CONTENTS

PREFACE	xiii
DEFINITION OF TITLE INSURANCE	xiii
RESOURCES FOR READERS	xiv
INTENT	xiv
RATIONALE	xiv
INTENDED AUDIENCE	xiv
OBJECTIVES	xiv
WHY READ THIS BOOK?	XV
ACKNOWLEDGMENTS	xvii
INTRODUCTION Why should the attorney recommend title insurance?	1
CHAPTER ONE	
WHAT IS TITLE INSURANCE?	7
I. WHAT RIGHTS ARE INSURED?	7
A. Rights in Real Property	7
B. Jurisdictions Where Available	8
C. Standard Title Policy	8
D. Personal Property	8
E. Physical Condition of the Land	8
F. Statutory Definitions	
G. Post-policy Matters H. Access	10
	10
I. Closing Protection Letters	11
J. Statutory Escrow Liability K. Insurance of Promissory Notes	11
N. INSULATICE OF FIGHTISSOLY NOLES	11

VI CONTENTS

L. Guarantee of Debts (Mortgage Guarantee)	12
M. Special Prohibitions	12
II. MONOLINE RESTRICTIONS	12
III. APPLICATION OF MONOLINE RESTRICTIONS TO PROHIBIT	
OTHER TYPES OF INSURANCE	14
A. Warranties	14
B. Other Recent Products	14
C. Title Option Plus	15
D. Radian Lien Protection	16
E. Mortgage Impairment Insurance	17
F. Competitive Title Insurance Products by Title Insurers	20
G. Environmental Superlien Coverage	21
H. Creditors' Rights Coverage	22
IV. TITLE EXAMINATION VERSUS CASUALTY INSURANCE	24
V. TITLE INSURANCE VERSUS TITLE INFORMATION	26
CHAPTER TWO	

WHY SHOULD CONSUMERS ACQUIRE TITLE INSURANCE?	31
I. 65 REASONS FOR TITLE INSURANCE	31
II. CLAIMS EXPERIENCED BY TITLE INSURERS	39
A. Basic Risks (A-1 through 6)	41
B. Special Risks (B-1 through 4)	41
C. Plant, Searching, and Abstracting Procedures (C-1 through 5)	41
D. Examination and Opinion Irregularities (D-1 through 3)	42
E. Survey-Inspection/Description Matters (E-1 through 2)	42
F. Escrow/Closing Procedures (F-1 through 6)	42
G. Typing or Policy Review (G)	42
H. Taxes and Special Assessments (H)	43
I. Apparent Non-covered Claims (I-1 through 4)	43
J. Stakeholder/Interpleader Cases (J)	43
K. Disputed Procedure (Judicial/Non-judicial) (K-1 through 3)	43
III. THE GAMBLE OF RELYING ON RECORDING LAWS	44
IV. MARKETABLE RECORD TITLE ACTS AND TITLE EXAMINATION	
STANDARDS	51

CHAPTER THREE	
THE BACKGROUND AND DEVELOPMENT OF TITLE INSURANCE	63
I. THE NEED IN THE MARKET FOR STRICT LIABILITY	63
II. DEVELOPMENT OF UNIFORM TITLE INSURANCE COVERAGE	66

III. WHICH COMMON-LAW RIGHTS AND ESTATES IN REAL	
PROPERTY WILL NOW BE INSURED?	70
IV. WHICH ISSUES MAY BE COVERED BY A TITLE INSURANCE	
POLICY?	72
A. Matters Appearing in the Public Records	72
B. Matters Not Appearing in the Public Records	73
C. Insurance of Surface, Subsurface, and Mineral Rights	74
D. Insurance against Mechanic's liens	75
E. Insurance of "Rights"	75
F. Insurance of Covenants Running with the Land	76
G. Insurance against Damage because of Mineral Development	76
H. Insurance of Water Rights	76
I. Insurance of Wind Rights	76
J. Insurance of Options to Purchase Title to Land	76
K. Insurance against Previously Created Matters	77
L. Insurance against Future Matters	77
M. Insurance of Real Property Interests Only	77
N. Insurance of Personal Property Interests	77
O. Insurance against Creditors' Rights Issues Arising Out of Prior	
Transactions	77
P. Insurance without a Survey	77
Q. Title Insurance without an Examination of Title	78
R. Insurance of Zoning	78
S. Insurance of Truth-in-Lending	78
T. Marketability	79
V. ENHANCEMENTS OR REQUIREMENTS THAT TITLE INSURERS	
MAY REQUIRE IF DEFECTS ARE NOT CURED	79
CHAPTER FOUR Why the 2006 Alta Loan Policy and the 2006 Alta Owner's Policy?	0.0
I. SECONDARY MARKET DEMAND FOR LOAN POLICY	83
I. GENERAL BENEFITS OF 2006 ALTA LOAN POLICY	84 84
III. WHY THE OWNER'S POLICY? OTHER SOURCES DO NOT	84
PROTECT THE BORROWER	00
IV. MYTHS THAT THE OWNER'S POLICY IS UNNECESSARY	90
BECAUSE OF OTHER PROTECTION AGAINST TITLE CLAIMS	91
V. OPTION FOR THE BUYER TO SECURE AN OWNER'S POLICY	91
VI. 2006 ALTA OWNER'S POLICY DIFFERENCES	92 92
VII. REVIEW OF EACH SECTION OF THE 2006 ALTA OWNER'S	92
AND LOAN POLICIES	95
	55

VIII CONTENTS

CHAPTER FIVE

WHY THE HOMEOWNER'S POLICY OF TITLE INSURANCE?	187
I. OPTIMUM COVERAGE FOR THE RESIDENTIAL PURCHASER	187
II. COMPARABLE PROVISIONS OF THE ALTA HOMEOWNER'S	
POLICY AND THE 2006 ALTA OWNER'S POLICY	189
III. FUTURE (POST-POLICY) COVERAGE	192
IV. COVENANTS, CONDITIONS, AND RESTRICTIONS	194
V. MINERALS AND OTHER SUBSTANCES	195
VI. TAXES	196
VII. GOVERNMENTAL REGULATIONS	196
VIII. SURVEY	198
IX. CONTINUATION OF COVERAGE	199
X. CLAIMS	200
XI. DEDUCTIBLES AND CAPS	202
XII. UNDERWRITING	204
CHAPTER SIX	
WHY THE EXPANDED COVERAGE RESIDENTIAL LOAN POLICY?	217
I. GENERAL ADVANTAGES OF ALTA EXPANDED COVERAGE	
RESIDENTIAL LOAN POLICY	217
II. COMPARABLE PROVISIONS IN THE ALTA EXPANDED COVERAGE	
RESIDENTIAL LOAN POLICY AND THE 2006 ALTA LOAN	
POLICY	219
III. FUTURE (POST-POLICY) COVERAGE	221
IV. COVENANTS, CONDITIONS, AND RESTRICTIONS	225
V. MINERALS, WATER, AND OTHER SUBSTANCES	226
VI. TAXES	227
VII. GOVERNMENTAL REGULATIONS	227
VIII. SURVEY COVERAGE	230
IX. ENDORSEMENTS	232
X. CONTINUATION OF COVERAGE	233
XI. CLAIMS	233
XII. UNDERWRITING	234
CHAPTER SEVEN	
WHEN TO SECURE A SHORT FORM TITLE POLICY	247
I. OVERVIEW OF SHORT FORMS	247
II. TYPES OF SHORT FORMS	248
III. WHY USE A SHORT FORM?	249

Contents	IX

IV. ALTA SHORT FORM RESIDENTIAL LOAN POLICY	250
V. ALTA SHORT FORM EXPANDED COVERAGE RESIDENTIAL	
LOAN POLICY	253
VI. ALTA SHORT FORM RESIDENTIAL LIMITED COVERAGE	050
JUNIOR LOAN POLICY VII. ALTA SHORT FORM COMMITMENT	253
VII. ALIA SHORT FORM COMMITMENT VIII. SHORT FORM COMMERCIAL LOAN POLICY	254
IX. SHORT FORM RESIDENTIAL OWNER'S POLICY	254 254
IX. SHORT FORM RESIDENTIAL OWNER 3 FOLICI	204
CHAPTER EIGHT	
THE TITLE INSURANCE REQUIREMENTS OF GOVERNMENT-SPONSORED	
ENTERPRISES AND AGENCIES	261
I. BACKGROUND OF FANNIE MAE AND FREDDIE MAC	261
II. FANNIE MAE REQUIREMENTS FOR TITLE INSURANCE ON	
SINGLE-FAMILY TRANSACTIONS	262
III. FANNIE MAE REQUIREMENTS FOR TITLE INSURANCE ON	
MULTIFAMILY TRANSACTIONS	264
IV. FREDDIE MAC REQUIREMENTS FOR TITLE INSURANCE ON	
SINGLE-FAMILY TRANSACTIONS	265
V. FREDDIE MAC REQUIREMENTS FOR TITLE INSURANCE ON	
MULTIFAMILY TRANSACTIONS	266
VI. HUD WAIVED TITLE OBJECTIONS	267
VII. U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) ACCEPTABLE TITLE EXCEPTIONS	269
TITLE EXCEPTIONS	268
CHAPTER NINE	
WHAT YOU SHOULD KNOW ABOUT REGULATION OF RATES AND FORMS	271
I. RATES	271
II. REMITTANCE TO TITLE INSURER	272
III. RATE AND FORM FILING	273
A. Exceptions to Filing Requirements	278
B. Exceptions to Standard Rates	279
IV. VERIFYING RATES AND AVAILABILITY OF FORMS	280
CHAPTER TEN	
WHAT ENDORSEMENTS APPLY TO THE REAL ESTATE TRANSACTION AND WHAT YOU	
SHOULD ASK FOR	283
I. TYPES OF ENDORSEMENTS	284
II. CURRENT ALTA ENDORSEMENTS	285

X CONTENTS

III. THE ATTORNEY SHOULD DEVELOP AND USE A CHECKLIST	
OF ENDORSEMENTS FOR APPLICABLE PROPERTY	324
IV. COMMERCIAL vs. RESIDENTIAL TRANSACTIONS	325
V. SPECIAL PROJECT ENDORSEMENTS CHECKLIST	330
VI. RESIDENTIAL PURCHASERS	346
VII. RESIDENTIAL LENDERS	346
CHAPTER ELEVEN	
THE FUNDAMENTALS OF TITLE INSURANCE: MARKED-UP COMMITMENTS, PRO	
FORMA POLICIES, AND EXTENDED COVERAGE	349
I. TYPES OF COMMITMENT FORMS	350
II. WHAT DOES THE COMMITMENT SAY?	350
III. SATISFACTION OF REQUIREMENTS	351
IV. REVIEW OF EXCEPTIONS AND RESPONSE (SUCH AS	
REMOVAL, LIMITATION, AFFIRMATIVE INSURANCE,	
OR ENDORSEMENT)	353
V. MARK-UP OF COMMITMENT, PRO FORMA POLICY, AND	
CLOSING INSTRUCTIONS	355
CHAPTER TWELVE	
CLOSING PROTECTION LETTERS	357
I. WHY IS A CLOSING PROTECTION LETTER NEEDED?	357
II. AVAILABILITY OF CLOSING PROTECTION LETTERS	358
III. COVERAGE OR PROTECTION OF CLOSING PROTECTION	
LETTER	359
IV. CUSTOMARY REQUIREMENTS FOR CLOSING PROTECTION	
LETTERS	360
CHAPTER THIRTEEN	
GUIDANCE FOR RETENTION LIMITS AND REINSURANCE IN COMMERCIAL	
TRANSACTIONS	367
I. STATUTORY REQUIREMENTS	367
II. RATINGS	368
III. FINANCIAL REVIEW	368
IV. REINSURANCE	369
V. BLANKET POLICIES	371

CHAPTER FOURTEEN

SPECIALIZED TITLE INSURANCE PRODUCTS, GUARANTEES, AND OTHER PRODUCTS

	373
I. RESPONSIBILITY FOR COMPETENT ADVICE	373
II. FORECLOSURE PRODUCTS	374
III. UNIFORM COMMERCIAL CODE POLICY	375
IV. MODIFICATION GUARANTEE	376
V. ALTA RECORDED DOCUMENT GUARANTEE AND ALTA	
RECORDED DOCUMENT CERTIFICATE	377
VI. OTHER STATE GUARANTEES	377
VII. BINDERS	378
VIII. UNUSUAL INTERESTS IN LAND	378
IX. INTERNATIONAL TITLE INSURANCE	379
GLOSSARY	383
MEASUREMENTS	403
INDEX	405