

PENN ATTORNEYS TITLE ALERT

DATE: 07/09/09

RE: Title Alert 2009-10

Late Loan Funding by Taylor Bean & Whitaker

NOTE: This Title Alert is intended for use by Approved Attorneys of Penn Attorneys Title Insurance Co. and any reliance by any other person or entity is unauthorized. This alert is intended solely for the purpose of underwriting policies of Penn Attorneys Title Insurance Co.

Attached is a copy of a special bulletin from First American Home Office Underwriting Group entitled "Late Loan Funding by Taylor Bean & Whitaker".

While quite possibly a delay is normal, these are frightening economic times. This kind of circumstance provides the impetus to periodically remind our Approved Attorneys of the dangers of disbursing ANY funds before you are able to confirm with your bank that any amounts received from lenders or others have been finally cleared by your bank into the trust account and are not subject to reversal.

For more information, please refer to our prior good funds alerts on our website by going to:

http://www.pennattorneys.com/printable/title_alerts/2008-07.pdf

http://www.pennattorneys.com/printable/title_alerts/2007-15.pdf

If you have any questions, please contact us.

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

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First American

CORPORATE UNDERWRITING Home Office National Bulletins

Case No: HONA 266	Filed: 07-09-2009
Name: Late Loan Funding by Taylor, Bean & Whitaker	
Written By: K. Gene Aalseth	

Purpose

To alert you of instances of late funding by a large mortgage lender, Taylor, Bean & Whitaker ("TB&W"), in connection with loans that were already closed and awaiting funds from TB&W; and to establish underwriting guidelines to protect against loss resulting from such late funding.

General Guidelines

1. Do not disburse funds on any TB&W transactions without having collected funds in your account. That means if you receive either a wire or check, it must have been finally credited to your account before you disburse against it.
2. Do not release the original promissory note to TB&W prior to receipt of the finally collected funds. Returning an original promissory note prior to funding could create liability for you the settlement agent because the original promissory note is a negotiable instrument. Any transferee of an original promissory note could be a "holder in due course," as that term is defined in the Uniform Commercial Code. Ultimately, if TB&W does not fund the transaction, the borrower (obligor) on the promissory note could still be liable for payment to the holder in due course.

What if you don't receive finally collected funds?

Sale Transactions

Do not release funds to anyone or return the original closing package to TB&W without finally collected funds in your account.

Refinance Transactions

1. Follow closing instructions with respect to returning the closing package prior to funding. It is our understanding that closing instructions from TB&W do NOT require the original promissory note to be returned prior to their funding the loan. However, if return of the original promissory note is required prior to having loan funds finally credited to your account by TB&W, contact your underwriter before proceeding.
2. If only a copy of the closing package was returned by fax to TB&W and TB&W fails to fund the loan as appropriate within a reasonable time after the expiration of the 3-day right of rescission, contact your underwriter for further direction.
3. If for any reason the original closing package has been returned and TB&W fails to fund the loan as appropriate within a reasonable time after the expiration of the 3-day right of rescission, follow these steps:
 - a. Complete the attached letter, which recalls the closing package;
 - b. Fax to TB&W (at headquarters and location to which package was sent); and
 - c. Overnight or send via certified mail, return receipt requested, a copy of the letter to TB&W AND a copy to the borrower(s).

WARNING: this special alert is intended solely for the employees of First American Title Insurance Company, its agents and approved attorneys and is not to be distributed to third parties, and any reliance by any other person or entity is unauthorized. This bulletin is not to be construed as expressing any opinion by the Company as to the financial condition of or any suggestion of impropriety on the part of the entity which is the subject of this bulletin but is intended solely for the purpose of underwriting policies of First American Title Insurance Company arising out of transactions in which the subject of this bulletin may be involved.

*AGENT/ATTORNEY/BRANCH OFFICE NAME
ADDRESS*

DATE

*LENDER NAME
HEADQUARTERS ADDRESS*

*LENDER NAME
ADDRESS TO WHICH PACKAGE WAS SENT (if different)*

*BORROWER NAME
ADDRESS*

RE: Property:
Loan No.:

Ladies and Gentlemen:

On *Insert Date*, *Insert Borrower(s)' Name(s)* (the "Borrower(s)") executed documents in conjunction with a refinance transaction with *Insert Lender Name* (""). Pursuant to *Insert Lender Name's* Loan Closing Instructions and as a funding condition, *Insert Agent Name* returned the executed closing documents to *Insert Lender Name's Insert City* location within *Insert Number of Hours* hours of signing, which included a marked-up title insurance commitment and an original Note ("Loan Package"). This loan was scheduled to fund on *Insert Funding Date*, but the funds were never received.

Our company demands that *Insert Lender Name* immediately return the Loan Package to this office and we will continue to hold the executed closing package until we receive confirmation from both *Insert Lender Name* and the Borrowers regarding the outcome of this transaction. If for any reason *Insert Lender Name* cannot or will not return the Loan Package, please advise this office immediately.

Yours truly,