

Arkansas Insurance Department

Mike Beebe
Governor



Julie Benafield Bowman
Commissioner

DIRECTIVE: 1-2008

TO: ALL TITLE INSURANCE AGENT AND AGENCY LICENSEES, TITLE INSURANCE COMPANIES, TRADE ORGANIZATIONS, AND ALL OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: DISCLOSURES AND EXCEPTIONS ON TITLE POLICIES

DATE: August 11, 2008

The Arkansas Insurance Department ("Department") issues this Directive to title insurers, title insurance agencies, and title insurance agents issuing title commitments and policies.

The Department has been asked to issue an opinion on what matters must be disclosed in title commitments and title insurance policies. However, the Department views this matter as an underwriting decision and will only provide statutory guidance. Please be advised that the Department interprets the minimum search requirements of Ark. Code Ann. § 23-103-408, the policyholder rights and disclosures of Ark. Code Ann. § 23-103-413, and Rule 87 to provide disclosure guidelines but not limitations of policy disclosures. The disclosure of defects in title must be in accordance with the insurance code. Specifically, in making a determination, agents and insurers must ensure compliance with Ark. Code Ann. § 23-103-413(a)(2) which provides that the title commitment and title policy are meant to be a written representation of **all** liens, defects, and encumbrances **affecting title** to the land that are filed of record; and Ark. Code Ann. § 23-103-408(c), which states that "[n]o title insurance policy shall be issued **until** the title insurer or title insurance agent has caused to be made a determination of insurability of title in accordance with the title insurer's underwriting practices."

The Department advises that it will interpret the failure to follow these statutory guidelines as a violation of insurance law. You are hereby directed to review underwriting and commitment writing procedures to ensure compliance and to exercise the utmost professionalism in reaching your determination of what constitutes a "lien, defect, and encumbrance".

If you have questions or need additional information, contact the Arkansas Insurance Department, Legal Division, at 1200 West Third, Little Rock, Arkansas, or at (501) 371-2820, or call toll free at 1-800-282-9134.

(signed by Julie Benafield Bowman)

JULIE BENAFIELD BOWMAN
ARKANSAS INSURANCE COMMISSIONER

August 11, 2008

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