

ISSUING GUIDELINES

ALTA Endorsement: 29.2-06 (Interest Rate Swap Endorsement – Direct Obligation – Defined Amount)

Explanation:

This endorsement to a loan policy insures against loss resulting from:

- (1) invalidity or unenforceability of the insured mortgage as security for the repayment of the Direct Obligation (swap obligation amount is treated as principal) under the Swap Agreement;
- (2) lack of priority of the lien of the insured mortgage as security for the repayment of the Direct Obligation established under the Swap Agreement, not to exceed the Additional Amount of Insurance.

Please note that this endorsement contains exclusions from coverage: master interest rate exchange agreement, creditors' rights, calculations by court, and unpaid recording or similar taxes.

The ALTA Endorsement 29.2-06 (Interest Rate Swap Endorsement - Direct Obligation - Defined Amount) is designed for use where the swap obligation amount is treated as principal under the Swap Agreement. The ALTA Endorsement 29.3-06 (Interest Rate Swap Endorsement - Additional Interest - Defined Amount) is designed for use where the swap obligation amount is treated as additional interest under the Swap Agreement. *Both endorsements require that an Additional Amount of Insurance be stated in the endorsement and applicable policy premium collected.*

Underwriting Requirements:

In addition to the following, prior approval from Dakota Homestead is required:

1. Verify the mortgage expressly secures the Direct Obligation established under the Swap Agreement and complies with applicable state requirements for disclosure of Swap Obligations, if any.
2. Verify the Direct Obligation established under the Swap Agreement is in fact evidenced by an existing, written Swap Agreement (or Interest Exchange Agreement), which must be in effect at the time of the execution of the Insured Mortgage.
3. Verify that the Insured Mortgage states the additional amount to be secured under the Swap Agreement or Interest Exchange Agreement, in addition to the loan amount. Insert this value in the Additional Amount of Insurance section of the endorsement. The applicable title insurance premium must be collected on this additional amount.

4. If the Date of Endorsement is subsequent to the Date of Policy, add the applicable (gap) exceptions in section 3.e of the endorsement.

Issuing guideline applies to the following Endorsement(s):

ALTA 29-06 Interest Rate Swap Endorsement –

Direct Obligation - Defined Amount - 2006 ALTA Loan Policy