

PENN ATTORNEYS

TITLE ALERT

DATE: 11/15/10

RE: Title Alert 2010-16 REO Sales Risk Assessment

The purpose of this Title Alert is to provide updated guidance on insuring sales of REO property.

Please note that this Title Alert does not apply to arm's length sales of foreclosure properties either by third party purchasers* at regularly conducted foreclosure sales or by bona fide purchasers from foreclosing lenders, servicers, guarantors or affiliates or subsidiaries. In both of those situations standard underwriting practices apply, including confirmation that neither the prior owner/mortgagor, nor anyone claiming through him or her, is in possession of the property. [*persons who are not the foreclosing lender, servicer, guarantor or an affiliate or subsidiary]

Media attention and reports of investigations and moratoria on foreclosures, evictions and sales of REO property have resulted in a rapidly changing view on how the risks involved in insuring title to these properties can be underwritten. The developing facts and continuing discussions with our Approved Attorneys have resulted in adjustments to our underwriting approach.

In evaluating any sale of REO property by a lender, servicer, guarantor, affiliate or subsidiary, the following procedure must be followed:

1. Examine the foreclosure process according to customary underwriting standards. This should include review of the case file in a judicial foreclosure to verify service of process, compliance with any conditions precedent to a default judgment (such as Notice under Act 91 and production of a "Non-Military Affidavit" under the Service Member's Civil Relief Act), satisfaction of requirements regarding notice of sale (including publication), notice to creditors under RCP 3129.1, the filing of the Sheriff's Return of Writ, and recording of the Sheriff Deed Poll.
2. In addition, an REO Sale Risk Assessment Questionnaire (form attached) must be completed for each transaction. All questions must be answered with a "Yes" or "No." The REO Sale Risk Assessment Questionnaire must be completed, dated and signed by the Approved Attorney reviewing the title and submitted with your Preliminary Title Report. All of the questions should have a "No" answer, in order for us to issue a commitment or policy, subject to any other risk limitations that may be applicable. If any question has a "Yes" answer, you should submit copies of relevant foreclosure documents for our review and determination of insurability.

We'll keep you apprised of any changes in our underwriting requirements as this latest dilemma may dictate. We thank you for your patience and cooperation in this challenging time.

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

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REO Sale Risk Assessment Questionnaire

(To be submitted with Preliminary Report on Title)

Name of Purchaser: _____

Property Address: _____

[legally described as set forth in the preliminary report]

Name of Foreclosing Lender: _____

Name of Servicer: _____

Name of Seller (if different from Lender): _____

If the answers to **all** of the questions below are "No," we will continue with processing your application.

If the answer to **any** question is "Yes," you must submit copies of relevant foreclosure documents for our review and determination of insurability.

1. To the extent of your customary review of foreclosure related documentation, were there any defects in the process leading to the foreclosure judgment or sale by which title was acquired by lender/seller? ___ Yes ___ No

2. Has the lender/seller disclosed any defects in the foreclosure process related to the Property? ___ Yes ___ No

3. Are there any other reasons to believe there might be defects in the foreclosure process related to the Property caused by Lender, Lender's counsel, loan servicer, or others? ___ Yes ___ No

4. Is there any affiliation between the seller and purchaser in the present transaction? ___ Yes ___ No

5. Does the purchase price (New Owner's Policy Amount) exceed the amount due to the lender under the obligation secured by the mortgage that was foreclosed? ___ Yes ___ No

6. Is the Property occupied? ___ Yes ___ No

7. Has litigation alleging defects in the foreclosure process related to the Property been commenced or threatened? ___ Yes ___ No

Signature of Approved Attorney

PRINT Name: _____

Date: _____