

## Section 1.16 – Title Insurance

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## Overview

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### Introduction

- Title insurance companies issue title insurance policies, which guarantee against defects in title. A title policy not only guarantees against defects in the title, but the company issuing it usually undertakes to defend at its own expense an lawsuit attacking the title. The title companies issue both owner's policies and mortgage policies, the latter being known also as loan policies. The owner's policy is usually issued to the landowner himself. Mortgage policies, of course, are issued to mortgagees and terminate when the mortgage debt is paid. However, if the mortgage is foreclosed, then the protection of the mortgage policy continues in force, protecting against any defects of title that existed on, or prior to, the date of the policy. Title insurance policies are largely standardized, and SunTrust requires the coverage provided by the American Land Title Association (ALTA) standard policy or its state equivalent, where required.
- The ALTA lender's title insurance policy, or other generally acceptable form of policy or insurance, is acceptable to Fannie Mae or Freddie Mac, issued by a qualified insurer acceptable to Fannie Mae or Freddie Mac, insuring (subject to certain exceptions) the Seller and its successors and assigns as to the first priority lien of the Mortgage and, with respect to ARM Mortgage Loans, against any loss by reason of the invalidity or unenforceability of the lien resulting from the provisions of the Mortgage providing for adjustment in the mortgage interest rate or monthly payment. **Additionally, such lender's title insurance policy affirmatively insures ingress and egress, and against by or upon the Mortgaged Property or any interest therein encroachments.** The Seller and its successors and assigns are the sole insured of such mortgagee title insurance policy. The assignment to the Purchaser of the Seller's interest in such mortgagee title insurance policy does not require any consent of or notification to the qualified insurer which has not been obtained or made. No claims have been made under such lender's title insurance policy.
- The title insurance policy must protect the lender up to at least the current principal balance of the mortgage.
- The title insurance policy must be written by a title insurer licensed to do business in the jurisdiction where the mortgaged premises are located.
- Prior to issuance of the title policy, a title binder/commitment will be issued for a period of six months (180 days) from the binder/commitment effective date. The title binder/commitment is a report issued by a title company setting forth the condition of title to certain property as of a certain date, and also setting forth conditions which, if satisfied, will cause a policy of title insurance to be issued. At the end of the 180 days, you must either replace the binder/commitment with a policy or extend the binder effective date. If neither has occurred and the loan has closed, the lender is in the precarious position of having a closing loan without title insurance at the end of 180 days. Therefore, it is critical to monitor the expiration date of the binder/commitment.

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### Difference Between Title Binder and Title Policy

A title binder recites information based on ownership, outstanding liens, etc., prior to loan closing. For this information to be changed, deleted, etc. from the title policy, the settlement agent must comply with all requirements set forth in the binder. While both the binder and policy contain Schedule B – Parts I and II, the information included in these parts varies between the binder and the policy.

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## Overview, Continued

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### Enforceable Insurance Policy

With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance, covering a Mortgage Loan and/or the related Mortgaged Property, (A) such policy (i) is a valid, binding and enforceable obligation of the qualified insurer and is in full force and effect and will inure to the benefit of the Purchaser and will be in full force and effect upon the consummation of the transactions contemplated by the Correspondent Loan Purchase Agreement, and (ii) contains a standard mortgagee clause naming the Seller, its successors, and its assigns as mortgagee, (B) neither the originator nor any prior holder has engaged in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by the originator, (C) all premiums due thereunder have been paid, and (D) all provisions are being complied with and no action, inaction, or event has occurred and no state of facts exists or has existed that has resulted or will result in the exclusion from, denial of, or defense to coverage under any such policy, irrespective of the cause of such failure of coverage. Where required by state law or regulation, the Mortgagor has been given the opportunity to choose the carrier of the required insurance.

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## Related Bulletins

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### General

Related bulletins are provided below in PDF format. To view the list of published bulletins, select the applicable year below.

- [2018](#)
- [2017](#)
- [2016](#)

**Note:** There were no Related Bulletins for 2017.

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## Acceptable Forms of Title Insurance

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### General

#### Non-Agency Loans

- SunTrust encourages the use of the *ALTA Short Form Residential Loan Policy* or its state equivalent for all loan settlements, when available, to avoid delays and exception problems.

#### Agency Loans

##### Non-AUS

- The title policy must be written on one of the following forms:
  - The 2006 American Land Title Association (ALTA) standard form,
  - The ALTA short form, if it provides coverage equivalent to the 2006 ALTA standard form and does not materially impair protection to the lender, or
  - in states in which standard ALTA forms of coverage are by law or regulation, not used, the state-promulgated standard or short form which provides same coverage as the equivalent ALTA form, provided that those forms do not materially impair protection to the lender.

#### Fannie Mae DU

Follow DU requirements, which are the same as non-AUS guidelines.

#### Freddie Mac LPA

Follow LPA requirements, which are as follows:

- In those state where their use is permitted, the title insurance policy must be written on either:
  - The American Land Title Association (ALTA) 2006 Loan Policy (adopted 6/17/06), or
  - The ALTA Short Form Residential Policy One-To-Four Family (adopted 6/17/06).
- **Opinions of title (certificates of title)**
  - An attorney's opinion of title is acceptable to Freddie Mac in lieu of a title insurance policy if all of the following conditions are met without exception:
    - The opinion must be addressed to the lender and all successors in interest of the lender
    - The opinion must provide the following statement:
      - We [I] agree to indemnify you and your successors in interest in the [mortgage] [deed of trust] opined hereto, to the full extent of any loss attributable to a breach of our [my] duty to exercise reasonable care and skill in the examination of the title and the giving of this opinion.
    - The opinion must be given by an attorney licensed to practice law in the jurisdiction where the mortgaged premises is located. The attorney must also be insured against malpractice in rendering opinions of title in an amount commonly prevailing in the jurisdiction, taking into account the volume of opinions rendered by the attorney.
    - The opinion must not take exception to survey matters. When the attorney's opinion takes exception to the survey matters, the lender must provide whatever information is required by the attorney to remove the exception. If the attorney will not issue the title opinion without a survey exception, Freddie Mac will not purchase the mortgage. In addition, the opinion must not be subject to any title exceptions other than those permitted under Freddie Mac's acceptable exceptions to the title

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## Acceptable Forms of Title Insurance, Continued

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### General, (continued)

- insurance policy or to the attorney's opinion of title. See "Title/Binder Acceptable Exceptions" subsequently presented in this subtopic.
- The mortgage must not be:
    - Secured by a unit in a condominium project
    - Secured by a dwelling on a leasehold estate
    - Secured by a manufactured home
    - Secured by property subject to restrictive agreements or restrictive covenants
    - Executed using a power of attorney
    - A Texas Equity Section 50(a)(6) mortgage
  - An attorney's opinion of title must be commonly acceptable in lieu of title insurance by private institutional mortgage investors in the area where the mortgaged premises are located
  - The following opinion relating to prior environmental protection liens must be given in lieu of the American Land Title Association (ALTA) Endorsement 8.1 in an attorney's opinion of title. Item (i) of the opinion refers to environmental liens at the time the opinion is issued; item (ii) refers to state lien statutes that could give rise to a priority lien. An attorney may include an exception in item (ii) for possible subsequent superliens that could take priority over the mortgage only if the mortgaged premises is located in a state whose state statutes provide for such a superlien:
    - "There is (i) no environmental protection lien recorded in those records established under State statutes for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge, or filed in the records of the clerk of the United States district court for the district in which the land is located, nor (ii) are there any environmental protection liens provided for by any State statute in effect on the date of this opinion, which could achieve priority over the Mortgage except those listed below (list any State statute that allows a lien for environmental protection that can attain priority over the lien of the insured Mortgage; if none, state 'none')."
  - The following opinion must be given in lieu of the applicable ALTA form for ARMs, if applicable:
    - "The law of the State in which the property securing the Mortgage is located provides that (i) the lien of the Mortgage will not become invalid or unenforceable resulting from provisions in the Mortgage which provide for changes in the interest rate calculated pursuant to the formula provided in the Mortgage, and (ii) priority of the lien of the Mortgage for the UPB of the loan, together with interest as changed and other sums advanced by the Noteholder in accordance with the provisions of the Mortgage, will not be lost as a result of changes in the rate of interest calculated pursuant to the formula provided in the Mortgage."
  - Mortgages secured by units in planned unit developments (PUDs) for which an attorney's opinion of title was obtained in lieu of a title insurance policy shall be eligible for purchase, provided that:

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## Acceptable Forms of Title Insurance, Continued

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### General, (continued)

- The opinion of title meets the requirements of this section and, in addition, includes the following statements:
  - There is no violation of any restrictive covenants that are in the PUD constituent documents and restrict the use of the land
  - All dues applicable to the mortgage premises are current and not delinquent
  - No recorded right of first refusal to purchase the land was exercised or could have been exercised on or before the closing date of the mortgage and the undersigned is unaware of the existence or the exercise of any right of first refusal on or before the closing date of the mortgage, and
- The lender maintains a copy of the attorney's opinion of title in the mortgage file.

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## Acceptable Forms of Title Insurance, Continued

### State Specific Requirements

The following table shows information on state requirements applicable to forms of title insurance.

| State | Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Iowa  | <p>Title insurance in the state of Iowa is issued by a department of the State of Iowa, the Title Guaranty Division of the Iowa Finance Authority (the "Authority"). SunTrust requires the following title insurance for property located in Iowa, for both purchase and refinance transactions:</p> <p><b>For loan closings prior to November 22, 2010, the following title insurance documentation is acceptable:</b></p> <ul style="list-style-type: none"> <li>• A Commitment prepared by the Authority, or by an Attorney who has been approved by the Authority or a Preliminary Title Opinion is required pre-closing.</li> <li>• A Title Guaranty Certificate prepared by the Authority, or by an Attorney who has been approved by the Authority or a Final Title Opinion is required upon closing.</li> </ul> <p><b>For loan closings on or after November 22, 2010, the following title insurance documentation must be provided:</b></p> <ul style="list-style-type: none"> <li>• A Commitment prepared by the Authority, or by an Attorney who has been approved by the Authority is required pre-closing.</li> <li>• A Title Guaranty Certificate prepared by the Authority, or by an Attorney who has been approved by the Authority is required as a final document after closing.</li> <li>• <b>Note:</b> Preliminary and Final Title Opinions are no longer acceptable.</li> </ul> |

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## Acceptable Forms of Title Insurance, Continued

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### Short Form Policy

#### General Information

- The short form policy consists of preprinted information giving the lender blanket affirmative coverage over standard exceptions.
- The short form policy does NOT reference the recording information or legal description.
- All of the terms, exclusions, conditions and stipulations set forth in the ALTA standard policy are incorporated into the short form policy, by reference.
- Exceptions, which the title company is not willing to affirmatively cover, are listed on an additional exception Addendum page.
- Standard ALTA endorsements are incorporated by an "X" beside the appropriate endorsement listed on the face of the policy:
  - Endorsement 4 (Condominium)
  - Endorsement 5 (Planned Unit Development)
  - Endorsement 6 (Variable Rate)
  - Endorsement 8.1 (Environmental Protection Lien)
  - Endorsement 9 (Restrictions, Encroachments, Minerals)

#### Property Types Which May Be Insured

- Improved subdivision lots
- Condominiums
- Townhouses

#### Property Types Which May Not Be Insured

- Acreage
- Subdivisions with known problems
- Leasehold estates
- Construction loans

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## Acceptable Forms of Title Insurance, Continued

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### Short Form Policy, (continued)

#### Lien Types Which May Be Insured

- Purchase money first lien
- Refinances
- Second liens

#### Lien/Loan Types Which May Not Be Insured

- Indemnity deed of trust
- Open end security instrument, e.g., revolving lines of credit
- Sales out of bankruptcy
- Sales out of foreclosure

#### Affirmative/Reversionary Coverage

- The short form policy Schedule B contains certain preprinted general exceptions with printed affirmative coverage for these exceptions already incorporated.
- Each title search matter and general exception is reviewed to see if it is covered by one of the preprinted exceptions. If it is not, it will be added to the policy in the Addendum.
- If any of the preprinted general exceptions CANNOT be granted, the exception(s) will also be added to the Addendum.
- The preprinted general exceptions with affirmative coverage are:
  - taxes and special assessments due and payable subsequent to the policy date
  - covenants, conditions and restrictions of record
  - easements or servitudes of record
  - lease, grant, exception or reservation of mineral rights of record, and
  - insurance against loss or damage by reason of matters disclosed by an accurate survey

**Note:** You may NOT be able to obtain affirmative/reversionary coverage for exceptions added to the Addendum; prior to loan disbursement, confirm the availability of affirmative coverage with the title company and, if the affirmative coverage will not be granted, investor approval must be obtained.

#### Junior Lien Exceptions

All subordinate matters (i.e., junior liens) should either not be referenced at all or, if included in the Addendum, affirmative coverage clearly stating that the subject loan is in superior position must be given.

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## Acceptable Forms of Title Insurance, Continued

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### Long Form Policy

#### General Information

The long form policy, also known as a standard policy, is a detailed policy which describes information in the land records affecting a particular piece of property (legal description, exceptions, recording information, etc.)

#### Affirmative/Reversionary Coverage

##### • **Agency Loan Programs**

- There are times when binders and/or final policies contain exceptions (easements, building setback lines, encroachments, restrictions, covenants, etc.) that are unacceptable to SunTrust, unless the title company insures over the exception with what is commonly referred to as “affirmative or reversionary coverage language”. These clauses are used for different objectives and should not be confused with each other. SunTrust further clarifies that simply requesting affirmative coverage is not sufficient to protect the lender’s interests. Lenders should be specific in their requests.

##### • **Non-Agency Loan Programs**

- There are times when binders and/or final policies contain exceptions (easements, building setback lines, encroachments, restrictions, covenants, etc.) that are unacceptable to SunTrust, unless the title company insures over the exception with what is commonly referred to as “affirmative or reversionary coverage language”. These clauses are used for different objectives and should not be confused with each other. Simply requesting affirmative coverage is not sufficient to protect the lender’s interests. Lenders should be specific in their requests.
- *Affirmative coverage* is requested so that the lender will not suffer loss or damage due to the enforcement of the exception. The phrase “. . .will not suffer loss or damage . . .” is to be part of the coverage.

Example: “This policy insurance against loss or damage to the lender suffered by reason of an entry of a decree by a court of competent jurisdiction requiring the removal of the improvements to conform to the setback line.”

- *Reversionary language* is a warranty that the exception (usually restrictions, covenants or conditions) has NOT been violated, and that a future violation will not result in the loss of the insured’s title rights. Reversionary language does NOT insure that the lender will not suffer loss or damage; therefore, if the exception has been violated, the title company must provide the “loss or damage” affirmative coverage language in addition to the reversionary language.

Example: “This policy insures that the restrictions have not been violated and that a future violation thereof will not cause a forfeiture or reversion of title.”

#### Junior Lien Exceptions

- Lenders should NOT request affirmative coverage for junior lien exceptions.
- All liens which are listed in the binder but are not required to be paid off must be subordinated to the subject loan, via a subordination agreement, and be included in Schedule B – Part II (subordinate exceptions) of the final title policy.

## Insured Closing Letter

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### General

- Insured Closing Letters routinely cover matters affecting the condition of the title to property or the status of any lien on property, and protect the lender against fraud or non-compliance with settlement instructions on the part of the Approved Attorney named in the title binder as it relates to title and lien position.
- Formats for ICPLs differ by state law. SunTrust accepts the standard state mandated forms. The state of the form should match the state of the property address.

**Note:** Blanket ICPLs are NOT acceptable.

- The ICPL must meet the following requirements:
  - Individual insured closing protection letter is required for each settlement,
  - Must be obtained PRIOR to issuing closing/settlement instructions.
  - Must be transaction specific, and
  - Must include:
    - the name of the approved settlement company (preferred name)/attorney/agent,
    - borrower(s) name, and
    - subject property.
  - Closing/settlement date must be within 120 days of the ICPL date or within the ICPL expiration date if listed.

**Note:** The closing company/attorney/agent must bring to date the title binder and/or ICPL with any updates that may affect title found within 30 days of closing and updated documents as appropriate supporting the changes.

- Acceptable Information
  - ICPLs need to be accurate, and need to be clearly tied to the loan transaction.
    - Borrower name should clearly match the borrower(s). All titleholders should be listed (which may differ from all borrowers).
    - There should not be any discrepancies in the middle initial or titles (e.g. Jr., Sr.).
    - Nicknames or aliases are not acceptable.
  - Property address should be clearly identifiable with the legal address.
    - Avenue/road designations need to be correct.
    - State and zip code should be correct.
    - City may differ due to mailing rules only if loan number is present.
    - Compass directions (e.g. NE, SW) when part of the legal address need to be correct.
    - Unit or condominium numbers must be present and must match.

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## Insured Closing Letter, Continued

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### General, (continued)

#### Notes:

- If the ICPL is drafted to cover only Person A (located at Firm 1), but Person B (also located at Firm 1) actually performs the closing, then we are NOT covered. So if the individual closing person is referenced that person must be the one doing the closing. The other acceptable alternative is for the firm (Firm 1 in this example) to be listed so that protection runs to all members thereof.
  - If there are multiple closing companies/attorneys/agents involved in a closing then the ICPL should name each of the closing companies/attorneys/agents or a separate ICPL is required for each company/attorney/agent performing the closing.
- Correspondent lenders are not required to include an insured closing letter in the file submitted to SunTrust for purchase; however, if the Correspondent lender chooses to obtain an Insured Closing Protection letter, the lender should keep a copy in their file in order to produce upon the request of the SunTrust Purchase Coordinator or SunTrust Quality Control.
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### Conflicts of Interest

The following guidelines apply to Correspondent clients and their immediate family members who are real estate attorneys or who own or work in a title agency:

- an attorney/title agent cannot close his/her own loan or that of an immediate family member. Another attorney/title agent in the law firm or another employee of the title agency must close the loan.

**Note:** Immediate family members are defined as a spouse, parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, brothers-in-law, sisters-in-law, daughters-in-law, and sons-in-law (including adopted and step-members).

- A separate letter from the national title insurance company must acknowledge the fact the attorney/title agent is acting as the settlement agent for the following:
  - another attorney in the law firm,
  - another employee in the title agency,
  - the loan of an immediate family member, and
  - that the national title insurance company will insure SunTrust for any and all discrepancies that may result from this relationship.

**Note:** Correspondent clients are not required to include a separate letter in the file submitted to SunTrust for purchase, but must keep a copy in their file to be produced upon request of the SunTrust Purchase Coordinator or SunTrust Quality Control.

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## Insured Closing Letter, Continued

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### Acceptable Forms of Insured Closing Letters

- Individual Insured Closing Letter – A current original insured closing letter is obtained for each loan.

**Note:** Blanket Insured Closing Protection Letters are **NOT** acceptable.

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### State Specific Issues

- New York – Title companies in the state of New York do not issue Insured Closing Letters or their equivalent.
  - Virginia – The Insured Closing Letter for the state of Virginia limits liability to the following:
    - the status of the title to said interest in land, and
    - the validity, enforceability and priority of the lien of said mortgage on said interest in land, including the obtaining of documents and the disbursement of funds necessary to establish such status of title or lien.
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## Title Binder/Commitment Review

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### General

- A standard title binder/commitment is issued no matter what type of title policy is requested.
  - The title binder is comprised of:
    - General provisions of conditions and stipulations
    - Schedule A
    - Schedule B – Part I (requirements)
    - Schedule B – Part II (exceptions), and
    - Endorsements
- 

### Schedule A

Schedule A contains basic information for a particular loan as described below:

- *Approved Attorney* – Settlement agent responsible for analyzing and clearing defects found during the title search and responsible for disbursement of loan funds. The loan disbursement check should be made payable to the Approved Attorney on the title binder, for the benefit of the borrower.
  - *Agency Number* – Identifies agency of Title company which issued the binder/commitment (optional).
  - *Commitment/Case Number* – Number issued by the agency of the title company to identify the binder/commitment as being issued by that company.
  - *Effective Date* – Effective date and time of issuance of the binder/commitment.
  - *Policy or Policies to be Issued:*
    - *ALTA Owner's Policy* – Proposed owner(s) of the property, if applicable
    - *ALTA Loan Policy* – Proposed owner of the indebtedness secured by the insured mortgage
- Note:** The title binder may be issued in either SunTrust's name or the lender's name, and is to include the verbiage "its successors and/or assigns".
- *Proposed Insured* – A subordinate lienholder of the indebtedness secured by the insured mortgage (i.e., second mortgage), if applicable
  - *Amount of Insurance* – Amount of loss insured by the title company
    - *ALTA Owner's Policy* – Full value of property
    - *ALTA Loan Policy* – Loan amount
    - *Proposed Insured* – Loan amount of subordinate lien
  - *The interest in the land described and covered herein is* – degree of ownership held by owner of the property; SunTrust requires fee simple (absolute ownership) interest, unless otherwise stated in the appropriate product description.
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## Title Binder/Commitment Review, Continued

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### Schedule A, (continued)

- *Title to the interest in the land is, at the Effective Date, vested in* – All persons currently having ownership of property, per the deed (i.e., seller for purchase money loans and borrower for refinance loans).
  - *The land is described as follows* – Legally acceptable identification of real estate by either a metes and bounds (boundary lines with the terminal points and angles) description or a recorded plat (lot, block and section) description.
  - *Countersignature of Authorized Signatory* – Original signature of authorized officer or agent of the title company.
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### Schedule B – Part I

*Schedule B – Part I (requirements)* – Recites all matters, liens, defects, encumbrances, etc. considered superior to the lien of the lender's secured instrument. All requirements listed here must be satisfied and not appear in the title policy. The following list shows items which will appear in all binders/commitments:

- *Payment of the full consideration for the interest to be insured* – Payoff of all current liens against the property.
  - *Receipt by Approved Attorney of* – Waiver /release of mechanics' liens and affidavit as to possession.
  - Execution, delivery and recordation of proper instruments, in insurable form, creating and conveying the interest in the land to be insured:
    - Recites the type of deed required to transfer the property, the grantors and grantees.
    - Recites the type of security instrument required to secure the loan. Usually, there is a notation referencing that the "consort(s) [spouse] of individual(s) referenced in this section must unite in required instrument(s) to convey statutory marital right(s).
    - SunTrust's signature requirements for the security instrument and riders will be the same as those required by the title company.
  - *Record release of land described in Schedule A from lien(s) of security instrument(s) as follows* – Recites all outstanding liens of record currently on the property which must be satisfied.
  - Other requirements – There may be additional requirements based on the particular loan, such as:
    - Payment of delinquent taxes,
    - Payment of city/county water and sewer connection charges or fees not appearing as a lien on the public record,
    - Payment of assessments and charges as may be provided for in the Restrictive Covenants,
    - Full completion of improvements constructed or renovated on the land,
    - Receipt by Approved Attorney of satisfactory current survey of land or Refinance Affidavit,
    - Receipt by Approved Attorney of 123 Day Affidavit, or
    - Receipt by Approved Attorney of builder's affidavit
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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II

*Schedule B – Part II (exceptions)* – Recites defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching after the Effective Date, but prior to the date the insured acquires. Any exception listed in the section will appear “as is” in the title policy in Schedule B – Part I, unless the settlement agent provides adequate documentation to delete or requests affirmative coverage and/or reversionary language, as applicable. Unusual exceptions should be addressed and/or cleared prior to loan closing.

**Note:** When a Short Form Policy is requested, all exceptions must be carefully reviewed for the potential to be excluded from the preprinted exceptions with affirmative coverage in the policy. Any exception that is considered questionable must be addressed with the title company prior to releasing disbursement funds to the settlement agent. For an exception to be including in the Addendum, it must have SunTrust’s approval.

#### Acceptable Exceptions

- **Subsurface Public Utility Easements**

Exceptions for subsurface public utility easements for local residential distribution, such as lines for gas and water, and cables for electric, telephone or television utilities are acceptable, provided that:

- the location of the easements is easily ascertainable and fixed and the easements do not extend under any buildings or other improvements.
- easements must have been in place and completely covered when the mortgage was originated, and
- the exercise of the rights thereunder must not interfere with the use and enjoyment of any present improvements on the mortgaged premises or proposed improvements on which the appraisal or mortgage is based.

- **Surface Public Utility Easements**

- **Agency Loan Programs**

- **Non-AUS**

- An above-surface public utility easement that extends more than 12 feet along one or more of the property lines for distribution purposes or along the rear property line for drainage purposes are acceptable, provided that:

- The location of the easement is ascertainable and fixed, and
- The easement does not interfere with any of the buildings or improvements or with the use of the property itself.

- **Fannie Mae DU**

Follow non-AUS guidelines.

- **Freddie Mac LPA**

- Follow LPA requirements, which are as follows:

- Exceptions for surface easements for public utilities for local residential distribution are acceptable provided that the location of the easements is ascertainable and fixed. The exercise of the rights thereunder must not interfere with the use and enjoyment of any of the following:
  - Present improvements on the mortgaged premises
  - Proposed improvements upon which the appraisal or mortgage is based
  - Part of the mortgaged premises outside the easement and not occupied by improvements.

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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II, (continued)

#### Acceptable Exceptions, continued

- **Surface Public Utility Easements, continued**
  - **Non-Agency Loan Programs**

Surface public utility easements that extend along one or more of the property lines for distribution purposes or along the rear property line for drainage purposes are acceptable provided that they do not extend more than 12 feet from the property lines and do not interfere with any of the buildings or improvements or with the use of the property itself.
  - **Encroachments on Public Utility Easements**

Exceptions for encroachments on easements for public utilities by a garage, tool shed or similar structure that is not attached to, or a portion of, the dwelling structure are acceptable provided that the encroachments do not interfere with the use and enjoyment of the easements or the exercise of rights of repair and maintenance in connection therewith.
  - **Mutual Easement Agreements**

Mutual easement agreements of record that establish joint driveways or party walls constructed on the security property and on an adjoining property are acceptable, provided that the agreement allows all present and future owners and their heirs, successors and assigns forever, unlimited and unrestricted use of the driveway or party wall without any restriction other than restriction by reason of the mutual easement owners' rights in common and duties for joint maintenance.
  - **Restrictive Agreements and Restrictive Covenants**
    - **Agency Loan Programs**
      - **Non-AUS**

Exceptions of record for restrictive covenants and conditions, and cost, minimum dwelling size, or set back restrictions are acceptable, as long as their violation will not result in a forfeiture or reversion of title or a lien of any kind for damages, or have an adverse effect on the fair market value of the property.
      - **Fannie Mae DU**

Follow DU requirements, which are the same as non-AUS guidelines.

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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II, (continued)

#### Acceptable Exceptions, continued

- **Restrictive Agreements and Restrictive Covenants**, continued
  - **Agency Loan Programs**, continued
    - **Freddie Mac LPA**
      - Follow LPA requirements, which are as follows:
        - Exceptions for restrictive agreements or restrictive covenants of record related to cost, use, setback, resale restrictions, right of first refusal, minimum size and building materials, and architectural, aesthetic or similar matters (other than single-family-use restrictions on 2- to 4-unit properties) are acceptable provided that the following conditions are met:
          - The restrictive agreements or restrictive covenants do not create or provide for any lien that would be prior to the lien of the home mortgage nor provide for the elimination of the lien of the home mortgage
          - The terms and provisions of the restrictive agreements or restrictive covenants are commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located
          - An endorsement to the title insurance policy affirmatively insures that no violation of any such restrictive agreement or restrictive covenant exists and that any future violation shall not result in forfeiture or reversion of title.
  - **Non- Agency Loan Programs**
    - Exceptions of record for restrictive covenants and conditions, and cost, minimum size, or setback restrictions are acceptable provided that:
      - violation of the restrictions will not result in a forfeiture or reversion of title or a lien of any kind for damages, or have an adverse effect on the fair market value of the property, and
      - reversionary language is included in the title policy for the exceptions.
- **Fence Misplacements**
  - Exceptions for removable fence or hedge misplacements on either side of the property line of the mortgage premises are acceptable, provided that neither the misplacement nor a future correction thereof may interfere with the use and enjoyment of the balance of the mortgage premises not occupied by improvements.
  - The definition of “fence” in this section shall not include retaining walls or other permanent structures.

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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II, (continued)

#### Acceptable Exceptions, continued

- **Encroachments on the Mortgaged Premises by Improvements on Adjoining Property**

Exceptions for encroachments on the mortgage premises by improvements on adjoining property are acceptable provided that the following conditions are met:

  - the encroachment must not touch any improvements on the mortgaged premises, and
  - the encroachment must not interfere with the use and enjoyment of any improvements on the mortgaged premises nor with the use and enjoyment of the mortgaged premises not occupied by improvements.
  
- **Encroachments on Adjoining Property**

Exceptions for encroachments of one foot or less on adjoining property by eaves or other projections attached to improvements on the mortgaged premises or by structures such as tool sheds or by a driveway appurtenant to the mortgaged premises are acceptable, provided that the title policy affirmatively insures against loss suffered by reason of the entry of a decree or court order requiring the removal of the encroachment.
  
- **Variances**

Variations between the appraisal report and the records of possession regarding the length of the property lines are acceptable, provided that:

  - the variations do not interfere with the current use of the improvements, and
  - the variations are within an acceptable range (for front property lines, a two percent variation is acceptable; for all other property lines, five percent is acceptable).
  
- **Oil, Gas, Water and Mineral Rights**

Exceptions for outstanding oil, gas, water or mineral rights are acceptable if:

  - commonly granted by private institutional mortgage investors in the area where the mortgaged premises are located, AND
  - the exercise of such rights will not result in damage to the mortgaged premises, AND
  - there will be no impairment of the use or marketability of the mortgaged premises for residential purposes, AND
  - there is no right of surface or subsurface entry within 200 feet of the residential structure, OR
  - there is a comprehensive endorsement to the title insurance policy that affirmatively insures the lender against damage or loss due to the exercise of such rights.
  
- **Liens for Taxes Not Due**
  - Exceptions for liens for real estate or *ad valorem* taxes and assessments that specifically state that such liens are not yet due and payable are acceptable.
  - Any situation in which taxes are not current is not acceptable.

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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II, (continued)

#### Acceptable Exceptions, continued

- **Tenants in Possession**

- Exceptions for rights of lawful parties in possession are acceptable, as long as such rights do not include the right of first refusal to purchase the property.
- No rights or parties in possession (including the term of a tenant's lease) may have a duration of more than two (2) years.

- **Survey Description Discrepancies**

Exceptions for minor discrepancies in the description of the area are acceptable, provided that the attorney provides a survey and affirmative title insurance against all loss or damage resulting from the discrepancies.

- **Riparian Rights**

Exceptions relating to the secured property concerning creeks, streams, branches and other water courses crossing or otherwise affecting the secured property, or such water courses or waterways as may abut the secured property are acceptable.

- **Indian Claims**

Exceptions for Indian claims are acceptable, as long as the lender is insured against all loss and damage resulting from such claims.

- **Cemeteries**

- Exceptions for ingress and egress to private cemeteries are acceptable.
- Special attention must be paid if:
  - a part of the cemetery is within the boundaries of the subject property but will not transfer title, or
  - a portion of the cemetery is close to the dwelling, since this could affect the value and marketability of the subject property.

- **Other Exceptions**

Any exception not set forth above is acceptable only if ALL of the following conditions are met:

- the subject of the exception must not interfere with the use and enjoyment of any present or proposed improvements on the mortgaged premises, or with the use and enjoyment of the balance of the mortgaged premises not occupied by improvements,
- the subject of the exception must not affect the marketability of the mortgaged premises,
- the subject of the exceptions must have no or minimal effect on the value of the mortgaged premises,
- the subject of the exception must be acceptable to the MI company if the mortgage is insured, AND
- the subject of the exception must be commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located.

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## Title Binder/Commitment Review, Continued

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### Schedule B – Part II, (continued)

#### Unacceptable Exceptions

- An unexpired redemption period exception is unacceptable, regardless if the title policy contains affirmative language that the lender will not suffer loss or damage as a result of the situation or recites them in Schedule B, Part II (subordinate exceptions).
- The following exceptions are unacceptable, unless the title policy contains affirmative language that the lender will not suffer loss or damage as a result of the situation, OR recites them in Schedule B, Part II (subordinate exceptions), as applicable:
  - Material or mechanics liens, filed or unfiled
  - Such state of facts as would be disclosed by an accurate and current survey and inspection of the premises
  - Easements not located on the survey or described in the exception,
  - Liens of prior security instruments
  - Judgments
  - Use of power of attorney by borrower or seller
  - Pending disbursement clause
  - Any situation in which taxes are not current

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## Title Binder/Commitment Review, Continued

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### ALTA Endorsement Requirements

#### Definition

*ALTA Endorsement Requirements* – Amendments to the binder/commitment regarding specific loan products or property types such as condominiums, PUDs, ARM loans, etc. The binder/commitment may require one, all or a combination of these endorsements. An original signature of an authorized officer or agent of the title company is required.

**Note:** Some companies only attach these endorsements to the title policy, which is acceptable

#### Required on ALL Loans

*Environmental Protection Lien – ALTA Endorsement 8.1* – Insures against loss due to the priority of a recorded environmental protection lien or any environmental protection provided for by state statute.

#### Required, if Applicable

- *Condominium Unit – ALTA Endorsement 4* – Insures against loss due to the individual condominium unit violating the condominium project's statutes and documents.
- *PUD Unit – ALTA Endorsement 5* – Insures against loss due to violations of restrictive covenants which restrict the use of the land and the priority of homeowners association lien charges and assessments over the lien of the insured mortgage.
- *Adjustable Rate Mortgage – ALTA Endorsement 6* – Insures against loss due to unenforceability of the lien which provides for interest rate changes.
- *Balloon Endorsement* (no ALTA Endorsement number) – Insures that the balloon mortgage is valid and enforceable and that the existence of the conditional right to refinance does not affect its enforceability.
- *Restrictions, Encroachments, Minerals – ALTA Endorsement 9* – Offers affirmative assurances including, but not limited to, assurance that there are no covenants, conditions or restrictions under which the lien of the mortgage can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired; insurance against present violations of covenants, conditions or restrictions; insurance against encroachments and against damage to existing improvements which encroach upon easement areas or damage resulting from the right to use the surface of the land for the extraction of minerals.

**Note:** There may be variations in the wording of identical exceptions in a binder/commitment from agency to agency and company to company.

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## Title Binder/Commitment Review, Continued

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### ALTA Endorsement Requirements, (continued)

#### Required, if Applicable, continued

- *Leasehold-Loan – ALTA Endorsement 13.1* - Property subject to a leasehold estate requires this endorsement.

**Note:** Properties located in California, Idaho, Montana, Nevada, Oregon, Washington and Wyoming require *CLTA Endorsement 107.5* or its equivalent, which specifies that the property improvements are insured in the same manner as the land.

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## Title Policy Review

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### Short Form Residential Loan Policy

The short form title policy is comprised of general provisions of conditions and stipulations, Schedule A, Schedule B and endorsements which are further described as follows:

#### **General Provisions of Conditions and Stipulations**

The General Provisions of Conditions and Stipulations are incorporated by reference from the long form policy – standard loss protection which is included in every title policy.

#### **Schedule A**

Schedule A contains basic information for a particular loan, as described below:

- *File/Case Number* – Number issued by the agency of the title company to identify the policy as being issued by that agency.
- *Date of Policy* – Effective date of the policy, which may be the settlement date or the recordation date of the security instrument; either is acceptable.

**Note:** “Gap Coverage” is provided against intervening interests between the time of closing and the recordation of the security instrument, when the settlement date is used as the “Date of Policy”. This coverage is given automatically and is not referenced.

- *Amount of Insurance* – Amount of loss insured by the title company.
- The Amount of Insurance must equal loan amount.
- *Policy Number* – Master identification number assigned to the policy, which should be referenced whenever contacting the title company regarding the policy.
- *Loan Number* – Lender’s loan number.
- *Name of Insured* – Owner of the indebtedness secured by the insured mortgage.

**Note:** The title policy may be issued in either SunTrust’s name or the lender’s name, and is to include the verbiage “its successors and/or assigns”.

- *Name of Borrower(s)* – Usually the owners of the property.
- *Mortgage Date* – Closing date.
- *Property Address* – Property street address.
- *County and State* – The county or city, as appropriate, and state where the property is located.
- *Insured Estate* – Preprinted closing which insures a “fee simple” estate only and states the property is vested in the name of the borrower.
- *Land Identity* – Preprinted clause which identifies the land as being the same as the property address.
- *Addendum* – The policy is two pages, unless an Addendum is attached. The Addendum is used to add any matters which do not fit within the preprinted affirmative assurances or coverages on the reverse side of the policy.

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## Title Policy Review, Continued

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### Short Form Residential Loan Policy, (continued)

#### Schedule A, continued

- *Endorsements* – Various endorsements are incorporated by checking the appropriate box; when checked, the policy is deemed to include within its coverage the standard ALTA endorsement with that form number, without having to include the actual form.
- *Incorporation of Standard Policy Provisions* – The reverse side of the policy contains the language of the policy incorporating all of the basic insuring provisions, Exclusions From Coverage and Conditions and Stipulations that are contained in the standard 1992 long form loan policy jacket.
- *Countersignature of Authorized Signatory* – Original signature of authorized officer or agent of the title company.
- *Issuing Office* – The agency or geographic location of the company issuing the policy.

#### Schedule B

Schedule B contains certain preprinted general exceptions with preprinted affirmative coverages already incorporated. Exceptions with affirmative coverage NOT covered by one of the preprinted exceptions will be added by an Addendum.

- Exceptions and Coverages
  - *Taxes and Special Assessments due and payable subsequent to the policy date* – Taxes and special assessments which are NOT current will be added to the Addendum.
  - *Covenants, Conditions and Restrictions of Record* – If there is any doubt as to whether a given document fits within this general exception, since so many covenants contain other exceptions such as assessments or easements, it will be included in the Addendum.
  - *Any Easements or Servitudes Appearing in the Public Records* – Affirmatively insures that the improvements do not encroach on easements and that use of the easements will not interfere with or damage the improvements or landscaping.
  - *Any Lease, Grant, Exception or Reservation of Mineral Rights Appearing in the Public Records* – Insures the use of the property for dwelling purposes and the landscaping.
  - *Survey Matters* – Insures against loss or damage by reason of matters disclosed in an accurate survey.
- *Addendum* – All exceptions which will not be covered under the Schedule B preprinted affirmative coverages will appear in the Addendum. Affirmative coverage will not be available. Exceptions appearing in the Addendum should be rare, and must be approved by SunTrust prior to settlement.

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## Title Policy Review, Continued

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### Long Form Residential Loan Policy

The long form title policy is comprised of general provisions and stipulations, Schedule A, Schedule B – Part I (non-subordinate exceptions) and Part II (subordinate exceptions) and endorsements, which are further describe as follows:

#### **General Provisions of Conditions and Stipulations**

The General Provisions of Conditions and Stipulations provide standard loss protection which is included in every title policy.

#### **Schedule A**

Schedule A contains basic information for a particular loan, as described below:

- *Policy Number* – Master identification number assigned to the policy, which should be referenced whenever contacting the title company regarding the policy.
- *File/Case Number* – Number issued by the agency of the title company to identify the policy as being issued by that agency.
- *Date of Policy* – Effective date of the policy, must be the same or later than the recordation date of the security instrument (gap coverage is not provided).
- *Amount of Insurance* – Amount of loss insured by the title company. The Amount of Insurance must be the loan amount.
- *Name of Insured* – Owner of the indebtedness secured by the insured mortgage.

**Note:** The title policy may be issued in either SunTrust's name or the lender's name, and is to include the verbiage "its successors and/or assigns".

- *The Estate or Interest Referred to Herein is at Date of Policy Vested in* – All persons having ownership of property per the deed. May include persons not obligated on the note.
- *The estate or interest in the land described in this schedule and which is encumbered by the insured mortgage is* – Degree of ownership held by owner of the property – SunTrust requires fee simple (absolute ownership) interest, unless otherwise stated in the appropriate product description.
- *The mortgage and assignments, if any, covered by this policy are described as follows* – Recording information found in the security instrument, including all parties having ownership interest, trustee's name, document date, loan amount and, sometimes, an instrument number. All information in this section must agree verbatim with the same information in the security instruments.
- *The land referred to in this policy is described as follows* – Legally acceptable identification of real estate by either a metes and bounds (boundary lines with their terminal points and angles) description or recorded plat (lot, block and section) description.
- *Countersignature of Authorized Signatory* – Original signature of authorized officer or agent of the title company.
- *Issuing Office* – the agency or geographic location of the company issuing the policy.

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**Long Form  
Residential  
Loan Policy,**  
(continued)

**Schedule B – Part I**

*Schedule B – Part I (non-subordinate exceptions)* – Recites all matters, liens, defects, encumbrances, etc. considered superior to the lien of the lender's security instrument. The following exceptions are customary and may appear in this section. Exceptions of the most unusual nature will require the written consent of HUD, The Veterans Administration or the investor, whichever is applicable. There can be variations on the wording of identical exceptions in a policy from agency to agency and company to company.

- **Acceptable Exceptions**
  - **Subsurface Public Utility Easements**

Exceptions for subsurface public utility easements for local residential distribution, such as lines for gas and water, and cable for electric, telephone, or television utilities, are acceptable provided that:

    - the location of the easements is ascertainable and fixed, and the easements do not extend under any buildings or other improvements,
    - easements must have been in place and completely covered when the mortgage was originated, and
    - the exercise of the rights thereunder must not interfere with the use and enjoyment of any present improvements on the mortgaged premises or proposed improvements on which the appraisal or mortgage is based.
  - **Surface Public Utility Easements**
    - **Agency Loan Programs**
      - **Non-AUS**
        - An above-surface public utility easement that extends more than 12 feet along one or more of the property lines for distribution purposes or along the rear property line for drainage purposes are acceptable, provided that:
          - The location of the easement is ascertainable and fixed, and
          - The easement does not interfere with any of the buildings or improvements or with the use of the property itself.
      - **Fannie Mae DU**

Follow non-AUS guidelines.
      - **Freddie Mac LPA**
        - Follow LPA requirements, which are as follows:
          - Exceptions for surface easements for public utilities for local residential distribution are acceptable provided that the location of the easements is ascertainable and fixed. The exercise of the rights thereunder must not interfere with the use and enjoyment of any of the following:
            - Present improvements on the mortgaged premises
            - Proposed improvements upon which the appraisal or mortgage is based
            - Part of the mortgaged premises outside the easement and not occupied by improvements.

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## Title Policy Review, Continued

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### Long Form Residential Loan Policy, (continued)

#### Schedule B – Part I, Acceptable Exceptions, continued

- **Surface Public Utility Easements**, continued
  - **Non-Agency Loan Programs**

Surface Public Utility Easements that extend along one or more of the property lines for distribution purposes or along the rear property line for drainage purposes are acceptable, as long as they do not interfere with any of the buildings or improvements or with the use of the property itself.
- **Encroachments on Public Utility Easements**

Exceptions for encroachments on easements for public utilities by a garage, tool shed or similar structure that is not attached to or a portion of the dwelling structure are acceptable, provided that the encroachments do not interfere with the use and enjoyment of the easements or the exercise of rights of repair and maintenance in connection therewith.
- **Mutual Easement Agreements**

Mutual easement agreements of record that establish joint driveways or party walls constructed on the security property and on an adjoining property are acceptable, if the agreement allows all present and future owners and their heirs, successors and assigns forever, unlimited and unrestricted use of the driveway or party wall without any restriction other than restriction by reason of the mutual easement owners' right in common and duties for joint maintenance.
- **Restrictive Agreements and Restrictive Covenants**
  - **Agency Loan Programs**
    - **Non-AUS**

Exceptions of record for restrictive covenants and conditions, and cost, minimum dwelling size, or set back restrictions are acceptable, as long as their violation will not result in a forfeiture or reversion of title or a lien of any kind for damages, or have an adverse effect on the fair market value of the property.
    - **Fannie Mae DU**

Follow DU requirements, which are the same as non-AUS guidelines.

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Long Form  
Residential  
Loan Policy,  
(continued)

Schedule B – Part I, Acceptable Exceptions, continued

- **Restrictive Agreements and Restrictive Covenants**, continued
  - **Freddie Mac LPA**
    - Follow LPA requirements, which are as follows:
      - Exceptions for restrictive agreements or restrictive covenants of record related to cost, use, setback, resale restrictions, right of first refusal, minimum size and building materials, and architectural, aesthetic or similar matters (other than single-family-use restrictions on 2- to 4-unit properties) are acceptable provided that the following conditions are met:
        - The restrictive agreements or restrictive covenants do not create or provide for any lien that would be prior to the lien of the home mortgage nor provide for the elimination of the lien of the home mortgage
        - The terms and provisions of the restrictive agreements or restrictive covenants are commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located
        - An endorsement to the title insurance policy affirmatively insures that no violation of any such restrictive agreement or restrictive covenant exists and that any future violation shall not result in forfeiture or reversion of title.
  - **Non-Agency Loan Programs**
    - Exceptions of record for restrictive covenants and conditions, and cost, minimum dwelling size or setback restrictions are acceptable provided that:
    - violation of the restrictions will not result in a forfeiture or reversion of title or a lien of any kind for damages, or have an adverse effect on the fair market value of the property, and
    - reversionary language is included in the title policy for the exceptions.
  - **Fence Misplacements**
    - Exceptions for removable fence or hedge misplacements on either side of the property line of the mortgage premises are acceptable, provided that neither the misplacement nor a future correction thereof may interfere with the use and enjoyment of the balance of the mortgage premises not occupied by improvements.
    - The definition of “fence” in this section shall not include retaining walls or other permanent structures.

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**Schedule B – Part I, Acceptable Exceptions, continued**

- **Encroachments on the Mortgaged Premises by Improvements on Adjoining Property**  
Exceptions for encroachments on the mortgage premises by improvements on adjoining property are acceptable provided that the following conditions are met:
  - The encroachment must not touch any improvements on the mortgaged premises
  - The encroachment must not interfere with the use and enjoyment of any improvements on the mortgaged premises, nor with the use and enjoyment of the mortgaged premises not occupied by improvements.
  
- **Encroachments on Adjoining Property**  
Exceptions for encroachments of one foot or less on adjoining property by eaves or other projections attached to improvements on the mortgaged premises, or by structures such as tool sheds, or by a driveway appurtenant to the mortgaged premises are acceptable, provided that the title company affirmatively insures against loss suffered by reason of the entry of a decree or court order requiring the removal of the encroachment.
  
- **Variances**  
Variations between the appraisal report and the records of possession regarding the length of the property lines are acceptable, provided that:
  - The variations do not interfere with the current use of the improvements, and
  - The variations are within an acceptable range (for front property lines, a two percent variation is acceptable; for all other property lines, five percent is acceptable).
  
- **Oil, Gas, Water and Mineral Rights**  
Exceptions for outstanding oil, gas, water or mineral rights are acceptable if:
  - Commonly granted by private institutional mortgage investors in the area where the mortgaged premises are located, and
  - The exercise of such rights will not result in damage to the mortgaged premises, and
  - There will be no impairment of the use or marketability of the mortgaged premises for residential purposes, and
  - There is no right of surface or subsurface entry within 200 feet of the residential structure, OR
  - There is a comprehensive endorsement to the title insurance policy that affirmatively insures the lender against damage or loss due to the exercise of such rights.

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## Title Policy Review, Continued

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### Long Form Residential Loan Policy, (continued)

#### Schedule B – Part I, Acceptable Exceptions, continued

- **Liens for Taxes Not Due**
  - Exceptions for liens for real estate or *ad valorem* taxes and assessments that specifically state that such liens are not yet due and payable are acceptable.
  - Any situation in which taxes are not current is not acceptable.
- **Tenants in Possession**
  - Exceptions for rights of lawful parties in possession are acceptable, as long as such rights do not include the right of first refusal to purchase the property.
  - No rights of parties in possession (including the term of a tenant's lease) may have a duration of more than two (2) years.
- **Survey Description Discrepancies**

Exceptions for minor discrepancies in the description of the area are acceptable, provided that the attorney provides a survey and affirmative title insurance against all loss or damage resulting from the discrepancies.
- **Riparian Rights**

Exceptions relating to the secured property concerning creeks, streams, branches and other water courses crossing or otherwise affecting the secured property, or such water courses or waterways as may abut the secured property are acceptable.
- **Indian Claims**

Exceptions for Indian claims are acceptable, as long as the lender is insured against all loss and damage resulting from such claims.
- **Cemeteries**
  - Exceptions for ingress and egress to private cemeteries are acceptable.
  - Special attention must be paid if:
    - A part of the cemetery is within the boundaries of the subject property but will not transfer title, or
    - A portion of the cemetery is close to the dwelling, since this could affect the value and marketability of the subject property.

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## Title Policy Review, Continued

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### Long Form Residential Loan Policy, (continued)

#### Schedule B – Part I, continued

- **Other Exceptions**

Any exception not set forth above is acceptable only if ALL of the following conditions are met:

- The subject of the exception must not interfere with the use and enjoyment of any present or proposed improvements on the mortgaged premises, or with the use and enjoyment of the balance of the mortgaged premises not occupied by improvements,
- The subject of the exception must not affect the marketability of the mortgaged premises,
- The subject of the exceptions must have no or minimal effect on the value of the mortgaged premises,
- The subject of the exception must be acceptable to the MI company if the mortgage is insured. AND
- The subject of the exception must be commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located.

- **Unacceptable Exceptions**

- An unexpired redemption period exception is unacceptable, regardless if the title policy contains affirmative language that the lender will not suffer loss or damage as a result of the situation or recites them in Schedule B, Part II (subordinate exceptions).
- The following exceptions are unacceptable, unless the title policy contains affirmative language that the lender will not suffer loss or damage as a result of the situation, OR recites them in Schedule B, Part II (subordinate exceptions), as applicable:
  - Material or mechanics liens, filed or unfiled
  - Such state of facts as would be disclosed by an accurate and current survey and inspection of the premises
  - Easements not located on the survey or described in the exception,
  - Liens of prior security instruments
  - Judgments
  - Use of power of attorney by borrower or seller
  - Pending disbursement clause
  - Any situation in which taxes are not current

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## Title Policy Review, Continued

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### Long Form Residential Loan Policy, (continued)

#### Schedule B – Part II

*Schedule B – Part II (subordinate exceptions)* – Recites matters, liens, encumbrances, etc., but specifically insures that said matters indicated thereunder are inferior to and subordinate in nature to the lien of the security instrument insured under such policy.

- *ALTA Endorsement Requirements* – Amendments to the policy regarding specific loan products such as condominiums, PUDs, ARM loans, etc. The policy may require one, all or a combination of these endorsements. An original signature of an authorized officer or agent of the title company is required.
  
- **Required on all Loans**
  - Environmental Protection Lien – ALTA Endorsement 8.1* – Insures against any loss due to the priority of a recorded environmental protection lien or any environmental protection provided for by state statute.
  
  - Required if Applicable
    - *Condominium Unit – ALTA Endorsement 4* – Insures against loss due to the individual condominium unit violating the condominium project's statutes and documents.
    - *PUD Unit – ALTA Endorsement 5* – Insures against loss due to violations of restrictive covenants which restrict the use of the land and the priority of homeowners association lien charges and assessments over the lien of the insured mortgage.
    - *Adjustable Rate Mortgage – ALTA Endorsement 6* – Insures against loss due to unenforceability of the lien which provides for interest rate changes.
    - *Balloon Endorsement* (no ALTA endorsement number) – Insures that the balloon mortgage is valid and enforceable and that the existence of the conditional right to refinance does not affect its enforceability.
    - *Restrictions, Encroachments, Minerals – ALTA Endorsement 9* – Offers affirmative assurances including, but not limited to, assurance that there are no covenants, conditions or restrictions under which the lien of the mortgage can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired; insurance against present violations of covenants, conditions or restrictions; insurance against encroachments and against damage to existing improvements which encroach upon easement areas or damage resulting from the right to use the surface of the land for the extraction of minerals
    - *Leasehold-Loan – ALTA Endorsement 13.1* – Property subject to a leasehold estate requires this endorsement.

**Note:** Properties located in California, Idaho, Montana, Nevada, Oregon, Washington and Wyoming require *CLTA Endorsement 107.5* or its equivalent, which specifies that the property improvements are insured in the same manner as the land.

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