



April 23, 2020

To Whom It May Concern:

**Re: Title Fraud and Other Title Insurance Coverage
Use of Video Conference by Lawyers/Notaries for Purchase, Sale and Refinance Transactions**

We have been requested to provide information with respect to Stewart Title's policy coverage in the context of closing real estate transactions remotely by lawyers and notaries.

Stewart Title wishes to provide our assurances to lenders that our coverage will not be compromised or invalidated in the event a real estate transaction is completed using remote meetings/signings.

There are two key issues arising from remote meetings/signings that are presenting both lenders and lawyer/notaries with a challenge. These consist of identity verification and remote witnessing and signing of documents. These two issues may give rise to questions by lenders as to whether remote closing could impact the enforceability, validity or loss or priority of a mortgage.

We wish to advise that Stewart Title's residential and commercial lender title insurance policies have always contained coverage for loss or damage arising from the following covered risks:

- A. *The invalidity or unenforceability of the Insured Mortgage upon the Title;*
- B. *The priority of any lien or encumbrance over the Insured Mortgage;*

It is in the first covered risk above where losses are covered due to title fraud where an imposter pretends to be the owner of the property and obtains a mortgage. In addition, coverage is found here if the true owner challenges the validity of the mortgage by arguing that he/she did not understand the terms of the mortgage or that the mortgage is invalid because signatures were obtained electronically/digitally or was remotely witnessed. If the mortgage was rejected for registration, losses related thereto would be covered in these two covered risks as well. The full particulars of the coverage, including the terms and conditions and exclusions can be found in our policies.

In terms of fraud coverage, Stewart Title has a long history of resolving title fraud claims submitted by lenders as evidenced by the claims examples attached to this letter.

Additionally, all policies contain a duty to defend – thus the insurer must defend its insured lender's interest in court for any allegation arising from a covered matter in the policy until such time as the claim is resolved.

Notwithstanding the above comprehensive coverage already contained in our policies, we have now introduced a new form of endorsement for use during this period of Covid-19 uncertainty. This endorsement is called the "Remote Signing Endorsement".

Stewart Title Guaranty Company

Royal Bank Plaza, North Tower 200 Bay Street, Suite 2600 Toronto, ON M5J 2J2
(416) 307-3300 local (888) 667-5151 toll free www.stewart.ca



Highlights of the endorsement include coverage for loss due to:

- Invalidity or unenforceability of the Insured Mortgage upon the Title because the Insured Mortgage and any other documentation required by the lender is obtained by way of remote signing
- Title fraud affecting the validity of the Insured Mortgage arising from forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation
- The use of remote signing resulting in:
 - the divestiture, subordination, or extinguishment of the lien of the Insured Mortgage
 - the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage
 - the failure of the Insured Mortgage to be registered on Title to the Land

The Remote Signing Endorsement also reassures the lender that Stewart Title will not deny liability under the policy, or any endorsements issued with the policy, on the grounds that the Insured Mortgage was signed by the borrowers via remote signing.

We trust that the above referenced coverage gives lenders comfort to allow for remote closings.

Yours truly,

A handwritten signature in black ink, appearing to read "Karen Decker", written in a cursive style.

Karen Decker
Snr. V.P.- Chief Underwriting Counsel
International Operations



Lender Title Fraud Claims Examples Resolved by Stewart Title

Stolen Identity

Shortly after the insured lender advanced the funds on a purchase transaction, it discovered that the mortgage had gone into default. The lender's investigation revealed that a fraudster had impersonated the homeowner to sell the home to his friend (another fraudster). Both fraudsters had supplied fraudulent documentation to their lawyer and the lender in order to purchase/ sell a home and obtain mortgage funds.

Resolution: Stewart Title paid more than \$340,000 to the insured lender, as the insured mortgage was unenforceable against the true homeowner who had been the victim of identity theft.

Corporate Mortgage Fraud

A legitimate corporate owner was impersonated by a fraudster who filed a forged notice of change, appointing himself as the director of the corporation. The fraudster then applied for a first mortgage on a previously mortgage-free property and the mortgage was insured through a Stewart Title lender policy. Shortly after closing, the mortgage went into default and the fraud was discovered when the insured lender initiated mortgage enforcement proceedings.

Resolution: Stewart Title paid \$876,000 (the amount owed on the fraudulently obtained mortgage) in order to resolve the claim for the insured lender.

Power of Attorney Forgery

Using a forged power of attorney purportedly signed by his elderly mother, a son transferred his mother's property from her name to his name and proceeded to mortgage the property without her knowledge or consent. The elderly woman discovered the fraud when mortgage enforcement notices were mailed to her home. The lender, who was insured by Stewart Title, made a claim under its policy.

Resolution: After determining that the power of attorney was a forgery, Stewart Title paid the insured lender the full amount owing on the mortgage, which amounted to over \$65,000.

Each claim received by Stewart Title is reviewed on its own merits based on the transaction specific facts and the policy coverage provided. Sample policies are available on request. Sample policies may not represent the final policy language issued for any particular transaction.

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