

Department of Consumer & Business Services
Oregon Division of Financial Regulation
P.O. Box 14480
Salem, Oregon 97309-0405
Phone (503) 947-7983

STANDARDS FOR TITLE INSURANCE FORMS, RULES AND RATES

IMPORTANT: If you are a licensed title insurer, you must make a filing in SERFF to let us know if you are using Oregon Title Insurance Rating Organization (OTIRO) forms, rules and rates. You have the following three options.

Please select one of the following:

1. We are using OTIRO as is, no changes or exceptions;
2. We are using OTIRO with changes or deviations (changes must be part of the filing and included under the Forms, and or Rate/Rule Schedule Tab). Rate deviations must be supported; or
3. We are using an independent manual, not using OTIRO. The independent manual must be filed with Forms under the Form Schedule, Rates and Rules under the Rate/Rule tab, and actuarial support for the rates and fees under the Supporting Documentation tab.

This checklist must be submitted with your filing in compliance with OAR 836-010-0011(2). This list includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016. The standards are summaries and review of the entire statute or rule may be necessary. Complete each item to confirm that diligent consideration has been given to each and is certified by the signature on the Certificate of Compliance form. "Not applicable" can be used only if the item does not apply to the coverage being filed. Any line left blank will cause this filing to be considered incomplete. Not including required information or policy provisions may result in disapproval of the filing.

TOI (type of insurance) code: Title 34.0

Sub/TOI: 34.0000

Review requirements	Reference	Description of review standards requirements	Check answer
GENERAL REQUIREMENTS (FOR ALL FILINGS)			
Requirements	ORS 737.320 ORS 742.003(1), OAR 836-010-0011	Required forms are located on SERFF or on our website at: http://dfr.oregon.gov/rates-forms/misc/Pages/title.aspx . The proper information must be attached to the correct schedule items in order for your forms filing to be considered complete.	YES NO <input type="checkbox"/> <input type="checkbox"/>
	ORS 737.320 ORS 742.003(1) OAR 836-010-0011	General Information Tab. A description/explanation of the filing contents. Please note, information included in the Filing Description can be edited by using a Post Submission update. If a cover letter is attached, a new cover letter could be submitted if necessary.	YES NO <input type="checkbox"/> <input type="checkbox"/>
	ORS 742.003(1) OAR 836-010-0011	Form Schedule Tab: <ol style="list-style-type: none"> 1. Only the clean copy of the submitted form should be individually attached under the Form Schedule. 2. Only one PDF per Schedule Item. 3. The form number should appear exactly as shown on the PDF. Any edition/revision date used in the form number must be included under the Form Number column. 4. It is not necessary to use the Edition Date column. This would create - duplication issues. 5. The Form Type column must be completed correctly. When replacing a form, the filer must correctly fill out the Previous Filing # field under the Action Specific Data column with the 8 digit State assigned filing number, and when applicable, the SERFF Tracking Number. If the filing was submitted after September, 2011, there will only be a SERFF tracking number assigned. The form number of the previously approved form must be typed under the Replaced Form # field. Please be sure to type this form number (including the edition date) exactly the way it appeared when the original filing was submitted. 	YES NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	ORS 737.320	Rate and Rule Tab: Rates and rules should be submitted under the Rate and Rule tab. (Place the Actuarial Memorandum under the Supporting Documentation tab. See below.)	YES NO <input type="checkbox"/> <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check answer
Requirements continued	OAR 836-010-0011	<p>Supporting Documentation Tab: Other filing requirements as listed below, or other documentation used to assist us in our review, should be submitted under the Supporting Documentation tab under the correct heading.</p> <ol style="list-style-type: none"> 1. If the General Information area is not used, then a Cover letter or Filing Memorandum should be under the Supporting Documentation tab that explains the intent or purpose of the forms/rules/rates. 2. Third-party filer's letter of authorization if applicable. 3. Signed Certificate of Compliance, form 440-3894. 4. For form submissions, a comparison document (annotated, highlighted, red-lined, or side-by-side) must be provided for each previously approved form. Submit comparison document/s under the Supporting Documentation tab. 5. Rates, rules, and actuarial memorandum with an overview of the contents of the filing and the reasons and procedures used to support the rate change. 6. Attach to the Supporting Documentation tab, those previously approved Oregon Amendatory Endorsements that bring the submitted forms into compliance with Oregon requirements. 	<p>YES NO</p> <p><input type="checkbox"/> <input type="checkbox"/></p>
Policy documentation	ORS 737.320, ORS 742.003	<p>Included in this filing for review:</p> <ol style="list-style-type: none"> 1. New policy or program. 2. Any policy or endorsement forms that differ from the Oregon Title Insurance Rating Organization (OTIRO) adopted forms must be highlighted, and the reasons for differences fully explained and supported by Oregon property law, secured transactions law, Oregon Insurance Code, or other. 3. Rates and rules. 	<p>Yes N/A</p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>
Applicability	ORS 742.003 OAR 836-010-0011(4)	1. If submitting a new form or changes to an existing form, the cover letter explains whether the filing resulted from changes in property law, changes in the Oregon Insurance Code, or other.	Yes <input type="checkbox"/>
		2. If revising prior approved forms, filing includes a summary of what has been changed in the revised form and the purpose of the changes.	Yes <input type="checkbox"/>
		3. If justification of the form/endorsement relies on an interpretation of law, legal cites are provided with a complete and concise written argument of how the insurer's interpretation conforms to Oregon law.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>

FORMS			
Review requirements	Reference	Description of review standards requirements	Enter page & paragraph or check answer
Access to courts	ORS 742.061	Attorney fees - If a claim settlement is not made within six months and action is brought to court, should the plaintiff's recovery exceed the amount of payment made by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal, unless the parties agree to binding arbitration.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Arbitration	Bulletin DFR 2020-1	<p>Voluntary arbitration is permitted by the Oregon Constitution and statutes.</p> <p>Please see additional details below:</p> <ul style="list-style-type: none"> • Either party may elect arbitration at the time of the dispute (after the claimant has exhausted all internal appeals if applicable); • There must be mutual agreement at the time of the dispute to use an arbitration process. Mandatory arbitration is not allowable; • Arbitration will take place in the insured's county or at another agreed upon location; • Arbitration will take place according to Oregon law. • The process may not restrict the injured party's access to other court proceedings; <p>Restricting participation in a class action suit is permissible.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Authorization	ORS 731.394(2)	A title insurer may only write title insurance and may not transact any other class of insurance. No other class of insurer may write title insurance.	Confirm <input type="checkbox"/>
Criminal Act Exclusion	ORS 742.005 (2)	Contract language must be clear and unambiguous, and non-subjective in its application to a specific loss. There should be a connection to the coverage being provided under the policy.	<p>If you use this in your forms then Page _____ Paragraph _____</p> <p>N/A <input type="checkbox"/></p>
Discrimination	ORS 106.300 – ORS 106.340, ORS 746.015 Bulletin 2008-2, OAR 836-081-0010	If applicable, a provision that recognizes a domestic partnership is included in the policy. When referring to a spouse, a registered domestic partner must be added. Terms and provisions in the Insurance Code and in rules adopted under the Code that refer to or indicate the marital relationship, its dissolution and dependents in a marital relationship will apply in the same manner to domestic partnerships, to their dissolution and to dependents in the partnership.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Enter page & paragraph or check answer
Dishonest Act	ORS 742.005 (2)	Contract language must be clear and unambiguous, and non-subjective in its application to a specific loss. The insurer must be able to prove the claimant committed a dishonest act and that it was intended to cause a loss under the policy.	If you use this in your forms then Page _____ Paragraph _____ N/A <input type="checkbox"/>
Fraud	ORS 742.013, ORS 742.016, Bulletin INS 2010-3	<p>If the policy has fraud, concealment, misrepresentation language, then the application is required to include a fraud warning. If one is included, it must be general in nature and does not state that the applicant is "guilty" of fraud, but that they "may be" guilty of fraud. Fraud or misstatement warnings that mention criminal or civil penalties must avoid definite statements of the criminal nature of an act, guilt, or possible penalties. A warning that specifies that knowingly providing false information "may be" a crime, which "may be" grounds for criminal or civil penalties is appropriate.</p> <p>To deny or cancel coverage due to the insured's (or on behalf of the insured) misrepresentations, omissions, concealments of fact, or incorrect statements; the written application must be indorsed upon (or included by reference in the policy), or attached to the policy when issued.</p> <p>This includes any written or electronic Application form, supplemental application, and/or questionnaire. If other media is used to obtain information regarding the applicant that could be used to later cancel a policy or deny a claim, this must be disclosed to the applicant.</p> <p>The insurer must show the misrepresentations, omissions, concealments of fact, or incorrect statements are material. The insurer must also show they have relied upon them, and that they are either:</p> <ul style="list-style-type: none"> A. Fraudulent or; B. Material either to the acceptance of the risk or to the hazard assumed. <p>Insurers should review Bulletin 2010-3 and the Insurance Code to determine whether their statements comply.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

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Intentional Act Exclusion	<p>ORS 742.005 (2)</p> <p>OAR 836-080-0900, 836-080-0905</p> <p>Bulletin DFR 2022-2</p>	<p>Intentional acts exclusions are allowable in policies, but should not encompass losses due to negligence or unintended acts or harm.</p> <p>OAR 836-080-0900 Definitions As used in OAR 836-080-0900 to 836-080-0905: (1) "Covered loss" means any loss, damage, or injury that would be covered by a property and casualty personal lines policy unless arising out of an act or omission of a person insured under such policy. (2) "Innocent person" means, with respect to any covered loss, a person: (a) Who did not cause such covered loss; (b) Who did not materially contribute to such covered loss; and (c) Who did not know that such covered loss was reasonably likely to occur or undertook reasonable efforts to prevent or limit such covered loss.</p> <p>OAR 836-080-0905 Language used for co-insureds on property and casualty personal lines policies No property and casualty personal lines policy may contain any provision or other language that would deny coverage to any innocent person insured under such policy for any covered loss arising out of any act or omission of any other person insured under such policy.</p> <p>Language conveying that an exclusion applies whether or not the insured had the requisite intent will also be disapproved. Currently approved exclusionary language without this type of expansive language may continue to be used. Unclear, ambiguous, vague or misleading policy exclusion language that would potentially exclude coverage for a policyholder over negligent acts or unintended acts, injuries, damages or harms will be disapproved, pursuant to ORS 742.005(2).</p>	<p>If you use this in your forms then</p> <p>Page _____</p> <p>Paragraph _____</p> <p>N/A <input type="checkbox"/></p>

Review requirements	Reference	Description of review standards requirements	check answer
Legibility of forms	ORS 742.005(2)	The forms are clear and understandable in the presentation of premiums, labels, description of contents, title, headings, backing, and other indication (including restrictions) in the provisions. The information is clear and understandable to the consumer and is not unintelligible, uncertain, ambiguous, abstruse, or likely to mislead.	Yes <input type="checkbox"/>
Limits	ORS 742.005(2) ORS 742.023(1)	Forms describe all limitations and exclusions on coverage.	Yes <input type="checkbox"/>
Loss settlement	ORS 742.053 OAR 836-080-0225(4)	Proof of loss forms must be furnished to the claimant within 30 days.	Yes <input type="checkbox"/>
Policy documentation	ORS 742.023(1)(f)	Forms describe the conditions and provisions pertaining to the coverage.	Yes <input type="checkbox"/>
Titles & headings	ORS 742.005(2)	The forms are clearly titled and headings for benefits include references to any limitations and restrictions contained in the provision. Policy language may not combine give and take-away language in the same sentence or same paragraph as this is considered to be unclear and ambiguous.	Confirm <input type="checkbox"/>

RATE REQUIREMENTS			
Filing submission	ORS 737.320	The rates, rating manual and actuarial memorandum are included in the filing.	Yes <input type="checkbox"/>
	ORS 737.320(1) and (2)	Effective date is not earlier than the 30 th day after the filing is received by the Division of Financial Regulation.	Yes <input type="checkbox"/>
	ORS 737.310	The filing includes support for the insurer's own rates. For any coverage changes, please show how the rates have been modified.	Yes <input type="checkbox"/>
Discrimination	ORS 746.015 OAR 836-081-0010	Rates do not discriminate unfairly in the availability of insurance and application of rates.	Yes <input type="checkbox"/>
Ratemaking generally	ORS 737.310	Provide data to support the rates including loss and loss-adjustment expenses, administrative expenses, and investment income. Administrative expenses include plant maintenance and acquisition costs.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
		Provide actuarial documentation for the liability amount increments.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
		Provide a full accounting of the amount of the proposed charge intended to cover administrative review, title search, and policy issuance.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
		Describe administrative-review and title-search costs, including the type of search, hours of search, legal activities, and other administrative components. Provide the hourly rates for each item.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
Underwriting profit & contingencies	ORS 737.310	Oregon data for taxes, licenses, and fees.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>
		Document profit and contingency provisions and investment income on policyholder supplied funds.	Yes N/A <input type="checkbox"/> <input type="checkbox"/>