

## ISSUING GUIDELINES

### ALTA Endorsement: 11-06 (Mortgage Modification)

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#### **Explanation:**

This endorsement insures the lender that (1) the modification of mortgage does not result in invalidity or unenforceability of the insured mortgage; and, (2) the mortgage, as modified, has priority over defects, liens, and encumbrances, except those in the policy and prior endorsements and except those set forth in this endorsement. The endorsement does not insure against creditors' rights issues arising out of the modification.

#### **Underwriting Requirements:**

- (1) You must search the public records from the Date of Policy of the mortgage and you must secure a name search of the mortgagors and successors in ownership.
- (2) Require joinder in the modification by the current owners of the estate or interest in the land and require proof of authority by those signing on behalf of the current owners.
- (3) If the mortgage covers a lease, require a current estoppel and consent by the lessor.
- (4) If the policy reflects a mortgage or other lien in Schedule B, Part II (as subordinate), require new subordination by the lienholder or except under paragraph 2 of the Endorsement.
- (5) If your search reflects intervening matters such as mortgages, liens, covenants or easements, require subordinations or except under paragraph 2 of the Endorsement.
- (6) If your search reflects a notice of bankruptcy by the owner, require a final nonappealable order authorizing the modification.
- (7) If your search reflects a partial release, reconveyance or discharge of the mortgage, except under paragraph 2 of the Endorsement. If your search reflects a full release, reconveyance or discharge, do not issue this Endorsement.
- (8) If your search reflects that the record mortgage holder is not the current lender on the modification, require an assignment from that holder

- (9) Secure a current tax and assessment search. Except under paragraph 2 of the Endorsement to unpaid taxes and assessments.
- (10) Verify that the mortgage as modified does not secure advances for construction and that there has been no recent lienable work of improvement.
- (11) Verify the parties in possession. If the Loan Policy does not contain an adequate exception, add an exception to those rights in paragraph 2 of the Endorsement.
- (12) Require a current survey, unless our survey guidelines do not require a survey, or unless you except to survey matters arising subsequent to Date of Policy.
- (13) Record the modification.

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**Issuing guideline applies to the following Endorsement(s):**

ALTA 11-06 Mortgage Modification - 2006 ALTA Loan Policy