



Types of ALTA Policies

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TYPES OF POLICIES

The American Land Title Association (ALTA), a national association of commercial title insurers, title insurance agencies and abstractors has promulgated title insurance policy forms since 1946. The ALTA owner's policies and loan policies are widely regarded as standard forms. The California Land Title Association (CLTA) has also promulgated policy forms, but is better known outside California for a multitude of policy endorsement forms. Finally, individual title insurers have developed and promoted the use of their own non-ALTA policy forms in certain states. Distinctly separate forms of policies of title insurance continue to be designed and promulgated by the ALTA to insure the interests of the owner and lender, respectively. It has been held that only the insured and those who succeed to the insured's interest by operation of law can enforce the policy against the title insurer. Hawkins v. Oakland Title Ins. & Guar. Co., 165 Ca. App. 116, 531 P.2d 742 (1958). Thus, a loan policy that was issued insuring the lien of a mortgage does not provide or impart coverage to the mortgagor that owns the real estate encumbered by the insured mortgage. See, e.g. Mayo v. Title Ins. Co., 423 So.2d 1357 (Ala. 1982); Gaines v. American Title Ins. Co., 136 Ga. App. 162, 220 S.E.2d 469 (1975).

A. ALTA Owner's Policy

The American Land Title Association (ALTA) 2006 Owner's Policy is a policy form adapted for use to insure properties of all types and uses, whether residential, commercial or industrial containing improvements, or vacant land. The 2006 ALTA Owner's Policy is the latest broad spectrum owner's policy form to have been promulgated by the ALTA, and is available in most states. The ALTA decertified older policy forms that the 2006 Owner's Policy was designed to replace, yet the decision whether to issue older policy forms rests not with the ALTA but with individual insurers. A clear consensus has developed that the 2006 Owner's Policy has significant advantages over the predecessor 1992 ALTA Owner's Policy for the insured.

B. ALTA Loan Policy

The ALTA 2006 Loan Policy is the latest loan policy to have been promulgated by the ALTA. Like its parallel standard owner's version, the ALTA 2006 Loan Policy is adapted for use to insure properties of all types and uses.

C. Evolving Policy Forms

The ALTA has continued to promulgate, and individual insurers have continued to develop, policy forms of various types. Many are designed for insuring residential property only. ALTA loan policies designed for residential property include:

- ALTA Residential Limited Coverage - Junior Loan Policy (08-01-12)
- ALTA Short Form Residential Limited Coverage - Junior Loan Policy (4-02-13)
- ALTA Short Form Residential Loan Policy (12-3-12)
- ALTA Expanded Coverage Residential Loan Policy - Assessments Priority (04-02-15)

- ALTA Expanded Coverage Residential Loan Policy - Current Assessments (04-02-15)
- ALTA Short Form Expanded Coverage Residential Loan Policy - Assessments Priority (04-02-15)
- ALTA Short Form Expanded Coverage Residential Loan Policy - Current Assessments (04-02-15)
- ALTA Short Form Residential Loan Policy - Current Violations (04-02-15)

Loan policy forms that display or contain coverage more expansive than that contained in the standard ALTA 2006 Loan Policy may entail underwriting criteria or search and examination measures that are different from that followed when underwriting the ALTA 2006 Loan Policy. The ALTA also promulgated a residential owner's policy, the ALTA Homeowner's Policy (Rev. 12-02-12) that contains coverage more expansive than that contained in the standard ALTA 2006 Owner's Policy.

D. Components of a Typical Title Insurance Policy

The standard ALTA owners and loan policies contain the same basic components, though the specific provisions of the owner's policy version vary in important ways from the loan policy version.

1. Covered Risks: Insuring provisions that enumerate specifically the risks that the policy covers. The ALTA 2006 Owner's Policy contains ten Covered Risks; The ALTA 2006 Loan Policy contains fourteen Covered Risks. The first eight Covered Risks of both policies are identical. Covered Risks 9, 10, 11 and 12 of the Loan Policy provide coverage against lack of enforceability and priority of the insured mortgage and of any assignment (if shown in Schedule A) thereof.
2. Exclusions: Subject matter generally or broadly described that are not intended to be within the coverage of any title insurance policy.
3. Conditions: Definitions of the policy terms and provisions describing the rights and the obligations of the insured. The insured owner is covered for as long as the insured (or any of the successor individuals or entities identified in Condition 1(d), including heirs, devisees and successors by merger) retains an interest in the property. In contrast, under Condition 1(e) of the ALTA 2006 Loan Policy, coverage extends to both the named insured in Schedule A as well as the owner of the indebtedness secured by the insured mortgage.
4. Schedule A: A description of concrete title information derived from the public land records, including the identity of the owner, the legal description of the land, and (in loan policies) the insured mortgage. Also, the Policy Date, Policy Amount and name of Insured are included.
5. Schedule B: Exceptions from coverage, both standard exceptions and special exceptions, are stated. Exceptions are designed to take away or limit coverage concerning a specific instrument. Unlike the Owner's Policy, the Loan Policy

contains two distinctly separate schedules for exceptions: Part I for matters against which no coverage is provided, and Part II for matters that the policy insures affects the title but are nonetheless subordinate to the lien of the insured mortgage.

6. Endorsements: Endorsements may or may not be attached to the policy, depending upon the insured's arrangements or negotiations with the title insurer prior to closing to obtain these endorsements. Endorsements either add or make more explicit coverage of the underlying policy, or amend Conditions. It is imperative for the insured to arrange in advance of closing for the requested endorsement, such that the insured will timely learn what criteria the title insurer may impose and premiums will be charged. Requesting endorsements from the title insurer on the eve of the closing is likely to result in a denial of certain endorsements for which there is insufficient preparation time to issue. There are currently forty-four ALTA endorsements, and well in excess of one hundred CLTA endorsements.

