D Copy fees: Defined as fees charged for photo copies of documents, but not to include copy fees derived from or associated with abstracting and closing, as defined herein.

Item E Inspection fees: Defined as fees charged by the agency to physically locate and view the real property to be insured in order to fulfill underwriting requirements and determine if additional coverages can be offered.

Item F Interest Income: Provide all monies earned as a result of interest bearing escrow or operating agency accounts less any account or bank charges.

Items G through S, etc. Other Income: Items considered to be Other Income include, but are not limited to, disbursement fees, rental of files, copies of instruments, tax refunds and plant lease/maintenance fees. In the case of a direct operation, exclude interest income on balances supporting underwriting, administration, or claims settlement activities. All additional items shown on this form must be itemized to be considered in the rate study. Enter on Schedule A the sum of amounts reported on Schedule C, Total.

Line A-5 and Schedule C - Total Revenue

The sum of Items A-3 and A-4.

SCHEDULE A - PART B EXPENSES:

Note: Direct charges from direct agent operations should be reported here only and should NOT be included on the related Underwriter's Statistical Report.

Line B-1 Employee Salaries and Wages

Salaries and wages are fixed compensation regularly paid to employees for services and include any overtime compensation. This expense should include the cost of shared employees allocated to the agency as well as costs associated with leased employees.

Line B-2 Owners' and Partners' Salaries and Wages

Salaries and wages for owners and partners should represent only reasonable compensation for personal services actually performed by the owner or partner of the agency. Salaries and wages for owners and partners may not exceed the salary cap for the year ended December 31, 2018 (this amount will be adjusted for inflation) per owner or partner. The salary cap for the year ended December 31, 2018 is \$259,591. Any owner or partner salary in excess of the above described amount should be reported on line D-8. The term "owners and partners" includes shareholders, members, or any other title that denotes ownership of the entity in question.

Line B-3 Employee Benefits

Employee benefits include costs incurred by the agency for employee group insurance (health, life, etc.), retirement plans, payroll taxes, and other items of direct benefit to the employees. Employee benefits may include only costs incurred for the benefit of owners and partners if the owner or partner performed personal services for the agency.

Line B-4 Rent

Rent includes the costs paid to lease real estate or equipment used in the operation of the agency. Rent paid for the use of real estate or equipment owned by an owner or partner of the agency must be reasonable considering all relevant facts and circumstances.

Line B-5 Insurance

Items considered in this category include general insurance costs such as worker's compensation, property, liability, valuable papers, title agent surety bond, abstractor bond and escrow officer bond. This category specifically excludes group insurance, which is included in Line B-3 Errors and Omissions; fidelity insurance, which is included in Line B-17; and automobile insurance, which is included in Line B-11.

Line B-6 Legal Expense

Items considered in this category include legal fees or retainers for corporate and administrative matters. It specifically excludes those legal fees, court costs or other costs associated with defending a loss shown in Line B-17.

Line B-7 Licenses Taxes and Fees

Items considered in this category include notary bonds; sales tax permits; personal property taxes; franchise taxes; and agent, agency and solicitor licensing fees.

Line B-8 Title Plant Expense/Maintenance

This category includes all costs associated with maintaining a plant in compliance with NMSA 1978 Section 59A-12-13. These costs include, but are not limited to, computer costs, microfilm/microfiche, copy charges, title search expenses and any maintenance or update fees as well as the cost to lease a title plant. *According to SSAP No. 57-21, a properly maintained title plant has an indeterminate life and does not diminish in value with the passage of time, and accordingly, shall not be depreciated. Therefore, costs incurred to construct a title plant or costs to purchase a title plant shall be capitalized and may not be expensed as incurred or depreciated.*

Line B-9 Office Supplies

Office supplies consist of the cost of materials and products needed to support day-to-day operation and office equipment purchases of less than \$500 per item.

Line B-10 Depreciation

All purchases of property or equipment in excess of \$500 may be expensed on a straight-line basis over the estimated useful life of the particular item of property or equipment. **Tax methods of depreciation including Modified Accelerated Cost Recovery System (MACRS) or Section 179 are not permitted for the purposes of this report.**

Line B-11 Automobile Expense

Automobile expense may consist of actual costs that include, but are not limited to, rental payments, insurance, gas, oil, maintenance and repairs. Alternatively, automobile expense may be computed by use of the average standard mileage rates published by the Internal Revenue Service (**54.5¢ per mile for January 1 through December 31 for 2018**). The expense reported must relate to automobile use for business purposes only.

Schedule B-12 Communication Expense

Communication expense includes, but is not limited to, the cost of postage, facsimile, and other forms of communication.

Line B-13 Education Expense

Education expense includes the cost of workshops, seminars, education supplies, and manuals for the purposes of fostering an environment of prevention of title claims. This category should also include costs that are incurred educating the public regarding title insurance. Education expense includes, but is not limited to, the cost of New Mexico Land Title Association and American Land Title Association dues and board fees, meetings, conventions and

continuing education classes, Department of Insurance Regulation Manuals, Regulation Manual update charges, New Mexico Statute book costs, and legal bulletin updates from the State Bar.

Line B-14 Bad Debt Expense

Bad debt expense consists of amounts not collected for services rendered or products sold that were recognized as revenue (Part A) either on this statistical report or any prior report.

Line B-15 Interest Expense

Interest expense includes interest paid on all business loans associated with the business of title insurance. Interest costs related to purchase money mortgage of building where agency operation is located should be reported on line D-9.

Line B-16 Employee Travel and Lodging

Travel and lodging expense includes the cost of air-travel, bus, taxi services, and any mileage paid to employees for the use of their personal automobiles related to out-of-town travel for business purposes.

Line B-17 Schedule D Loss and Loss Adjustment Expense

(1) **Closing Losses:** are those payments made to or on behalf of others for errors in the closing of an escrow. These payments include but are not limited to: mathematical errors, additional interest on payoffs, current taxes where not enough was collected at closing, missed invoices or other disbursements, incorrect proration, or bad checks. This category shall also include costs for products and services ordered by agent on behalf of customers either in connection with a closing or otherwise wherein the agent was not reimbursed. Examples of these products or services would be surveys, transfer fees, document preparation fees, special assessment search fees, abstracts ordered for minerals, and oil and gas conveyances.

(2) **Agent Errors:** are those payments made for errors in closing which could be covered under an insuring form and could be assumed by the agent. These payments include but are not limited to: past taxes, missed a lien at closing and had to make a payoff later, abstracting or examining errors, failure to follow the instructions of parties or lenders, and failure to comply with a contract. If not satisfied by the agent and presented to the underwriter, these errors would create a loss covered by a policy or binder.

(3) **Unfair Trade Practices and Product Liability Losses:** are those payments made stemming from a legal suit on these grounds, where the lawsuit alleges both Unfair Trade Practices or Product Liability grounds and title defects. This is a closing error based on the title defect.

(4) **Loss Adjustment Expenses:** are those payments made for legal costs, court costs, investigative costs, and other expenses to defend a loss not included in any other expenses.

(5) **E & O Fidelity Insurance:** expense shall contain total amount of premium paid for this type of insurance for the calendar year.

Total the sum of lines 1 through 5 and transfer to B-17.

Line B-18 Accounting and Auditing Expense

This category includes the cost of accounting and auditing services provided by outside parties.

Line B-19 Public Relations

Public relations include all expenses associated with solicitation and/or promotion of business (advertising, entertainment, sponsorship, contributions, dues, literature and subscriptions to other industry associations, business, brunches, lunches and dinners with other industry members, gifts, and customer convenience services to include complimentary coffee, soft drinks or refreshments for customers and/or other industry members). Donations to charitable organizations should be reported on line D-9.

Line B-20 and Schedule E Part A Other Deductible Expenses

Include all other ordinary and necessary expenses incurred that are required to operate the business. Schedule E, Part A should contain a list of the various other business expenses. Any expense in excess of 5% of Line B-21 (Total expenses) should be listed separately on Schedule E. All remaining other expenses may be aggregated on Schedule E under the caption "Other expenses."

Line B-21 Total Expenses

Return the sum of Line B-1 through B-20.

SCHEDULE A - PART C NET INCOME FOR RATEMAKING PURPOSES:

Line C-1 Income (loss) from operations

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Return the result of Line A-5 less line B-21.

SCHEDULE A - PART D EXCLUDED EXPENSES:

Excluded expenses are those expenses of the title company that shall not be considered in the Insurance Division's ratemaking process.

Line D-1 NMLTA Lobbying Expense

Include the portion of NMLTA dues that are related to lobbying expenses; the annual dues statement received from NMLTA should apportion the amount of dues allocated to lobbying expenses. The non-lobbying portion of the NMLTA dues may be included on Line B-13, Education Expense.

Line D-2 Direct Lobbying Expense

Include all direct lobbying expenses whether or not related to the title industry that are not deductible for income tax reporting purposes under Internal Revenue Service (IRS) regulations.

Line D-3 Political Contributions

Include all contributions made to any political party or political campaign.

Line D-4 State and Federal Income Tax Expense

Include all state and federal income taxes paid or accrued, computed in accordance with current state and federal income tax laws.

Line D-5 Meals and Entertainment Expense (non-deductible portion)

Include the non-deductible portion of the company's meals and entertainment expenses, computed for income tax reporting purposes in accordance with Internal Revenue Service (IRS) regulations.

Line D-6 Penalties

Include penalties incurred as expenses that are not deductible for income tax reporting purposes under Internal Revenue Service (IRS) regulations.

Line D-7 Country Club Dues

Include country club membership and other organization or club dues that are not deductible for income tax reporting purposes under Internal Revenue Service (IRS) regulations.

Line D-8 Salaries in Excess of Salary Cap

Include salaries in excess of salary cap (see directions for Part B, Line B-2).

Line D-9 and Schedule E Part B Other Excluded Expenses

Include a list of other excluded expenses from Schedule E, Part B.

Line D-10 Total Excluded Expenses

Total excluded expenses should be the sum of line 1 to line 9.

SCHEDULE A - PART E NET INCOME

Line E-1 Net Income

Report the net income of agency as reported on the statement of income of the agency.

SCHEDULE A - PART F EQUITY

Line F-1 Equity

Report the total equity as reported on the balance sheet of the agency.

SCHEDULE A - PART G Employees

Line G-1 Total number of employees

The total number of employees for reporting year excluding the owners reported on Schedule H.

SCHEDULE B – PREMIUMS BY UNDERWRITER

Premiums remitted or owed by the agency to underwriters as a percentage of the total premiums written by the agency for the total calendar year reported (column 3 divided by column 2) must be greater than or equal to 20%.

SCHEDULE C – Identification of Other Income

Part C: Unpaid Commitments: Report the number of commitments to issue title insurance that were not paid for (the standard commitment premium has been prepopulated and will be multiplied by the number of unpaid commitments to arrive at Premium Lost on Unpaid Commitments).

SCHEDULE F – INCOME OR EXPENSE ALLOCATION FROM OTHER AFFILIATED ENTITIES

An affiliate is an entity, other than an underwriter, which is an owner of the agency listed on Schedule H. To be included on Schedule F, the entity must have partaken in transactions with this agent.

Column 1 – List the name and address of any affiliated agency.

Column 2 – Describe how this affiliate is related to your agency.

Column 3 – List the total amount of income or expense that occurred in the transaction between your agency and the affiliate.

Column 4 – Insert the description for the transaction. Enter (I) for Income or (E) for expense.

Column 5 – Declare whether or not this transaction was entered elsewhere in this report. Insert Yes or No.

SCHEDULE G – PREMIUMS BY COUNTY

Allocate all title premiums written during the year based on the county in which they were written. The total on Schedule G should be equal to the total title premiums written by the agency on Schedule B, Column 2.

SCHEDULE H – IDENTIFICATION OF OWNERS

Column 1 – Include the name of each individual or entity with any amount of ownership in the agency.

Column 2 - Enter the percentage of ownership for each individual or entity listed in Column 1. The total should add up to 100%.

Column 3 – Enter a description of the owner(s) using the table below the schedule.

FINAL INSTRUCTIONS

On various forms within this report, there are boxes that calculate differences between forms. All of these differences must be zero before the report may be submitted. If all differences are not zero on Schedule A, a red stamp will appear stating that the “FORM IS NOT SUBMITTABLE UNTIL ALL DIFFERENCES EQUAL ZERO”. Please do not submit the report until all differences have been reconciled to zero.

On Schedule B, if the title premiums remitted or owed by the Agency to Underwriters is less than 20% of the title premiums written by the Agency for the total calendar year reported, a red stamp will appear stating that the “PERCENTAGE OF PREMIUMS REMITTED MUST BE GREATER THAN OR EQUAL TO 20%”. Please do not submit the report until the percentage is greater than or equal to 20%.

When you have completed all forms in the report and all of the differences between forms have been reconciled to zero, please complete the affidavit at the front of this report. The affidavit must be notarized.