



DELETING STANDARD EXCEPTIONS

Exception 1:

Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

This Exception is deleted from all policies when issued. You must update title prior to disbursing/recording to narrow the gap between the Date of Commitment and the Date of Policy.

Exception 2:

Any Rights, interests or Claims of parties in possession not shown by the public records.

This Exception may be deleted from all policies upon request of the proposed insured provided you have obtained a seller/buyer affidavit following the Model Form attached. The affidavit used does not have to be an exact match for the Model Form so long as it covers the same matters. A survey or GIS map showing improvements and lot lines is a useful tool to assist you with deletion of this exception.

Exception 3:

Any encroachment, encumbrance, violation, variation, or adverse circumstance or other matter affecting the Land that would be disclosed by an accurate and complete land survey of the Land. The term “encroachment” includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments on the Land of existing improvements located on adjoining land.

The Ohio Department of Insurance issued Bulletin 95-4 on August 1, 1995. This Bulletin indicates that the deletion of this Exception without “evidence of survey” is a violation of ORC Chapter 3953.

The Ohio Administrative Code regulates Ohio surveyors/engineers. The OAC defines two types of surveys: 1) mortgage location surveys and 2) boundary line surveys. The difference is largely one of accuracy and who can rely on them. Mortgage location surveys are less accurate and can be relied upon by a title insurer and a lender. A boundary line survey is more accurate as the surveyor will set corners within a defined measure of accuracy. In addition to a title insurer and lender, an owner of real estate may rely on a boundary line survey.

ALTA/ACSM surveys are commonly used for commercial real estate, but you may rely upon a mortgage location survey to delete this Exception for commercial real estate when the transaction being insured is \$2,000,000 or less.

The Company will accept the following as evidence of survey:

- A. New Survey; The surveyor or engineer must certify the survey to WFG National Title Insurance Company.
- B. Prior survey; Must be dated within the last 10 years provided the seller/borrower provides you with an "Affidavit of No Change" attesting that there have been no improvements constructed since the date of the survey nor any additional matters that would be disclosed by a new survey. You must verify the accuracy of the statements made in the affidavit by comparing the survey to a county GIS map or aerial photo showing improvements and lot lines. Alternatively, you may type the property address into Google and select "Satellite View".
- C. Condominiums; No survey is required for Condominium units. ORC 5311.01 et. seq. requires that "drawings" certified by an engineer or surveyor be filed when the Condominium unit is created or modified. These drawings may be used in lieu of a new survey or a prior survey.
- D. Unimproved Land; For metes and bounds legal descriptions, you may rely upon a county GIS map/aerial photograph. For platted lots, you may rely upon the plat and either a county GIS map/aerial photograph or Google's "Satellite View".

Standard Exception 5:

Easements or claims of easements not shown by the public records.

This may be deleted with a borrower/seller affidavit in a form substantially similar to the Model Affidavit attached and a survey. Examples of this risk include, but are not limited to, shared driveways drives/paths/etc. crossing the property and used by adjoining owners.

Standard Exception 6:

Any lien, or right to a lien, for services, labor, or materials in connection with improvements, repairs or renovations provided before, on, or after Date of Policy, not shown by the Public Records.

Agents must exercise great care when deleting this Exception due to the extra-hazardous risk. To delete this exception, follow these guidelines:

- A. 1-4 Family Real Estate; You must take steps to verify that no construction has been started, labor performed, or materials/construction equipment delivered within 60 days prior to your closing date.
- B. Multi-family Residential/Commercial Real Estate; You must take steps to verify that no construction has been started, labor performed, or materials/construction equipment delivered within 75 days prior to your closing date

A surveyor's inspection is the most commonly used verification method.

Standard Exception 7:

“Taxes and assessments for the year _____ and subsequent years, which are not yet due and payable.”

This exception is not deleted.

Standard Exception 8:

“Taxes or special assessments assessed, but not shown as a lien in the Public Records, at Date of Policy.”

This exception may be deleted upon making an inquiry of all governmental departments/bodies that can make special assessments to determine any assessments that have been assessed, but do not yet appear in the Auditor’s Records. This includes: School Board (School Levies), Water/Sewer Departments, Street Departments, Parks and Recreations Departments, Etc.

Standard Exception 9:

“Oil, natural gas, coal or other minerals previously conveyed, leased or retained by prior owners.”

This exception may be deleted with the approval of Underwriting Counsel for the Company. Depending on the location and type of real estate, the Company may require an extended search of the public records dating back to a warranty deed for value recorded prior to 1850. In areas of Ohio that contain coal, an extended search back to the Land Patent may be required.

Searches of this nature are extremely difficult and should only be undertaken by examiners with experience searching the older records. Many of these older records were not kept in the same manner/place where we would find such records today due to changes to Ohio’s statutes. As an example, we currently expect to find a Certificate of Transfer filed at the Recorder to memorialize the transfer of real estate when someone dies. In the past, Certificates of Transfer did not exist and the transfer of real estate was only memorialized in the estate filed in Probate Court. Additionally, many older records may no longer be kept locally and may have been transferred to the custody of the Ohio Historical Society.

Standard Exception 10:

“For Loan Policies only: Pursuant to ORC 1509.31, leases for oil or natural gas, pipeline agreements or any other instrument related to the production or sale of oil or natural gas recorded in the County Recorder’s Office subsequent to the Date of Policy will not be terminated or extinguished by a foreclosure of the mortgage described in Schedule A hereof.”

This exception may not be deleted.