



Dear Stewart Partners,

Thank you for joining us again this week. It's hard to believe that it's March already, which hopefully will bring warmer weather and a busy spring market. There's also a little more daylight to look forward to as Daylight Savings Time starts this weekend so don't forget to turn your clocks forward.

In this week's Mid-Week Update we are including some important information on when and why overlimit forms are required to be submitted for policy approvals. In addition, we are discussing a recent Rhode Island court decision involving foreclosure.

We're also providing links to some recently-issued Stewart Special Alerts, and an educational opportunity for our New Hampshire agents happening today at 2 PM.



Approval Required to Issue Overlimits or Extra-Hazardous Coverage By: Rhonda L. Duddy, Esq., Massachusetts and New Hampshire Underwriting Counsel

Underwriting approval is always required if a transaction exceeds your maximum issuing authority limit as provided by your agency contract. Approval is also required in circumstances that fall below your maximum issuing authority limit if a transaction involves an extra-hazardous risk.

A few of the more common extra-hazardous risks include, but are not limited to, sales where there is litigation involving the property or the authority/capacity of the seller or buyer, sales from court appointed receivers, or conflicts of interest. A conflict of interest would occur when the issuing agent or their close family member will be an owner, lender, or an investor of the insured property or mortgage. For more information on conflicts of interest, please follow this link to [Stewart Bulletin SLS2011010](#) and for more information on what constitutes an extra-hazardous risk please review Section 5.36 of Stewart's Underwriting Manual in Virtual Underwriter, which can be viewed here: [Stewart's Underwriting Manual](#)

Hard money loan transactions are also considered extra-hazardous risks and require approval. A hard money transaction typically refers to a loan secured by real estate where the funding comes from a private investor or company rather than a traditional bank or mortgage company. These loans are asset-based, meaning the lender is primarily concerned with the value of the property used as collateral. As such, a hard money lender does not typically have the same kind of underwriting requirements that a traditional lender

might have, and therefore there exists the potential for seller/borrower impersonation fraud. Hard money loan transactions can therefore be targets for fraud so additional information regarding the circumstances surrounding these types of transactions may be necessary.

Please refer to Stewart's Bulletin MU2021001 regarding Non-institutional / Hard Money / Private Lender Transactions here: [Stewart's Bulletin MU2021001](#)

Once you have established that approval will be required, you will need to complete an Approval Form and provide any and all pertinent information about the transaction, such as closing instructions, Purchase and Sale Agreements, and if it's an LLC, the names of individuals identified as managers and authorized signatories who will be signing the documents. You should also include your title commitment and pro forma (if there is one) along with the title search and any prior policies. The Approval Form can be found in Virtual Underwriter, but please also feel free to reach out to your Agency Sales Representative or Underwriter to obtain the Approval Form or if you need any assistance completing the form. Links to a downloadable Word form or fillable PDF form can be accessed here: [Approval Form](#)

The Approval Form is a concise 2-page document that includes basic information regarding the transaction, such as agent information, property information, policy type, title search dates, the purpose of financing, as well as checkboxes that will need to be filled in if applicable to the transaction.

If you are working with a specific underwriting attorney, we recommend you email the form, along with all required documents, directly to that individual. You can always email the form to PolicyApprovalRequest@stewart.com and it will be assigned to an appropriate underwriting counsel in the state. Generally, our underwriting team can review and approve transactions within the same day.

Once approved, a system generated approval will be emailed to you. Please review that approval carefully, as any conditions to approval will be contained in that email.

If you have any questions whether a specific transaction you are handling would require approval, don't hesitate to reach out to a member of our underwriting team. Please also review our Bulletin regarding Overlimits Request Form and Related Documentation which can be found here: [Overlimits Request Form and Related Documentation](#)

We understand that a quick response may be needed so we strive to respond quickly to meet the needs of our agents and would ask that you always feel free to reach out to your Underwriter directly.



Recent Rhode Island Supreme Court Opinion Regarding Notice in a Non-Judicial Foreclosure By: Eileen C. O'Shaughnessy, Esq.,
Rhode Island Underwriting Counsel

While Judicial foreclosures are permitted, the vast majority of foreclosures in Rhode Island are non-judicial and are governed by the statutory power of sale codified in RIGL §§ 34-11-22 and 34-27-4(b).

Section 34-11-22 authorizes the incorporation of the power of sale by reference in a mortgage and thus permits a mortgagee to sell mortgaged property in the event of default, provided that the mortgagee sends “written notice of the time and place of sale by certified mail, return receipt requested, to the mortgagor, at his or her or its last known address * * *.” (Emphasis added.) Section 34-27-4(b) states in relevant part that

“no notice shall be valid or effective unless the mortgagor has been mailed written notice of the time and place of sale by certified mail return receipt requested at the address of the real estate and, if different, at the mortgagor’s address listed with the tax assessor’s office of the city or town where the real estate is located or any other address mortgagor designates by written notice to mortgagee at his, her, or its *last known address*.”

In an opinion issued on February 4, 2025, entitled Raymond Paul Montaquila and Paula M. Montaquila v. Flagstar Bank FSB, No. 2024-50 (not yet published in the Rhode Island Reporter), the Rhode Island Supreme Court has held that a foreclosure sale was valid despite the borrower’s claim that she was entitled to have notice of the sale sent to her residential address.

In 2005, the Plaintiff and her son became the vested owners of a multi-family property (first property) in Providence in which her son lived but she did not, which was the subject of the foreclosure at issue. Plaintiff has owned and resided in another property (second property) in Providence since 1996.

Flagstar Bank FSB (“Flagstar”), as foreclosing mortgagee, was required to comply with the statutory notice requirements contained in RIGL §§ 34-11-22 and 34-27-4(b) regarding the statutory power of sale. Flagstar sent notice to the Plaintiff at the first property but not at the second property.

Plaintiff argued that Flagstar knew that the second property was her last known address for a number of reasons. When Flagstar sent a representative to the multi-family property to advise her son that he had a right to a face-to-face meeting to discuss the delinquency of the mortgage debt, they did not attempt to advise the Plaintiff of a right to such a meeting, ostensibly because they knew she did not reside at the property and was therefore not entitled to a meeting. She claimed that when the first property was purchased, her address on the face of the deed was identified as the second property. She obtained a mortgage from the same lender on the second property, her residence, a year before the subject mortgage and provided her driver’s license in the application process and took the mortgage out as an occupant of that property. She also argued that Flagstar had constructive notice of her actual address because she did appear as the owner of the second property with the City Assessor’s office. It is important to note, however, that the plaintiff did not present any evidence that she advised Flagstar in writing that she wished to receive correspondence at an address different from the first property.

The Court found that the Plaintiff did not present any evidence that her last known address was her residence address.

The Court said, “Her reading of §§ 34-11-22 and 34-27-4(b) would require mortgagees to send notice of intent to foreclose to any address for which a mortgagor is an assessed owner in the relevant tax assessor’s database, or any address of which a mortgagee has

constructive knowledge in some form, either based on the parties' transactional history or otherwise. We will not construe statutes to reach an absurd result."

This opinion appears to limit the extent to which a foreclosing mortgagee must investigate all possible addresses that may have anything to do with a defaulting mortgagor. Absent a written notice by the mortgagor that they wish to have correspondence sent to an address other than the property address and absent the appearance in the assessor's database, with respect to the subject property, of the owner's address being different from the property address, the mortgagee is not required to obtain further addresses where notice of the foreclosure must be sent.

Challenges to the validity of a foreclosure based on adequate notice remain an area of significant litigation. If you have questions regarding the sufficiency of foreclosure notices, please reach out to an underwriter.

To read the full opinion, follow this link: <https://www.courts.ri.gov/Opinions/Supreme-24-50.pdf>



Recently Issued Special Alerts:

In February, several Special Alerts were issued impacting various New England States. In case you missed any of these, we are providing links below:

Special Alert: [SA2025061](#) Regarding property located at **295 Kemp Street, Dunstable, MA**

Special Alert: [SA2025060](#) Regarding Texas notary public **Minerva Hollingsworth**

Special Alert: [SA2025058](#) Regarding property located at **174 Crystal Lake Rd., Osterville, MA**



Upcoming Education

Webinar Today!

Title: Newly Adopted Title Examination Standards for New Hampshire - [Register Here](#)

When: March 5, 2025 from 2PM to 3PM

The 2024 updates to the NH Title Examination Standards is the first time since 2019, that the Standards have been revised. This informative session will highlight some of the more significant changes and additions to the Standards and their impact on guidelines relative to insuring titles in New Hampshire.

Certificate of Attendance to aid in reporting NH CLE credits will be provided upon request. Please note that as of 7/1/2014 the NHMCLE Board no longer pre-approves courses nor course providers for NHMCLE credit. Each attorney is responsible for determining whether a program is eligible for NHMCLE credit, based on the requirements in NH Supreme Court Rule 51.

Massachusetts Underwriters Talk Title Series 2025 – join us for our monthly webinar hosted by members of the Massachusetts underwriting team. These are concise 30-minute webinars on various topics that impact title insurance and real estate in Massachusetts.

To Register for one or all of our webinars, follow this link: [Massachusetts Underwriters Talk Title Series - 2025](#)

<u>Trusts</u>	<u>Wednesday, March 12, 2025 @10:00-10:30 AM</u>
<u>Orders of Conditions</u>	<u>Wednesday, April 9, 2025 @11:00 -11:30 AM</u>
<u>Plot Plans</u>	<u>Wednesday, May 7, 2025 @11:00-11:30 AM</u>
<u>Waterfront Properties</u>	<u>Wednesday, June 4, 2025 @11:00-11:30 AM</u>
<u>Use of shortened title searches-prior policies</u>	<u>Wednesday, July 9, 2025 @11:00-11:30 AM</u>
<u>Insuring Occupied properties</u>	<u>Wednesday, August 6, 2025 @11:00-11:30 AM</u>
<u>Municipal liens</u>	<u>Wednesday, September 10, 2025 @10:00-10:30 AM</u>
<u>Easements</u>	<u>Wednesday, October 8, 2025 @11:00-11:30 AM</u>
<u>Self-Dealing and Fiduciaries</u>	<u>Wednesday, November 5, 2025 @11:00-11:30 AM</u>
<u>Tenants by the Entirety</u>	<u>Wednesday, December 10, 2025 @11:00-11:30 AM</u>



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