

Frequently-used Endorsements

What are title endorsements, and what additional coverages do they provide?

If you've been selling real estate for any amount of time, you're familiar with the standard owner's title insurance policy and the protections it offers to buyers. A title insurance policy protects owners and lenders against errors in deeds, forgery, fraudulent conveyances, mistakes in public record, errors in estate proceedings, and many other matters.

A mortgagee's title insurance policy also insures the lender as to the priority, validity, and enforceability of the lien.

Both the lender and the owner can request endorsements to the standard title policies in order to provide additional protections beyond the standard coverage.

What is an endorsement?

An endorsement is a rider attached to a Mortgage or an Owner policy to expand or limit the policy coverage. The title policy is designed for standard real estate transactions. Attaching an endorsement to the policy adapts the coverage to meet the needs of the insured. By issuing an endorsement, the insurer may take on additional risk normally not covered under the policy. A premium is usually charged for issuing any endorsement.

There are a number of endorsements that have been adopted by the American Land Title Association (ALTA) for general use across the country. Colorado requires that fees for endorsements be filed with the Division of Insurance. Most of the approved endorsements may be issued with Mortgage policies, but not with Owner policies.

Additional information not disclosed by the title search may be necessary before an endorsement can be attached to a policy. This may include facts set out on a survey or a check with the zoning department.

Do all policies need endorsements?

In many cases, the title insurance company will add specific endorsements to a policy to cover additional risks based on the location of the property and the type of transaction. Many lenders require specific endorsements for certain loan types or for added coverage.

Frequently Used Endorsements

FORM 100:

Comprehensive Endorsement

(Lender Coverage)

Insures:

- That there are no covenants, conditions or restrictions that would impair the lien insured under Schedule A;
- That there are no present violations of any enforceable covenants, conditions, or restrictions;
- That, except as shown in Schedule B, there are no encroachments of buildings, structures or improvements located on the insured land onto adjoining lands;
- That there are no encroachments onto the insured land of buildings, structures, or improvements located on adjoining lands;
- Against damage to existing improvements located or encroaching onto an easement set out in Schedule B, resulting from the exercise of easement rights; and
- Any final court order or judgment requiring the removal from any land adjoining the insured land of any encroachment shown in Schedule B.

Form 100 does not provide mechanic lien protection nor does it delete any of the standard exceptions.

FORM 115.1 (ALTA 4):

Condominium Endorsement

(Lender Coverage, ALTA 4.1 for Owner)

Insures:

- That the estate to be insured is a condominium (that is, it complies with all condominium statutes), and that the unit and its common elements may, by law, be assessed for real property taxes as a separate unit;
- Against present violations of restrictive covenants and assures that there are no restrictive covenants that would cause forfeiture or reversion of title;
- That the mortgage insured has priority over any lien for charges and assessments provided for in the condominium statutes and documents;
- Against any obligation to remove any present encroachment or future, unintentional

encroachment of the common elements upon any unit or of the insured unit onto another unit or onto common elements; and

- Against the failure of title as a result of the exercise of a Right of First Refusal.

**FORM 115.2 (ALTA 5):
Planned Unit Development (PUD)
Endorsement**

(Lender Coverage; ALTA 5.1 for Owner)

Insures:

- Against present violations of restrictive covenants shown in Schedule B and assures that there are no restrictive covenants that would cause forfeiture or reversion of title;
- Against priority of lien for charges or assessments provided for in any document set out under Schedule B over any insured mortgage identified in Schedule A;
- Against any obligation to remove any improvements on the insured land due to any present encroachment onto adjoining lands or easements or due to the present encroachment onto the insured land by improvements on adjoining land; and
- Against the failure of title because of the exercise of a Right of First Refusal.

FORM 100.29, 100.30, 100.31, ALTA 9:

Mineral Endorsement (Coverage for Owner, Lender, or both)

Insures lender against physical, but not aesthetic, damage to present and future improvements resulting from the exercise of right to use the surface of the land based on a mineral reservation set forth under Schedule B-2 of the commitment.

FORM 103.1:

Use of Easement (Lender or Owner Coverage)

Insures the lender against any loss or damage resulting from the exercise of a right to use or maintain an easement referred to in Schedule B of the policy.

FORM 103.2:

Encroachments on Adjoining Property
(Lender Coverage, 103.2A for Owner)

Insures the lender against any loss or damage resulting from a court decree or final judgment forcing the removal of any portion of the improvements on the insured land that encroach upon the adjoining land.

FORM 103.3: Encroachments on Easements
(Lender Coverage, 103.3A for Owner)

Insures the lender against any loss or damage resulting from the forced removal of any portion of the improvements on the insured land that encroaches upon an easement referred to in Schedule B of the policy.

FORM 335.6 (ALTA 8.1): EPA Endorsement
(Lender or Owner Coverage)

Insures the lender against any loss or damage sustained by reason of lack of priority of the insured mortgage due to environmental liens of record or filed with the clerk of the court as of the policy date, or against any environmental protection lien provide for by state statute in effect at the policy date.

**FORM 281.1 (ALTA 6):
Variable Rate Mortgage Endorsement**
(Lender Coverage)

Insures against loss or damage due to the invalidity, unenforceability, or the loss of priority of the mortgage insured under Schedule A as a result of changes in the interest rate provided for in the mortgage.

**FORM 292.7 (ALTA 6.2):
Negative Amortization** (Lender Coverage)

Insures against loss or damage due to the invalidity, unenforceability, or the loss of priority of the mortgage insured under Schedule A as a result of interest on interest and/or changes in the interest rate and/or the addition of unpaid interest to the principal balance of the loan as provided for in the mortgage.

**FORM 107.12:
Date Down Endorsement**
(Lender or Owner Coverage)

Changes the effective date of the policy issued; discloses all items recorded subsequent to the policy effective date or from the last change in effective date; and is used primarily by lenders disbursing on construction loans.

**FORM 110.5:
Modification Agreement** (Lender Coverage)

Insures that the insured mortgage, as modified, is prior to any liens or encumbrances affecting the insured estate or interest other than those shown in Schedule B of the policy. Liens or encumbrances of record and not shown on the policy that affect the priority of the insured mortgage will be set forth in the endorsement.

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