

ENDORSEMENTS

I. General Principles

A. The Nature and Purpose of Endorsements

ALTA (American Land Title Association) and other forms of title insurance policies are designed to provide title insurance in the vast majority of "simple" or "plain vanilla" real property transactions. In certain cases, however, the coverages afforded under the standard ALTA title insurance policy are insufficient to address matters that might arise in any particular transaction. For this reason, both standard and special endorsements have been developed that address unusual matters and that change or tailor the coverages of title insurance policies.

Endorsements can change any part or portion the policy. They are commonly used to extend or make policy coverage clearer or more comprehensive for a particular title issue. Examples of tailored coverage include endorsements for the location of easements or improvements, violations of covenants, conditions and restrictions, zoning, variable rate or revolving loans, special condominium or planned development problems, and environmental waste reporting.

Title endorsements are available to both owners and mortgage lenders. Many are available for a small premium, and many title companies may issue one or more of them without additional charge. Endorsements normally entail the satisfaction of requirements for their issuance, similar to requirements found on Schedule B of the title commitment. These requirements may in-

volve the production and certification of "ALTA" surveys, for so-called "survey endorsements", copies of ordinances and enabling legislation for zoning ordinances, and even attorney opinion letters for more specialized endorsements.

In Missouri, every title insurer must file its standard form endorsements with the director of the Department of Insurance. Section 381.211.(2), R.S.MO. (1994).

B. Other Forms of Enhanced Coverage

Attorneys for both purchasers and lenders need to be aware of certain basic definitions and practices commonly used in the title insurance industry.

1). Standard v. Extended Coverage

There are essentially two different types coverage under title insurance policies: standard and extended coverage.

The standard policy is recognized by its preprinted standard exceptions to coverage, found on Schedule B. These exceptions may differ somewhat in language or substance from state to state, but, essentially, they except coverage for loss or damage by reason of real estate taxes, unrecorded defects, liens or encumbrances affecting title, mechanics liens, matters that would be disclosed by an accurate survey, and rights or claimed rights of parties in possession and matters that could be ascertained by making an inspection of the land.

Policies affording extended coverage, by contrast, do not contain one or more of the standard exceptions. Standard exceptions may be eliminated by affidavits, surveys, and, depending on

title insurance industry practices, by inspections of the land.

In Missouri, it is common practice to eliminate certain standard exceptions using "final affidavits" executed by sellers or borrowers, and Missouri "minimum standard for property boundary" surveys. Lenders commonly receive full "survey" coverage upon presentation of a "spot" survey. Title company inspections are rarely utilized in Missouri.

2). Insuring Over and Affirmative Coverage

As we have seen, extended coverage policies normally entail the elimination of the standard exceptions. In certain cases, the effect or purported effect of a **special exception** must be addressed. Special exceptions, commonly, are those matters affecting the use of the land or are obligations on the land itself, such as covenants, conditions and restrictions; building lines and easements; agreements for sanitary sewage disposal; recorded plats; and subdivision or condominium indentures. These conditions to title are said to "run with the land".

In addition to the common special exceptions, there are categories of special exceptions that are "personal" obligations of the owner of the estate insured. Special exceptions of this type might be the terms and provisions of divorce decrees, unsatisfied federal tax liens, mechanics liens, unreleased deeds of trust, and judgment liens. While it is standard title underwriting practice to eliminate these exceptions by payment of funds and obtaining of releases at the time of closing of a sale or refinance of the property, in certain cases it is not possible to

do so. In that event, special exceptions will remain on the final policy.

Occasionally, however, it is possible to provide an owner or mortgage lender with a type of extended coverage that addresses a special exception. This type of extended coverage is known as "**insuring over**" the exception.

For example, a title company has been disbursing funds for a home builder who has a dispute with a supplier. The supplier has filed a mechanics lien on the property. The home builder is disputing the lien and has instructed the title company not to pay the supplier until the dispute is resolved. To protect the home buyer and mortgage holder, the title company may agree to hold part of the builder's money in escrow to cover the amount of the lien, plus interest and attorneys fees and may further agree with the home builder that the escrowed funds may be used to discharge the lien if the home builder does not prevail against the supplier in subsequent litigation. In that case, the title insurance policy will take exception for the mechanics lien on Schedule B of the policy and then "insure over" it with language similar to the following:

The Company hereby insures the insured for actual loss or damage, including loss or damage based upon unmarketability of title, which the insured shall sustain by reason of the enforcement or attempted enforcement of the above mechanics lien.

The essence of "insuring over" a title defect is not the elimination the defect, but providing protection to the insured against its enforcement.

In some cases, however, the insured may desire or require "affirmative coverage" over a title defect, in addition to merely insuring over the problem. In the above mechanics lien example, for instance, the insured may require affirmation within the title insurance policy that the title insurer will provide for the defense of the insured, including payment of attorneys fees and costs, in case of suit against the insured to enforce the mechanics lien. The additional obligation to provide a defense for the insured is referred to as "affirmative coverage." An example of affirmative coverage might be the following:

The Company hereby insures the insured for actual loss or damage, including loss or damage based upon unmarketability of title, which the insured shall sustain by reason of the enforcement or attempted enforcement of the above mechanics lien. Additionally, the Company shall furnish the insured a defense against any action brought against the insured to enforce such lien, including the payment of attorneys fees and costs in connection therewith.

C. Views from the Bench

1). Third Party Beneficiary of Survey Endorsement?

In Walters v. Marler, 147 Cal.Rptr. 655 (Cal.App. 1978), plaintiffs brought an action to rescind a real estate contract and for damages based on misrepresentation of the location of improvements. The county maps erroneously showed the location of the house on the insured parcel, when, in fact, most of the house was located on the adjoining parcel.

Defendant, Transamerica Title issued to plaintiff/owner a California Land Title Association standard policy of title

insurance. The policy did not insure against facts not disclosed by the public records and which an accurate survey would disclose. Transamerica also issued a loan policy to the mortgage lender, Wells Fargo, an ALTA extended coverage Policy with CLTA Form 100 and 116 endorsements .The 116 endorsement insured that there was a house located on the parcel in question. The 100 endorsement insured against loss due to any encroachment of the house onto adjoining land. Transamerica did not inspect the property before issuing the policy to Wells Fargo.

After moving onto the property, plaintiff/owner discovered that he did not own the property shown him by the seller and that most of the house was located off the insured parcel.

Plaintiff sued Transamerica, contending that the endorsements issued to Wells Fargo consisting of the "comprehensive" (Form 100) and "location" (Form 116) endorsements, were representations of fact that the house was located on the insured parcel.

Held: for Transamerica on the issue of misrepresentation.

Rationale: Transamerica made no representations to plaintiff with respect to the location of the improvements.

In rejecting plaintiff/owner's arguments the court first noted that the title policy issued to plaintiff did not provide for extended coverage. The policy specifically excepted survey coverage against loss for "discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a current survey would disclose, and which are not shown in the public records." Second, the court noted, by contrast, that the

loan policy, by virtue of the endorsements, gave coverage for survey matters to the lender.

The court held that plaintiff was not entitled to rely on alleged representations made to his lender by the title company, reasoning that a policy of title insurance is not a representation. The insurance for the risks insured is not a representation that the contingencies insured against will not occur. Therefore, the court reasoned, the endorsements were not representations at all.

Even if the endorsements were representations, the court held that they are of no benefit to plaintiff:

“There would be no liability to Walters if he relied upon such representations to his detriment, even if such reliance was reasonably foreseeable. To hold otherwise would give the purchaser the benefit of extended coverage without having paid the additional premium therefor.” **Walters**, at page 666.

The court also held that the defendant/seller was not a third party beneficiary of the title insurance contract between Transamerica and Wells Fargo and was not entitled to recover on his cross-claim against Transamerica.

2). Location Endorsement as a Representation of Fact?

The Walters case, supra, held that the owner was not entitled to rely on endorsements issued to his lender, so it was only a matter of time before the title insurer took the position that the lender itself wasn't entitled to rely on such representations. That was precisely the case in Alliance Mortgage Company v. Rothwell, 34 Cal.Rptr.2d 700 (Ca.App. 1994).

The mortgage lender made several loans to its borrowers based on borrowers' representations that the properties were 4-family unit dwellings. In fact, the units were one-unit residences and duplexes, discovered after lender foreclosed on its mortgages.

Lender sued Ticor Title Insurance Company alleging fraud, breach of title insurance contract and breach of its fiduciary duty to inspect the property. The trial court dismissed the case against Ticor on the pleadings, on the basis that since Ticor's Form 116 "location" endorsement was not a representation of fact, Ticor could not be liable for misrepresentation. The endorsement provided:

"The Company assures the insured that at the date of this policy there is located on said land [a] 4-unit Residence"

The endorsement then went on to identify the unit by street address and number of units, which were non-existent.

The appellate court disagreed. In reversing the trial court's ruling, the appellate court distinguished between an endorsement that shows the "condition of title" and one that shows the "character of the property":

"To say that a policy of title insurance 'does not constitute a representation that the contingency insured against will not occur'... does not relate to whether it may constitute a representation as to the nature of the property insured." Alliance, supra, at page 715.

3). Deletion of an Exception "Affirmative Coverage?"

The court also rejected defendant's argument that because it purchased "extended coverage", requiring deletion of the survey exception, the policy *inferentially* provided coverage for such matters:

"We disagree. Provisions regarding surveys and encroachments appear nowhere in the policy. It is simply irrelevant that the policy as initially proposed and rejected contained those exclusions." *Transamerica*, supra, at page 434.

Another division of the same court revisited the issue four years later in the case of *Denny's Restaurants, Inc. V. Security Union Title Insurance Company*, 859 P.2d 619 (Wash.App. 1993). In overruling the *Northwest* case, supra, it held that title insurance *by deletion of the standard survey exception*, i.e. giving extended coverage as to that matter, becomes an agreement to cover off-record risks, such as encroachments and boundary line problems. The *Denny's* court criticized the holding in *Northwest*, reasoning that the insured should be permitted to offer extrinsic evidence (outside the policy language) to identify the land intended to be covered by the title insurance policy.

4). Insuring Over and the "Warm Fuzzies"

In *Humphries v. West End Terrace, Inc.*, 795 S.W.2d 128 (Tenn.App. 1990), condominium unit owners discovered that their titles were unmarketable because of unreleased blanket mortgage liens on the condominium property. They sued Ticor Title Insurance Company, the insurer, on their policies. In issuing

commitments for policies, Ticor including the following:

"NOTE: Items under 2 through 18 above, are matters of record to which the estate of interest referred to herein is subject. Nonetheless, our policy will affirmatively insure the Insured against loss or damage resulting from the enforcement or attempted enforcement of said items under 2 through 18." Humphries, supra, at page 133.

The policy issued by Ticor insured against the unmarketability of title except if it arose as a result of the blanket liens. The policy also affirmatively insured the insured against loss or damage resulting from the enforcement or attempted enforcement of items 2 through 18.

The trial court dismissed the plaintiffs' petition for failure to state a cause of action. The appellate court affirmed.

First, the court rejected plaintiffs' contention that they were insured because they "relied upon the generic feeling and assurance that title insurance insured them against any and all defects...". The court rejected this "warm fuzzy" argument and held that these allegations were insufficient as a matter of law to establish liability. Humphries, supra, at page 133.

Second, the court held that plaintiffs got exactly the coverage that was stated in the policy. Ticor insured against loss or damage resulting from unmarketability of title, except if it arose as a result of items 2 through 18:

"The complaint makes no claim against Ticor for losses from enforcement - of the indebtedness and states no claim against Ticor with respect to unmarketability of the property." Humphries, supra, at page 133.

The holding in Humphries makes it clear that insuring over a title defect is limited both to its specific terms and the items insured against.

5). Endorsement Coverage limited by its own terms

The case of Pete Lien & Sons, Inc. v. First American Title Insurance Company, 478 N.W.2d 824 (S.D. 1992) raised the question of whether a title insurer is liable for attorneys fees incurred by its insured in defeating a third party claim.

First American issued a policy to plaintiff which excepted certain reserved sub-surface mineral rights. Plaintiff's lender required additional protection should the property be later mined, thus resulting in damage to surface improvements. As a result, Lien purchased a special endorsement which insured both Lien and the mortgage holder against

"loss which said insured shall sustain by reason of: Damage to existing improvements, including lawns, shrubbery or trees, resulting from the exercise of any right to use the surface of said land for the extraction or development of minerals..." Lien, supra, at page 826.

Thereafter, Lien constructed a improvements on the property. Sometime later, Lien was notified that the holder of the sub-surface mineral rights planned to search for minerals on Lien's property. Lien tendered a claim to First American and demanded that the insurer defeat the mineral rights claim. First American refused and denied coverage, claiming that it had no duty to undertake such an action under the policy.

Lien defeated the mineral rights claim himself and then sued First American for attorneys fees. The trial court held First

American liable for Lien's fees. First American appealed. Reversed on appeal.

The appellate court found that without the special endorsement, the right of third parties to conduct mining operations would not be covered under the policy. It also found that Lien suffered no actual loss to the surface estate because the mineral rights claimant was defeated.

First, Lien argued that the special endorsement modified the exclusions from coverage and granted him coverage to challenge and defeat the mineral rights claim. The court, finding no express language modifying the policy and no conflict between the policy and the special endorsement, rejected Lien's first argument stating:

"The special endorsement clearly states it was meant to insure against the *potential risk of damage to the surface estate* should someone properly exercise mining rights. As a result, the special endorsement does not modify the exclusions." Lien, supra, at page 826. (emphasis in the original)

The court then proceeded to address Lien's second argument, that a showing of actual damages to the surface estate is not necessary to recover attorneys fees in defeating the mineral rights claim. In rejecting that argument, the court stated:

"At the time the First American policy was issued, Lien had record title to the surface rights. Both parties were aware that Lien did not own the minerals and that the patent to the land permitted mining claims to be located by third parties. The special endorsement clearly states it is meant to insure against the potential risk of damage to the surface estate should someone properly exercise mining rights. *In fact, if Nygaard had properly followed the procedural requirements, there would*

be nothing that Lien could do except make a claim against its policy for whatever damage was incurred to the surface estate." **Lien**, supra, at page 827. (emphasis in the original)

The court found no ambiguity in the title insurance contract, and finding that Lien had incurred no actual damage to the surface estate, which is what the special endorsement insured against, it reversed the trial court's judgment awarding Lien its attorneys fees in defeating the claim.

II. ALTA Standard Form Endorsements

The American Land Title Association has adopted a number of standard endorsements. An ALTA endorsement is commonly referred to as an ALTA Form X, where X is the endorsement number. The ALTA endorsements are the most commonly used title endorsements in the United States. Every major title insurance underwriter has made them available for use in Missouri.

The ALTA endorsement series, as adopted by First American Title Insurance Company of Santa Ana, California, is included in the materials, and has been reprinted with its permission.

ALTA 1 insures a mortgage lender against certain street assessment liens which may prime the lien of its mortgage. This endorsement is frequently made part of the policy in the Western United States and certain other parts of the Country.

ALTA 2 is the Truth-in-Lending endorsement. It is offered to mortgage lenders to insure against loss of the mortgage lien by reason of a valid exercise of the right of rescission under the federal Truth-in-Lending act.

ALTA 3.0 and 3.1 are zoning endorsements. Both of these endorsements are used primarily in commercial transactions to insure zoning of the land. The 3.0 endorsement is available for unimproved land. By contrast, the 3.1 endorsement is used for improved land and signifies that the improvements are in conformity with building line, setback and height requirements. Issuance of a Form 3.0 or 3.1 endorsement requires furnishing the title insurer with applicable zoning ordinances and use classifications of the subject property. Most title insurers also require a certified ALTA "as built" or "foundation" survey as a condition for issuing the 3.1 endorsement.

ALTA 4.1 is the owner's Condominium endorsement. It insures the owner of the condominium unit and percentage of common elements for loss or damages sustained as a result of the invalidity of the condominium, against failure of the condominium to comply with applicable laws, against violations of restrictive covenants as of the date of policy, against the existence of condominium liens due and unpaid as of date of policy, against failure of the unit to be taxed as a separate real estate parcel, against forced removal of encroachments upon any other unit or common elements, and against failure of title resulting from a right of first refusal that was exercised or could have been exercised at date of policy.

ALTA 4.0 is the lender's Condominium endorsement. It is almost identical to ALTA Form 4.1, except that it insures the lender against loss or damage resulting from loss of priority of

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its mortgage lien by reason of unpaid condominium charges and assessments existing as of the date of policy.

ALTA 5.1 is the Planned Unit Development endorsement for owners. Similar to the ALTA 4.0 condominium endorsement, it applies to Planned Unit Developments.

ALTA 5.0 is the Planned Unit Development endorsement for mortgage lenders. Similar to the ALTA 4.1 condominium endorsement, it applies to Planned Unit Developments.

ALTA 6.0, 6.1 and 6.2 are variable rate endorsements available to mortgage lenders. The 6.0 series insures the mortgage lender against loss of priority caused by changes in the rate of interest. The 6.1 endorsement modifies the 6.0 endorsement by excluding coverage by reason of the failure of the insured mortgage to comply with statutes and regulations concerning variable rate mortgages. The 6.2 "negative amortization" endorsement insures against loss of priority caused by charging interest on interest and increases in the unpaid principal balance of the loan resulting from the addition of unpaid interest. None of the 6.0 series of endorsements insures the mortgage lender against violations of any usury or consumer credit protection or truth-in-lending law.

ALTA 7 is the Manufactured Housing Unit endorsement. This endorsement is available to a mortgage lender and extends the policy definition of "land" to include the manufactured housing unit located on the on the land at date of policy. This endorsement, while available, is rarely, if ever, used in Missouri be-

cause the statutory requirements for lien perfection on manufactured homes do not provide for the recording of the mortgage in the land records. Instead, liens are perfected by endorsement to the certificate of title and filing of same with the state Director of Revenue. See Section 700.350, et seq. R.S.MO. (1994).

ALTA 8.1 is the Environmental Liens endorsement. It is primarily used to give owners of residential property (1 to 4 family dwelling units) protection against loss or damage sustained as a result of environmental protection liens recorded in the public records and not excepted from coverage under Schedule B of the policy. Although this endorsement originally contemplated coverage for residential owners, some title insurers have allowed their issuance in the case of commercial real estate as well.

ALTA 9 insures a mortgage lender from loss of priority resulting from covenants, conditions and restrictions which may prime the lien of the mortgage, and adds additional assurances against loss of priority resulting from violations thereof, encroachments, future violation of covenants, conditions or restrictions, damage to improvements resulting from encroachments for maintenance of easements and surface damages from the exercise of mineral rights. This endorsement is sometimes, and erroneously, called the "comprehensive" endorsement.

ALTA 10 and 10.1 are the newest of the ALTA endorsements. Both these endorsements are designed for use with the ALTA Loan Policy to insure the validity and priority of an assignment of

the insured mortgage lien. Form 10.1 is somewhat broader than Form 10, in that it insures the priority of the assignment against matters intervening between the date of the original mortgage and the-date of the assignment.

III. Advanced Endorsement Usage

In addition to the ALTA standard form endorsements, other standard and specialized endorsements may be available for use in real estate transactions. The California Land Title Association (CLTA), for example, has promulgated a number of endorsements that are used not only in California, but in other states as well. Moreover, virtually every national title insurance underwriter has developed its own standardized endorsements exclusively for the use of its branch offices and agents.

Several CLTA and First American Title Insurance Company endorsements are included in the materials, and they have been reprinted with the permission of First American Title.

The following discussion is based upon the premise that the need for specialized endorsements is primarily the result of the increasing complexity of commercial real estate transactions. While specialized endorsements may sometimes be available for residential real estate transactions, they are primarily used in the context of "high liability" commercial transactions. The following endorsements are only a few of the many endorsements that fit into the category of "non-standard" or specialized endorsements. The names and terms of these endorsements may vary from company to company and from state to state. Some of these

endorsements may not be available in all states because of varying rules and requirements by regulators. Unless otherwise stated, the following endorsements may be available in Missouri from some underwriters.

A. Last Dollar Endorsement

In many instances, a loan will be secured by both real and personal property and the mortgage amount will be equal to the full amount of the loan. The title policy insuring the lender, however, will be written only for the actual value of the real property secured by the mortgage. The amount insured, therefore, will be less than the amount of the loan. The terms of the mortgage (and security agreement) normally provide for an amortization of the debt on both the real and personal property and that any payment received by the lender will be applied against the full loan amount rather than reduce the debt *pro rata* against the real and personal property.

The Last Dollar Endorsement provides that all payments made on the loan will be applicable to the personal property portion of the debt. By doing this, the portion of the loan secured by real property would be the last paid off and permit the title insurance to remain in effect until the full loan has been paid off.

B. Revolving Credit Endorsements

The use of "creative" financing has established a need to insure unusual loans, such as variable rate loans (for which ALTA Form 6 is used) and revolving credit loans. "Revolving credit"

means that the loan provides for re-borrowing up to the original amount of the loan after the borrower has borrowed and paid back all or a portion of the original loan. In many states, issues of lien priority can arise when a "zero balance" occurs and the mortgage remains unreleased. For this reason, many mortgage lenders need title insurance that insures the retention of priority when readvances are made under the revolving credit agreement.

There are as many variations of revolving credit endorsements as there are variations of revolving credit loans. The endorsements share, however, certain common characteristics. Revolving credit endorsements provide insurance for the priority of the revolving credit advance. Moreover, they are conditioned and limited in accordance with their terms. Most endorsements of this type contain provisions that title to the real property must be in the original borrower. Additionally, coverage under these types of endorsements is limited when intervening liens and other matters are known to exist or the advance is made while the loan is in default. That normally means that these endorsements will exclude exceptions for intervening federal tax liens and other voluntary and involuntary liens and encumbrances known to the insured at the date of the advance, bankruptcies and environmental protection liens.

C. Shared Appreciation Endorsements

The shared appreciation loan is not truly a revolving credit loan, although it contains many of the same features. Instead,

these loans, sometimes called "equity kicker Loans", provide that the mortgage lender will receive a portion of any increased value of the property during the term of the loan.

Liability under traditional lenders policies of title insurance is reduced *pro tanto* as the outstanding loan balance is reduced over the life of the loan. The shared appreciation endorsement alters this reduction in the insurer's potential liability by providing that the amount of damages payable to the insured will be increased by the lender's share of the appreciated value of the property.

D. Non-Imputation Endorsements

When the ownership interest of an existing partnership or corporation changes, the owners of the new interest sometimes deem it desirable to obtain a new owners policy of title insurance to demonstrate that the property claimed to be owned by the partnership or corporation is, in fact, so owned. A new partner in a partnership or shareholder in a corporation, however, will be bound by the knowledge of former partners or shareholders. This, of course, presents a potentially serious problem for the new owner in terms of defenses and exclusions available to the title insurer regarding coverage under the title insurance policy.

Exclusion 3(a) of the title policy provides no coverage for matters suffered, assumed, created or agreed to by the insured. Exclusion 3(b) of the title policy provides no coverage to an insured for loss resulting by reason of matters known to the

insured, not recorded in the public records and not otherwise known to the title insurer.

The non-imputation endorsement prevents the imputation of knowledge from the partnership or the corporation to the new partner or shareholder. The endorsement is usually drafted so that it will pay the incoming partner or shareholder for his damage, while maintaining the title insurer's defenses under the policy exclusions against the other partners or shareholders who could have collected under the policy because of their knowledge.

The requirements for a non-imputation endorsement vary from underwriter to underwriter, but, in general, most require affidavits from the incoming partners or shareholders to the effect that they are without knowledge of facts that will affect coverage under the policy. Additionally, underwriters usually require indemnity agreements from the outgoing and remaining partners or shareholders along with affidavits that they have no knowledge of any facts that may affect coverage under the policy.

E. Fairway or Policy Continuation Endorsement

The definition of the named insured in the policy restricts the continuation of coverage under the owner's policy to situations where the transfer of title is by operation of law as distinguished from voluntary transfer. Instances of transfer by operation of law include transfers by both testate and intestate succession.

In many states a partnership is dissolved by the death of a partner or other transfer of partners in and out of the partner-

ship. The Fairway endorsement is designed to allow the continuance of the policy coverage to the partnership after the change has been made. Although this endorsement provides for the continuation of coverage under the policy, it does not insure that the property is owned by the new partnership.

F. Usury Endorsement

The loan policy insures the validity and enforceability of the lien of the insured mortgage, but Exclusion 5 removes coverage where the invalidity or unenforceability results from usury. A usury endorsement insures that the interest charged by the insured is not usurious. This endorsement is not available in Missouri.

G. Doing Business Endorsement

All states restrict the conduct of business in the state by an entity that is not licensed or registered to do business in the state. This endorsement is designed to assure a lender that the lien of the insured mortgage will not be invalidated by the lender's failure to comply with the "doing business" laws of the state.

H. Tie-In Endorsement

This endorsement is used primarily in the reinsurance market. All title insurers require that a part of the liability in large transactions be ceded to another title insurance company for reinsurance. Occasionally, policies are issued either without considering the need for reinsurance or without knowledge that the customer requires it. Frequently, in these cases, the

mortgage encumbers multiple parcels in multiple states or counties and is recorded in each place for the full amount of the loan. Policies are issued in each county and state for each encumbered parcel.

The tie-in endorsement permits the insured to tie all of these policies together and permits the insured to take advantage of any increases in value should there be a loss, thereby allowing the insured to rely on the increased value of the property where the loss occurs.

I. First Dollar Endorsement

When several parcels of property are used as security for the same mortgage, a problem can arise when a title defect occurs on one parcel only. The ALTA loan policy is designed to provide a lender with loss coverage when a title defect lowers the value of the security so that it is less than the amount of the mortgage. As long as the lender can foreclose on the property and recover from a sale the full amount of the loan, including interest and costs, provided that amount is not in excess of the policy limits, the lender has no loss.

A First Dollar endorsement can be obtained providing that if the value of the parcel with the title defect is less than 10 percent of the full value of all the property, the title insurer will pay the loss and not require that the lender foreclose on all property to determine if there is a loss.

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of

any assessments for street improvements under construction or completed at Date of Policy not excepted in Schedule B which now have gained or hereafter may gain priority over the lien of the insured mortgage.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

ALTA Form 1 (Street Assessments), (revised 9/27/86, effective 6/1/87)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby insures the Insured against loss or damage which the Insured shall sustain by reason of

any final judgment of a court of competent jurisdiction that either the lien of the insured mortgage has been terminated or the title of the Insured who has acquired all or any part of the estate or interest in the land described in Schedule A by foreclosure, trustee’s sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage, has been defeated by a valid exercise of the right of rescission conferred by the Federal Truth-in-Lending Act and that the right or rights of rescission existed because neither the credit transaction evidenced by the insured mortgage nor the right of rescission thereof was exempted or excepted by the provisions of Regulation Z (12 CFR 226).

The total liability of the Company under the policy and any endorsements therein shall not exceed, in the aggregate, the face amount of the policy and costs which the Company is obligated under the conditions and stipulations thereof to pay.

This endorsement is made a part of the policy and is subject to the schedules, conditions and stipulations therein, except as modified by the provisions hereof

First American Title Insurance Company

By: _____
Authorized Signatory

ALTA Form 2
F.A. Form 33
CLTA Form 125

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the Insured against loss or damage sustained by reason of any incorrectness in the assurance that, at Date of Policy:

1. According to applicable zoning ordinances and amendments thereto, the land is classified Zone _____.
2. The following use or uses are allowed under that classification subject to compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments thereto, including but not limited to the securing of necessary consents or authorizations as a prerequisite to the use or uses:

There shall be no liability under this endorsement based on the invalidity of the ordinances and amendments thereto until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses.

Loss or damage as to the matters insured against by this endorsement shall not include loss or damage sustained or incurred by reason of the refusal of any person to purchase, lease or lend money on the estate or interest covered by this policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 123.1
ALTA Form 3 (Zoning),
(revised 9/27/86, effective 6/1/87)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

1. The Company insures the Insured against loss or damage sustained by reason of any incorrectness in the assurance that, at Date of Policy:

(a) According to applicable zoning ordinances and amendments thereto, the land is classified Zone _____.

(b) The following use or uses are allowed under that classification subject to compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments thereto, including but not limited to the securing of necessary consents or authorizations as a prerequisite to the use or uses:

2. The Company further insures against loss or damage arising from a final decree of a court of competent jurisdiction

(a) prohibiting the use of the land, with any structure presently located thereon, as specified in paragraph I (b); or

(b) requiring the removal or alteration of the structure on the basis that, at Date of Policy, the ordinances and amendments thereto have been violated with respect to any of the following matters:

(i) Area, width or depth of the land as a building site for the structure;

(ii) Floor space area of the structure;

(iii) Setback of the structure from the property lines of the land; or

(iv) Height of the structure.

There shall be no liability under this endorsement based on the invalidity of the ordinances and amendments thereto until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses.

Loss or damage as to the matters insured against by this endorsement shall not include loss or damage sustained or incurred by reason of the refusal of any person to purchase lease or lend money on the estate or interest covered by this policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 123.2
ALTA Form 3.1
(Zoning-completed structure)

ENDORSEMENT**Attached to Policy No. _____****Issued By*****First American Title Insurance Company***

The Company insures the Insured against loss or damage sustained by reason of:

1. The failure of the unit identified in Schedule A and its common elements to be part of a condominium within the meaning of the condominium statutes of the jurisdiction in which the unit and its common elements are located.
2. The failure of the documents required by the condominium statutes to comply with the requirements of the statutes to the extent that such failure affects the title to the unit and its common elements.
3. Present violations of any restrictive covenants which restrict the use of the unit and its common elements and which are contained in the condominium documents, except violations relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not excepted in Schedule B. The restrictive covenants do not contain any provisions which will cause a forfeiture or reversion of title.
4. The priority of any lien for charges and assessments at Date of Policy provided for in the condominium statutes and condominium documents over the lien of any insured mortgage identified in Schedule A.
5. The failure of the unit and its common elements to be entitled by law to be assessed for real property taxes as a separate parcel.
6. Any obligation to remove any improvements which exist at Date of Policy because of any present encroachments or because of any future unintentional encroachment of the common elements upon any unit or of any unit upon the common elements or another unit.
7. The failure of title by reason of a right of first refusal to purchase the unit and its common elements which was exercised or could have been exercised at date of policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions

thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 17
CLTA Form 115.1 (Rev. 3/27/92)
ALTA Form 4
Condominium

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the Insured against loss or damage sustained by reason of

1. The failure of the unit identified in Schedule A and its common elements to be part of a condominium within the meaning of the condominium statutes of the jurisdiction in which the unit and its common elements are located.
2. The failure of the documents required by the condominium statutes to comply with the requirements of the statutes to the extent that such failure affects the title to the unit and its common elements.
3. Present violations of any restrictive covenants which restrict the use of the unit and its common elements and which are contained in the condominium documents, except violations relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not excepted in Schedule B. The restrictive covenants do not contain any provisions which will cause a forfeiture or reversion of title.
4. Any charges or assessments provided for in the condominium statutes and condominium documents due and unpaid at Date of Policy.
5. The failure of the unit and its common elements to be entitled by law to be assessed for real property taxes as a separate parcel.
6. Any obligation to remove any improvements which exist at Date of Policy because of any present encroachments or because of any future unintentional encroachment of the common elements upon any unit or of any unit upon the common elements or another unit.
7. The failure of title by reason of a right of first refusal to purchase the unit and its common elements which was exercised or could have been exercised at Date of Policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither

modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

ALTA Form 4.1
(Condominium) (10/17/92)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the Insured against loss or damage sustained by reason of

1. Present violations of any restrictive covenants referred to in Schedule B which restrict the use of the land, except violations relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not excepted in Schedule B. The restrictive covenants do not contain any provisions which will cause a forfeiture or reversion of title.
2. The priority of any lien for charges and assessments at Date of Policy in favor of any association of homeowners which are provided for in any document referred to in Schedule B over the lien of any insured mortgage identified in Schedule A.
3. The enforced removal of any existing structure on the land (other than a boundary wall or fence) because it encroaches onto adjoining land or onto any easements.
4. The failure of title by reason of a right of first refusal to purchase the land which was exercised or could have been exercised at Date of Policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

ALTA Form 5
(Planned Unit Development)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the Insured against loss or damage sustained by reason of

- 1. Present violations of any restrictive covenants referred to in Schedule B which restrict the use of the land, except violations relating to environmental protection unless a notice of a violation thereof has been recorded or tiled in the public records and is not excepted in Schedule B. The restrictive covenants do not contain any provisions which will cause a forfeiture or reversion of title.
- 2. Any charges or assessments in favor of any association of homeowners which are provided for in any document referred to in Schedule B due and unpaid at Date of Policy.
- 3. The enforced removal of any existing structure on the land (other than a boundary wall or fence) because it encroaches onto adjoining land or onto any easements.
- 4. The failure of title by reason of a right of first refusal to purchase the land which was exercised or could have been exercised at Date of Policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of

- 1. The invalidity or unenforceability of the lien of the insured mortgage resulting from the provisions therein which provide for changes in the rate of interest,
- 2. Loss of priority of the lien of the insured mortgage as security for the unpaid principal balance of the loan, together with interest as changed in accordance with the provisions of the insured mortgage, which loss of priority is caused by the changes in the rate of interest.

“Changes in the rate of interest”, as used in this endorsement, shall mean only those changes in the rate of interest calculated pursuant to the formula provided in the insured mortgage at Date of Policy.

This endorsement does not insure against loss or damage based upon

- (a) usury, or
- (b) any consumer credit protection or truth in lending law.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto, except that the insurance afforded by this endorsement is not subject to Section 3(d) of the Exclusions From Coverage. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

**By: _____
Authorized Signatory**

CLTA Form 111.5
ALTA Form 6
(Variable Rate Mortgage)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the owner of the indebtedness insured by the insured mortgage against loss or damage sustained by reason of:

1. The invalidity or unenforceability of the lien of the insured mortgage resulting from the provisions therein which provide for changes in the rate of interest.
2. Loss of priority of the lien of the insured mortgage as security for the unpaid principal balance of the loan, together with interest as changed in accordance with the provisions of the insured mortgage, which loss of priority is caused by the changes in the rate of interest.

“Changes in the rate of interest”, as used in this endorsement, shall mean only those changes in the rate of interest calculated pursuant to the formula provided in the insured mortgage at Date of Policy.

This endorsement does not insure against loss or damage by reason of the failure of the insured to comply with the following statutes or regulations concerning variable rate mortgages: _____.

This endorsement does not insure against loss or damage based upon (a) usury, or (b) any consumer credit protection or truth in lending law.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto, except that the insurance afforded by this endorsement is not subject to Section 3(d) of the Exclusions From Coverage. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____

Authorized Signatory

CLTA Form 111.6

ALTA Form 6.1 (Variable Rate Mortgage-regulations), (revised 9/27/86, effective 6/1/87)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the owner of the indebtedness insured by the insured mortgage against loss or damage sustained by reason of:

1. The invalidity or unenforceability of the lien of the insured mortgage resulting from the provisions therein which provide for (a) interest on interest; (b) changes in the rate of interest; or (c) the addition of unpaid interest to the principal balance of the loan.
2. Loss or priority of the lien of the insured mortgage as security for the principal balance of the loan, including any unpaid interest which was added to principal in accordance with the provisions of the insured mortgage, interest on interest, or interest as changed in accordance with the provisions of the insured mortgage, which loss of priority is caused by (a) changes in the rate of interest; (b) interest on interest; or (c) increases in the unpaid principal balance of the loan resulting from the addition of unpaid interest.

“Changes in the rate of interest”, as used in this endorsement shall mean only those changes in the rate of interest calculated pursuant to the formula provided in the insured mortgage at Date of Policy.

This endorsement does not insure against loss or damage based upon (a) usury, or (b) any consumer credit protection or truth-in-lending law.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto, except that the insurance afforded by this endorsement is subject to neither Section 3(d) of the Exclusions From Coverage nor Section 8(d) of the Conditions and Stipulations. Except to the extent expressly slated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 111.8

ALTA Form 6.2

(Variable Rate Mortgage-Negative Amortization), revised 9/27/86, effective 6/1/87

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The term "land" as defined in this policy includes the manufactured housing unit located on the land at Date of Policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 116.5 (Rev. 3-13-87)
ALTA Form 7 (6-1-87)
Manufactured Housing Unit

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The insurance afforded by this endorsement is only effective if the land is used or is to be used primarily for residential purposes.

The Company insures the insured against loss or damage sustained by reason of lack of priority of the lien of the insured mortgage over:

- (a) Any environmental protection lien which, at Date of Policy, is recorded in those records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matter 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, except as set forth in Schedule B; or
- (b) any environmental protection lien provided for by any state statute in effect at Date of Policy, except environmental protection liens provided for by the following state statutes:

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 35
CLTA Form 110.9
ALTA Form 8.1 (Environmental Protection Lien)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of:

1. Any incorrectness in the assurance that, at Date of Policy:
 - (a) There are no covenants, conditions or restrictions under which the lien of the mortgage referred to in Schedule A can be divested, subordinated or extinguished, or its validity, priority or enforceability impaired.
 - (b) Unless expressly excepted in Schedule B:
 - (1) There are no present violations on the land of any enforceable covenants, conditions or restrictions, nor do any existing improvements on the land violate any building setback lines shown on a plat of subdivision recorded or filed in the public records.
 - (2) Any instrument referred to in Schedule B as containing covenants, conditions or restrictions on the land does not, in addition, (i) establish an easement on the land; (ii) provide a lien for liquidated damages; (iii) provide for a private charge or assessment; (iv) provide for an option to purchase, a right of first refusal or the prior approval of a future purchaser or occupant.
 - (3) There is no encroachment of existing improvements located on the land onto adjoining land, nor any encroachment onto the land of existing improvements located on adjoining land.
 - (4) There is no encroachment of existing improvements located on the land onto that portion of the land subject to any casement excepted in Schedule B.
 - (5) There are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or tiled in the public records.

2. Any future violation on the land of any existing covenants, conditions or restrictions occurring prior to the acquisition of title to the estate or interest in the land by the Insured, provided the violation results in:
 - (a) Invalidity, loss of priority, or unenforceability of the lieu of the insured mortgage;
or
 - (b) loss of title to the estate or interest in the land if the Insured shall acquire title in satisfaction of the indebtedness secured by the insured mortgage.
3. Damage to existing improvements, including lawns, shrubbery or trees:
 - (a) which are located on or encroach upon that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved;
 - (b) resulting from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B,
4. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment excepted in Schedule B.
5. Any final court order or judgment denying the right to maintain any existing improvements on the land because of any violation of covenants, conditions or restrictions or building setback lines shown on a plat of subdivision recorded or filed in the public records.

Wherever in this endorsement the words “covenants, conditions or restrictions” appear, they shall not be deemed to refer to or include the terms, covenants, conditions or limitations contained in an instrument creating a lease.

As used in paragraphs 1 (b)(1) and 5, the words “covenants, conditions or restrictions” shall not be deemed to refer to or include any covenants, conditions or restrictions relating to environmental protection.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 42
CLTA Form 100.2 (Rev. 3/27/92)
ALTA Form 9 (Restrictions, Encroachments, Minerals)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

- 1. The name of the insured is amended to read: _____
- 2. The Company insures the insured against loss or damage sustained by reason of:
 - (a) The failure of the following assignment to vest title to the insured mortgage in the insured: _____.
 - (b) Any modification, partial or full reconveyance, release or discharge of the lien of the insured mortgage recorded on or prior to Date of Endorsement in the public records other than those shown in the Policy or a prior endorsement, except:

This endorsement shall be effective provided that the note or notes secured by the lien of the insured mortgage have been properly endorsed and delivered to the insured at Date of Endorsement.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the amount thereof.

Date of Endorsement: _____

First American Title Insurance Company

By: _____
Authorized Signatory

Assignment of Mortgage

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

1. The name of the insured is amended to read: _____
2. The Company insures the insured against loss or damage sustained by reason of:
 - (a) The failure of the following assignment to vest title to the insured mortgage in the insured: _____;
 - (b) Any liens for taxes or assessments that are due and payable on Date of Endorsement, except; _____;
 - (c) Lack of priority of the lien of the insured mortgage over defects, liens or encumbrances other than those shown in the Policy or a prior endorsement, except: _____;
 - (d) Notices of federal tax liens or notices of pending bankruptcy proceedings affecting the title to the estate or interest in the land described in Schedule A of the Policy and recorded subsequent to the Date of Policy in the public records and on or prior to Date of Endorsement except: _____;
 - (e) Any modification, partial or full reconveyance, release or discharge of the lien of the insured mortgage recorded on or prior to Date of Endorsement in the public records other than those shown in the Policy or a prior endorsement, except: _____
_____;

This endorsement shall be effective provided that the note or notes secured by the lien of the insured mortgage have been properly endorsed and delivered to the insured at Date of Endorsement.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the amount thereof

Date of Endorsement: _____

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 104.13
ALTA Form 10.1 (Revised 10-21-95)
Assignment of Mortgage with Priority Coverage

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby insures against loss which the insured shall sustain by reason of any of the following matters:

1. Any incorrectness in the assurance which the Company hereby gives:
 - (a) That there are no covenants, conditions or restrictions under which the lien of the mortgage referred to in Schedule A can be cut off, subordinated, or otherwise impaired;
 - (b) That there are no present violations on the land of any enforceable covenants, conditions or restrictions;
 - (c) That, except as shown in Schedule B, there are no encroachments of buildings, structures or improvements located on the land onto adjoining lands, nor any encroachments onto the land of buildings, structures or improvements located on adjoining lands.

2.
 - (a) Any future violations on the hand of any covenants, conditions or restrictions occurring prior to acquisition of title to the estate or interest referred to in Schedule A by the insured, provided such violations result in impairment or loss of the lien of the mortgage referred to in Schedule A, or result in impairment or loss of the title to the estate or interest referred to in Schedule A if the insured shall acquire such title in satisfaction of the indebtedness secured by the insured mortgage;
 - (b) Unmarketability of the title to the estate or interest referred to in Schedule A by reason of any violations on the land, occurring prior to acquisition of title to the estate or interest referred to in Schedule A by the insured, of any covenants, conditions or restrictions.

3. Damage to existing improvements, including lawns, shrubbery or trees
 - (a) Which are located or encroach upon that portion of the land subject to any

easement shown in Schedule B, which damage results from the exercise of the right to use or maintain such easement for the purposes for which the same was granted or reserved;

- (b) Resulting from the exercise of any right to use the surface of the land for the extraction or development of the minerals excepted from the description of the land or shown as a reservation in Schedule B.

- 4. Any final court order or judgment requiring removal from any land adjoining the land of any encroachment shown in Schedule B.

Wherever in this endorsement any or all the words “covenants, conditions or restrictions” appear, they shall not be deemed to refer to or include the terms, covenants, conditions or restrictions contained in any lease.

For purposes of this endorsement, the words “covenants,” “conditions” or “restrictions” shall not be deemed to refer to or include any covenants, conditions or restrictions relating to environmental protection, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy and is not excepted in Schedule B.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 100 (Revised 9-9-94)
ALTA-Lender

ALTA Form 116

Designation of Improvements, Address

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company assures the insured that at Date of Policy there is located on the land (description of improvement e.g. "a residential structure") known as (street address) and that the map attached to this policy shows the correct location and dimensions of the land according to the public records.

The Company hereby insures the insured against loss which the insured shall sustain in the event that the assurance herein shall prove to be incorrect.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

CLTA Form 116 (Rev. 9-10-93)
ALTA-Lender

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby insures the owner of the indebtedness secured by the mortgage referred to in paragraph _____ of Schedule _____ against loss which said Insured shall sustain by reason of the following:

Damage to existing improvements, including lawns, shrubbery or trees resulting from the exercise of any right to use the surface of said land for the extraction or development of the minerals excepted from the description of said land or shown as a reservation in Schedule B.

The total liability of the Company under said policy and any endorsements therein shall not exceed, in the aggregate, the face amount of said policy and costs which the Company is obligated under the conditions and stipulations thereof to pay.

This endorsement is made a part of said policy and is subject to the schedules, conditions and stipulations therein, except as modified by the provisions hereof.

First American Title Insurance Company

By: _____
Authorized Signatory

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

1. The Company assures the Insured that advances made subsequent to the date of this Policy pursuant to the terms of the _____ (“Agreement”), which are secured by the insured mortgage, shall be included within the coverage of the Policy, not to exceed the face amount of the policy, provided that said vestee is the owner of the estate or interest covered by said policy at the date any such advances are made and subject to the limitations hereinafter set forth,

2. The Company further insures the Insured against loss which the Insured shall sustain due to the failure of subsequent advances to have the same priority over liens, encumbrances and other matters disclosed by the public records as advances secured by the insured mortgage as of Date of Policy, except for the following matters, if any, disclosed by the public records subsequent to the Date of Policy:
 - a. Federal tax liens;

 - b. Liens, encumbrances or other matters, the existence of which are actually known to the Insured prior to date of such advances, if the advance is made subsequent to the occurrence of a default (of which the Insured has actual knowledge) under the terms of the Agreement and prior to the cure by the vestee or waiver by the Insured of such default;

 - c. Bankruptcies affecting the estate or interest of the vestee prior to date of such advances; and

 - d. Taxes or assessments of any taxing authority that levies taxes or assessments on real property.

3. The Company further insures the Insured against loss which the Insured shall sustain by reason of:
 - a. The invalidity or unenforceability of the lien of the insured mortgage resulting from the provisions of the Agreement which provide for changes in the rate of interest; and

- b. Loss of priority of the lien of the insured mortgage as security for the unpaid principal balance of the loan evidenced by the Agreement, together with interest as changed in accordance with the provisions of the Agreement, which loss of priority is caused by said changes in the rate of interest.
4. The Company further assures the Insured that the advances described above shall not constitute “additional principal indebtedness”, as referred to in paragraph 8(b) if this is an ALTA Loan Policy, or paragraph 6(a)(iii) if this is a CLTA Standard Coverage Policy, of the conditions and stipulations of the Policy for the purpose of limiting liability under the provisions thereof.

This endorsement also does not insure against loss or damage based upon:

- a. usury;
- b. any consumer credit protection or Truth-in-Lending law; or
- c. Environmental protection liens.

“Changes in the rate of interest”, as used in this endorsement shall mean only those changes in the rate of interest calculated pursuant to the formula provided in the Agreement.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto, except that the insurance afforded by this endorsement is not subject to paragraph 3(d) of the Exclusions from Coverage if this is an ALTA Loan Policy or paragraph 9(d) of Part I, Schedule B, if this is a CLTA Standard Coverage Policy. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any prior endorsements, nor does it extend the effective date of the Policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 25 (Rev. 1/93)
(CLTA/1970, 1984 ALTA Loan Policies)

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company acknowledges that the land described in Schedule A of this Policy is part of the security for an indebtedness in the amount of \$ _____ from _____ to the insured which indebtedness is also secured by mortgages or deeds of trust which are insured concurrently by the following policies:

Policy Number:	County:	State:	Amount:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Notwithstanding the provisions in Paragraph 7 (a)(i) of the Conditions and Stipulations of this Policy, the insurance coverage afforded in this Policy is aggregated with the insurance coverage of the policies identified above so the effective insurance coverage is ~ and said amount shall be available for any loss or losses with respect to the property covered by this Policy and the policies listed above. The total liability of the Company under this and all policies identified above shall not exceed such aggregate amount but the Company’s liability under this Policy for the land described in Schedule A remains limited by the provisions of Paragraph 7 (a)(ii) and 7 (a)(iii) of the Conditions and Stipulations of this Policy. Any payment by the Company on this or any of the Policies listed above shall reduce the aggregate liability of the Company under all of said policies.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any prior endorsements, nor does it extend the effective date of the Policy and any prior endorsements.

[Note: When this endorsement is attached to a 1970 form policy, the reference to paragraph 7 (a)(i) must be changed to paragraph 6 (a)(ii), and the reference to paragraph 7 (a)(ii) must be changed to paragraph 6 (a)(iii), and the reference to paragraph 7 (a)(iii) must be changed to paragraph 6 (a)(i).]

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 49 (Revised 11-15-95)
ALTA Lenders Aggregation

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

This policy is issued in conjunction with the following policies:

Policy Number:	County:	State:	Amount:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Notwithstanding the provisions in Paragraph 7 (a)(i) of the Conditions and Stipulations of this Policy, the insurance coverage afforded in this Policy is aggregated with the insurance coverage of the policies identified above so the effective insurance coverage is \$ _____ and said amount shall be available for any loss or losses with respect to the property covered by this Policy and the policies listed above. The total liability of the Company under this and all policies identified above shall not exceed such aggregate amount but the Company's liability under this Policy for the land described in Schedule A remains limited by the provisions of Paragraph 7 (a)(ii) of the Conditions and Stipulations of this Policy. Any payment by the Company on this or any of the Policies listed above shall reduce the aggregate liability of the Company under all of said policies.

This endorsement is made a part of the Policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the Policy and any prior endorsements, nor does it extend the effective date of the Policy and any prior endorsements.

[Note: When this endorsement is attached to a 1970 form policy, the reference to paragraph 7(a)(i) must be changed to paragraph 6(a)(ii) and the reference to paragraph 7(a)(ii) must be changed to paragraph 6(a)(i).]

First American Title Insurance Company

**By: _____
Authorized Signatory**

F.A. Form 49.1 (Revised 11-15-95)
ALTA Owners Aggregation

ENDORSEMENT**Attached to Policy No. _____****Issued By*****First American Title Insurance Company***

In the event a defect, lieu, encumbrance or other matter insured against by this policy creates a loss or series of losses which exceed in the aggregate ten percent (10%) of the amount of insurance shown in Schedule A of this Policy, the amount which the Company shall be liable to pay shall be determined without requiring the insured to pursue its remedies against other collateral securing the indebtedness which is also secured by the insured mortgage. Provided, however, that nothing in this endorsement shall affect or impair the Company's right of subrogation with respect to the affected collateral. The Company agrees that its right of subrogation shall be subordinate to the rights and remedies which any claimant insured by this Policy has or may have against the affected collateral.

The liability of the Company under this policy shall in no case exceed the least of:

- (i) the amount of insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in paragraph 2(c) of the conditions and stipulations; or
- (ii) the amount of the indebtedness secured by the insured mortgage as determined under paragraph 9 of the conditions and stipulations, at the time the loss or damage insured against hereunder occurs, together with interest thereon; or
- (iii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien, encumbrance or other matter insured against by this policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

[Note: When this endorsement is attached to a 1970 form policy, the reference to paragraph 2(c) must be changed to paragraph 2(a), and the reference to paragraph 9 must be changed to paragraph 8.]

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 50 (Revised 11-15-95)
First Loss Payable
ALTA Loan Policy

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

By the issuance of this loan policy in the amount of \$ _____, which is less than the face amount of the mortgage insured and described in Schedule A, the Company agrees that until such time as the aggregate indebtedness outstanding is reduced to the sum of \$ _____, the amount of coverage afforded under this policy will not be reduced. Any payments which would have the effect of reducing the indebtedness below the sum of \$ _____ will concurrently reduce the coverage under this policy by \$1 .00 for each \$1.00 of reduction of the indebtedness thereafter made.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 51 (Rev. 7/92)
Last Dollar Endorsement
ALTA Loan Policy

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby insures the Insured against loss or damage which the Insured shall sustain by reason of the entry of any court order or judgment which constitutes a final determination and denies the right to enforce the lien of the mortgage referred to in Schedule A on the ground that making the loan secured thereby constituted violation of the "doing business" laws of the State of

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 58
Doing Business - Lender

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby assures _____ that in the event of actual monetary loss or damage incurred by _____ insured against under the terms of said policy, the Company will not deny its liability thereunder to _____ on the grounds that _____ had knowledge of any matter solely by reason of notice thereof imputed to it through _____ by operation of law.

The total liability of the Company under said policy and any endorsements therein shall not exceed, in the aggregate, the face amount of said policy and Costs which the Company is obligated under the Conditions and Stipulations thereof to pay.

This endorsement is made a part of said policy and is subject to the schedules, conditions and stipulations therein, except as modified by the provisions hereof.

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 52
Non-Imputation, General Use

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby insures the Insured against loss or damage sustained by reason of the Company denying its liability under the policy by reason of knowledge imputed to _____, through _____ to the extent of the percentage interest now or hereafter held by all partners of the Vestee Insured Partnership other than _____.

This endorsement is made a part of said policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

ENDORSEMENT

Attached to Policy No. _____

Issued By

First American Title Insurance Company

The Company hereby assures the insured partnership that this Policy and the coverage provided to the insured partnership hereunder shall not be deemed to have lapsed, or to have been forfeited, or to have terminated because of the occurrence, subsequent to the Date of Policy, of either of the following events (provided that the insured partnership has not been dissolved or discontinued by reason of the following events pursuant to applicable state law):

- a) the admission or withdrawal of any individual or entity as a partner in the insured partnership, or
- b) a change in any partners interest in capital or profits of or as limited or general partner in, the insured partnership.

Nothing contained herein shall be deemed to be a waiver of any rights the Company may otherwise have under this Policy.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 55
Fairway Endorsement

ENDORSEMENT**Attached to Policy No. _____****Issued By*****First American Title Insurance Company***

The Company hereby agrees and assures the insured partnership that this Policy and the coverage provided to the insured partnership hereunder shall not be deemed to have lapsed, or to have been forfeited, or to have terminated because of the occurrence, subsequent to the Date of Policy, of either of the following events (provided that, subject to the next paragraph, the insured partnership has not been dissolved or discontinued by reason of the following events pursuant to applicable state law).

- a) the admission or withdrawal of any individual or entity as a partner in the insured partnership, or
- b) a change in any partner's interest in capital or profits of, or as limited or general partner in, the insured partnership.

The Company hereby further agrees that the definition of insured contained in paragraph 1(a) of the Conditions and Stipulations of the policy shall include the following successors in interest to the named insured of the estate or interest described in Schedule A (reserving, however, all rights and defenses as to any successor that the Company would have had against the named insured)

- a) any grantee of the named insured which is an owner of a partnership interest (a "Grantee Partner") in the named insured partnership which receives title to the land described in Schedule A of the policy as a result of the dissolution of the named insured partnership; or
- b) any corporate successor to a Grantee Partner who becomes a successor by operation of law (as opposed to purchase) by reason of dissolution, merger, consolidation or corporate reorganization; or
- c) any corporate grantee of a Grantee Partner, or of a corporate successor covered under (b) above which receives title to the land described in Schedule A of the policy, provided the corporate grantee is either a wholly owned subsidiary of the corporate successor or of its parent corporation.

This endorsement is not to be construed as extending the coverage of the policy to any later date

than the Date of Policy shown in Schedule A, nor does it impose any liability on the Company for loss or damage resulting from (i) failure of an successor referred to above to acquire an insurable estate or interest in the land, or (ii) any defect, lien or encumbrance attaching by reason of the acquisition of an estate or interest in the land by the successor.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

First American Title Insurance Company

By: _____
Authorized Signatory

F.A. Form 55. I
Successor Insured and Fairway Endorsement