

Lending Guide

Chapter 17 | Title Insurance Requirements

Cardinal requires all mortgage transactions to include a title insurance policy issued by an acceptable insurer that includes any and all required endorsements. In purchase transactions, generally, the seller or the buyer (our borrower) of the property selects the title company. For refinance transactions, Cardinal's preferred title vendors for refinance transactions can be found in the [Title Preferred Vendors](#) document.

The original Title Insurance Policy (or equivalent) is required on all closed loan packages if the property is located in an area where the Title Policy is not typically available at closing or is unattainable due to recording delays; a Title Commitment or Binder is acceptable at closing with the final title policy, due to Cardinal upon recordation of the mortgage deed of trust but no later than 120 days after closing.

Title insurers are acceptable if they have a rating from at least one independent rating agency that meets the following standards:

Rating Agency	Rating Requirements
Demontech Inc.	Financial Stability Rating of "Substantial) or better, or a Statutory Accounting Rating of "C" (Average) or better.
Duff & Phelps Credit Rating Company	"BBB" or better
Fitch, Inc.	"BBB" or better
Kroll Bond Rating Agency, Inc.	"C" or better
Moody's Investors Service	"Baa2" or better
Standard and Poor's, Inc.	"BBB" or better
Note: Title agencies that are unacceptable to either Fannie Mae or Freddie Mac may not be utilized	

Attorney Review

In the state of Texas, Cardinal Financial requires all transactions, including Texas Section 50(a)(6) and Section 50(a)(4) loans, to be reviewed by an authorized attorney before closing.

All Retail, Consumer Direct, TPO, Delegated, and Non-Delegated Underwriting transactions where Cardinal prepares the closing package must show evidence that the file was reviewed and approved by an authorized attorney with a fully executed Legal and Compliance Attorney Opinion Statement.

Review fees are as follows:

Transaction Type	Review Fee Smart Charges enabled on or after 1/01/21
Purchase	\$115
Refinance Non-Texas Equity	\$125
Refinance Texas Equity	\$200

Short Form Policies

In addition to the Title Commitment or Binder, Cardinal will also accept Short Form Title Policies issued by ALTA Title Companies. These policies should ensure against loss or damage caused by:

- Violations of restrictions,
- Encroachments, or anything that may be disclosed by an accurate survey, and
- Surface damage due to mineral extractions

The standard ALTA Short Form Policy is not available in the following states:

- Iowa – Title insurance in the state of Iowa is issued by the Iowa Title Guaranty Division
- Oregon – Standard ALTA Residential Loan Policy is required
- Texas – Must use the TX Short Form Residential Loan Policy of Title Insurance and Addendum T-2R

- New York – Must use NY ALTA Short Form Policy with TIRSA Amendments 1992
- New Jersey – Must use NJ Enhanced Coverage Short Form Policy 2-12
- New Mexico – Must use Short Form Residential Loan Policy 63

Note: Specialized title forms issued by the Texas Land Title Association (TLTA) are used in Texas. The TLTA short form (Form T-2R) may be used for purchase loans as well as refinance transactions that are not considered Texas 50(A) (6) Cash-out refinance transactions.

Surveys and Survey Endorsement

A survey is an examination of the recorded area of land to construct a map, plan, or legal description. The survey determines the property lines of the subject property.

Cardinal Financial is not required to approve the acceptability of, or otherwise audit, surveys required by title insurance providers or elected by the borrower(s). The underwriter is, however, responsible for reviewing the survey to ensure it is completed in full and that all relevant information is displayed accurately in the system of record. The title insurance provider, in conjunction with the settlement agent, determines their internal policy and procedure to issue a survey endorsement in specific states. Title companies may have different policies concerning what is acceptable, such as accepting an affidavit, accepting an old or illegible survey, or whether they will require a new survey to be completed. Only the title insurance provider can determine this requirement.

Survey Endorsement (ALTA 9)

- A **Survey Endorsement (ALTA 9)** is required on all **final title policies** for transactions in the states of **Florida** and **New Mexico** **except** when the property is classified as a **condominium**.
- A survey will not be required by Cardinal Financial if the settlement agent agrees to furnish the survey endorsement without a new survey.
- Title - Endorsement Fee | 9 (Restrictions, Encroachments, Minerals)

Note: Cardinal will include a charge for the Endorsement; if the title insurance provider requires a survey, Octane should be updated to 'Survey Required' to ensure the appropriate charge is generated.

Survey exceptions are not permissible in any state. If the title commitment lists a survey as an exception, a copy of the previous survey or other documentation may be required by the title company.

Survey Endorsement (T-19)

A **Survey Endorsement (T-19)** must be included on all **final title policies in the State of Texas**, except when the property is classified as a **condominium**.

- Title - Endorsement Fee | T-19 (Restrictions, Encroachments, Minerals) or Title - Endorsement Fee | T-19.1 (Restrictions, Encroachments, Minerals) is required
- A survey will not be required by Cardinal Financial if the settlement agent agrees to furnish the survey endorsement (T-19) without a new survey.
- Surveys are customarily required for Texas Equity (A-6) Transactions. However, if acreage can be ascertained from a plat map, the map may be used in place of the survey if an endorsement will be issued and no survey exception will be present.

Note: Cardinal will include a charge for the Endorsement; if the title insurance provider requires a survey, Octane should be updated to 'Survey Required' to ensure the appropriate charge is generated.

Survey exceptions are not permissible in any state. If the title commitment lists a survey as an exception, a copy of the previous survey or other documentation may be required by the title company.

Other Required Endorsements

Each title insurance policy must contain the following endorsements (or provide equivalent affirmative coverage) where required, according to the individual characteristics of the loan.

- ALTA Endorsement form 4 (CLTA 115.1)
 - A Condominium Endorsement is required for all loans secured by a condominium unit
 - Title - Endorsement Fee | 4 (Condo)
 - Title - Endorsement Fee | T-28 (Condo)
- ALTA Endorsement form 5 (CLTA 115.2)
 - PUD Endorsement is required for all loans secured by a PUD unit
 - Title - Endorsement Fee | 5 (PUD)

- Title - Endorsement Fee | T-17 (PUD)
- ALTA Endorsement form 6.0 (CLTA 11.5) or 6.1 (CLTA 111.6) or 6.2 (CLTA 111.8)
 - Variable Rate Mortgage Endorsement is required for all Adjustable Rate Mortgage (ARM) loans
 - Title - Endorsement Fee | 6 (Variable Rate)
- ALTA Form 7
 - Required for manufactured housing property types
 - Title - Endorsement Fee | 7 (Manufactured Housing)
 - Title - Endorsement Fee | T-31 (Manufactured Housing)
- ALTA Endorsement form 8.1-06 (CLTA 110.8) or 8.1 (CLTA 110.9)
 - Required for all transactions except Texas (ALTA Endorsement 8.1-06 or equivalent state form)
 - Title - Endorsement Fee | 8.1 (Environmental Protection)

Note: The Environmental Protection Lien Endorsement is required for all loans originated after 12/1/87. ALTA form 8.0 must be included with the 1987 ALTA form of title insurance policy. ALTA Form 8.1 must be included with the 1970 ALTA form of title insurance policy.

- Mortgagee Policy of Title Insurance (Form T-2), supplemented by an Equity Loan Mortgage Endorsement (Form T-42), including the optional coverage provided by Paragraph 2(f) and a Supplemental Coverage Equity Loan Mortgage Endorsement (Form T-42.1)
 - Required for Texas Section 50(a)(6) mortgage
- Mortgage Modification Endorsement
 - Required for all loans that have had the terms of the Security Instrument modified, including Construction Loans and converted ARM Loans
 - Title - Endorsement Fee | 11 (Mortgage Modification)
 - Title - Endorsement Fee | T-38 (Loan Modification)

Note: This endorsement often is not issued until the property is converted to real property or the property completes the construction phase on Construction Products and is converted to real property. The cost for the endorsement and its availability must be confirmed before closing for all manufactured home transactions.

- Affirmative Endorsement to the Title Insurance Policy
 - Required for mortgages with remotely notarized loan documents

- If the notarized document is a security instrument or an amendment to a security instrument, the remote notarization must be disclosed to the title company providing title insurance coverage, and either:
 - An affirmative endorsement to the title insurance policy is obtained regarding Exclusion 3(b) in the standard ALTA terms and conditions; or
 - The title insurer has not taken an exception to the remote notarization in the title insurance policy. All related communications with the title insurer are kept in the loan file.

Other Requirements

References are to the ALTA 2021 form of endorsement. State forms may be used in the states in which standard ALTA forms of coverage are, by law or regulation, not used, provided that those endorsements do not materially impair protection to Fannie Mae. As an alternative to endorsements, the requisite protections may be incorporated into the policy.

Title policies may not include the creditors' rights exclusion language that ALTA adopted in 1990.

Arbitration Clause

Cardinal does not require that the American Land Title Association (ALTA) title commitment exception for mandatory arbitration be removed from the title commitment before closing.

The ALTA arbitration exception in the title commitment varies by title insurer. Some examples of the wording include:

“The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org>.”

Terms of Coverage

The title insurance policy must ensure that the title is generally acceptable. Title to the property must be held as fee simple (which may include title held in a [life estate](#)), leasehold estate, or as a co-op form of ownership.

The title policy also must list all other liens and state that they are subordinate to Cardinal's mortgage lien.

Note: Texas Equity (50)(a6) must be held in fee simple. Government loans may not be held in a life estate or as a co-op form of ownership.

Effective Date of Coverage

The effective date of the title insurance coverage written on forms that do not provide gap coverage included in the 2021 ALTA policies may be no earlier than the later of the date of the final disbursement of the loan proceeds or the date the mortgage was recorded.

Because the 2021 ALTA forms provide protection for the time between loan closing and recordation of the mortgage, policies written on those forms may be effective as of loan closing.

Reviewing the Title Commitment

Title vesting refers to ownership. Title vesting requirements may vary by product or program. See the specific product guide and credit guidelines for more details. Cardinal requires the following guidelines to be met regarding co-signers and non-occupant borrowers.

Co-signers are credit applicants who:

- Do not have an ownership interest in the subject property and do not vest on title; and
- Sign the Note

Non-occupant borrowers are credit applicants on a principal residence transaction who:

- Do not occupy the subject property;
- May or may not have an ownership interest in the subject property and may or may not vest on title; and
- Sign the Note

For FHA transactions, all occupying and non-occupying Borrowers and co-Borrowers must take title to the Property in their own name or a living trust at settlement, be obligated on the Note or credit instrument, and sign all security instruments.

In community property states, the Borrower's spouse is not required to be a Borrower or a Co-signer. However, the Mortgage must be executed by all parties necessary to make the lien valid and enforceable under state law.

Note: Borrower refers to each and every Borrower on the mortgage application. The term Borrower does not include a Cosigner.

Title Search

Cardinal assumes that in accordance with our instructions and standard operating procedures, all existing property owners, title-only borrowers, and borrowers have been searched for public records and judgments. The results of those searches requiring additional action will be communicated through the title commitment results. Cardinal will affirm its requirement that our first lien position is protected by adding the appropriate verbiage on the closing instructions, which will address the requirements for the search against all applicable parties.

Delinquent credit, including taxes, judgments, charge-offs of non-mortgage accounts, tax liens, mechanics' or materialmen's liens, and liens that have the potential to affect Cardinal's lien position or diminish the borrower's equity, must be paid off at or before closing. Delinquent federal income taxes that are approved to be paid by a monthly installment agreement with the IRS must be paid in full at or before closing if there is any indication that a Notice of Federal Tax Lien has been recorded against the borrower in the county in which the subject property is located.

Please note, if the title report does reflect public records or judgments, the underwriter must still address these findings according to Agency requirements.

Chain of Title

A 12-month chain of title must be provided on all new loan transactions. The chain of title can be documented using one of the following:

- Title Report
- LoanSafe Fraud Manager Fraud Report

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- RealQuest Property Profile
 - Warranty Deed(s)

Refer to individual programs for any requirements regarding length of ownership.

Amount of Coverage

Revised our requirement that the amount of title insurance coverage must at least equal the original principal amount of the mortgage; we no longer require this before closing but have amended our closing instructions and request for final fees and final title policy to indicate the correct loan amount.

Legal Description

The legal description on the title commitment must match the application, purchase and sale contract, and Cardinal's mortgage exactly. Any discrepancies must be resolved before closing.

Name of Insured

"Cardinal Financial Company, Limited Partnership and/or its assigns, as their interest may appear"

Borrower Name and Vesting

The borrower's names and proposed vesting on the loan application, title commitment, and purchase contract (if applicable) must match. If names do not match, the correct information must be obtained and corrected accordingly.

Exception

Due to high transfer taxes for deed changes in certain states, an exception will be permitted to proceed with vesting using a 'formerly known as' name, which may be different from the name in the system of record due to marriage. A copy of the marriage license is required to support the name change.

The exception is allowed in the following states only:

- Florida

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- Nevada
 - New York
 - Washington

Beneficiary Deed

A beneficiary deed, commonly called a TOD deed (Transfer on Death Deed), is a special type of deed that can be used to transfer ownership of real estate outside probate. The beneficiary deed is a conveyance of an interest in real property that is revocable and which becomes effective upon the death of the grantor, or, if there are multiple grantors, upon the death of the last surviving grantor.

A Beneficiary Deed recorded on the title must be released before closing.

Types of Vesting

Title vesting refers to the type of ownership and how the property is distributed upon the death of one of the owners. Cardinal employees cannot direct or give borrowers advice on how the vesting should appear; borrowers should seek legal counsel. The following are the most common types of ownership.

Community Property

Unless married persons specify otherwise, it is usually assumed that they take title as community property, whether it is stated on the deed or not. A married person may specify on the deed that they own the property solely and separately in order to circumvent this.

Characteristics of community property vary from state to state. Sometimes there is a right of survivorship, as in joint tenancy, and sometimes there isn't. Some married couples choose to take title as joint tenants in order to preserve the right of survivorship.

Under Texas Community Property law, a non-borrowing, non-titled spouse does not need to be on the title; however, under Texas Homestead, the spouse is required to consent to the transaction. The spouse will execute the Deed of Trust to acknowledge waiving the homestead. The settlement agent may provide instructions on alternative documentation (to the Deed of Trust) that would prove consent.

In the instance where a borrower may have purchased the subject property before marriage and had executed a Prenuptial Agreement, the non-borrowing, non-title spouse would still need to provide evidence of consent to the transaction according to the above requirements.

Joint Tenants

Joint tenants own an equal interest in a property and have equal rights of possession. If any joint tenant dies, that tenant's share is automatically transferred to the surviving tenants. Thus, a joint tenant's share cannot be inherited. Joint tenants must all take the title on the same deed at the same time.

Life Estates

Conventional

Fee simple ownership of a security property held in a life estate under property law is an eligible form of property ownership.

If the security property is held in a life estate established under state property law, the following provisions apply:

- The life tenant (the individual who has the right to possess and use the subject property during their lifetime) must be a borrower,
- One (or more) remaindermen (individuals who have an irrevocable, vested and alienable interest in the subject property and who will receive full ownership of the subject property upon the death of the life tenant) may also be co-borrowers,
- Both the life tenant and all remaindermen must sign the security instrument to convey their respective interests in the property

The following arrangements do not qualify under life estates for loan eligibility purposes:

- The named successors under such arrangements do not have vested and irrevocable property rights in the subject property, such as with "lady bird deeds"
- The current holder of the property can, before their own death, transfer full ownership of the subject property to a third party without the approval or consent of any contingent beneficiaries, such as under typical statutory "transfer on death deeds"
- A loan secured solely by a life estate is ineligible

- Texas Equity (50)(a6) transactions must be held in fee simple and are not permitted to have title held in a Life Estate

Government

Fee simple ownership of a security property held in a life estate under property law is not an eligible form of property ownership.

Living Trust

A living trust is a set of instructions that outlines what to do in the event of the death of the vested owner. It is part of your living trust estate planning tool that outlines instructions and bypasses the probate process. The property must be transferred into a living trust for this benefit to take effect.

For Refinance purposes, the underwriter may require the property to be transferred from the Living Trust into the individual owner's name if the product or program requires the transfer. The Owners may then transfer the property back to the Trust post-closing.

Cardinal does not allow a borrower(s) to close in the name of a trust without prior approval from the Credit Management team. Refer to the [Compliance Loan Exception Policy](#) for additional guidance on closing in a trust.

Right of Survivorship

Only offered in a select number of states, such as California, Nevada, North Carolina, Arizona, Alaska, Texas, and Wisconsin. In the event of the death of one spouse, the Right of Survivorship transfers the property automatically to the surviving spouse.

Probate Required – In all other states that do not offer “Right of Survivorship”, the property must go through a probate process in the event of the death of a spouse.

Sole and Separate Property

When a married man or woman wishes to acquire title as their sole and separate property, the spouse must consent and relinquish all rights, title, and interest in the property by deed or other written agreement. Example: John Doe, a married man, has as his sole and separate property. If this vesting is used, the spouse is not required to be at closing to sign.

Tenancy in Common

Tenants in common may have different interests (i. e. 30% and 70%, etc.), different rights of possession, and may take the title at different times. They may give their share of the property to their heirs.

If a joint tenant sells his share of a property, the new tenant usually takes the title as a tenant in common, unless all the previous tenants renew the title with the new tenant as joint tenants. The new tenant in common may will his interest in the property to his heirs.

Ineligible Vesting Types

Business Entity / LLC

Closing in the name of a business entity or LLC on agency loans is not permitted.

Ownership or title vesting in the name of an LLC is acceptable on investment property transactions in a limited number of states and only under specific Non-Qualified (Non-QM) mortgage products. Refer to the applicable Product Snapshot for full requirements.

Condo and PUD Requirements

The title insurance policy for a condo or PUD unit mortgage must describe all components of the unit estate.

Any assessment(s) for a Homeowner Association must state “paid current,” and an Endorsement should accompany the Title Policy.

For condo unit mortgages, an ALTA 4-06 or 4.1-06 endorsement or its equivalent is required. For PUD unit mortgages, an ALTA 5-06 or 5.1-06 endorsement or its equivalent is required. These endorsements must be attached to each policy or incorporated in the text of the policy.

If the unit owners own the common areas of the project as tenants in common, the policy for each unit mortgage must reflect that ownership.

If the homeowners’ association owns the common elements, areas, or facilities of the project separately (or holds them in a leasehold estate), the title insurance on those areas must ensure that ownership.

This title policy must show that the title to the common elements, areas, or facilities is free and clear of any objectionable liens and encumbrances, including any statutory or mechanics' liens for labor or materials related to improvements on the common areas that began before the title policy was issued.

The title policy must protect Cardinal by ensuring the following:

- The mortgage is superior to any lien for unpaid common expense assessments. (In jurisdictions that give these assessments a limited priority over a first or second mortgage lien, the policy must provide assurance that those assessments have been paid through the effective date of the first or second lien caused by any past, present, or future violations of any covenants, conditions, or restrictions of the master deed for the project. It must specifically insure against any loss that results from a violation that existed as of the date of the policy.)
- The unit does not encroach on another unit or any common elements, areas, or facilities. (The policy also must ensure that there is no encroachment on the unit by another unit or by any of the common elements, areas, or facilities.)
- The mortgage is secured by a unit in a condo project that has been created in compliance with the applicable enabling statutes.
- Real estate taxes are accessible and create a lien only against the individual condo unit and its undivided interest in the common elements, rather than against the project as a whole; and
- The owner of a PUD unit is a member of a homeowners' association, and the membership is transferable if the unit is sold.

Texas Homeowners Association Dues in First Lien Position

Conventional

Texas CC&Rs will, in most cases, contain provisions that HOA assessments are subordinate to a first lien mortgage. Without this language, HOA assessments would have priority. If the title report shows HOA assessments as a recorded lien, the UW must request a copy of the CC&Rs to verify whether they contain the provision as noted above.

If this provision is absent from the CC&Rs, regular common expense assessments of no more than six months may have priority over Cardinal's first lien.

Under Texas law, the HOA must provide a 60-day notice to any subordinate lienholder of record before foreclosing (X Property Code Section 209.0091).

Government

Cardinal must be in the first lien position on all government loans.

Co-op Loans

A title policy is required when co-op shares are recognized as real property. Title evidence for a co-op share loan must ensure that:

- The title is generally acceptable,
- The borrower has a good and marketable title to the shares, and
- The co-op corporation has a good and marketable title to the project

Mortgages Subject to Leasehold Estates

A mortgage subject to a leasehold estate must have an ALTA Endorsement 13.1-06. When a mortgage is secured by a property held by a community land trust, the lender's title insurance policy (or an endorsement of the policy) must expressly confirm the following:

- The recording of the complete community land trust ground lease or ground lease memorandum;
- The recording of the Community Land Trust Ground Lease Rider (Form 2100);
- The community land trust mortgage is a first lien on the leasehold estate and improvements.
- There are no existing mortgage loans or other liens on the fee estate, except as may be permitted under Form 2100.

- The ground lessor’s reversionary interest is subordinate to the community land trust mortgage.
- There are no related community land trust ground lease occupancy and resale restrictions, covenants, or agreements that “run with the land” and have been recorded apart from the ground lease, except as may be permitted under Form 2100.

Title Exceptions and Impediments to Title

Cardinal will not originate a mortgage secured by property with an unacceptable title impediment, particularly unpaid real estate taxes, and survey exceptions. If the title impediments do not materially affect the property’s marketability, exceptions may be made. Cardinal must review and approve any minor title issues before approval of the mortgage transaction.

Exception Requests

Unless expressly prohibited by the specific loan program, the following exceptions to the title insurance policy, or to the attorney’s opinion of title, are acceptable. Requests for waivers of exceptions to the title should be submitted in writing to Cardinal’s credit committee with the appropriate justification for the waiver.

Encroachments

Encroachments of one foot or less on adjoining property by eaves or other overhanging projections or driveways, as long as there is at least a ten-foot clearance between the buildings on the security property and the property line affected by the encroachment.

- The encroachment must not touch any improvements on the mortgaged premises.
- The encroachment must not interfere with the use and enjoyment of any improvements on the mortgaged premises, nor with the use and enjoyment of the mortgaged premises not occupied by improvements;
- Encroachments on adjoining properties, as long as those encroachments consist only of hedges or removable fences;
- Variations between the appraisal report and the records of possession regarding the length of the property lines, as long as the variations do not interfere with the current use of the

improvements and are within an acceptable range. (For front property lines, a 2% variation is acceptable; for all other property lines, 5% is acceptable)

Encroachments on Public Utility Easements

Exceptions for encroachments on easements for public utilities by a garage, tool shed or similar structure that is not attached to, or a portion of, the dwelling structure are acceptable provided that the encroachments do not interfere with the use and enjoyment of the easements or the exercise of rights of repair and maintenance in connection therewith.

Fence Misplacements

Exceptions for fence misplacements on either side of the property line of the mortgaged premises are acceptable provided that neither the misplacement, nor a future correction thereof, will interfere with the use and enjoyment of any improvements on the mortgaged premises, nor with the use and enjoyment of the balance of the mortgaged premises not occupied by improvements.

The definition of fence in this section shall not include retaining walls or other permanent structures.

Indian Claims

Exceptions to Indian claims, as long as the lender is insured against all loss and damage from such claims.

Liens for Taxes Not Due

Exceptions for liens for real estate or ad valorem taxes and assessments that specifically state that such liens are not yet due and payable are acceptable.

Mutual Easement Agreements

Exceptions for mutual easement agreements of record that establish a joint driveway or a party wall are acceptable if such improvements are constructed in any of the following ways:

- Partly on the mortgaged premises and partly on adjoining property, or
- Wholly on the mortgaged premises, or
- Wholly on the adjoining property

Parties in Possession

Rights of lawful parties in possession, as long as such requests do not include the right of first refusal to purchase the property. (No rights of parties in possession, including the term of a tenant's lease, may have a duration of more than two years.).

Restrictive Agreements

Exceptions for restrictive agreements or restrictive covenants of record related to cost, use, setback, minimum size, and building materials and architectural, aesthetic, or similar matters (other than single-family-use restrictions on 2-4 unit properties) are acceptable, provided that the following conditions are met:

- The restrictive agreements or restrictive covenants do not create or provide for any lien that would be before the lien of the home mortgage, nor provide for the elimination of the lien of the home mortgage
- The terms and provisions of the restrictive agreements or restrictive covenants are commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located.
- An endorsement to the title insurance policy affirmatively ensures that no violation of any such restrictive agreement or restrictive covenant exists and that any future violation shall not result in forfeiture or reversion of title.

Subsurface Public Utility Easements

Exceptions for subsurface public utility easements for local residential distribution, such as lines for gas and water, and cable for electric, telephone, or television utilities, are acceptable provided that the location of the easements is ascertainable and fixed. The exercise of the rights thereunder must not interfere with the use and enjoyment of any present improvements on the mortgaged premises or proposed improvements on which the appraisal or mortgage is based.

Surface Public Utility Easements

Exceptions for surface easements for public utilities for local residential distribution are acceptable provided that the location of the easements is ascertainable and fixed. The exercise of the rights thereunder must not interfere with the use and enjoyment of any of the following:

- Present improvements on the mortgaged premises;
- Proposed improvements upon which the appraisal or mortgage is based;
- Part of the mortgaged premises outside the easement and not occupied by improvements

Sums Re-advanced

This includes the priority of the lien for any sum repaid and subsequently re-advanced under the terms of the mortgage insured thereby.

Setback Line Violations

Setback Line Violations on Agency and Non-Agency loans are automatically waived if:

- Restrictions do not set out a penalty of reversion, forfeiture of title, a lien of any kind for damages, or have an adverse effect on the fair market value of the property, or
- Affirmative coverage is provided by the Title Policy for any damages or reversion of title resulting from the setback violation; or
- If the property is located within city limits, a letter from the City Engineer stating no objection to the violation is obtained.
- If the property is located outside the city limits, a letter from the County Commissioner stating no objection to the violation must be obtained.

Tenants in Possession

Exceptions for rights of tenants in possession, as tenants only, under prior unrecorded leases, are acceptable.

Other Exceptions

Any exception not set forth above may be acceptable only if all of the following conditions are met:

- The subject of the exception must not interfere with the use and enjoyment of any present or proposed improvements on the mortgaged premises or with the use and enjoyment of the balance of the mortgaged premises not occupied by improvements;
- The subject of the exception must not affect the marketability of the mortgaged premises.
- The subject of the exception must have no or minimal effect on the value of the mortgaged premises;
- The subject of the exception must be acceptable to Mortgage Insurance counterparties, if applicable.
- The subject of the exception must be commonly acceptable to private institutional mortgage investors in the area where the mortgaged premises are located

Easements

Utility Easements

Customary easements for public utilities are acceptable under the following conditions:

- Easements contain no unusual provisions and must be established to run along one or more of the side or rear property lines.
- Easements cannot extend more than 12 feet from the property line.
- The exercise of rights under the easement cannot interfere with the use and enjoyment of any buildings or improvements located on the subject property.

If any easements are shown that do not meet these criteria or are not shown on the appraisal, the loan cannot close until it is determined that the easement is covered by an endorsement to the final title policy.

Refer to the FHA and VA Lending Guideline(s) for their requirements on easements.

Party Wall Agreement

A "Party Wall Agreement" is an agreement that identifies ownership and responsibilities between the owners of attached dwellings or parcels of land who share a "party" wall.

A party wall, or common or shared wall, is:

- Located on or at a boundary line between two adjoining structures or parcels of land.
- Used by the owners of both properties, and each owner shares equally in the ownership of their portion of the wall.
- Frequently used in attached dwellings or row housing. However, it may also occur where a shared driveway exists on both properties or where a shared wall fence exists.

A copy of the agreement, if one has been drawn, is not required to close a loan unless the title insurer takes exception to it in the title policy. If the insurer does take exception, we must obtain a copy of the existing agreement, or an agreement must be drawn between the owners. If there is a binding agreement, such as an existing arbitration agreement that refers to the "party wall," it is sufficient.

Oil, Water, or Mineral Rights

Outstanding oil, water, or mineral rights exceptions that are customary for the area, provided that:

- The exercise of these rights would not result in damage to the mortgaged property or impair the use or marketability of the property, and
- There is no right of surface or subsurface entry within 200 feet of a residential structure, or
- There is affirmative coverage insuring against loss or damage due to the exercise of surface rights, in which the surface rights will not result in damage to the mortgaged property or impair the use or marketability of the property.

The lease must provide for the repair or replacement of any damage to the property.

Pipeline Easements

- Defined easements must be located on the survey, and the outer edge of the easement cannot be less than 10 feet from the improvement
- Blanket easements must have affirmative insurance, which states that:
 - The buildings and improvements do not encroach upon the easement, and
 - The easement does not interfere with the use of the buildings or improvements

Easement Violations

Easement violations on Agency and Non-Agency loans are automatically waived if:

- Affirmative coverage is provided by the Title Policy for any damages or reversion of title resulting from the easement violation, or
- A letter from the utility company is obtained stating that they will abandon the portion of the easement that is violated.

Closing Protection Letter

Cardinal requires a Closing Protection Letter (sometimes “insured closing letter” or “CPL”) on all transactions. Closing Protection Letters form a contract between the Title Insurance underwriter and Cardinal in which the title underwriter agrees to indemnify Cardinal for actual losses caused by certain forms of misconduct on the part of the closing agent.

All borrowers who are applicants must be listed on the Closing Protection Letter. Borrowers who are titleholders only are not required, but may be listed on the Closing Protection Letter.

A Closing protection letter is not required in NY, WA, or on loans processed under the Hawaiian Homeland program.

Errors and Omissions Insurance

Errors and Omissions Insurance (E&O) is required for the following states:

CO, IA, ID, KY, MS, NE, ND, NM, RI, SD, TN, and WY

Octane will not fire a requirement for the E&O if insurance is not required. If the requirement does fire in error, the document may be waived.

Tax Certificates

A tax certificate is required for each mortgage transaction. The tax certificate verifies the amount of taxes assessed on the property and the due dates for the property tax payments. The owner, address, and tax amounts must be verified against the loan file. See the liabilities and ratios section of the guidelines for the treatment of property taxes.

Smart Document Reference 282.000 - Title | Tax Certificate

Tax Abatements

Tax abatements are a temporary reduction in the actual amount of taxes that the owner(s) of a property must pay. In some instances, the reduced amount may be used for qualifying purposes. Refer to the specific loan program for requirements.

Non-Impounded Loan Requirements

Scenario	If the bill is available and due:	If the bill is not available:
Property Tax installment due before the first payment date.	Property tax installment(s) must be paid at closing and evidenced on the Closing Disclosure or evidence of payment in full to the taxing authority.	Property Tax installment(s) must be paid at closing and evidenced on the Closing Disclosure. The amount is calculated based on the prior year's premium, with an increase of 10% in all states except California. In California, increase by 2%.

Property Tax installment due on or within 30 days of first payment date.	Property Tax installment(s) must be paid at closing and evidenced on the Closing Disclosure or evidence of payment in full to the taxing authority.	Property Tax installment is not required to be paid at the time of settlement. However, the borrower's acknowledgment to pay the property tax(es) signed at closing will be included within closing documents.
Property Tax installment due 30 days after 1st payment due date	The borrower is responsible for ensuring property tax installments are paid when due.	

Age of Majority

Borrower (Applicant) - Age Requirements

All borrowers must be legally capable of entering into a binding mortgage obligation. Accordingly, each borrower must have reached the age of majority as defined by applicable state law in order to execute a Note, Mortgage, or Deed of Trust.

In most states, the age of majority is 18. However, certain states have an age of majority that differs from age 18. For these states, Cardinal requires confirmation of the borrower's legal capacity to contract. The settlement agent should be consulted for transaction-specific requirements.

There is no maximum age limit for a borrower.

States with an age of majority different from age 18 include, but may not be limited to:

- Alabama
- Nebraska

Non-Applicant Title Holder - Age Requirements

Individuals who hold title to the property but are not borrowers are not subject to Cardinal's borrower eligibility requirements. Cardinal defers to applicable state law to determine whether a non-borrower title holder meets the legal age requirements to hold title to real property.

If a minor is identified as a title holder, Cardinal requires written or electronic confirmation from the settlement agent that the minor's ownership interest and age are permitted under applicable state law.

Quit Claim Deeds

A Quit Claim Deed is used to change the title vesting on a refinance transaction. It may be used to reflect any elected changes such as: updating the marital status of the borrower or spouse, removing current vested parties, or removing the file of an LLC, Corporation, or a beneficiary trust.

The title company will prepare the deed at the request of the borrower. The documentation needed varies with the type of title issue being addressed. In all cases, the legal name of the person/persons being added or deleted from the title, valid identification from all parties involved, and the marital status of the parties involved will be required. Below is a summary of different situations in which a Quit Claim Deed might be used. The title company will provide guidance on the required documents to prepare a Quit Claim Deed. The requirements below do not override any product, program, or underwriting guidelines for the particular product and program.

Smart Document Reference 288.000 - Quit Claim Deed

Removing a spouse per a divorce decree or property settlement

In addition to the basic requirements, a copy of the divorce decree with the property settlement or the property settlement agreement is required, along with verification of the spouse's name (i.e., it has changed after the divorce) must be reviewed by the underwriter and the title company. If the property transfer requires a buyout of the ex-spouse, the buyout must be reflected on the CD.

Adding a spouse

In addition to the basic requirements, a copy of the marriage certificate is required, along with the current mortgage payoff statement.

Removing a Deceased Person

In addition to the basic requirements, a copy of the death certificate and (in some states and title companies require original certified copies), an affidavit may be required based on the original vesting of the title and the state in which the property is located. Other documents may be required, such as wills, probate documents, or other documents to prove the inheritance of the property. Contact the title company for specific requirements.

Smart Document Reference 120.000 - Death Certificate

Removing Property from a Trust

In addition to the basic requirements, if the property is currently vested in a trust, but the borrowers want to Quit Claim out of the trust for our transaction, no additional documentation is required for our loan. Please note, the title company may want a copy of the trust to perfect the title with the Quit Claim deed.

Revision History

Revision History is to be used as a reference only and will only provide a summary of document changes. For complete versioning, refer to the Google Docs versioning functionality, which is the system of record.

Date	Version	Description	Approver	Octane Alignment
1.26.26		Added Age Requirements for Borrower and Non-Applicant Title Holder. <i>This update is clarification and may be applied to all loans in process.</i>	Ellen Clayson	-
9.18.25	-	Updates made to Types of Vesting section to include detailed guidance related to Life Estates. Added eligibility for Conventional loans clarifying Fee Simple Ownership of a property held in a life estate is permitted and included requirements which would allow this type of ownership	Kristen Bellon	<i>Pending</i>

		<i>Conventional eligibility is effective for all loans in process as of 9.3.25</i>		
8.25.25	-	Added Other Required Endorsements section under Survey and Survey Endorsements outlining specific endorsement forms and their respective uses. <i>This is clarification only and should be applied immediately</i>	Kristen Bellon	-
3.16.25	-	Updated Title Exceptions section and combined the topic with guidance for Impediments to Title. Added additional examples of acceptable Exceptions and Impediments to title. <i>This is clarification only and guidance can be applied immediately</i>	Kristen Bellon	-
10.28.24	-	Clarification to the Survey section was made related to charges for an endorsement and specifying; if the title insurance provider requires a survey, Octane should be updated to 'Survey Required' to ensure the appropriate charge is generated	Kristen Bellon	Complete
12.27.23	-	Updated title policy requirements to reflect 2021 ALTA Policy where 2006 ALTA Policy was previously reflected	Kristen Bellon	-
5.18.23	-	Revised guidance for title holders and borrowers to be searched for public records and judgments. Reverted to the previous language in this section.	Ellen Clayson	-
5.9.23	-	Provided new guidance in conjunction with the Title Commitment smart doc requirements for title holders and borrowers to be searched for public records and judgments. Provided examples of alternate documentation acceptable in lieu of judgment/lien search included in the body of the title report	Ellen Clayson	-

2.21.23	-	Updated guidance for non-occupying borrowers and co-borrowers for FHA loans	Kristen Bellon	-
2.9.23	-	Added additional guidance for Closing Protection letters	Kristen Bellon	-
12.13.21	-	Immaterial changes. Corrected grammar and formatting to align with company standards.	N/A	-
3.30.21	-	Revised our requirement for the amount of title insurance coverage and have amended our closing instructions and request for final fees and final title policy to indicate the correct loan amount	Kristen Bellon	-
3.10.21	-	Added guidance that a Beneficiary Deed must be released from title prior to closing	Kristen Bellon	-
2.08.21	-	Added Texas Attorney Review section	Kristen Bellon	-
6.17.20	-	Added exception guidance when the borrower's proposed vested name varies from the name showing in the system of record	Ellen Clayson	-
5.6.20	-	Added guidance for a non-borrowing, non-titled spouse under Texas Community Property law	Ellen Clayson	-
4.14.20	-	Clarified language when Quit Claim deed is being completed to take a property out of a Trust.	Ellen Clayson	-
3.14.20	-	Updated Title Search section with requirements for public record and judgment searches against all applicable parties	Ellen Clayson	-
2.18.20	-	Clarified Ineligible Vesting Types	Ellen Clayson	-
2.4.20	-	Added Texas Homeowner's Association	Ellen Clayson	-

		Dues in First Lien Position section		
12.19.19	-	Added Tax Abatement section	Kristen Bellon	-
12.17.19	-	Provided examples of alternate documentation acceptable in lieu of judgment/lien search included in the body of the title report	Ellen Clayson	-
12.1.19	-	Clarified that the absence of language on the title report regarding the search for liens and judgements is not sufficient to verify all parties have been checked. The title report must verify that all names have been searched and no public records or judgements have been found	Ellen Clayson	-
10.7.19	-	Identified alternate forms of documentation to support a 12-month Chain of Title	Ellen Clayson	-
8.21.19	-	Added Requirement on FHA Transactions with Non-Occupant Co-Borrower, the Non-Occupant Co-Borrower must be Vested on Title	Ellen Clayson	-
7.15.19	-	Added Non Impounded Loan Requirements for Property Tax Due Dates	Ellen Clayson	-
4.2.19	-	Clarified Title Search Requirements, Clarified Survey Endorsement Requirements, Defined Co-Signers and Non-occupant Borrowers	Ellen Clayson	-
3.2018	-	Clarification of Title Exceptions	Erica Price	-
1.2018	-	Arbitration Clause	Erica Price	-
9.2017	-	Initial Approval	Erica Price	-