

UNDERWRITING BULLETIN

Stewart Title Insurance Company, 300 East 42nd Street, 10th Floor -New York, New York 10017
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NY000311

Date: May 15, 2007

To: All New York State Office Counsel, Managers and Agents

From: Harold S. Boxer, Vice President and Senior Agency Counsel

Re: Mortgage Lenders That Are The Subject Of Closing Alerts Or That May Be Troubled

The number of lenders in trouble or filing bankruptcy is increasing. Subject to the terms of the policy, the issuing office is the party ultimately responsible for collecting good funds and obtaining recordable documentation sufficient to release paid-off mortgages. You should always be satisfied before disbursement that the funds you receive are good funds and can be collected. This may require a higher level of diligence than ordinary compliance with applicable laws or regulations regarding "good funds." You should also be satisfied that you will receive, or have already received, all satisfactions/releases required to clear the record.

Attached please find guidelines that may assist you when closing residential transactions involving lenders who have been the subject of a "Closing Alert Bulletin," have ceased operations, or who have filed for bankruptcy. For all commercial transactions or requests to insure an assignment of mortgage involving lenders who are the subject of a "Closing Alert Bulletin," please contact the Legal Department. Where MERS is the mortgagee of record, please continue to follow the guidelines set forth in SLS00161, which can be found at www.vuwriter.com.

Before closing any transaction, please continue to check the alerts at the agent section of www.stewartnewyork.com, as well as the searchable "Special Alerts" section of Virtual Underwriter (www.vuwriter.com). You should search all parties, including the buyer, seller and mortgagor, as well as the existing mortgagee of record, the lender providing the payoff statement (if different), and the new lender (funding the new loan). This searchable database is provided for your convenience, but it is not meant to be exhaustive. It does not relieve you of your obligation to develop an awareness regarding troubled lenders. Please exercise caution in this regard.

Please contact the below referenced representative with any additional information you may have regarding any other lenders who may fall into these categories:

Legal Department
Stewart Title Insurance Company
300 East 42d – 10th floor
New York, NY 10017
212.922.0050

References:

Bulletins Replaced:	None
Related Bulletins:	SLS000368
Underwriting Manual:	None
Exceptions Manual:	None
Forms:	None
Attachments:	None

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Residential Transactions; Lenders Subject to Closing Alerts

Lenders that are the subject of Closing Alerts, but that have not ceased operations or filed bankruptcy:

- Funding from such lenders to you must be by wire only. (Cashier's checks, even though in compliance with some states' "good funds" laws, can be subject to stop payment.)
- Exercise due diligence in verifying that a lender has not filed for bankruptcy. In addition to your independent search of Special Alerts, require the lender to confirm in writing that it has not filed for bankruptcy.

Regarding payoffs:

- Verify that the name and address of the entity receiving the monthly payments from the borrower is the same as the entity providing the payoff statement and the mortgagee of record. If different, require all entities to approve in writing the payoff amount, method of payment, and payee.
- Call immediately prior to the closing to verify payoff figures.

Lenders that have ceased operations, but have not filed bankruptcy:

- Stewart Title Insurance Company will not insure transactions where funding is being provided by a "closed" lender (i.e., a lender that has ceased operations).
- Exercise due diligence in verifying that a lender has not filed for bankruptcy. In addition to your independent search of Special Alerts, require the lender to confirm in writing that it has not filed for bankruptcy.

Regarding payoffs:

- Require delivery prior to closing of a release/satisfaction, as applicable, from the mortgagee of record, together with all additional documents, if any, necessary to record such release/satisfaction and clear the title. These documents should be held by you in escrow pending payment. If the release/satisfaction is provided by an entity other than the mortgagee of record, also require intervening assignments to bridge the gap.
- Verify that the name and address of the entity receiving the monthly payments is the same as the entity providing the payoff statement and the mortgagee of record. If different, require all entities to approve in writing the payoff amount, method of payment, and payee.
- Call immediately prior to the close of escrow to verify payoff figures.

Lenders in bankruptcy:

- Chapter 7
 - Payoff statements must be obtained from the Trustee.
 - Payment must be made to the Trustee unless otherwise instructed by court order.
 - Require a written statement from the trustee (or representative) confirming the lender/debtor's status as either a loan servicer or a note holder (i.e., whether the lender/debtor is the actual owner of the note).
 - If the lender/debtor is the loan servicer, the owner of the loan must also approve the payoff amount, method of payment, and payee.

- All required satisfactions by the Trustee must be delivered to you prior to closing to be held in escrow by you, pending payment. Require intervening assignments to bridge any gap between the mortgagee of record and the debtor/lender.
- Call immediately prior to the closing to verify payoff figures
- Chapter 11
 - Funding from such lenders to you must be by wire only. (Cashier's checks, even though in compliance with some states' "good funds" laws, can be subject to stop payment.)

Regarding payoffs:

- Ascertain if a trustee has been appointed or if the lender is a debtor in possession.
 - Payoff statements may be provided by the lender as debtor in possession if no trustee has been appointed, and by the bankruptcy trustee if a trustee has been appointed.
 - Require a written statement from the trustee or the debtor-in-possession, as applicable, confirming the lender/debtor's status as either a loan servicer or a note holder (i.e., whether the lender/debtor is the actual owner of the note).
 - If the lender/debtor is the loan servicer, the owner of the loan must also approve in writing the payoff amount, method of payment, and payee.
 - All required satisfactions must be delivered to you prior to closing to be held in escrow by you, pending payment, unless you secure underwriter approval. Require intervening assignments to bridge any gap between the mortgagee of record and the debtor/lender.
 - If possible, have the note delivered with the satisfaction.
 - Call immediately prior to closing to verify the payoff figures and to verify, where applicable, that the debtor remains a debtor in possession and that no trustee has been appointed.
- Please contact the Legal Department if you have any questions concerning these requirements.
 - Please contact the Legal Department for all commercial transactions or requests to insure an assignment of mortgage involving lenders who are the subject of a Closing Alert Bulletin.

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