RAISING THE BAR IN 2013

Claims Trends and Avoidance & Escrow Security Issues

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• FULL YEAR 2012 – National

• Inquiries Down 8% 2012 vs. 2011
• New Claims Down 26% 2012 vs. 2011
• Regionally

  New Claims Down 29% from 2011 to 2012

• Pennsylvania

  New Claims down 54% from 2011 to 2012
• Leading Claim Types –
  – Nationally –
    – 1. Search Errors
    – 2. Closing / Escrow Errors
    – 3. Basic Risk
• Leading Claim Types –

  – Regionally –

  – 1. Search Errors
  – 2. Closing / Escrow Errors (ex. Ds)
  – 3. Description Errors
• Leading Claim Types –

– Pennsylvania – 2012

– 1. Closing / Escrow
– 2. Search Errors
– 3. Taxes, Descriptions (tie)
Sample Claims and Claims Avoidance
• Search & Interpretation Errors –

• Missed Affordable Housing Restriction

  Restriction Noted on Owner’s Deed
• Search & Interpretation Errors –

• Missed Lis Pendens

  Lis Pendens giving notice of pending Federal forfeiture case overlooked.
• Search & Interpretation Errors –

• Missed Life Estate

Current Deed conveyed only a life estate to borrower, mortgages paid at closing also defective
• Search & Interpretation Errors –

• Missed Seller’s Mortgage

  Straight miss –  $215,000 sales price
                  $197,000 cash to seller
• Search & Interpretation Errors –

• Current Owner Rundown from Nominal Consideration Deed

$200,000 ‘Refi’ with $195,000 Cash to Borrower, Borrower received house from parents for $0, title only run from deed, missed parents’ $250k+ mortgages.
• Closing Errors

Failure to Close and Release HELOCs

(remember to recite the Golden Rule)
• Closing Errors

Ensure all title holders are on the Deed/Mortgage/Deed of Trust
• Closing Errors

Ensure identification is checked and copied or specifically noted in the file

Husband and Wife in Title – Husband dies and wife claims no knowledge and/or signature was forged
• Closing Errors

Ensure that the recorders/runners are doing rundowns

‘Gap Errors’ still a cause of claims

Document the gap if you can
Closing Errors

Failure / Delayed Recordings
Remember the Basics –
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- Limit outside distractions
  - (i.e. closings at: birthday parties, Chuck-E Cheez, on car hoods, & in prisons)
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• Compare the commitment to the final package
Escrow Protection

Fraud and Theft Avoidance
• Escrow Fraud & Protection

• Sample Fraud Schemes –
  • ‘Canadian Check’ Fraud
  • Photo Check Deposits
  • Forged / Fake Escrow Account Checks
  • ‘Cyber’ Crimes
• Escrow Fraud & Protection

• How to Avoid Fraud Schemes –
  • ‘Canadian Check’ Fraud
    – Know what is in your escrow account and where it came from
  • Photo Check Deposits
    – Stop payment on all checks that leave the closing table
  • Forged / Fake Escrow Account Checks
    – Distinctive check stock & reconcile
  • ‘Cyber’ Crimes
    – Dedicated wire or banking computer
• Escrow Fraud & Protection

  – Internal Defenses
    » Reconciliation
    » Dual Controls
    » Split Duties on Payoffs
    » Periodic Background Checks
    » Maintain Bond Coverage
ALTA Best Practices

www.alta.org/bestpractices
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  – * No comingling
  – * Three-Way Reconciliation
  – * Outstanding Balances are documented
  – * Positive Pay / ACH Blocks / International Wire Blocks
  – * Confirm only ‘as needed’ authority on accounts / wires
  – * Reconciliation performed by non-check writer
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• Maintain appropriate professional liability insurance & bonding
• Respond to consumer complaints in a timely manner
• Escrow Security Bond
  Not just conveyancing funds

  • Computer crime rider
  • Cyber liability – Consumer data security
  • Employee theft coverage
  • Partner/principal theft coverage

  *Please note, the above are general descriptions of coverage. Policy terms, conditions and exclusions may limit or take away some of the coverage mentioned above.*
• Escrow Security Bond

• For more information:

www.stewartspecialtyinsurance.com
Questions/Comments/Concerns?