



LTAA Educational Webinar– Common Endorsements

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What is an endorsement?

- An endorsement is a provision added to an insurance contract whereby the scope of its coverage is either restricted or expanded.
- Most, but not all, endorsements **EXPAND** the coverage the insured receives in the title insurance policy in some way.



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What is an endorsement? -continued-

- Why are endorsements worded so specifically?
 - *Does the Company insure that the sky is blue? or*
 - *Does the Company insure against any loss or damage suffered by the customer should it turn out that the sky is not blue?*
- Endorsement language is critical!



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Endorsements

- Different issuing sources
 - ALTA
 - CLTA
 - State Regulatory Agencies
 - Customized
- 50 States –Multiple sets of rules
 - Availability, form and cost will vary from state to state
 - Regulated vs. Unregulated; Filed vs. Unfiled
- Endorsements are subject to additional underwriting requirements not generally set forth on the Schedule B-I Requirements contained in the Commitment



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Common Loan Policy Endorsements



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ALTA 6 – Variable Rate Mortgage

- Underwriting Considerations
 - Review relevant loan documents (e.g., loan agreement, promissory note and/or mortgage) to confirm the formula or process for adjusting the interest rate is set forth by means of objective criteria and consider state law for preservation of priority



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ALTA 8.1 and 8.2 – Environmental Protection Lien

- 8.1 is designed for use with loan policies on residential properties
 - The insurance afforded by this endorsement is only effective if the Land is used or is to be used primarily for residential purposes.
 - The Company insures against loss or damage sustained by the Insured by reason of lack of priority of the lien of the Insured Mortgage over...
- 8.2 may be used on any property or policy type



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ALTA 9 – Restrictions, Encroachments, Minerals

- Coverages:
 - CCR violations that would impair the lien of the insured mortgage
 - Encroachments across property lines or onto easements
 - Violations of set-back restrictions imposed by public record and enforced removal



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ALTA 9 – Restrictions, Encroachments, Minerals -continued-

- Underwriting Considerations:
 - Review of Declarations and other CCR instruments for limitations and evidence that covenants are not in violation
 - Review of survey for encroachments and impact on Improvements
 - Estoppel Certificates and statement from owner as to any known violations
 - *Note: CCRs in effect
 - Association “Status Letter”
- ALTA 9.7 (*Land Under Development*)
 - Takes into consideration coverage relative to improvements to be constructed on the land based upon plans and specifications
 - Need to review plans and specifications of the improvements, together with survey



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ALTA 9.6 – Private Rights

- “Private Right” means (i) a private charge or assessment; (ii) an option to purchase; (iii) a right of first refusal; or (iv) a right of prior approval of a future purchaser or occupant
- Underwriting Considerations
 - Review recorded CCRs to identify existence of any Private Rights
 - Estoppel Certificates to evidence payments or statement from seller as to assessments
 - *Note: Recorded CCRs
 - Evidence of waiver of purchase options or approvals for subject transaction



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ALTA 3 Series – Zoning

- Covered Risks provide coverage where there is notice of a zoning violation
- Otherwise, coverage excluded by Exclusions from Coverage
- ALTA 3 (*Unimproved Land*) Endorsement insures against loss or damage as to the failure of the land to hold a particular zoning classification and a specified use or uses not being permitted in that zone
- ALTA 3.1 (*Improved Land*) Same coverages as the ALTA 3 plus insures against losses arising from a court order that prohibits the use of the land for specified purposes permitted by the zoning or requires the removal or alteration of a structure because of certain zoning violations
- ALTA 3.2 (*Land Under Development*) Same coverages as the ALTA 3.1 but also includes improvements to be built or constructed according to specified site and elevation plans



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ALTA 3 Series – Zoning -continued-

- Consider transaction and type of land
 - Zoning Letter from applicable governing agency
 - Zoning Report from a commercial provider, such as “Planning and Zoning Resources” (PZR)
 - Approved Site Plans; Board Minutes
 - Attorney’s Opinion based on examination of the zoning ordinance
 - Examination of a current survey, particularly as to setbacks, height or parking requirements
 - Review of zoning ordinance for permitted uses



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ALTA 11 Series - Modification

- There are three forms available:
 - ALTA 11-06
 - ALTA 11.1-06 (with subordination)
 - ALTA 11.2-06 (with subordination and additional advance)
1. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title at Date of Endorsement as a result of the agreement dated _____, recorded _____ ("Modification"); and
 2. The lack of priority of the lien of the Insured Mortgage, at Date of Endorsement, over defects in or liens or encumbrances on the Title, except for those shown in the policy or any prior endorsement and except: [Specify exceptions, if any]



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ALTA 11 Series – Modification -continued-

- The ALTA 11.1-06 includes a paragraph to show additional items subordinate to the Insured Mortgage
- The ALTA 11.2-06 provides the same coverage as the ALTA 11.1, but also contains a paragraph to increase the liability amount of the policy along with adding additional coverage for “mortgage tax” (which many Western states do not have)



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ALTA 14 – Future Advance

The invalidity or unenforceability of the lien of the Insured Mortgage as security for each Advance.

- b. The lack of priority of the lien of the Insured Mortgage as security for each Advance over any lien or encumbrance on the Title.
- c. The invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage as security for the Indebtedness, Advances, and unpaid interest resulting from:
 - i. re-advances and repayments of indebtedness;
 - ii. earlier periods of no indebtedness owing during the term of the Insured Mortgage; or
 - iii. the Insured Mortgage not complying with the requirements of State law of the State in which the Land is located to secure Advances.

***Note: Not intended for construction loans**

If requested to issue in conjunction with a loan that has a construction component, you must consider including paragraph 4f which reads:

- f. Any mechanic's or materialmen's liens**




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ALTA 22 – Location

- Underwriting Considerations
 - Obtain satisfactory evidence of the nature of the existing improvements on the land
 - Generally describe the improvements located on the land
 - Obtain satisfactory evidence of the street address(es) of the existing improvements

***NOTE:** Please make sure you properly identify the subject property



ALTA 27 – Usury

- Underwriting Considerations
 - Review relevant loan documents (e.g., loan agreement, promissory note and/or mortgage) to confirm usury provisions comply with state law
 - “Savings Clause”



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Commonly Issued for Both Owner's and Loan Policies

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ALTA 13 Series – Leasehold

- There are two forms available:
 - *ALTA 13-06 (Owner's Policy)*
 - *ALTA 13.1-06 (Loan Policy)*
- Leasehold Underwriting Considerations
 - Review copy of lease (and any amendments)
 - Estoppel Certificate
 - Any required consents or contractual restrictions
 - Exception for terms and conditions of, or failure to comply with, the lease
 - Confirm lease (or memorandum) recorded



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ALTA 17 Series – Access and Entry

- ALTA 17 (*Access and Entry*)
 - Insures against loss or damage suffered as a result of the Land not being contiguous to a public right-of-way, not having physical access to a public right-of-way, or the limitation of the right of access via existing curb cuts or entries
 - Review survey or available information for adjacent rights-of-way and access points
- ALTA 17.1 (*Indirect Access and Entry*)
 - Insures access to a named public street via a specific access easement
 - Review subject easement to confirm it provides direct contact with a dedicated road or street.
 - Review survey or available information for adjacent rights-of-way and access points
- ALTA 17.2 (*Utility Access*)
 - Insures against loss or damage as a result of a lack of access to specified utilities, either via existing rights-of-way or easements
 - Review utility availability letters for new developments



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ALTA 18/18.1 – Single Tax Parcel/Multiple Tax Parcel

- ALTA 18 (*Single Tax Parcel*)
 - Insures against loss in the event the land described in Schedule A does not constitute a single parcel for real estate tax purposes, or does not include all of the land described in Schedule A
- ALTA 18.1 (*Multiple Tax Parcel*)
 - Insures against loss by reason of the identified portions of the land not being assessed for real estate taxes under the listed tax identification numbers or those tax identification numbers including any additional land
 - Also gives coverage from loss incurred should any failure of tax payment result in the termination of any insured easement rights



ALTA 19 – Contiguity

The Company insures against loss or damage sustained by the Insured by reason of:

- the failure [of the _____ boundary line of Parcel A] of the Land to be contiguous to [the _____ boundary line of Parcel B] [**for more than two parcels, continue as follows: “; of [the _____ boundary line of Parcel B] of the Land to be contiguous to [the _____ boundary line of Parcel C] and so on until all contiguous parcels described in the policy have been accounted for];**

OR

- ***Example:** the failure of the southerly boundary of Parcel A of the Land to be contiguous to the northerly boundary of Parcel B of the Land as referenced on that certain ALTA/NSPS Survey prepared by ABC Engineering designated as Job. 54321 and dated August 1, 2021;*



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ALTA 25 – Same as Survey

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be the same as that identified on the survey made by _____ dated _____, and designated Job No. _____.

- This endorsement provides coverage in the event that the survey identified in the endorsement is not the same land as described in Schedule A of the Policy
- Underwriting Considerations
 - Receipt and examination of survey drawn to ALTA standards and certified to Company



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ALTA 28 – Easement-Damage or Enforced Removal

- Provides coverage with respect to enforced removal of a building because of exercise of an easement right
- Intended for “blanket easements”
- Not intended for actively utilized easements
- Underwriting Considerations
 - Review all easements for which coverage is requested
 - Review survey as to impact of easements on existing buildings



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Exhibit 1 -Example

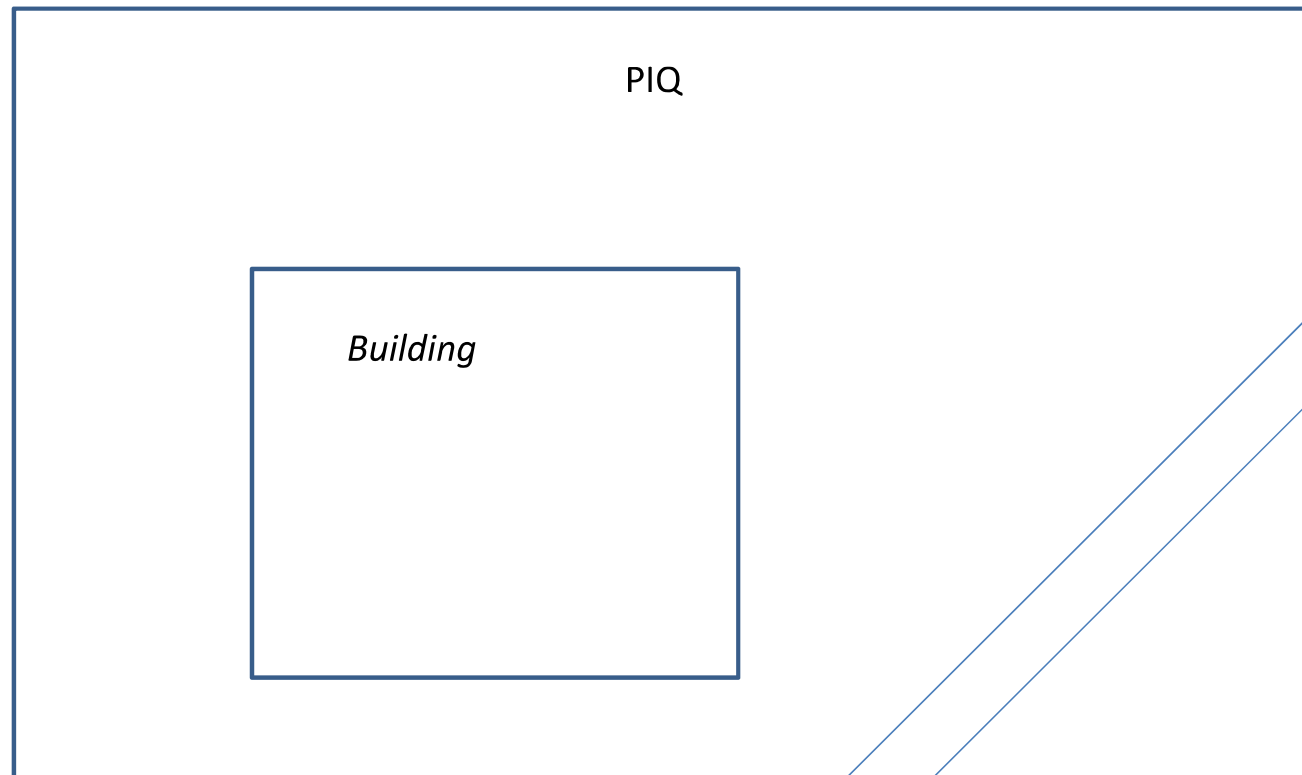
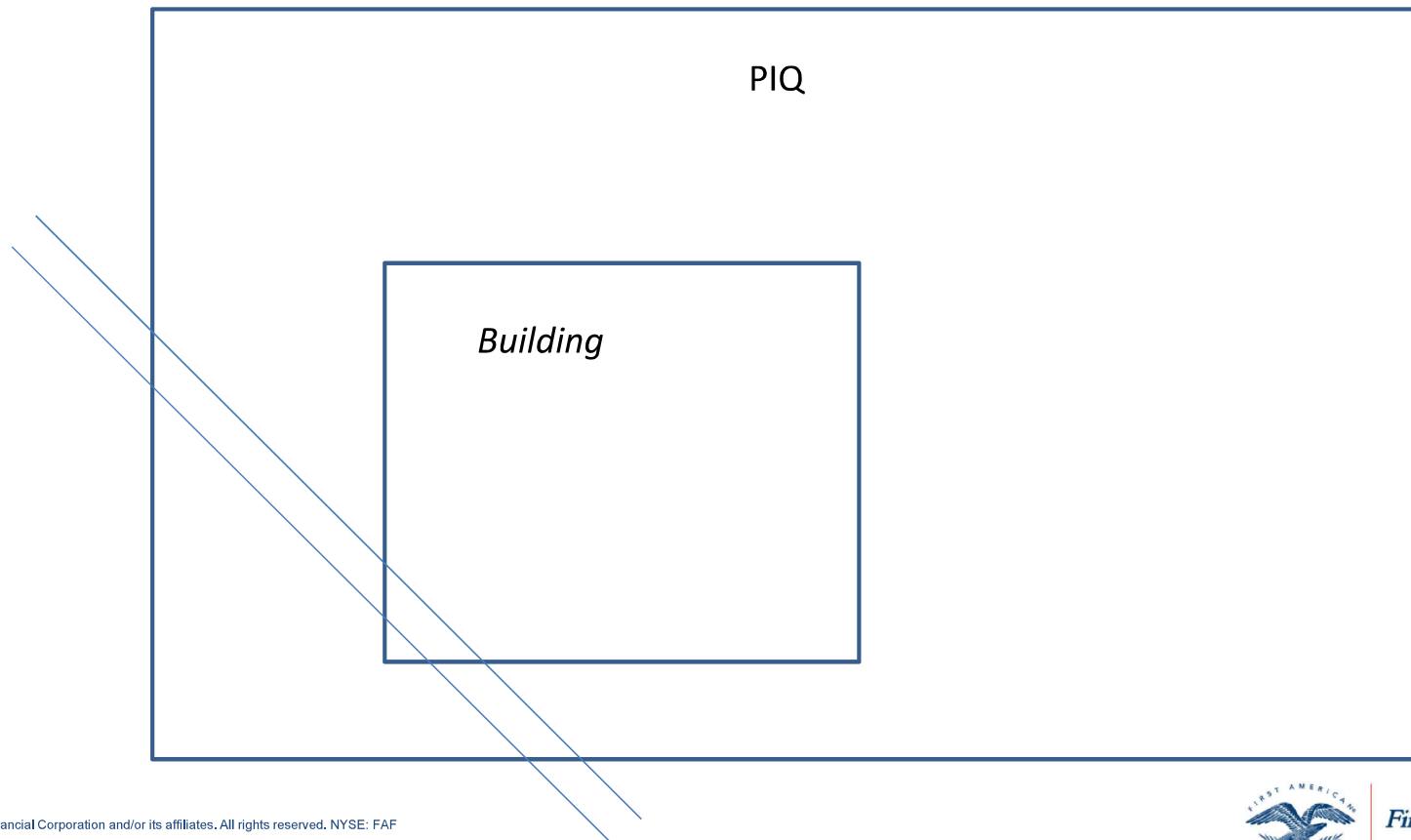


Exhibit 2 -Example





ALTA 28.1 – Encroachment-Boundaries and Easements

- Insures against loss or damage from encroachments not excepted to in Schedule B
- Also insures against loss or damage by reason of enforced removal of existing buildings encroaching onto adjoining land or encroaching onto an easement
- ALTA 28.2 (*Described Improvements*)
 - Allows you to specify and itemize the improvements
- ALTA 28.3 (*Land Under Development*)
 - Provides coverage for loss or damage arising out of encroachments by certain defined Improvements currently existing on the land or by certain “Future Improvements” to be built according to specified plans and specifications



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ALTA 28.1 – Encroachment-Boundaries and Easements -continued-

- Underwriting Considerations
 - Review survey for any encroachments affecting the property
 - Any encroachments should be identified as exceptions on Schedule B
 - Consider impact of any encroachments upon existing buildings
 - If necessary, identify any substantial risk encroachments in item 4 of the Endorsement to remove them from the endorsement coverages
 - If the ALTA 28.3, satisfactory “Plans” with sufficient detail must be reviewed to enable determining whether Future Improvements may result in any encroachments



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Honorable Mention

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ALTA 9.6 – Private Rights

“Covenant” means a covenant, condition, limitation or restriction in a document or instrument recorded in the Public Records at Date of Policy.

b. “Private Right” means (i) a private charge or assessment; (ii) an option to purchase; (iii) a right of first refusal; or (iv) a right of prior approval of a future purchaser or occupant.

- ALTA 9.9 (*Private Rights – Owner’s Policy*)

- “Private Right” means (i) an option to purchase; (ii) a right of first refusal; or (iii) a right of prior approval of a future purchaser or occupant



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ALTA 15 Series – Non-Imputation

- Provides coverage over matters known to specific parties that would otherwise be excluded from coverage based on imputed knowledge. It is setup to protect an “innocent” party acquiring an interest in an entity that is an insured under a policy.
- By issuing an ALTA 15 series endorsement, the Company agrees not to assert Exclusion 3(a) and (b) as a defense to coverage.
- There are three forms available:
 - *ALTA 15-06 (Full Equity)*
 - *ALTA 15.1-06 (Partial Equity w/ Additional Insured)*
 - *ALTA 15.2-06 (Partial Equity w/ new policy)*

Key: Know your deal!



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ALTA 34-06 – Identified Risk

- As used in this endorsement “Identified Risk” means: *[insert description of the title defect, restriction encumbrance or other matter]* described in Exception _____ of Schedule B.
- The Company insures against loss or damage sustained by the Insured by reason of:
- A final order or decree enforcing the Identified Risk in favor of an adverse party; or
- The release of a prospective purchaser or lessee of the Title or lender on the Title from the obligation to purchase, lease, or lend as a result of the Identified Risk, but only if
 - there is a contractual condition requiring the delivery of marketable title, and
 - neither the Company nor any other title insurance company is willing to insure over the Identified Risk with the same conditions as in this endorsement.



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Mechanic's Lien Endorsements

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ALTA 32 – Construction Loan-Loss of Priority

- 11.** *The lack of priority of the lien of the Insured Mortgage upon the Title:*
- a. as security for each advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for service, labor, material, or equipment arising from construction of an improvement or work related to the Land when the improvement or work is:*
 - i. contracted for or commenced on or before the Date of Policy; or*
 - ii. contracted for, commenced, or continued after the Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on the Date of Policy to advance;*



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ALTA 32 – Construction Loan-Loss of Priority -continued-

3.c. *The lack of priority of the lien of the Insured Mortgage, as security for each Construction Loan Advance made on or before the Date of Coverage over any Mechanic's Lien, if notice of the Mechanic's Lien is not filed or recorded in the Public Records, **but only to the extent** that the charges for the services, labor, materials, or equipment for which the Mechanic's Lien is claimed **were designated for payment in the documents supporting a Construction Loan Advance disbursed by or on behalf of the Insured on or before the Date of Coverage.***



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ALTA 33 – Construction Loan-Disbursement

- Issued in conjunction with the ALTA 32
- The ALTA 33 endorsement serves to: Bring forward the Date of Coverage
 - Increase the construction loan advance amounts based upon the periodic disbursements;
 - Identify changes in Schedule A and Schedule B



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ALTA 32/33 – Endorsement

- As Advances are Made:
 - Updated Title Search
 - Sworn Statement from Borrower and General Contractor [e.g., AIA Form G702/703]
 - Interim and Final Lien Waivers
 - Evidence of Payment
 - Lender Requirements and Disbursement Controls



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Additional Resources

- ALTA Policy and Endorsements:
<https://www.alta.org/policy-forms/>



Questions





Thank You!

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