



UNDERWRITING COMMUNICATION

Issued by

First American Title Insurance Company

NJ-2015-004-Advisory

Title: Rate Manual Changes Regarding Settlement Charges, and the Revision of the Consent to Special Rate or Charge, Effective April 1, 2015

Issued By: New Jersey Legal Department

Date Issued: March 31, 2015

Purpose: The Rating Bureau of New Jersey has implemented revisions to Sections 1.9, 3.1.5(c), 6.1, 6.2.3, 6.3, 6.4.3, and 6.4.4 of the New Jersey Rate Manual that become effective on April 1, 2015. An existing form, NJRB 6-02, **Consent to Special Rate or Charge**, has also been updated. The revisions only affect settlement and/or closing fees that are charged and retained by the settlement agent in the transaction. These changes do not affect any title insurance premiums or other fees split with First American. It is your obligation to adhere to the revisions.

Background: First American Title Insurance Company is a member of the New Jersey Land Title Insurance Rating Bureau (the "Rating Bureau"). The Rating Bureau made a filing with the New Jersey Department of Banking and Insurance ("DOBI") to amend the Rating Bureau's existing Manual of Rates and Charges ("Rate Manual") with respect to settlements/closings. DOBI approved the proposed Rate Manual changes. The Rating Bureau also made a second filing with DOBI to amend the **Consent to Special Rate or Charge**, which was approved with the same effective date of April 1, 2015.

Advisory: Attached please find a copy of: (a) the Rate Manual effective April 1; (b) a redline of changes effective April 1; and (c) an updated NJRB 6-02, **Consent to Special Rate or Charge** form.

Please review the revisions and implement any practices necessary to implement the changes. For ease of reference, an outline of select revisions is set forth below:

1. Section 1.9 provides that "settlement" is synonymous with "closing." Settlements and closings "include closing- or settlement-related functions performed both before and after the occurrence of the closing or settlement itself..." Pre- and post-closing settlement charges, however, should not include any "function for which a charge is imposed under Section 7.1."

2. Section 3.1.5(c) provides a right to impose special settlement or closing charges in limited instances, including when the closing is "unusually long or complex," or "involves the performance of extensive pre- or post- closing- or settlement-related functions" including, but not limited to, "an unusually large number of disbursement checks or wire transfers or documents to be recorded."

3. NJRB Form 6-03, **Consent to Special Rate or Charge**, includes the expanded possibilities of settlement-related charges, as well as amplified definitions of (i) "special risks or unusual hazards" with respect to the filed title insurance rates, and (ii) examinations of title "requiring extraordinary time and/or expertise."

4. Section 6.1 defines a settlement with disbursements to be an event not exceeding 60 minutes in length (a reduction from the previous 90-minute standard). When a settlement with disbursements exceeds the 60-minute period, "an additional charge of \$100.00 shall be added for each additional hour (or fraction thereof) in excess of the initial 60-minute period." **See** Section 6.2.3.

5. Section 6.3 defines a settlement without disbursements to be an event not exceeding 60 minutes in length (a reduction from the previous 90-minute standard). When a settlement without

disbursements exceeds the 60-minute period “an additional charge of \$50.00 shall be added for each additional hour (or fraction thereof) in excess of the initial 60-minute period.” **See** Section 6.4.3.

6. New Section 6.4.4 imposes upon a settlement agent who seeks to charge for “a settlement of greater than normal length” the obligation “upon request” to provide “an itemization of the time expended by the insurer or agent in connection therewith, specifically setting forth the settlement-related functions performed before and after the occurrence of the closing or settlement itself.”

7. In the Appendix, the Rate Manual provides an example of how to calculate the settlement charge under Section 6.2.3, SETTLEMENTS OF GREATER THAN NORMAL LENGTH:

An agent conducts a settlement, spending one hour at the settlement table, which is preceded by one hour spent performing settlement-related functions. The total settlement charge is \$400.00, computed as follows: \$300.00 for the time spent at the settlement table (in accordance with Section 6.1), and \$100.00 for the settlement-related functions performed before the occurrence of the settlement (in accordance with Section 6.2.3).

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This Underwriting Communication should become a permanent part of your records to assure compliance with its requirements.
