

## Cross Collateral Guide to getting it right.

### Lender's Title Policy

- **First:** The same Title Company must be handling both properties. If not, the process will not work well. This must be spotted early, preferably before there is a prelim on the cross property.
- **Goal:** *The lender will be insured for the full loan amount, but will be able to have claims against either property, all under the same cap. There are two ways to achieve this:*
  - (a) **Two Policies with “pro tanto” or “tie-in” endorsement:** In this situation, the title company issues a policy for both the cross and the subject property, each with a separate prelim., each with its own exception schedule, and each policy is for the full loan amount; however, the “pro tanto” or “tie-in” endorsement means that there is just one amount—the full loan amount—so that any dollar paid out on either property counts against that amount. As a result, the premium is just based on the loan amount, and the borrower is not charged for two separate policies. Depending on the jurisdiction, there may be a nominal fee for the endorsement, but it is still much cheaper than two full title policies on each property.
  - (b) **Single Policy with two properties:** In this situation, the title company issues one policy but has two properties listed, and the coverage of the policy is set at the loan amount, applying to both properties. Some jurisdictions may also require a tie-in or pro tanto endorsement, but it probably will not be necessary. This works just like a normal policy, just with more parcels listed. In this case, there will be a combined prelim with both properties, and Ops and Underwriting must sign-off that the exceptions are correct. Sometimes title companies make mistakes and will have exceptions that only apply to one of the properties listed as applying to both. In this situation, because the bank often plans to release the cross-property before the subject property, it is also important to obtain from the title company in writing (e.g., an email) confirming that: there will not be any issue releasing the cross property first that will void the title policy, reduce our coverage, or require any endorsement or modification related to the release. If, depending on the jurisdiction, an endorsement or modification is needed, we need to make sure that we (i) get it at origination if we can or (ii) that the file is boarded with a note to portfolio management/loan servicing to require whatever endorsement or modification at the time of release.
    - In both scenario (a) and scenario (b) there will be **search fees for** each property because the title company is searching the records and preparing reports on both properties, but the premium should be just based on the loan amount.
    - If both properties are in the same county, there **may be only one mortgage or** deed of trust. It's just important that the legal description, in both the mortgage/DOT and the prelim/title policy clearly identify **both parcels** separately so that when we release one parcel, it is clearly identified. **APNs and Addresses:** In both 2(a) and 2(b), the APNs, addresses, and legal descriptions should be correct.
  - i. **No Allocations:** The approved scenarios in 2(a) and 2(b) do **not** require allocations of the loan amount across the properties, and the bank **will not** allocate loan amount among the properties. Allocating loan amounts means we are capping our coverage on that property, and particularly in a situation where we may release the cross prior to the subject, that means we would be left coverage less than the loan amount, which is not acceptable. The above scenarios allow the lender to recover the full loan amount against either property, while only requiring the borrower to pay the premium for the loan amount.
- **Jurisdictional Differences:** There might be minor differences in names of the endorsement or customs in different jurisdictions. If you hear a different name, a “Google” search can often clear-up what it is. Also, the text of all the endorsements is available online. For instance, a regular pro tanto endorsement reads like this:  
<http://www.vuwriter.com/en/forms/2011-3/FM12977752670000055.html>

### **Owners Title (Optional)**

- Blanket Owners Title Policy covering both/all properties - if properties will be insured by the same Title Company
- Owners Title Policy on each property: If 2 different Title Companies are used.

### **Recording Fees for Mortgages**

- If properties are located in the same county: 1 recording fee as long as vesting on mortgage is same for both/all properties.
- If properties are located in the same county but vesting is different – 2 or more recording fees.
- If properties are located in different counties: 2 or more recording fees.

### **Recording Fees for Warranty/Grant Deeds**

- Purchases: fee to record Warranty Deed
- Refinances: fee to record revised Warranty Deed, if the vesting changes
- Vesting has to be identical if using the same mortgage
- We allow different vesting's on each property if borrowers are married: e.g. Married Man Sole and Separate on one property, but Husband and Wife as Joint Tenants on the other. ( or Husband and Wife on and vesting in a LLC) Note: 2 different vesting's would require 2 Deeds of Trust to be recorded or contact legal for advice
- We do not allow different vesting's for different borrows example: (Mother and 2 children on loan. Mother owns the cross property and she is vested in a Trust, but children want to hold title on the subject property as Tenants in common.) The mother would have to quit out of the Trust so they could all vest as tenants in common.
- 2 recording fees if 2 mortgages are used
- If the cross property is vesting in an entity – email (attorney) for signature blocks

### **Flood certs:**

- We will need a flood cert on each property
- If cross property is in a flood zone we will need proof that flood insurance is in place and Bofl's mortgagee clause is added.

### **Appraisal:**

- Appraisal will be required on any cross properties
- 2 Appraisals on subject if loan amount is over 1 million
- One appraisal on the Cross

### **Hazard Insurance/Taxes on cross property:**

- We will need proof that the cross property has sufficient coverage. Any balances due within 60 days to be paid. Add loan # and Bofl as mortgagee
- Also add loan # and Bofl as mortgagee for Master Condo Insurance
- **Property taxes on cross properties:** We will require any taxes due within 60 days to be paid