

Frequently Asked Questions Title Insurance

OFFICE OF THE COMMISSIONER OF INSURANCE

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Did the Office of the Commissioner of Insurance (OCI) eliminate “downward deviations”?

No. Title insurers put in a request that OCI eliminate downward deviations, but OCI rejected their request. OCI has always held the belief that downward deviations are beneficial to consumers. OCI did remind title insurers of their obligation under current law to document any downward deviations. OCI continues to allow downward deviations based on the streamlined process adopted in 1993.

Did OCI ask title insurers to raise their rates?

No. Wisconsin is a file-and-use state for title insurance rates. This means that insurers are required to submit a rate filing to OCI within 30 days of beginning to use new rates. OCI never required that title insurers raise their rates.

Did OCI order title insurers to file new rates?

No. Under Wisconsin insurance law title insurers are required to submit a rate filing within 30 days of beginning to use their new rates.

Wisconsin issued a bulletin on title insurance on April 30, 2012. Did that bulletin change the rules for title insurers?

No. The bulletin only detailed requirements—via administrative rule—that title insurers were supposed to be meeting since the industry requested a change to allow a streamlined downward deviation process in 1993. The administrative rule permits title insurers to use downward deviations without filing them with OCI if the insurer or its agents retain certain information for a five-year period.

The bulletin requires that title insurers document a reason for deviations. What are acceptable downward deviations?

There is no change to existing law. It has always been allowable for title insurers to lower rates for any activities that will lower the risk on cases or will result in lower expenses. Examples of allowable discounts are innumerable. The only requirement is that the

discounts reflect a more favorable risk profile or lower administrative costs.

Can title insurers lower rates for one specific policy on a case-by-case basis?

Yes. It is expected that similarly situated consumers (i.e., consumers purchasing the same house, in the same neighborhood, from the same title agent, and the same title insurer) would pay similar rates unless there are additional factors for a specific policy that would result in lower risks or lower costs for the insurer.

Why can rates not be adjusted on a case-by-case basis, regardless of risk?

It is prohibited under Wisconsin insurance law unless there are reduced expenses. Specifically, s. 628.34 (a), Wis. Stat., states, “No insurer may unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved, subject to ss. 632.365, 632.746 and 632.748. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket or franchise policy, and terms are not unfairly discriminatory merely because they are more favorable than in a similar individual policy.”

What are some examples of improper downward deviation/unfair discrimination?

As referenced above, similarly situated individuals purchasing coverage from the same insurer, from the same agent, on the same property, with the same expenses should expect to receive similar rates.

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