

Dear Stewart Partners,

In this week's Mid-Week Update, we are continuing our series on ALTA endorsements and the focus is on mortgage modifications. There are several in this series, and if you are requested to modify a mortgage and provide an endorsement, one of the endorsements in this series would be an appropriate choice. In addition, for our Vermont issuing agents, please be aware that coming in August there will be new tax and surcharge rates applicable to property transfers in Vermont. The implications are significant for second-home purchasers.

Also, in case you missed it, a Special Alert was issued late last week, which we've linked below. Lastly, we have some webinar items of interest, which you can read about more below.



Mortgage Modifications by: Nancy L. Walkley, Associate Senior Underwriter and Connecticut Underwriting Counsel

A mortgage modification may change many aspects of the original mortgage such as:

1. Extend the term for repayment
2. Decrease or increase the interest rate or change it from fixed to variable or vice versa
3. Increase the principal amount to provide additional funds
4. Add additional collateral or remove existing collateral
5. Correct errors

A modification agreement must be in writing but unlike a mortgage, where only the borrower signs the document, the modification agreement must be signed by both the holder of the mortgage and the borrower. Additionally, the execution formalities of a mortgage transaction must be followed, such as the requirement that the signatures be acknowledged, and the document must be recorded on the land records. If the purpose of the mortgage modification is to add additional real property as collateral or to increase the amount secured by the mortgage, the agreement must contain appropriate granting language by the borrower as well. Although in recent years there have been many governmental loss mitigation programs that provide mortgage modifications to struggling borrowers, it is important to note that a mortgage modification may not indicate borrower distress, but rather is a mechanism used by a lender and borrower to alter the terms of the original mortgage agreement for a variety of reasons. Modifications are commonly seen in commercial transactions.

Certain changes made in a modification such as increasing the amount, providing additional collateral, or even extending the term of repayment may affect the priority of the subject mortgage. For this reason, prior to endorsing a policy, a title search would be necessary, and subordinations of any intervening interests may be required.

There are three kinds of endorsements in the ALTA 11 series. The correct endorsement needs to be selected based on the original policy that was issued and the circumstances of the modification. The three endorsements available are:

1. [Mortgage Modification](#): ALTA 11 (for use with the 2021 version of the policy) / ALTA 11-06 (for use with prior versions of the policy)
2. [Mortgage Modification with Subordination](#): ALTA 11.1 (for use with the 2021 version of the policy) / ALTA 11.1-06 (for use with the prior versions of the policy)
3. [Mortgage Modification with Additional Amount of Insurance](#): ALTA 11.2 (for use with the 2021 version of the policy) / ALTA 11.2-06 (for use with prior versions of the policy)

All of the endorsements will insure the lender against loss or damage sustained by the Insured by reason of the invalidity or unenforceability of the lien as a result of the modification and the lack of priority of the lien of the Insured Mortgage over defects in or liens or encumbrances on title, except those in the policy and prior endorsements, along with those set forth in the endorsement.

The ALTA 11 or 11-06 is used in circumstances where the modification does not increase the principal amount secured by the mortgage and where there is no subordination given by an intervening creditor or party in interest.

The ALTA 11.1 or 11.1-06 is designed for use where a lien of record is specifically subordinated by agreement to the Insured Mortgage in connection with the granting of the modification. The endorsement contains a section wherein the preparer must specify the matters which are specifically subordinated.

The ALTA 11.2 or 11.2-06 is used where the lender will be advancing additional funds not originally contemplated and the lender seeks to increase the amount of insurance as a result. This endorsement will require the preparer to set forth the new and increased amount of Insurance on the endorsement.

As stated above, any time a mortgage modification endorsement is requested it is necessary to search the records from the Date of the Policy forward. Additionally, many of the same typical closing requirements in a mortgage transaction will also be applicable when insuring a mortgage modification. To view the complete list of underwriting requirements, follow the hyperlinks above for each type of endorsement. The links will bring you to Stewart's Virtual Underwriter section on the guidelines for the respective ALTA forms.

Should you have any questions about mortgage modifications and how to endorse a Stewart policy, please contact your local underwriting counsel.



New Property Transfer Tax and Clean Water Surcharge Rates in Vermont by Jill Spinelli Quong, Esq., Associate Senior Underwriter and Vermont State Underwriting Counsel

On August 1, 2024 changes to transfer tax and clean water surcharge rates take effect for property transfers in Vermont pursuant to newly enacted legislation found here: [Act 181 \(H.687\) of 2024](#) (see Sections 73 & 74). A summary of those changes, outlined by the Vermont Department of Taxes, are as follows:

General Tax Rate: Remains the same at 1.25%.

Clean Water Surcharge Rate: Increases from 0.2% to 0.22% and increases exemption amounts.

Principal Residence Tax Rate: Special tax rate of 0.5% remains the same, but values subject to 0.5% rate (and exempt from the Clean Water Surcharge) increases from the first \$100,000 of value paid to the first \$200,000 of value paid. The General Tax Rate of 1.25% plus the Clean Water Surcharge of 0.22% (total 1.47%) applies to the value paid above \$200,000.

Non-Principal Residence Tax Rate (for a non-long term rental residence fit for year-round habitation): Increases from 1.25% to 3.40% (3.62% including the Clean Water Surcharge).

Exemption 99 (for a principal residence funded in part with a homeland grant through the Vermont Housing & Conservation Board (VHCB) or which the Vermont Housing Finance Agency (VHFA) or USDA Rural Development has committed to make or purchase): Increases exempt amount from the first \$110,000 of value paid to the first \$250,000 of value paid. The General Tax Rate of 1.25% plus the Clean Water Surcharge of 0.22% (total 1.47%) will apply to the value paid above \$250,000.

The Vermont Department of Taxes has provided information to Vermont attorneys and settlement agents that these changes will be reflected on the revised PTT-172 and associated instructions by August 1, 2024. For closings taking place after August 1, 2024, the Department is asking settlement agents to wait to issue the PTT-172 until after the new forms are available at myvtax.vermont.gov. For Commissioner Certificate requests, a draft PTT-172 can be prepared for the request. Any draft PTT-172 forms must be re-created once the new forms are available. As a reminder, the Vermont Department of Taxes, Taxpayer Services Division for Real Estate Taxes can be reached for questions at 802-828-6851 or by e-mail at tax.rett@vermont.gov to address any questions you might have.

Beyond the logistics of when the new forms will be available, the new tax rates associated with the purchase of non-principal residences will have significant implications for second-home purchases in the state. For example, the transfer tax on a \$500,000.00 second home (that will not be rented) will go from \$6,250.00 to an astounding \$17,000.00.

For non-primary residence purchases, attorneys will now be tasked with determining whether the property is (1) fit for year-round occupancy, and (2) whether the property is intended to be rented on a long-term basis in order that a Landlord Certificate pursuant to 32 V.S.A. §6069 will be issued each year.

Attorneys should update their intake forms to determine the proposed use of any second-home purchases and update their disclosures accordingly. It's unclear what will happen in the event that a purchaser rents their non-homestead property for less than a full calendar year, or who rents it out on a long-term basis for a period of time but then opts to rent it on a short-term basis thereafter.

The Vermont Bar Association will be hosting a one-hour virtual seminar TODAY on the transfer tax changes that will be implemented in August. For more details see below.



Upcoming and Pre-Recorded Webinars of Note:

***TODAY* Vermont Bar Association CLE on Transfer Tax Changes, Tax Sales, and other Interesting Tidbits from the 2023-2024 Legislature**

Today, Wednesday, July 24, 2024 from 10:00-11:00 am, the Vermont Bar association will be providing a one-hour seminar of the Vermont transfer tax changes discussed herein. For cost and registration information follow this link: [Register Today](#)

***TODAY* The National Association of Realtors Settlement and the Title Industry**

An ALTA Insights webinar is happening today that will focus on the recent settlement and the impacts on the title industry. This free webinar will take place today, Wednesday July 24, 2024 from 1:00PM – 2:00PM. The webinar promises to teach title professionals what they should know about the new environment created by the settlement and the potential new real estate business models that will develop in a post settlement environment. The presentation will consider the immediate and practical impacts on title and settlement companies, along with educating consumers about the benefits of title insurance. To registry for this webinar, follow this link: [Register Today](#)

As a reminder, if you are unable to attend this webinar, the ALTA Insights webinars are recorded and are available on their website.

Recorded Webinar: A Practical Cybersecurity Roadmap for Title Agents

In case you missed this webinar, which aired on July 10, 2024, here's your chance to listen in. In this ALTA Insights webinar, which is geared specifically to small businesses. You'll get a practical, step-by-step guide to help your agency or firm bolster its cyber defenses. Stewart's own Chief Information Security Officer, Genady Vishnevetsky, is a presenter. The presenters offer tips on avoiding unnecessary expenses and how to leverage a small businesses budget for maximum security. Follow this link to listen in: [A Practical Cybersecurity Roadmap for Title Agents](#)



In Case You Missed It – Special Alert: [SA2024206](#)

Last week, on July 19, 2024, Stewart issued Special Alert SA2024206 to all policy issuing offices. The Special Alert listed many names of individuals and entities. Pursuant to the Special Alert, all issuing offices are instructed not to accept any orders or close on any transactions involving the individuals or entities listed in the alert without written approval of a Stewart Legal Services Representative. To view the complete list of names identified in the Special Alert, please follow the link above.

As always, all names, entities, and street addresses which are the subject of a special alert are entered in the Special Alert database. To access the database, follow this link:

<https://specialalerts.stewart.com/search>



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