CHECKLISTS AND SPECIAL FORMS

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T-19 and T-19.1 Endorsement Forms were changed by the Texas Commissioner of Insurance effective January 1, 2014.

- Stewart’s Endorsement Checklists (first introduced in 2004) have been revised to address the 2014 T-19 and T-19.1 Endorsements.

- Changes to the Endorsements dictated changes to the Endorsement Checklists:
  
  -- New definitions of what constitute improvements (different in the two Endorsements).

  -- Reorganization of content (revised paragraph numbering).
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Do Your Own Underwriting! **T-19** Issues That You Can Handle on Your Own (No STG Approval Required).

Building Setback Violations (Plat or Restrictions): No Loan Policy Exception or Endorsement Deletion Whenever . . .

-- Structure is less than 4 years old, and violation covers no more than 10% of the total required setback width; OR

-- Structure older than 4 years covers the entire setback width; OR

-- Structure is portable/removable (no permanent floor); OR

-- Non-structural feature is involved (e.g. in-ground pool, uncovered patio, walkway, fence, or retaining wall).
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Do Your Own Underwriting! **T-19** Issues That You Can Handle (No STG Approval Required).

**Easement Encroachments:** No Loan Policy Exception or Endorsement Deletion Whenever . . .

- Improvement encroaches over 50% or less of easement width; OR

- Encroaching improvement is portable/removable (e.g. storage shed without a permanent floor).

("Improvement" as defined in the T-19 Endorsement? Any improvement affixed to either the insured land or adjoining land and INCLUDING landscaping, lawn, shrubbery, or trees.)
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Do Your Own Underwriting! **T-19** Issues That You Can Handle (No STG Approval Required).

**Boundary Line Protrusions/Encroachments:** No Loan Policy Exception or Endorsement Deletion Whenever . . .

- Fence protrudes onto adjoining public/private land; OR
- Fence is inset from adjoining public road, street, or alley; OR
- Protruding/encroaching structure is portable/moveable; OR
- Improvement from adjoining property encroaches less than 2 feet over the common boundary.
Do Your Own Underwriting! **T-19** Issues That You Can Handle (No STG Approval Required).

**Minerals:** Rule P-5.1 General Exception appears in Schedule “B”? If so, issue the T-19 WITHOUT deletion of No. 4(d) whenever--

1. Outstanding mineral interest is only a **royalty** right; OR

2. Mineral owner has joined in surface rights waiver (with or without drill-site designation); OR

3. Land is subject to a municipal drilling-permit ordinance; OR

4. There is no mineral production anywhere in the county of the land’s location or the nearest other county; OR
Do Your Own Underwriting! **T-19 Issues That You Can Handle (No STG Approval Required).**

Minerals continued: Rule P-5.1 General Exception appears in Schedule “B”? If so, issue the T-19 WITHOUT deletion of No. 4(d) whenever--

(5) land is single-family, 5.00 acres or less.
Do Your Own Underwriting! **T-19** Issues That You Can Handle (No STG Approval Required).

**Minerals:** Has Underwriting Counsel approved OMITTING the Rule P-5.1 General Exception in favor of specific mineral exceptions in Schedule “B”? If so--

--- Mineral ownership interests: Similar T-19 Checklist parameters for retaining or removing surface-damage coverage under No. 4(d) on an exception-by-exception basis.

--- Mineral leases: T-19 Checklist parameters for retaining or removing No. 4(d) tailored to particular lease situations.
Do Your Own Underwriting! **T-19.2 & T-19.3** Issues That You Can Handle (No STG Approval Required).

To determine whether or not the Endorsement can be issued with a particular Policy, apply the SAME mineral-related Checklist guidelines used for:

-- T-19 Endorsement (T-19.2 or T-19.3 Endorsement for a Loan Policy) OR

Which One to Issue: T-19.2 Versus T-19.3 (Rule P-50.1)

T-19.2 Minerals and Surface Damage Endorsement’s qualifying land:

(1) 1.00 acre or less improved or intended to be improved for 1-to-4 family residential use, OR

(2) Tract/lot of ANY SIZE improved or intended to be improved for
   (a) office,
   (b) industrial,
   (c) retail,
   (d) mixed use retail/residential, OR
   (e) multi-family.
Which One to Issue:  T-19.2 Versus T-19.3 (Rule P-50.1)

T-19.3 Minerals and Surface Damage Endorsement’s qualifying land:

(1) Tract/lot EXCEEDING 1.00 acre and improved or intended to be improved for 1-to-4 family residential use, OR

(2) Tract/lot of ANY SIZE improved or intended to be improved for purposes NOT involving office, industrial, retail, mixed use retail/residential, or multi-family use, e.g. agricultural use.

REMEMBER: When the T-19.2 or T-19.3 is issued with an Owner’s Policy,表面损害指南适用于T-19.1 (5.00 acres or less, no underwriter approval necessary; 5.00+ acres = approval required!)
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Do Your Own Underwriting! **The T-19.1 Difference.**

Building Setback Violation: *Without violating a city ordinance minimum*--

--- Improvement less than four (4) years old extends **one foot** (1.00’) or less over setback line, OR

--- Improvement four (4) years old or older violates a platted or restrictions-based setback by any distance.

Easement Encroachment: No more than **25%** of the easement’s width.
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Do Your Own Underwriting! **The T-19.1 Difference.**

Without specific underwriter approval (*no local discretion*):

- Boundary protrusions/encroachments = Owner’s Policy Schedule “B” exception for either one and deletion of No. 4(b) for protrusion onto neighboring property;

- Significant restrictive covenants violation = Owner’s Policy Schedule “B” exception;

- Uncomplied-with option to purchase, right of first refusal, or right of prior approval = Deletion of No. 3(d).
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Do Your Own Underwriting! The T-19.1 Difference.

Minerals-related surface damage coverage may stay under No. 4(d) of the T-19.1 Endorsement whenever:

(1) Insured land is a lot/tract of 5.00 acres or less not contiguous with other land of the Proposed Insured; OR

(2) insured land lies in the developed area of an incorporated municipality, but not near current mineral exploration or production; OR

(3) specific underwriter approval allows it.
Special Forms: **Overlimits Approval.**

Current form dates from January 21, 2014: “Request for Approval to Issue Overlimits (Large) Policy or Extra Hazardous Coverage.”

-- Need the form? Find it at [http://www.vuwriter.com/content/dam/vu/overlimits.pdf](http://www.vuwriter.com/content/dam/vu/overlimits.pdf)

-- When is a Policy “overlimits”? Ask your Agency Services Manager.

-- What are “extra hazardous risks”?

-- What about conflict-of-interest approval?
Special Forms: Overlimits Approval.

How to submit for approval? New procedure in place since June, 2014:

-- Approval Request package consists of:
   (1) Completed & signed Request for Approval form, plus
   (2) Copy of current Commitment in the transaction.

-- Email the package to: Policyapprovalrequest@stewart.com

-- Stewart Legal Services inputs request form and attachments and assigns to an underwriting attorney for review and approval.

-- Approval comes in the form of an emailed 2-page form letter.
Special Forms: “Affidavit Re Cancellation of Judgment”

Affidavit documents the bankruptcy discharge’s automatic cancellation effect for clearing pre-petition judgment liens from exempted homestead title.

-- Signed by bankruptcy debtor; required exhibits are:
   (1) Schedule C—Property Claimed as Exempt;
   (2) Creditor Mailing Matrix, Schedule of Unsecured Creditors, or other proof that judgment credit was a party-in-interest in the bankruptcy;
   (3) Discharge in Bankruptcy.

-- Works like a Release of Lien, BUT ONLY AS TO THE EXEMPTED HOMESTEAD PROPERTY.
Special Forms: “Affidavit Re Discharge of Judgment(s).”

Affidavit establishes that Abstract of Judgment discharged in bankruptcy could not attach to real property acquired by the debtor AFTER the Discharge in bankruptcy.

-- Signed by bankruptcy debtor; required exhibits are:
   (1) Bankruptcy Mailing Matrix, Schedule of Unsecured Creditors, or other proof that judgment creditor is a party-in-interest in the bankruptcy; and
   (2) Discharge in Bankruptcy.

-- Clears the title to ANY of debtor’s post-bankruptcy property, NOT just homestead, with respect to discharged pre-bankruptcy AJs.
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Special Forms: “Affidavit of Facts Concerning The Identity of Heirs.”

-- TEX. ESTATES CODE § 203.002: Good affidavit-of-heirship form when it is signed by TWO disinterested third-party affiants, not just one.

-- Q: How soon after death can one be accepted?  A: When “None” is a true answer to No. 12 in the statutory Affidavit (“Decedent left no debts that are unpaid, except: -------------------.”) or its equivalent in a different form of Affidavit of Heirship.

-- MERP (Medicaid Estate Recovery Program) liability is a debt of the decedent’s estate!
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Special Forms: **Certification of Trust.**

TEX. PROPERTY CODE § 114.086: 7 Basic Elements (date of trust instrument; identity of the maker; identity & address of current trustee; powers of the trustee; revocable/irrevocable; authority of multiple co-trustees; and manner in which title to trust property should be taken).

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**Good faith third-party reliance on Certification of Trust is protected.**

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*When offered a complying Certification, a bad faith demand for the entire trust declaration can result in liability for damages!*

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A third party (including Stewart underwriting counsel!) can still require supporting excerpts from the Trust Declaration to support a Certification’s statements on identity and powers of the Trustee.
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Special Forms: **Statutory Non-Material Correction Affidavit.**

Filing of TEX. PROPERTY CODE § 5.028 Non-Material Correction Affidavit can “fix” the following ("fixables"):  

1. inaccurate/incorrect element in a legal description (e.g. distance, angle, direction, bearing/chord, plat reference, lot/block number, unit/building/section number, municipality/county/state name, subdivision/condominium name, or omitted metes and bounds call);

2. party’s name (e.g. name’s spelling, first/middle name, initial, “also known as”, or entity type);

3. party’s marital status;
Special Forms: **Statutory Non-Material Correction Affidavit** continued.

(4) date of execution;

(5) citation of recording data for a prior instrument;

(6) any “fact relating to the acknowledgement or authentication”, or insertion of a completely omitted acknowledgement or authentication; or

(7) an entire legal description made part of the original instrument at preparation, but inadvertently omitted/removed prior to or at recording.
Special Forms: **Statutory Non-Material Correction Affidavit** continued.

Mailed, faxed, emailed, or hand-delivered notice of the Affidavit’s filing must be sent to each party who executed the document being corrected.

Affiant can be any “person who has personal knowledge of facts relevant to the correction of a recorded instrument of conveyance” (implication is that 5.208 affidavits are LIMITED to instruments of conveyance); likely affiants are title company closers, attorneys preparing documents, etc.

Sample Affidavit forms available!
Special Forms: **Bona Fide Transaction Affidavits (Intra-Family Sales).**

“Pretended condition of defeasance” (pretended sale of homestead): Under § 50(c), art. 16, TEX. CONSTITUTION, such a “sale” transfers no title, creates no valid mortgage lien, and can generate title insurance losses.

Sample scenarios: Parents are selling to son, and son is getting a mortgage loan to purchaser parent’s home.

-- NOT INSURABLE: Parents have no current plans to move.

-- MIGHT BE INSURABLE: Parents are moving to another home; property being sold will be VACANT on the day of closing.
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Special Forms: **Bona Fide Transaction Affidavits (Intra-Family Sales)** continued.

Separate Purchaser’s and Seller’s Affidavits at closing (retained in GF File):

-- Purchaser’s affirms that: Earnest Money Contract is bona fide; Sellers have vacated the property; Bill of Sale to Purchaser covers all personal property left by Sellers; Sellers have moved; no agreement of any kind that would allow Sellers to re-occupy the property.

-- Seller’s affirms all of the same points with declaration that former homestead has been abandoned, with exhibit showing deed or lease for new home and utility accounts in the Seller’s name at that address.
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Special Forms: **Bona Fide Transaction Affidavits (Intra-Family Sales)** continued.

Moral of the Story: Not Every “Family Transaction” Has to Be Turned Down!

Want copies of these Affidavits (or any others mentioned in this presentation?) E-mail your request to: [richard.black@stewart.com](mailto:richard.black@stewart.com)