

SOUTHERN TITLE **INSURANCE CORP.**

“BLURBSS”

Basic Little Underwriting and Research Bulletin, Southern Style

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QUIT CLAIMS in the CHAIN

One of the most frequent questions title underwriters receive concerns the consequence of quit claim or special warranty deeds in the chain of title. Any transfer of title to real property by any deed type other than a general warranty deed should raise a red flag. This red flag warning also pertains to substitute trustee's deeds or special warranty deeds from governmental entities.

First and foremost, while quit claim deeds are a common form of transfer between related persons or entities used for the purpose of avoiding or reducing transfer taxes or documentary stamps, it should not be assumed that there is no other reason behind the selection of this form of transfer. Very often quit claim deeds and special warranty deeds are used because the grantor is either uncertain of the status of the title to the property or worse; the grantor knows there is a problem with the title! The experienced title examiner does not presume a benign motivation for the grantor not providing full warranties with the title to the property. The existence of this red flag in the chain does not render title uninsurable. However, it should increase the level of scrutiny the examiner applies to the search of documents and indices prior to the quit claim deed. A good title searcher, after encountering a deed without full warranties should conduct the examination expecting to find a title problem.

The second reason for applying an extra measure of caution in the search and exam after finding a quit claim deed in the chain of

title exists regardless of the motivation of the grantor. Industry-wide, nation-wide, title insurance rates are based upon two facets of claim loss recovery. After an agent issues a title underwriter's policy and a title defect is discovered – a claim against the policy will be made. All title underwriters have two separate and independent methods of recovery of claims dollars paid. An underwriter can either seek recovery from 1) the title agent that missed the title problem that caused the claim, or 2) from any number of warrantors back in the chain of title including the grantor that allowed or created the problem. In most jurisdictions, any transfer of title without general warranties will break the chain resulting in no chance of recovery against the grantor that caused the problem or from any intermediate warrantors. That leaves the errant title searcher/agent as the only source of recovery for the loss.

Title insurance underwriters' policies are issued every day upon titles with quit claim deeds in the chain. The better searchers and agents have examined the motivation behind the refusal to provide warranties and have conducted their search with the expectation of finding a problem or defect back in the chain.

SUBMITTING AN UNDERWRITING QUESTION

Modern technology is (mostly) a wonderful thing. Emails, faxes and phones all make our jobs easier and more productive. As underwriting counsel, a very big part of our job is to respond to your underwriting questions and help you provide the best title

insurance services and products to your clients that you can. There are a number of different ways for you to communicate with us to get those underwriting needs fulfilled. Some ways work best for certain situations, while another way may be the best method for getting to us the information we need. While we would never ask that you submit your questions to us in any particular way except that which is most comfortable for you, from our perspective there are benefits that each method has, depending on the question or situation posed.

A phone call is a good way to get that answer that you're pretty sure you already know, or when you just want confirmation. We keep notes of our phone conversations and the advice we give, so that you can rely on what we say (and so we don't have to rely on our aging memories!). It's also a good way to discuss a matter that you think will require a lot of explanation and complications. Maybe it's a question that you don't even really know how to ask! A phone call is the most common way we handle underwriting questions. Phone calls are great for the short, simple answers, and for the complicated matters that simply couldn't be efficiently handled any other way except by thinking them through together. For those complex questions, however, don't be surprised if yours truly asks to call you back after hitting the books! Our phone number is 800-505-7842.

Emails are also an extremely productive way for you to query us, and for us to respond. This is especially so when you can set out your question based upon fairly straightforward facts and when you have documents for review that can be attached to the email. This can also be a very handy way for us to do any research we may need to in order to respond. Emails are especially nice in the way you can formulate your inquiry as clearly as possible, which helps us avoid considering unnecessary issues or spinning our wheels, and in the flexibility we get in responding. Finally, emails are like written

notes of a phone conversation, and if need be we can always go back and see what was said. Tom McCroskey's email is tmccroskey@southerntitletn.com, and Mike Bates' email is mbates@southerntitletn.com. Use them!

Faxes are a good way to ask us about documents as well, and, like emails, give us the opportunity to research if need be without making you hold on the phone. Of course, it's always been our practice to write our response somewhere on your fax and send it back to you for your records and ours. If your inquiry involves interpreting a document, getting a copy of it to us is almost always necessary. Our fax number is 800-873-1722

So, what's the best way to submit an underwriting question to us, or otherwise get our advice about a title insurance situation? That's easy: the way you are most comfortable with. The discussion above is only meant to be what we see as the pros and cons of phone calls, emails and faxes, but is in no way meant to change your way of contacting us. Use the method that best suits you.

A FEW OF OUR FAVORITE THINGS

Would you like to know what really impresses us about your agency? It's the same thing we strive for when serving you: Responsiveness. In this business, claims happen; it's inevitable. If and when something comes in that requires us to seek your input or assistance, such as a possible claim, your quick, forthright response is the best response.

WEBSITE OF THE MONTH

Be sure to check out the new Reconciliation Support Center on our website. It's designed to help you with your Reconciliation questions:

www.stichome.com/reconhelp.htm

