

WFG Rate and Form Bulletin



To: All Policy Issuing Agents and Direct Operations of WFG National Title Insurance Company
From: Mary Thuemmel, Northwest Underwriting Counsel
Date: June 14, 2016
Bulletin No: OR2016-01
Subject: Rate and Form Bulletin-Revised Rate Manual for the State of Oregon

The Oregon Division of Financial Regulations (formerly known as the Oregon Insurance Division) has approved a number of revisions to the Oregon Rating Manual. **These changes are applicable for all orders for title insurance received on or after June 2, 2016.**

Approved changes include the following:

1. Rating Manual Section 6.006– Revision on Fees for Date-Down Endorsements for Guarantees

Section 6.006 of the Rating Manual provides for a date-down endorsement for a guarantee. The section previously stated that the insured “may obtain a reasonable number of date-down endorsements prior to a completed foreclosure or other disposition for which the guarantee was issued.” Until this amendment, the Manual did not provide for a charge for requests that exceeded “a reasonable number” or which were made long after a guarantee had been issued. From June 2 forward, a charge of \$100 per endorsement will be permitted if more than five (5) endorsements have been issued previously or if the request for an endorsement is received more than two (2) years after the date of the guarantee.

2. Rating Manual Section 10.202 – Withdrawal of Truth in Lending Endorsement

OTIRO Endorsement 202-06 – ALTA Endorsement 2-06 (Truth in Lending) will be withdrawn, effective June 2. ALTA decertified this lender-policy endorsement effective December 1, 2015, and the endorsement was rarely, if ever, requested in Oregon.

3. Rating Manual Section 10.209 - a) Replacement of OTIRO End. 209-06 (ALTA End. 9-06 Restrictions, Encroachments, Mineral - Loan Policy) with OTIRO 209.10-06 ((ALTA End. 9-06 Restrictions, Encroachments, Mineral-Current Violations- Loan Policy; and b) replacement of 209.6-06 (ALTA End 9.6-06 Private Rights–Loan Policy) with. 209.6.1-06- (ALTA 9.6.1-06 Private Rights – Current Assessments- Loan Policy)

As of June 2, Section 10.209 of the Rating Manual will be revised to replace two loan policy endorsements in the ALTA 9 Series with alternative endorsements, which OTIRO considers preferable. The endorsements to be withdrawn are OTIRO 209-06 (ALTA 9-06) and OTIRO 209.6-06 (ALTA 9.6-06). The endorsements to be added as replacements for those withdrawn are OTIRO 209.10-06 (ALTA 9.10-06) and OTIRO 209.6.1-06 (ALTA 9.6.1-06).

OTIRO 209-06, “Restrictions, Encroachments, Minerals – Loan Policy” is nearly identical to its replacement, OTIRO 209.10-06, which is labeled “Restrictions, Encroachments, Minerals – **Current Violations** – Loan Policy.” The sole difference between the two is that Section 3(a) of the 209-06 provides coverage against loss sustained by the Insured by reason of “a violation of a Covenant” that results in a loss of priority of

the lien of the Insured Mortgage or in other consequences. The new endorsement, on the other hand, provides such coverage, but only if by reason “a violation *at Date of Policy* of a Covenant.” (The added language is in italics.)

OTIRO sought the addition of the language in italics because there are circumstances in which a post-policy violation of a covenant could result in a loss of priority of the insured lender’s loan. For example, the Oregon Condominium Act contains a process by which a unit owners’ association, whose lien for unpaid assessments normally falls behind a first-position trust deed or mortgage, may gain priority over a purchase money loan. When both the loan and the owners association assessments are in default, the lender can lose priority if it fails to initiate foreclosure within a specified period after receiving notice from the unit owners’ association that the lender inaction may cause loss of priority.

Such a post-policy event is not within the control of the title insurer. Rather, it is the insured lender who would receive the notice that its priority was in jeopardy, and the lender who would be in a position to prevent a loss of priority by initiating foreclosure (or by paying the assessments). For this reason, OTIRO felt it was appropriate for the endorsement to clearly limit its Section 3(a) coverage to violations at the policy date.

Similarly, as of June 2, 2016, OTIRO 209.6-06 “Private Rights – Loan Policy”, will be replaced by OTIRO 209.6.1-06 “Private Rights – Current Assessments – Loan Policy.” OTIRO 209.6-06 defines “private right” to mean, in part, “a private charge or assessment.” New 209.6.1-06 will revise this phrase to read “a private charge or assessment *due and payable at Date of Policy*.” (*Emphasis added.*) With this change in place, a post-policy unit owner’s association arrearage would fall outside of the endorsement’s coverage.

There is no change in the charges for the endorsements.

Comment: Generally speaking, title policies exclude coverage for post-policy matters. Endorsements occasionally depart from this fundamental concept and provide some post-policy coverage. As a rule, however, such post-policy coverage is only available in circumstances where the law protects a lender from loss of priority. The replacement of the 209-06 and the 209.6-06 with endorsements, which do not protect against post-policy matters bring these two Series 9 Endorsements in line with the general rule.

4. Rate Manual Chapter 6 Housekeeping Amendment to Two Guarantee Forms

Two guarantee forms, the Combination Guarantee and the Trustee Sale Guarantee each contained references to ORS 86.785, despite the fact that the statute has been renumbered as ORS 86.806. A correction to the statutory references contained in these guarantees, inadvertently omitted from OTIRO’s December 9, 2015-rate filing will be put into place with this filing, effective as of June 2, 2016.

If you should have any questions or concerns, please contact your local management or WFG Agency Support. An electronic copy of this revised and updated Rate Manual will be uploaded to the WFG Underwriting webpage (<http://wfgunderwriting.com/>) and can be reviewed there.

If you have any specific questions about the content of this manual, please contact the author at MThuemmel@willistonfinancial.com.

NOTE: This Bulletin is intended for use by title issuing offices, title insurance agents and approved attorneys of WFG National Title Insurance Company only. Reliance by any other person or entity is unauthorized. This bulletin is intended solely for the purpose of establishing underwriting policies and/or procedures of WFG National Title Insurance Company.