

# PENN ATTORNEYS

## TITLE ALERT

**DATE: 08/31/09**

**RE: Title Alert 2009-16 HONA 271 – Taylor, Bean & Whitaker Chapter 11 Bankruptcy**

**Please see the below First American Home Office Underwriting Bulletin authored by Home Office's K. Gene Aalseth, Associate Senior Underwriter. If you have any questions, please contact us.**

**Purpose:** This bulletin provides further guidance on dealing with transactions involving Taylor, Bean & Whitaker (TBW) now that they have filed Chapter 11 Bankruptcy.

**Background:** TBW filed a Chapter 11 Bankruptcy Petition on August 24, 2009. Orders retaining TBW as the debtor-in-possession and authorizing TBW as the debtor-in-possession to operate the business were entered August 25, 2009.

**Insuring TBW "ordinary course of business" transactions:** As the debtor-in-possession authorized to operate the business, TBW has the authority to act in the "ordinary course of business". Actions we would consider to be in the "ordinary course of business" for a lender would include making loans, servicing loans, accepting payoffs, conducting foreclosure sales, selling property acquired at foreclosure sales (REO sales) and negotiating short payments (short sales). "Ordinary course of business" transactions involving TBW may be insured without further order from the bankruptcy court.

**Insuring TBW transactions NOT in the "ordinary course of business":** Actions which do not fall into the "ordinary course of business" require further order of the court under section 363 or other provisions of the bankruptcy code. We would consider the sale of TBW assets such as a building which TBW owned and operated as a place of business to be outside the ordinary course of business. Additionally, sales of multiple REO properties or sales of REO properties by auction might not be in the "ordinary course of business". Transactions which may be outside the "ordinary course of business" should be referred to your local underwriter for guidance and approval.

**Previous Bulletins:** This bulletin supplements previous bulletins regarding TBW which remain in effect. See PA 2009-10: Late Loan Funding by TBW and PA 2009-15: TBW Payoffs & Originations, which are available on our website: [http://www.pennattorneys.com/info/title\\_alerts.htm](http://www.pennattorneys.com/info/title_alerts.htm) .

*Title Alerts from 1997 to present are available on our website at: <http://www.pennattorneys.com>*

### ***Penn Attorneys Title Insurance Co.***

900 State Street, Ste 320 Erie, PA 16501

Tel 814-454-8278 or 800-352-2216

FAX 814-453-5983 or 1-800-234-2352

[erie@pennattorneys.com](mailto:erie@pennattorneys.com)