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UNDERWRITING BULLETIN

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Search/Exam procedure, Reconveyances of Deeds of Trust

TRUST DEEDS WITHOUT RECORD RECONVEYANCES:

Unreconveyed Deeds of Trust remain a problem for Title Insurers. When a deed of trust goes into default, the lender obtains a trustee's sale guarantee which, for better or worse, may show a supposedly superior deed of trust in Schedule B. Almost all of the time this is a "Ghost Lien" with the underlying debt extinguished.

Search / Exam procedures have evolved into a simplified chain process, basically described as Loan to Loan and Sale to Sale. If being asked to insure a refinance, the Searcher/Examiner goes back to the last insured first lien and comes forward. If being asked to insure a sale, the Searcher/Examiner goes back to the last insured full value arms length sale and comes forward. In either case, the reliance for lien clearance is on the previous similar transaction.

There is an exception to this procedure. Home Equity Line of Credit deeds of trust have been creating havoc with claims. You cannot rely on subsequent insurance to eliminate consideration of such liens. All such liens have to be investigated and dealt with, irrespective of the position in the chain and irrespective of subsequent insurance. You may obtain, as an example:

1. A reconveyance of that trust deed
2. A letter from that lender indicating that a reconveyance will be recorded.

You CANNOT rely on a prior HUD-1 indicating that the trust deed was paid.

Intentional disregard of the matters contained in this Bulletin may cause any loss sustained under the terms of a policy to be allocated entirely to the Agent.