

INTRODUCTION TO TITLE INSURANCE

INTRODUCTION

Purpose

Title insurance insures the "marketability" of the title. Depending on the scope of the coverage; it protects the borrower and lender against unknown liens, encumbrances, or judgments against the title. Before issuing the title policy the title company will conduct a title search. This is a detailed review of the legal records to determine the status of title. The results of this search are reported in the form of either a preliminary title report or a title commitment depending on the laws and practices of the state where the property is located.

Preliminary Title Report

In some states, the title company prepares the results of the title search as a preliminary title report. This report shows the status, as of the date and time of the report, of all items affecting the title of the property. DataLoans.com then completes a detailed review to determine which exceptions will remain.

Title Commitments

Title companies in some states issue title commitments. The title commitment is a commitment by the title company to provide title insurance as well as a report of items affecting property title.

Title Search

A title search is an examination of the public records to determine the ownership and encumbrances affecting real property. It is often referred to as an abstract of title. It does not provide lender protection from loss due to title defects.

Coverage Amount

MoneyCorp requests the amount of coverage the title insurance policy is to include. This amount should be equal to the principal balance of the loan. See the section on endorsements for more information regarding loans with negative amortization such as Gradual Payment Mortgages (GPM's).

PRELIMINARY TITLE REPORT

Introduction

A preliminary title report shows the status, as of a specific date and time, of all items affecting the title of the property. The guidelines in this section are for all states that use preliminary title reports.

Effective Dates of Validity

Preliminary title reports are only valid for specific periods of time. Each report includes an "as of" date used to determine if the preliminary title report is still valid. The following time frames are currently in effect: In



all states there is a maximum 120 days allowed prior to final note signature date (180 days for new construction). The Operations Manager must approve any exceptions.

Information Included

Each preliminary title report will contain the information listed below. Each item must be reviewed for compliance with PRLC guidelines. The remainder of this section will detail those guidelines.

- ◆ Effective date
- ◆ Vesting
- ◆ Land ownership
- ◆ Legal description
- ◆ Exceptions
- ◆ Plat map

Vesting

Vesting is the manner in which the title to the property will be held. PRLC requires vesting be in the name of a natural person or persons. Certain loan products can be closed as a living trust under certain conditions. Refer to the Product Guide for more information.

Changing Current Vesting for Refinances

For refinances, current vesting must agree with the names of all proposed borrowers. Differences must be resolved before closing by recording the appropriate deed. In each state, deeds are available for removing and adding names as appropriate. Contact the Operations Manager if unsure about which type of deed to request.

Community property states may also require recorded deed if a spouse is relinquishing his or her interest and rights on a property: Direct questions to the Operations Manager.

Land Ownership

The ownership of the land will be explicitly stated as "fee simple" or "fee" on the report. This means that the land as well as the improvements will be owned without limitation as to any restrictions.

We also originate loans on "leasehold estates". With leasehold estates the borrower owns the improvements with the exclusive right to use the land but is not the legal owner of the land. All leasehold estate loans must be approved as such by the underwriter. The loan file must include a copy of FHLMC Form 461 and may require special riders to be executed.

Legal Description

The legal description on the preliminary title report is the foundation for the security. The legal description affixed to any loan document must match, character for character, the description on the preliminary title report. This includes spaces, punctuation, and abbreviations.

MoneyCorp requires all properties to be described by lot and block or a narrative metes and bounds description. When researching the legal description, check the preliminary report and any supplements or updates furnished to ensure you have the legal description in its entirety.

Note: If unsure whether any item should be included as part of the legal description, consult the title company.



Example of Recorded Plat Map Description

The example below is a legal description recorded by lot and block on a recorded plat map. Lot 38 of Tract No. 3610, Brentwood Estates No. 2, In the City of Clovis, County of Fresno, State of California, according to the map thereof recorded in Book 42 Pages 51 and 52 of Plats, Fresno County Records.

Example of Metes and Bounds Description

The second paragraph below shows a sample of a metes and bounds legal description. Lot 6 and a portion of Lot 5, of Tract No. 26010, in the City of Fresno, County of Fresno, State of California, as per map recorded in Book 667 pages 10 and 11 of Maps, in the office of the county recorded of said county, describe as follows:

Beginning at the southwest corner of said Lot 5, thence easterly along the southerly line of said Lot 5, a distance of 2.00 feet; thence northerly along a line parallel to the westerly line of said Lot 5 and 2.00 feet easterly measured at right angles a distance of 70.00 feet; thence westerly at right angles a distance of 2.57 feet more or less to the westerly line of said Lot 5; thence southerly along said westerly line to the point of beginning.

Legal descriptions may contain an additional parcel granting an easement over adjacent land. An easement is the right that one or more parties has in relationship to another party's property. For instance these easements may be for the purpose of entering and exiting the property being purchased by the borrower. Easements of this nature expand the property and increase the value.

All easements appearing within the legal description must be the property owners right to another party's property.

Reservations in Legal Description

The legal description may contain, oil, gas, mineral or water reservations. A reservation is when the seller retains the ownership of oil, gas, minerals, and/or water located on the property, when the property is transferred. Reservations usually decrease a property's value. If reservations are present in the legal description, endorsements may be required.

Plat Map

Plat maps are provided to show the subject property's relation to neighboring properties. It should include all access to and from the subject property. Plat maps may also highlight easements, setback lines, and other miscellaneous items that may be applicable.

TITLE COMMITMENT

Introduction

A title commitment is a commitment from the title company to issue title insurance. The report shows the status, as of a specific date and time, of all items affecting the title of the property. The guidelines in this section are for all states that use title commitments.



Effective Dates of Validity

The title commitment is only valid for 90 days from the "as of date of the report.

Information Included

Each title commitment may contain the information listed below. Each item must be reviewed for compliance with MoneyCorp guidelines. The remainder of this section will detail those guidelines.

- ◆ Effective dates of validity
- ◆ Survey
- ◆ Vesting
- ◆ Coverage amount
- ◆ Legal description
- ◆ Exceptions
- ◆ Land ownership

For refinances, current vesting must agree with the names of all proposed borrowers. Differences must be resolved before closing by recording the appropriate deed. In each state, deeds are available for removing and adding names as appropriate. Contact the Operations Manager if unsure about which type of deed to record.

Survey

For all loans in states with title commitments, a survey may be required prior to closing. A survey is a sketch of the parcel showing its dimensions, similar to a plat map. It is acceptable to MoneyCorp to use a survey affidavit in lieu of a new survey only if the closing agent is willing to insure the loan fully. To determine whether a survey is required by state, refer to Survey List in the Exhibits.

Vesting

Vesting is the manner in which the title to the property will be held. MoneyCorp requires vesting be in the name of a natural person or persons.

Some loan products can be dosed as a living trust under certain conditions.

For refinances, current vesting must agree with the names of all proposed borrowers. Differences must be resolved before closing by recording the appropriate deed. In each state, deeds are available for removing and adding names as appropriate. Contact the Operations Manager if unsure about which type of deed to record.

Community property states may also require a deed be recorded if a spouse is relinquishing his or her interest and rights on a property. Direct questions to the Operations Manager

Coverage Amount

The title commitment should include the amount of coverage for each insured. This amount should be the principal balance of the loan.



Easements in Legal Descriptions

Legal descriptions may contain an additional parcel granting an easement over adjacent land. An easement is the right that one or more parties has in relationship to another party's property. For instance these easements may be for the purpose of entering and exiting the property being purchased by the borrower.

If an easement is identified in the legal description, an endorsement, where available, may be required. (Endorsements are defined later in the chapter.)

Reservations in Legal Description

The legal description may contain, oil, gas, mineral or water reservations. A reservation is the right to the oil, gas, minerals, and/or water located on the property that is retained by the grantor when the title to the property is transferred.

TITLE REPORT EXCEPTIONS

Introduction

Exceptions are situations that will not be covered by title insurance if a loss were to occur as a result of these items. DataLoans.com only allows certain exceptions. All others must be removed or covered by a specific endorsement.

Location of Exceptions

Most title companies detail the list of exceptions as Schedule B of the preliminary title report or title commitment.

Typical Exceptions

Acceptable exceptions are items that do not take precedence over MoneyCorp's lien. The list below shows common acceptable exceptions. Each exception listed below is discussed further in the following paragraphs.

- ◆ Taxes
- ◆ Existing Liens
- ◆ Easements
- ◆ Encroachments
- ◆ Covenants, Conditions, and Restrictions (CC&Rs)
- ◆ Mineral Lease
- ◆ Judgments

Tax Exceptions

Exceptions concerning taxes are acceptable provided they indicate that all taxes are paid current. All taxes, due or delinquent, must be paid current prior to or at the time of closing. If the taxes will be paid at closing, you must instruct the title company to update the exception to show the taxes are paid current.



Example:

Exception #1 on the preliminary title report lists property taxes and Exception #2 list supplemental taxes. To instruct the title company to pay these taxes enter "1-2 PD CUR" in the "Allowable Items" field on the ESC screen.

Assessments

Assessments are liens recorded against a property for a proportionate share of the cost incurred to improve an area around the property. Examples might include the city installing sidewalks or the development of common areas. The lien that is recorded against the property is similar to a real estate tax lien.

All assessments, either due or delinquent, must be paid current prior to or at the time of dosing. One-time assessments must be paid current and removed from the records.

Recurring assessments, such as taxes, remain on record, but must be updated to show being paid current. The procedures for showing recurring assessments as paid current are the same as for taxes listed in the paragraph above.

Liens

If the loan being closed is the first mortgage, then all other liens must be paid off or subordinated. Any liens to be subordinated must be reviewed and approved by the Underwriting Department, except for Homeowner Association exceptions, to ensure conformance with investor requirement.

If the loan being closed is a second mortgage, all other liens except the first mortgage must be paid off or subordinated.

All liens approved to appear on Schedule B, Part I of the title policy would take priority over the insured mortgage. All approved secondary liens must appear on Schedule B, Part 1I of the title policy insuring that such liens are subordinate to the insured mortgage.

Easements

Easement exceptions allow the right to limited use of the property by another party or parties. All easements must be specifically defined. They must be located on the property and cannot extend over or under any buildings or improvements.

Typical easements that are allowable include the following.

- ◆ Customary public utility subsurface easements.
- ◆ Above surface public utility easements that extend along one or more of the property lines.
- ◆ Mutual easement agreements that establish joint driveways as long as all future owners have unlimited and unrestricted use.

An endorsement may be required for any easement that cannot be specifically identified or located. Refer all easement questions to your Operations Manager.

Encroachments

An encroachment is the extension of an improvement onto the property of another. Acceptable encroachments are those that are minor in nature and the appraiser confirms does not affect the



marketability of the property. In some states the closing agent may have the borrowers execute a "Hold Harmless" agreement acknowledging the encroachments. Examples of allowable encroachment exceptions include the following.

- ◆ Encroachment of 1 foot or less on adjoining property by eaves or other overhanging projections.
- ◆ Encroachments on adjoining properties by plant hedges or removable fences.

Questionable encroachments must be approved by the Operations Manager and must be acceptable to the investor.

CC&Rs

CC&Rs are a recorded document that stipulates the conditions and limitations under which an owner may be restricted from using the property. The CC&Rs must contain verbiage similar to statements below in the CC&R section or as an exception.

1. "which provide that a violation thereof shall not defeat or render invalid the lien or any mortgage or deed of trust."
2. "which provide that a violation thereof shall not cause a forfeiture or reversion of title"

The critical element of this statement is the mortgage cannot be rendered invalid or forfeited. If this statement is not present, an endorsement is required if available in the state.

Mineral Leases

Any exceptions regarding an oil, gas, or mineral lease may require an endorsement to ensure against surface entry. However, mineral lease guidelines for each state vary significantly. Follow standard Fannie Mae and Freddie Mac guidelines or consult your Operations Manager if you have questions regarding mineral lease exceptions.

Judgments

Judgments are court orders given after a lawsuit. It is a court decision as to the rights of the parties in a lawsuit. A judgment may be for money, or it may be an order by the court to do or not do certain acts. If not removed or subordinated, judgments can take precedence over our lien. Any effect on our lien position can put the security at risk.

Allowable Items

Allowable items are items that are lender approved to remain of record and will be included in the final title policy. On first mortgages lenders require first lien position in the event of default. All items that remain on title must not jeopardize the lender's lien position. For this reason, property taxes and assessments must be paid current based on the tax schedules provided in Appendix A. Additional examples of acceptable items are property easements and most mineral rights.

Unacceptable Items

An unacceptable item is any item that may jeopardize the lender's lien position. The list below are examples of unacceptable items.

- ◆ Liens paid in full at closing
- ◆ Any seller liens
- ◆ Unpaid judgments



- ◆ Delinquent property taxes
- ◆ Outstanding IRS tax liens

Road Maintenance Acknowledgments

In many states, such as California and many of the Eastern Region states, the Civil Code requires property owners to maintain their private roads used for ingress and egress. These are allowable exceptions and do not have to be removed.

The closing agent or investor may require a formal road maintenance agreement be recorded prior to close of escrow.

State Homesteads

Many states have "homestead" exceptions. However, they are not the same type of exception. The Compliance Department is currently finalizing research in this area until that time, direct questions concerning homestead exceptions to your Operations Manager or Legal Department.

Endorsements are added to a title insurance policy to expand coverage in specific areas that are not covered by the standard policy.

ENDORSEMENTS

Definition

The amount of coverage provided by standard title insurance policies varies from state to state. Therefore, the number and types of endorsements necessary will also vary. A property in California may require 5 or 6 endorsements whereas the same property situation in Texas might require one

Property Specific Endorsements

Certain endorsements are required based on the type of property. For example, in most states condominiums and PUDs require endorsements to expand the title insurance coverage.

Loan Type Specific Endorsements

Certain endorsements are required based on the type of closed loan. For example, ARM and GPM loan programs usually require endorsements to expand the title insurance coverage. The various loan types with specific endorsements are shown below.

- ◆ ARM products
- ◆ GPM products with negative amortization
- ◆ Balloon products with conversion options

ARM Endorsements

An endorsement for all ARMS is to provide protection from loss of lien as a result of the effects of increased interest rates.



Negative Amortization

Products with negative amortization, such as GPMs, require an endorsement to protect from loss of lien as a result of the effects of the negative amortization.

Balloon Programs With Conversions

Any balloon program that contains a conversion option, with the exception of the H35 product, -requires an endorsement to protect from loss of lien as a result of the effects of exercising the conversion.

All loans require an Environmental Protection Lien endorsement. This endorsement insures against loss from any environmental protection lien. ALTA Endorsement 8.1 or state equivalent is acceptable.

Our system automatically drives this endorsement to the Lender's Settlement Instructions.

Additional Endorsements

Depending on the state, property location, and other variables, additional endorsements may be required. The examples below are situations when an endorsement may be required if the situation is not covered by the standard title insurance policy.

- ◆ Unallocated easements
- ◆ Easements for ingress/egress that do not go to a public street
- ◆ Mineral leases with unrestricted surface entry
- ◆ Water reservations with unrestricted surface entry rights
- ◆ Missing CC&R declarations protecting pacific Residential Lending Corp. against loss of CC&Rs violations

