

# UNDERWRITING BULLETIN

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NY000272

**Date: January 30, 2006**

**To: All Issuing Offices in New York**

**From: James G. Hyland, Chief Underwriting Counsel**

**Re: Premiums for Refinance and Subordinate Mortgages – Amendment to Section 14 of the TIRSA Rate Manual**

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Effective February 15, 2006, Section 14 of the Title Insurance Rate Service Association Rate Manual (“Rate Manual”) has been amended to modify the criteria for eligibility for a reduced premium pertaining to a refinance or subordinate mortgage.

First it should be noted that the ceiling for mortgages qualifying for a fifty percent discount of the applicable full loan rate has been raised to \$475,000 from the current \$250,000. Eligible mortgages in excess of \$475,000 will qualify for a 30 percent discount of the applicable full loan rate.

In addition, the revised Section 14 introduces two new defined terms. “Vesting Instrument” is defined as “the deed, lease or assignment of lease vesting title in the mortgagor”. And “Existing Mortgage(s)” is defined as “the face amount of all existing mortgages (including the consolidated amount of consolidated or modified mortgages) made by the owner of the fee or leasehold estate created by the Vesting Instrument”.

Then, the discount is applied as follows. The appropriate discount is computed up to the greater of:

- 1) the full consideration paid for the Vesting Instrument by which the mortgagor acquired his interest, or;
- 2) the face amount of all existing mortgages made by the owner of the fee or leasehold estate created by the Vesting Instrument.

Provided, however, that the following three criteria are satisfied.

- 3) the Vesting Instrument or Existing Mortgage(s) on which the reduced premium is calculated was (or were) created within ten years of the date of the order for the new loan policy, and;
- 4) there has been no change in the ownership of the mortgaged estate or interest since the date of the Vesting Instrument or the Existing Mortgage(s), and;
- 5) the property described in the new loan policy is the same as the property described in the Vesting Instrument or Existing Mortgage(s).

To the extent that the new loan policy is in an amount that exceeds the full consideration paid for the Vesting Instrument or the face amount of the Existing Mortgage(s) the full applicable loan rate applies.

Several differences form the current (soon to be former) version of Section 14 warrant specific mention.

First and foremost, you will notice that there is no requirement that either the Vesting Instrument nor the Existing Mortgage(s) bear any indicia of title insurance coverage in order to qualify for a reduced rate. Simply stated, prior title insurance is not necessary to qualify for a reduced rate under the new Section 14.

Second, it is the original face amount of the Existing Mortgage(s) that is used to determine eligibility for a reduced premium, not the principal balance at the time the new mortgage transaction is closed. However, although not explicitly stated, it is Stewart Title's position that mortgages which have been paid in full (other than credit lines paid down to a zero balance) but still open of record are not to be considered Existing Mortgage(s) for purposes of calculating the reduced rate.

Third, specific direction is given as to how to determine the consideration paid for the Vesting Instrument. The references are to a computation based on the amount of NYS Real Estate Transfer Tax stated on the Vesting Instrument or otherwise shown on the Vesting Instrument or shown in the public records. In most cases, examination of the entirety of the of the Vesting Instrument, including the cover sheet or any other ancillary document that may appear in the public record of the Vesting Instrument will produce reliable, if not conclusive, evidence of the consideration paid.

Fourth, subsection (c) of Section 14, the "consumer awareness" provision, has been eliminated entirely. It is of the utmost importance that it is understood that there is no longer any question of the borrower requesting a reduced rate nor of any requirement that the borrower himself offer any proof of entitlement to a reduced rate.

The responsibility is now clearly on the policy issuing office to determine whether the reduced rate applies and, if so, to ensure that the borrower is charged the proper premium. To the extent that this requires an issuing office to revise procedures or programs for premium computation, it is expected that those changes will be in place on February 15 when this becomes effective. Future audits of all offices will include examination of premium computations and failure to comport with the new standards will not be tolerated.

In conclusion, the revised Section 14 removes the element of interpretation of its terms in making determinations of eligibility for and computation of reduced premiums for title policies insuring refinance and subordinate mortgages. To the extent that any question may arise after this section becomes effective or, if that are questions regarding the content of this Bulletin, the issuing office must consult company counsel. When warranted, further written guidance from this office will be forthcoming.

A copy of the revised Section 14 is attached for your reference.

**ADDENDUM TO BULLETIN No. NY000272**

**TIRSA RATE MANUAL EFFECTIVE FEBRAURY 15, 2006**

**SECTION 14: REFINANCE AND SUBORDINATE MORTGAGE**

(A) Whenever a new loan policy (a "New Loan Policy") is issued in the amount of \$475,000 or less, the charge for the New Loan Policy shall be 50% of the applicable full loan rate up to the greater of:

- (1) the full consideration paid for the deed, lease or assignment of lease vesting title in the mortgagor (the "Vesting Instrument");
  - (a) computed from the amount of New York State Real Estate Transfer Tax stated on the Vesting Instrument, or
  - (b) otherwise shown on the Vesting Instrument, or
  - (c) shown in the public records, or
- (2) the face amounts of all existing mortgages (including the consolidated amount of consolidated or modified mortgages) made by the owner of the fee or leasehold estate created by the Vesting Instrument (the "Existing Mortgage(s)") provided that:
  - (a) the Vesting Instrument or the Existing Mortgage(s) on which the reduced rate is based was created within ten years before the date the order for the New Loan Policy was placed; and
  - (b) there has been no change in the ownership of the fee or leasehold estate since the Vesting Instrument or the Existing Mortgage(s) was created, and
  - (c) the New Mortgage describes the same property as is set forth in the Vesting Instrument or the Existing Mortgage(s).

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For any insurance that exceeds the greater of the amounts set forth in (1) or (2) above, the charge for such insurance shall be the full applicable loan rate.

(B) Whenever a new loan policy (a "New Loan Policy") is issued in the amount of more than \$475,000, the charge for the New Loan Policy shall be 70% of the applicable full loan rate up to the greater of:

- (1) the full consideration paid for the deed, lease or assignment of lease vesting title in the mortgagor (the "Vesting Instrument");

- (a) computed from the amount of New York State Real Estate Transfer Tax stated on the Vesting Instrument, or
  - (b) otherwise shown on the Vesting Instrument, or
  - (c) shown in the public records, or
- (2) the face amounts of all existing mortgages (including the consolidated amount of consolidated or modified mortgages) made by the owner of the fee or leasehold estate created by the Vesting Instrument (the "Existing Mortgage(s)") provided that:
- (a) the Vesting Instrument or the Existing Mortgage(s) on which the reduced rate is based was created within ten years before the date the order for the New Loan Policy was placed; and
  - (b) there has been no change in the ownership of the fee or leasehold estate since the Vesting Instrument or the Existing Mortgage(s) was created, and
  - (c) the New Mortgage describes the same property as is set forth in the Vesting Instrument or the Existing Mortgage(s).

For any insurance that exceeds the greater of the amounts set forth in (1) or (2) above, the charge for such insurance shall be the full applicable loan rate.