

Date: May 31, 2016
To: All Texas Agents
From: Underwriting Department
RE: Lender Coverage Demands

With the institution of TRID there have been an increasing number of demands placed on our title agents by lenders who themselves are attempting to limit and/or transfer potential liabilities to third parties. One such demand is the apparent increase in requests by various lenders for the title agent to provide affirmative or “express” insurance coverage, insuring the potential invalidity of the insured lien by reason of the failure of a necessary party to join in the execution and acknowledgment in the perfection of the lien and loan documents. In particular, we have experienced requests for express insurance against possible lien invalidity due to a spouse not executing the lien instrument.

We want to remind our agents that many lender requests related to coverage issues are regulated by the Texas Department of Insurance. More particularly, circumstances under which affirmative or express insurance may be given is specifically addressed in the Basic Manual of Title Insurance.

We encourage our agents to contact the FNTI underwriting staff any time you receive a request for affirmative or express insurance, or any other requests for coverages that appear to be out of the ordinary. We are happy to discuss these matters with our agents in attempt to find a proper solution.

This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.