

ISSUING GUIDELINES

ALTA Endorsement: 6.2-06 (Variable Rate Mortgage – Negative Amortization)

Explanation:

Each of these endorsements insures against invalidity, unenforceability or loss of priority of the lien of the insured mortgage by reason of provisions for changes in the rate of interest. Form 6.1 authorizes exception to statutes or regulations concerning variable rate loans, but is generally not issued. Form 6.2 insures against invalidity, loss of priority or unenforceability of the lien of the insured mortgage by reason of interest on interest or the addition of unpaid interest to the principal balance. None of the endorsements increase the face amount of the Policy. Each endorsement excludes usury, consumer credit protection, and Truth-in-Lending laws.

Underwriting Requirements:

- (1) On residential transactions, the endorsement may be issued in conjunction with the Loan Policy so long as the mortgage or mortgage rider refers to the variable rate features of the interest rate and, where applicable, to the negative amortization provisions. The interest rate should be determined by an objective formula not within the control of the lender (e.g., its own "prime rate"). If negative amortization is provided, we generally require that the mortgage state the maximum amount of amortization possible. Do not issue the Form 6.2 without underwriter consent if the lender receives appreciation, contingent interest or a portion of cash flow. Any applicable state law limiting the effectiveness of such features on commercial transactions must be analyzed.
- (2) We prefer to issue the ALTA Form 6 endorsement instead of the Form 6.1. You should offer to issue the ALTA 6 when requested to issue the ALTA 6.1. When issuing Form 6.1 endorsement on residential property, except to 12 U.S.C. 3801 et seq.. In addition, you should except to any applicable state law limiting the effectiveness of variable rate mortgage provisions.

Issuing guideline applies to the following Endorsement(s):

ALTA 6.2-06 Variable Rate Mortgage - Negative Amortization - 2006 ALTA Loan Policy