

ISSUING GUIDELINES

ALTA Endorsement: 11.2-06 (Mortgage Modification with Additional Amount of Insurance)

Explanation:

This endorsement is designed for issuance when a Mortgage Modification (“Modification”) is executed and additional insurance is requested.

This endorsement insures against loss or damage sustained by the Insured by reason of:

- (a) the invalidity or unenforceability of the lien of the Insured Mortgage upon the Title as a result of the Modification;
- (b) the lack of priority of the lien of the Insured Mortgage over defects in or liens or encumbrances on the Title; and
- (c) the failure of specified matters to be subordinate to the lien of the Insured Mortgage.

Underwriting Requirements:

- (1) You must search the public records from the Date of Policy of the mortgage and you must secure a name search of the mortgagors and successors in ownership, if any.
- (2) Require joinder in the modification by the current owners of the estate or interest in the land and require proof of authority by those signing on behalf of the current owners.
- (3) If the mortgage covers a lease, require a current estoppel and consent by the lessor.
- (4) Paragraph 3.c refers to subordinate matters. If the existing policy reflects a mortgage or other lien in Schedule B, Part II (as subordinate), you must be furnished with a satisfactory current subordination to ensure that the intervening lien is subordinated to the Insured Mortgage as modified and increased by the Modification. You must require a new subordination by the lienholder in order to refer to such item in paragraph 3.c. Otherwise, except to such item under paragraph 3.b of the Endorsement.
- (5) If your search reflects intervening matters such as mortgages, liens, covenants or easements, require subordinations or except to such items under paragraph 3.b of the Endorsement.
- (6) If your search reflects a notice of bankruptcy by the owner, require a final non-appealable order authorizing the Modification.
- (7) If your search reflects a partial release, re-conveyance or discharge of the mortgage, except under paragraph 3.b of the Endorsement. If your search reflects a full release, re-conveyance or discharge, do not issue this Endorsement.

- (8) If your search reflects that the record mortgage holder is not the current lender on the Modification, require an assignment from that holder.
- (9) Secure a current tax and assessment search. Except under paragraph 3.b of the Endorsement to unpaid taxes and assessments.
- (10) Verify that the mortgage as modified does not secure advances for construction and that there has been no recent lienable work or improvement.
- (11) Verify the parties in possession. If the Loan Policy does not contain an adequate exception, add an exception to those rights in paragraph 3.b of the Endorsement.
- (12) Require a current survey, unless our survey guidelines do not require a survey, or unless you except to survey matters arising subsequent to Date of Policy.
- (13) Record the Modification.
- (14) The Date of Endorsement referenced in paragraph 1.b generally will be the date that the Modification is recorded.
- (15) Standard exceptions for matters arising subsequent to Date of Policy should appear in paragraph 3.b unless they are cleared in your customary manner (e.g., by owner's affidavit, where applicable).
- (16) You should collect premium for the additional Amount of Insurance, in addition to the cost of issuing the Endorsement itself. The total Amount of Insurance should be inserted in paragraph 2.

There are two versions of this Endorsement. One version (designated "with exception for mortgage recording tax") contains a paragraph 5, which excepts loss or damage by reason of the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage because all applicable mortgage recording or similar intangible taxes were not paid at time of recording of the Modification. One version (designated "without exception for mortgage recording tax") does not contain an exception for mortgage recording taxes. In jurisdictions where there is no mortgage recording tax, or in jurisdictions where you can confirm that the appropriate mortgage tax has been paid for the increased amount of the mortgage, you may use the version without paragraph 5. Otherwise, use the version that contains paragraph 5.

Issuing guideline applies to the following Endorsement(s):

ALTA 11.2-06 Mortgage Modification with Additional Amount of Insurance –
2006 ALTA Loan Policy