

ISSUING GUIDELINES

ALTA Endorsement: 16-06 (Mezzanine Financing)

Explanation:

A Mezzanine Loan usually involves an equity loan secured by pledges of the ownership interests in the titleholder or in upstream owners of interests in the titleholder. Mortgage financing might be for 75% or less of the land value, and an additional 10-15% financing may be Mezzanine Financing. The Mezzanine Lender does not secure a mortgage on the land, or a Loan Policy, but does secure title insurance by a Mezzanine Endorsement to the Owner's Policy. The Mezzanine Lender may request a separate UCC Title Insurance Policy.

The Mezzanine Endorsement (1) makes the Mezzanine Lender an assignee of payments under the Owner's Policy not to exceed the debt owed to the Mezzanine Lender (but does not name the Mezzanine Lender as an additional insured) in paragraph 2 of the Endorsement, (2) provides Non-imputation coverage to the Mezzanine Lender in paragraph 4 of the Endorsement, (3) includes "Fairway" coverage in paragraph 5 of the Endorsement, acknowledging that coverage will not be adversely affected because of transfer of ownership interests (direct or indirect) in the insured, (4) expressly retains a right to interplead in paragraph 7 of the Endorsement, and (5) reserves the title insurer's subordinate rights of subrogation and indemnity after the Mezzanine Lender has recovered its indebtedness in paragraph 8 of The Endorsement.

The Mezzanine Endorsement may be issued simultaneously with or after the Date of Policy, and requires consent of the insured under the Owner's Policy, since it affects payments to the insured.

Underwriting Requirements:

We require:

- 1 We require execution of the Stewart Non-Imputation Affidavit by the "Insured" under the Owner's Policy.
- 2 We require financial disclosures by the Affiants showing the financial strength of those parties.
- 3 Signature of the insured named in Schedule A of the Owner's Policy on the Mezzanine Endorsement, evidencing its consent. Otherwise, require a separate letter from the insured consenting to issuance of the Mezzanine Endorsement.
- 4 Name the Mezzanine Lender in paragraph 1 of the Endorsement and secure the signature of the Mezzanine Lender on the Endorsement.

5 Dakota Homestead Underwriting must approve issuance of the Endorsement.

Issuing guideline applies to the following Endorsement(s):

ALTA 16-06 Mezzanine Financing - 2006 ALTA Owner's Policy