

Dear Stewart Partners,

In this week's update, we are providing you with some Stewart resources that we hope you find useful, including information about reverse mortgages and an important update on new flood risk disclosure requirements in Vermont. Additionally, we are providing a summary of an important bulletin recently issued by Stewart pertaining to Attorney Opinion Letters in the context of Fannie and Freddie's pilot program aimed at eliminating lender's policies of title insurance on certain loan transactions.

Also, we are so pleased to share that several charities nominated by the Stewart New England team, many of them local to the area, have been selected as a Stewart Title Foundation's Fall Community Service Award winners. More information on the award recipients and the Stewart Title Foundation can be found below.

Lastly, as a reminder, our offices will be closed next Monday, October 14, 2024.



Reverse Mortgages By: Katherine F. Fletcher, Esq., Associate Senior Underwriting Counsel – Connecticut

Reverse mortgages are increasing in popularity with senior citizens who have equity in their homes and want to remain in their homes or supplement their income. With a reverse mortgage loan product, a borrower can use equity in their home as a guarantee for a loan. Unlike a traditional mortgage loan, with a reverse mortgage loan the borrower does not make monthly loan payments. Rather, the lender disburses payments to the borrower. Typically, the interest rate for a reverse mortgage is adjustable or fixed.

Since interest and fees are added to the loan balance of reverse mortgages each month, the loan balance goes up, not down, over time. As the loan balance increases, the equity in the home decreases. Generally, when the last surviving borrower (or non-borrowing spouse in some instances) dies, the reverse loan balance becomes due. If the heirs of the last surviving borrower want to keep the home, they must pay the loan balance in full. If they do not wish to keep the home, they may sell the property and pay off the loan balance. If a borrower decides to sell their home prior to death, as with a typical mortgage loan, the borrower will need to payback the loan plus interest and fees. Similar to a traditional mortgage loan, a reverse mortgage lender maintains typical default remedies such as foreclosure.

The only reverse mortgage insured by the U.S. Federal Government is called a Home Equity Conversion Mortgage (HECM), which is only available through a Federal Housing Administration (FHA) approved lender. The HECM is the FHA's reverse mortgage program for borrowers ages 62 and older. The program enables a borrower to withdraw a portion of the home's equity to use for home maintenance, repairs, or general living expenses. HECM borrowers may reside in their homes indefinitely as long as property taxes and homeowner's insurance are kept current. HECM lenders must follow additional rules set by HUD, including mandatory housing counseling. Non-HECM reverse mortgage lenders may have different requirements and features.

As part of the policy requirements, the lender may ask that the loan policy include the ALTA 14.3 endorsement. When asked to issue a loan policy for a reverse mortgage transaction with or without a request for the ALTA 14.3 endorsements, it is necessary to take additional steps to verify the mortgage is insurable. Specifically, one must:

1. Verify the mortgage discloses that it is a reverse mortgage that secures future advances and complies with applicable state requirements for the disclosure of future advances.
2. Verify the mortgage is a HUD HECM mortgage or a Fannie Mae Home Keeper Mortgage. If not, approval must be obtained from a Stewart underwriting counsel prior to issuing the policy.
3. Secure government issued photo ID for each mortgagor and verify that each mortgagor is at least 62 years of age.

Further, it is important to note that a HUD HECM transaction will require the recording of two mortgages: (1) a first lien mortgage to a lender; and (2) a second lien mortgage to HUD. Generally, the loan policy will insure only the lender and the mortgage to the lender on Schedule A, and the HUD mortgage will be shown as a subordinate matter on Schedule B. However, at the request of the lender, you may issue one loan policy that describes both mortgages on Schedule A and names both the lender and HUD "as their interests may appear." At the request of the lender, you may also note their priority (e.g. First Mortgage and Second or Subordinate Mortgage) in the Schedule A description of each mortgage.

As mentioned above, HECM lenders often require an ALTA 14.3 Endorsement be added to their policies since their mortgages typically are in the form of monthly payments or equity lines. The ALTA 14.3 Endorsement includes, among other things, a provision which insures against invalidity or unenforceability of the insured reverse mortgage as security for advances and the lack of priority of the lien of the insured reverse mortgage as security for such advances. The ALTA 14.3 also insures against loss or damage sustained by the insured by reason of the failure of the mortgagors to be at least 62 years of age at Date of Policy. There are two versions of the endorsement: one which contains a mechanic's lien exception (Endorsement 14.3 W MML) and the other which does not contain the mechanic's lien exception (Endorsement 14.3 WO MML).

Stewart has published guidance regarding insuring reverse mortgages in Bulletin MU200801, which can be viewed by following this link: [ALTA Endorsements 14.3 \(Reverse Mortgages\) \(virtualunderwriter.com\)](#). In addition, to view the underwriting guidelines for the ALTA 14.3 endorsement, follow this link:

<https://www.virtualunderwriter.com/en/guidelines/2013-11/GL11539581150000088.html>

As always, should you have any questions about insuring a reverse mortgage or issuing the ALTA 14.3, please reach out to your local Underwriting Counsel.



New Vermont Flood Risk Disclosures Required for Sale Transactions By: Jill Spinelli-Quong, Esq., Associate Senior Underwriting Counsel – Vermont

In response to record rainfall and flooding in Vermont, the legislature recently passed Act 181 (House Bill 687), which introduces new flood risk disclosure requirements for real estate transactions. These consumer protection measures aim to ensure that home buyers receive relevant flood-related information about the property they are purchasing. This includes details about the property's history of flooding, its location within a FEMA flood hazard area, and the availability of flood insurance.

Act 181 Section 102. 27 V.S.A. § 380. DISCLOSURE OF INFORMATION; CONVEYANCE OF REAL ESTATE

(a) Before or as part of a contract for the conveyance of real property, the seller must provide the buyer with the following information:

1. Whether the property is located in a Federal Emergency Management Agency (FEMA) mapped special flood hazard area;
2. Whether the property is located in a FEMA mapped moderate flood hazard area;
3. Whether the property experienced flooding or flood damage while under the seller's ownership, including damage from inundation, flood-related erosion, or landslides; and
4. Whether the seller maintains flood insurance on the property.

(b) If the seller fails to provide the required information under subsection (a), the buyer may terminate the contract prior to the transfer of title or occupancy, whichever occurs first.

(c) A buyer who does not receive the required information from the seller may seek to recover damages and reasonable attorney's fees. If the seller knowingly failed to provide the information, the buyer may also seek punitive damages.

(d) A seller is not liable for damages under this section for any errors, inaccuracies, or omissions in the information disclosed if the error was based on information from a public body or a licensed professional, and the seller reasonably believed the information to be correct and provided it to the buyer.

(e) Noncompliance with this section does not affect the marketability of the property's title.

Regarding the seller's personal knowledge of the property's flood history, compliance with this statute is straightforward. However, determining whether the property is in a "special" or "moderate" FEMA-mapped area and verifying flood insurance availability requires a more complex analysis. The Agency of Natural Resources maintains FEMA mapping, accessible here: Natural Resources Atlas (<https://anrmaps.vermont.gov/websites/anra5/>). Properly analyzing the map and applying the correct filters is crucial for obtaining accurate

information. Sellers are likely to seek assistance from realtors and/or attorneys to determine flood zone information.

Since the statute allows for termination of the Purchase and Sale Contract up to the time of transfer if the disclosure is not provided, it is essential for real estate attorneys to verify that the disclosure was issued and accepted by the buyer early in the process to avoid last-minute issues.

Act 181 is aimed at increasing transparency in Vermont's real estate transactions with respect to potential flood risks. Sellers and their representatives must navigate the complexities of FEMA flood maps and insurance availability with care, ensuring compliance with the new requirements. For real estate professionals, staying informed and proactive in verifying disclosures is vital to safeguarding their clients' interests and preventing potential disputes or delays.



Reminder: Stewart Does Not Participate in Attorney Opinion Letter Programs

Fannie Mae and Freddie Mac have recently approved the use of an Attorney Opinion Letter (AOL) as a substitute for a lender's title insurance policy under certain conditions. Because of the requirements and structure of the AOL, it may violate monoline (single type of insurance) and other insurance laws. A transaction involving an AOL may also include a Settlement Agent Agreement and a Closing Indemnification Letter (for the settlement and disbursement of funds). These documents may subject a participant to additional legal exposure.

Stewart Title Guaranty Company does not participate in the AOL program and does not permit the issuance of CPLs or Owner's Policies for AOL transactions.

Please see [Bulletin - SLS2024013 UNDERWRITING - Attorney Opinion Letter \(AOL\) and Settlement Agent Agreement Services](#) for further details.

Stewart supports the American Land Title Association's advocacy efforts opposing unregulated title insurance alternatives, such as AOLs, and educating lenders and others on the risks with such products. To learn more about this advocacy and to get involved follow this link: [American Land Title Association's Advocacy](#).



Stewart Cares for Our Community – Congratulations to 2024 Fall Community Service Award Winner, The Nature Connection!

Stewart regularly donates to local charities that are nominated by its employees, through its Community Service Award program. This fall, 455 non-profit organizations will be receiving a donation from The Stewart Title Foundation. The Fall 2024 recipients include the following charities:

- The Nature Connection, which is based out of Concord, Massachusetts. This charity was nominated by Rhonda Duddy, Massachusetts and New Hampshire Underwriting Counsel.
- The Fenway Garden Society, Inc., based in Boston, Massachusetts. This charity was nominated by John Christenson, New England Regional Claims Counsel
- The Lowell Humane Society, based in Lowell, Massachusetts. This charity was nominated by Patrick Dolbier, Legal Assistant, Claims Services
- The Homeport Alliance for the USS New Jersey, Inc. This charity was nominated by Mary Blomerth, Agency Service Representative for Massachusetts.

The Stewart Title Foundation makes donations quarterly through employee-lead Community Service Awards program. A number of different charities throughout New England have benefitted from nominations made by individual team members based in New England and we couldn't be prouder of this initiative and so pleased we are making an impact locally.



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