

NCLTA SUGGESTED COVID-19 GAP INDEMNITY REQUIREMENTS IF CANNOT RECORD (4-2-2020)

FOR COVERAGE OF THE “GAP” FOR RECORDING DELAYS SOLELY DUE TO REGISTER OF DEEDS SUSPENDING RECORDING UNDER A COVID-19 STATE OF EMERGENCY, IF VESTED OWNERS AND BUYER/BORROWERS, AS APPLICABLE AGREE IN WRITING TO DISBURSEMENT PRIOR TO DELAYED RECORDING:

For coverage of the potential title search “gap” between last Commitment Date and Date of Closing/disbursing (Covered Risk #10 on Loan Policy) as well as between Date of Closing/disbursing through ultimate recording of the Insured Mortgage (Covered Risk #14 on Loan Policy and Covered Risk #10 on Owner’s Policy) caused by the COVID State of Emergency complete suspension of recordings by the registry of the county in which the Land is located on Date of Closing, subject to all exceptions in Schedule B-II of this Commitment other than Item #1, on Date of Closing, all parties agree to disbursement prior to recording, and subject to the following requirements:

1. Relatively recent title examination and opinion of all Public Records in a normal title examination of the Land in the county and city in which located was submitted for this Commitment. Any limitation on the search due to Public Records office closures must be disclosed to and pre-approved by Company.
2. Update of all available Public Records, whether available on-line or in office, up to the Date of Closing. NOTE: For counties in which no register of deeds records are on-line, or the on-line indexes are significantly delayed, prior approval must be obtained. The Company reserves the right to take applicable exceptions or requirements regarding matters disclosed thereby.
3. Verification by the certifying attorney that:
 - all title documents to be recorded:
 - i. are in clearly recordable form and fully completed, including notarial certificates,
 - ii. will be maintained, with the applicable recording fees, in a safe and secure place and
 - iii. will be submitted for recording as soon as possible but in any event within 2 business days of the registry resuming recording, whether electronic or in person, and
 - a final update of Public Records will be performed at time of completed recordation and a final title opinion submitted as soon as reasonably possible thereafter.
4. Verification that the Proposed Insured Lender’s written closing instructions do not contain a requirement for recording prior to disbursement or within a limited period of time, and that the Proposed Insured Lender has been notified of the county registry closure.
5. From vested owner (if seller or borrower in refinance): Signed and notarized **AFFIDAVIT OF UNDERSTANDING AND INDEMNITY AND HOLD HARMLESS AGREEMENT DUE TO THE CORONAVIRUS PANDEMIC AND THE COVID-19 EMERGENCY [or Company form]** or satisfactory COVID-19 related state of emergency affidavit, agreement and indemnity.
6. From Proposed Insured Owner: Signed and notarized **AFFIDAVIT OF UNDERSTANDING AND INDEMNITY AND HOLD HARMLESS AGREEMENT DUE TO THE CORONAVIRUS PANDEMIC AND THE COVID-19 EMERGENCY [or Company form]** or satisfactory COVID-19 related state of emergency affidavit, agreement and indemnity.
7. [TO BE Deleted if standard arms’ length transactions with no special considerations, defined below.] The Company reserves the right to raise additional exceptions and requirements or determine that it will not issue a title policy based upon special considerations of the transaction, the review of the closing documents, and changes in recording and title searching

capabilities resulting from the Coronavirus pandemic. Any variance from the above must be by prior approval of Company counsel. “**Special considerations**” include but are not limited to:

- cash transactions without a lender involved depending on the local city or county stay at home order,
- significant seller or borrower in ongoing litigation or financial distress,
- commercial transactions,
- construction loans,
- recent, ongoing or contemplated construction,
- related parties conveying or lending to each other,
- non-arms’ length transactions,
- flips or recent conveyances,
- significant cash out,
- entity authority issues,
- special endorsements,
- tenancies,
- subordinate matters for which subordinations are needed.

Alternative Short Requirement:

IN THE EVENT THAT, AT TIME OF CLOSING, THE REGISTER OF DEEDS HAS DISCONTINUED ALL RECORDING OR THE ABILITY TO EXAMINE OR UPDATE PUBLIC RECORDS IS PREVENTED BY CORONAVIRUS STATE OF EMERGENCY OFFICE CLOSURES, BUT ALL PARTIES DESIRE TO CLOSE BEFORE DELAYED RECORDING WHEN REGISTER RESUMES RECORDING, CONTACT THE COMPANY FOR FURTHER REQUIREMENTS. SEE NCLTA REQUIREMENT ON-LINE AT www.NCLTA.org/ under Tools → Forms, or Company requirements on-line at www. _____
[website for the particular company]