



TITLE SEARCH PROCEDURES

Bulletin No. 2018-112

This bulletin addresses how far back in time a title must be searched to insure the title-related transaction.

Although the Texas Department of Insurance permits an abstract plant to be licensed as long as its records date back to 1979, the ideal title search should relate back to at least January 1, 1900 or, if excluding the mineral estate from policy coverage, a minimum of 50 years. When acceptable records (described below) are available from prior title work done on the land, they may be relied upon to shorten that timeframe.

The following guidelines have now been incorporated into and supplement the NITIC Underwriting Manual. Specifically, see "Scope of Examination" in the NITIC Underwriting Manual, Texas Supplement.

Land in a Residential Platted Subdivision

Prior Owner Policy by any Currently Licensed Underwriter on the Same Land

- Retain a complete copy of the prior Owner Policy in the permanent file. A prior Commitment or copy of a prior title report is not sufficient for this purpose.
- Start the search 90 days prior to the date of the prior Owner Policy.
- Conduct a 20-year name search for any title holder who appears in the chain of title since the date of the prior policy, including the named insured in the prior policy.
- Rely on the prior Owner Policy for easements, restrictions, and other specific exceptions affecting the property.
- Consult Underwriting if a new policy will be in excess of two million dollars.

No Prior Owner Policy, but Prior Start from another Title Company

- Rely on a prior "start", such as a Commitment or title report, from another title company if it has an established good reputation in the marketplace.
- In addition, search the 25 year period immediately preceding the date of the start relied upon.
- Do a full name search for all parties in title for the previous 20 years.

No Prior Owner Policy or Start, but Subdivision Base File

- Start search from the last warranty deed with vendor's lien that either contains a title company file number and has clear evidence that it was closed through a title company (return address, notary who works for another company, etc.), or use a deed recorded simultaneously with an FHA, VA, or Fannie Mae deed of trust.
- Rely on a base file to determine easements, restrictions, minerals, etc. that affect title. Include in the search the documents recorded, including deed and deed of trust, at the time of the start to the present time.
- If an automated plant is used, review the plant printout between the date of the base and the date of the start to determine if any restrictions, easements, or other exceptions have been created.
- In the event there has been a resubdivision of the property to be insured since the date of the base file, or if dealing with only a portion of the originally platted lot, go back to the resubdivision, or the recording of the documents wherein the lot was divided to begin the search. Still rely on the base file for easements, minerals and other general exceptions, but add any exceptions that arise as a result of the resubdivision or division of the lot or otherwise thereafter.

No Prior Owner Policy, Start, or Base File

Do a full title search and a full name search for a period of not less than 50 years, if excluding the mineral estate. If insuring minerals, the title search must go back to 1900 or earlier.

Unplatted Acreage, Farm/Ranch, or Commercial Property

Prior Owner Policy

- If there is a complete prior Owner Policy issued on an underwriter currently licensed to do business in Texas, examine from a period beginning 90 days prior to the date of that policy forward.
- Retain the prior Owner Policy as part of the permanent file.
- Include all Schedule B exceptions from the prior Owner Policy on the Commitment, unless satisfactory evidence is obtained showing the interest has been released or terminated.
- Do a full name search on the insured owner shown in the Owner Policy used as your start, as well as all other owners appearing from the date of your search forward.

No Prior Owner Policy

Do a full search, including a full name search, for a period of not less than 50 years if excluding the mineral estate from policy coverage. If insuring the mineral estate the search must go back to 1900 or earlier.

Additional Issues

For every Policy that insures minerals, do a complete mineral search back to January 1, 1900 or earlier. Do not assume that a mineral lease has terminated simply because it originated a long time ago. Seek underwriting approval if you are trying to exclude a mineral lease based on non-production for a defined period of time. Include the exception or exclusion regarding minerals

pursuant to Procedural Rule P-5.1 in every Commitment and Policy unless requested by insured and otherwise in conformity with insurability standards established herein or by limitations of your title plant.

Search for any involuntary liens against the current purchasers that would take priority, such as the following:

- Abstract of Judgment or Judgment Lien to secure a judgment in favor of a federal governmental entity pursuant to 28 USC Section 32.01
- A federal judgment lien imposing a criminal fine or a lien for restitution pursuant to 18 USC Section 3613
- A State of Texas Workforce Commission (TWC) Lien filed to secure unpaid wages (Texas Labor Code, § 61.081, *et seq*)