

Dear Stewart Partners,

With Memorial Day behind us, we leave the month of May and begin the “unofficial” start of summer. As summer is historically a busy time for residential real estate conveyancing, this week’s update focuses who is an insured and gets the benefits of an owner’s title insurance policy. We’ll highlight the differences between the Homeowner’s Policy of Title insurance and a standard policy. We hope that the information provides some good talking points for you when asked about the differences between policies. We’ve also included a link to ALTA’s page on its Best Practices, as certain revisions which went into effect on May 23, 2023.

As a reminder, next week, on June 8, REBA’s Women’s Networking Group is hosting its June networking event at the Women’s Lunch Place with proceeds benefitting the Women’s Lunch Place. Stewart is, once again, a proud sponsor. If you haven’t yet purchased tickets, time is running out! More information and a link to purchase tickets is below.



2021 Policies of Title Insurance - When Coverage Continues and Who’s Eligible For What Policy

Continuation of Coverage

Owner’s title insurance coverage is often purchased upon acquisition of real property, is paid for by a one-time premium, and by the terms of both the Standard (sometimes referred to as “basic”) and Homeowner’s (sometimes referred to as “enhanced”) residential policies continues in force in favor of an insured, so long as the insured is liable under warranty covenants. This means that once an insured owner transfers title to the insured property, if the transfer is made by a warranty deed, and a subsequent claim arises that comes back to the insured, his/her title coverage remains in force to protect against such claim, but the coverage is limited to claims against the named insured.

Often, for estate planning or other family reasons title may be transferred from the named insured to another, for no consideration, and possibly without the use of a warranty deed. This may cause loss of coverage unless the transfer is to a grantee considered an “insured” under the definition in the applicable owner title insurance policy.

Take the following hypothetical. Mom and Dad buy a home in which they reside . In the course of doing some estate planning, the decision is made to transfer the property to a

limited liability company as part of a broader estate plan. Would coverage under the standard policy of title insurance continue so that the limited liability company is an insured under the policy?

If Mom and Dad purchased a standard policy of title insurance, the answer would be no. Although the policy does contain some continuation of coverage provisions for estate planning, the policy limits any continuation of coverage when the grantee is “a trustee of a trust created by written instrument established for estate planning purposes by an Insured.” In this case, the use of an alternate entity for estate planning would not provide coverage.

On the other hand, if Mom and Dad had purchased a Homeowner’s Policy, the policy will provide the benefit of coverage to any legal entity to whom Mom and Dad transferred title to, so long as the entity “is established by a Natural Person for the purpose of planning the disposition of that person’s estate.”

These differences indicate that continued coverage is broader on the homeowner policy while endorsements to continue coverage in some instances would be required for the regular owner policy. It also serves as a reminder that inter family conveyances should always be done with warranty deeds to preserve the original coverage under the policy at the very least.

Natural Person Requirement

Who can purchase which kind of policy can be confusing. The Standard policy can be issued to any buyer, without limitation. The Homeowner’s policy has some limitations. Specifically, pursuant to the terms of the policy it may only be issued to a Natural Person or an Estate Planning Entity. Further the Homeowner’s policy can only be issued if the property is a 1-4 family residence.

It is important to note, that inclusion of estate planning entities is new to the 2021 policy form. The policy defines an “Estate Planning Entity” as follows: A legal entity, a trust, or a trustee of a trust, if the entity or trust is established by a Natural Person for the purpose of planning the disposition of that person’s estate.

Additionally, if the buyer is purchasing a single-family residence with the intent to occupy the property, Stewart offers at no additional charge an endorsement that further expands coverage for the buyer and removes the requirement that the entity be established for estate planning purposes or that the buyer is a natural person. This means that any buyer purchasing a single-family dwelling, which will be owner occupied, can obtain the benefit of the Homeowner’s policy, even if the buyer is a legal entity. This endorsement is referred to as the “Gold” Endorsement. We recommend that this endorsement be included with every eligible policy.

To view Stewart’s Bulletin on this propriety endorsement, follow these links:

Connecticut: <https://www.virtualunderwriter.com/en/bulletins/2021-9/ct2021006.html>

Maine: <https://www.virtualunderwriter.com/en/bulletins/2021-9/me2021002.html>

Massachusetts: <https://www.virtualunderwriter.com/en/bulletins/2021-9/ma2021004.html>

New Hampshire: <https://www.virtualunderwriter.com/en/bulletins/2022-3/nh2022002.html>

Rhode Island: <https://www.virtualunderwriter.com/en/bulletins/2021-9/ri2021002.html>

Vermont: <https://www.virtualunderwriter.com/en/bulletins/2023-2/vt2023001.html>



ALTA Best Practices Revisions Effective as of May 23, 2023

This link enables access to more detail on the changes: www.alta.org/businessstools. The revisions are focused on the continual improvement to operations and primarily involve escrow accounting, and privacy and information security programs to protect non-public information, as well as an overhaul to enhance the closing and settlement process. New documents available to ALTA members and Best Practices subscribers to assist with implementation include a Pillar 1-7 Assessment Readiness Guide, a Policy and Procedure Creation Guidance, a Policy and Procedures Sample Table of Contents and a Template for Policy and Procedures.

Also, has a free recorded webinar, featuring Stewart's Tara Smith, which reviews the changes and how they will impact your operation. A link to access is here:

<https://www.alta.org/education/webinars.cfm>



Giving Back to Our Community - A Night at Women's Lunch Place on June 8th

Stewart is proud to, once again, be one of the sponsors for REBA's Women's Networking Group fundraising event for the Women's Lunch Place on June 8, 2023. The Women's Lunch Place (WLP) is a safe, welcoming day shelter community providing nutritious food and individualized services for women who are experiencing homelessness and poverty. To purchase tickets to the event and for more details follow this link:

<https://womenslunchplace.org/reba>

We hope to see you there!



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