



July 28, 2021

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Via: rulescoordinator@oic.wa.gov

**RE: First American Title Insurance Company's Comments
Proposed WAC 284-29-130
Title Agent Declarations**

This letter serves as First American Title Insurance Company's ("First American") comments to the stakeholder's draft of the proposed regulation as contained in what would be WAC 254-29-130(4).

First American recommends clarifying the rule so that an annual declaration identifying the counties that a title agent owns or maintains tract indexes would not be required. As currently drafted, it is not clear whether an existing title agent would be required to submit a declaration and it is not believed that an annual declaration from an existing title agency provides the information that is important to the commissioner. Instead, it is believed that the information being sought is when a new licensee is seeking to conduct business in the state that the new licensee report to the commissioner the counties in which it intends to operate. Not only is it unclear whether an existing title agent would need to submit an annual declaration but failure to do so could cause the title agent to be restricted from operating. Based on the proposed rule, if the annual report is not submitted then it might be restricted from "conducting business" and may not be permitted to "operate." As the requirement to submit a report before conducting business appears to be directed to a new licensee, First American recommends clarifying the rule so that it is clear that the requirement to submit a report identifying the counties in which the title agent will operate be limited to new licensees.

The requirement to provide a title county declaration should be separated from the annual affiliated business ownership requirement of WAC 284-29-130. Based on the proposed language of the rule and as stated previously, an existing title agent should not be required to submit a declaration. However, by including the county declaration requirement in the annual reporting requirements of WAC 284-29-130, it could be interpreted to mean that an annual county declaration is required. Based on language contained in the proposed rule, it is believed that an existing title agent would only be required to submit a declaration when expanding into a county where they have not operated previously. To clarify that a declaration should only be required by an existing title agent when expanding its operations, the proposed rule should be removed from WAC 284-29-130 and a separate section of WAC-284-29 should be proposed.

The requirement to provide proof of ownership should be clarified or removed as it is not clear what would be required and a title agent may be required to submit confidential information regarding the acquisition or lease of a title plant that it does not want disclosed to its competition. Proof of ownership should not be required as it should be sufficient for the title agent to confirm and report that they have purchased a tract index through a purchase agreement or that they have entered into a plant agreement that gives them a lease or the ability to access a tract index. The private information regarding the negotiations and costs of purchasing or leasing a title plant should not be subjected to potential public disclosure by submitting this private information to the commissioner.

First American recommends modifying the proposed rule by creating a separate section from WAC 284-29-130 and modifying the proposed language as follows:

WAC 284-29-170

In accordance with R.C.W.:

~~(1) Before conducting business in any counties~~ A title insurance agents submitting an application for a license must include a report to the commissioner, declaring the county or counties the business will operate in and providing proof of ownership report whether the title agent purchased or is leasing rights for the applicable tract indexes.

~~(2) A title insurance agent must report to the commissioner the expansion of operations into a new county. If business is to be conducted in an additional county not included on previous declarations, then the title insurance agent must submit an updated declaration listing the added business areas counties and include whether the title insurance agent purchased proof of ownership or is leasing rights to the applicable tract indexes, in accordance with RCW 48.29.160.~~

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew B. Sager". The signature is fluid and cursive, with the first name being the most prominent.

Matthew B. Sager