

Dear Stewart Partners,

We hope all of you had a wonderful long weekend and enjoyed the Labor Day holiday with friends and family.

It is a short week so we are keeping our midweek update short as well. In this week's update we want to share with you an underwriting bulletin that was distributed in late August, which you may have missed as it was the last week of the month heading into a long weekend. We are also including information on an upcoming Agency Webinar hosted by our National Agency Education Team on RESPA. Sign up information is below.



### **Right to List Contracts and Performance Mortgages or Memoranda of Homeowner Benefit Agreement**

On August 24, 2022, Stewart issued Bulletin: SLS2022007 about performance mortgages and homeowner benefit agreements. We've seen performance mortgages recorded in Massachusetts and Rhode Island and these will impact the title to property and need to be addressed prior to issuing a policy of title insurance. Here's what you should know:

MV Realty PBC, LLC a/k/a MV Realty, a real estate brokerage headquartered in Florida but operating in over 33 states, is promoting a "Homeowner Benefit Program" to homeowners wherein, according to its website, MV Realty provides an up-front cash payment to the homeowner in return for a future exclusive right to act as the listing agent when the owner decides to sell their home. The agreements will generally provide that if the homeowner decides to sell their home at any point during the next 40 years, they must use MV Realty as the listing agent and sets forth a minimum amount of commission due. To secure the performance of the agreement, MV Realty may record a Memorandum of the Agreement or a Mortgage in the land evidence records where the property is located.

MV Realty does business under several different names, many of which contain "MV" or "MV Realty" along with the name of the state in which they are operating. For example, in Massachusetts the entity is MV of Massachusetts, LLC, a Massachusetts limited liability company.

To date, we have only seen memoranda or mortgages of this type involving MV Realty, but other companies may utilize similar programs and documentation.

#### **Underwriting Guidance:**

If your title search discloses the recording of a Memorandum or Notice relating to an exclusive Agreement to List, or a Mortgage or Deed of Trust securing performance of a Homeowner Benefit Agreement or similar type of arrangement, the recorded document must be identified in your Title Commitment in Schedule B, Part 1 Requirements, as a matter requiring the recording of full release or discharge of record. This applies to both purchase and refinance transactions.

If the document on record is a Memorandum of Agreement or Notice of Agreement, we require a release of the Memorandum or the Agreement signed by both the homeowner and the MV Realty entity or other real estate company named in the agreement. If the current owner is not the original party who entered into the agreement with the real estate brokerage company, please contact your Stewart underwriting counsel for further guidance.

If the document on record is a Mortgage, we require a release or discharge by the MV Realty entity listed as the mortgagee.

If a release cannot be obtained, or if you have reason to believe that the property owner may have entered into this type of agreement, but your title search does not reveal a recorded Memorandum or Mortgage, please contact your Stewart underwriter for further guidance.

To view the complete bulletin on Stewart's Virtual Underwriter, follow this link:

<https://www.virtualunderwriter.com/en/bulletins/2022-8/sls2022007.html>



## **Upcoming Webinar – RESPA Overview**

Join Stewart in this 1 hour live webinar as Nicole Hadaway, Stewart's Senior Corporate Counsel, and Cindy Madole, Deputy General Counsel, provide valuable information on RESPA for title agents. The topics will include the history of RESPA, how it affects title agents, best practices, and where to go for additional resources.

**Date:** Tuesday, September 13, 2022

**Time:** 1:00PM

**Format:** Microsoft Teams Webinar

**Register:** [Click here to register](#) for this webinar.

You will receive a **You're Registered** email from Microsoft Teams which will include your link to join this event.

For questions, please contact: Gloria Prince, Agency Training Manager at [gprinz@stewart.com](mailto:gprinz@stewart.com)



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