

Title

FREQUENTLY ASKED ^ QUESTIONS

May 2011

Are there any special requirements when insuring a title which was obtained by deed in lieu of foreclosure?

Yes.

First is the creditors' rights problem. If you are insuring the grantee under the deed in lieu of foreclosure's title and you are using the ALTA 2006 Owner Policy, the pre-printed Creditors Rights Exclusion will cover this concern and no additional exception need be added; if you are using the ALTA 1987 Residential "Plain Language" Policy, you must include the following exception on Schedule B:

Consequences of an attack on the estate or interest insured herein under the Federal Bankruptcy Law or any creditors' rights law or state insolvency law.

If you are insuring a conveyance by the grantee under the deed in lieu of foreclosure you must run the deed in lieu of foreclosure grantor in upper courts through the date of your insured transaction; if that grantor has filed for bankruptcy protection after the date of the deed in lieu, you must call a member of our underwriting staff for assistance.

Second, the mortgage for which the deed in lieu of foreclosure was given may remain open until the grantee in the deed in lieu of foreclosure conveys title. In that subsequent transaction, the mortgage must be cancelled of record.

Third, it is not acceptable to insure a title being conveyed by a deed in lieu of foreclosure which had been previously executed and held in escrow in case of a future default. ***Only deeds in lieu of foreclosure which have been currently executed may form the basis for owners title coverage in favor of the grantee in the deed in lieu.***

As always, please address any questions you may have to a member of our underwriting staff.