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THE TEXAS OWNER POLICY:  
What Does It Insure?  
By Richard Black

## House Keeping

**Please do not place the conference on hold.**

Background/Hold music makes it hard to hear the speaker.

**Please mute your phones.** (Un-mute to ask questions)

Everything you say, every paper that gets shuffled can be heard by all participants. We are voice recording the conference which will be posted to [www.StewartTexas.com](http://www.StewartTexas.com) along with PPT presentation material by early next week.

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# THE TEXAS OWNER POLICY: What Does It Insure?

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Richard L. Black  
Senior Texas Underwriting Counsel  
5900 Shepherd Mt. Cove, Bldg. 2, Suite 200  
Austin, TX 78730  
WATS (800) 252-9229  
rblack@stewart.com

- **OWNER POLICY OF TITLE INSURANCE**

- Issued by

- **STEWART TITLE GUARANTY COMPANY**

■ **SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, Stewart Title Guaranty Company, a Texas corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:**

- **1. Title to the estate or interest described in Schedule A being vested other than as stated therein;**
- 2. Any defect in or lien or encumbrance on the title;
- 3. Any statutory or constitutional mechanic's, contractor's, or materialman's lien for labor or material having its inception on or before Date of Policy;
- 4. Lack of a right of access to and from the land;
- 5. Lack of good and indefeasible title.

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- 1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2. Any defect in or lien or encumbrance on the title;
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- 1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2. Any defect in or lien or encumbrance on the title;
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- **4. Lack of a right of access to and from the land;**
- 5. Lack of good and indefeasible title.

## CONDITIONS AND STIPULATIONS:

### 1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

...

- (g) "access": legal right of access to the land and not the physical condition of access. **The coverage provided as to access does not assure the adequacy of access for the use intended.**

**PROCEDURAL RULE P-37. Lack of a Right of Access** - If the company is not satisfied as to the insurability of access to and from the land, the title to which or a lien thereon is to be insured, it may make the following exceptions to the insuring form:

- a. To the Owner Policy (Form **T-1**): **"Lack of a right of access to and from the land. Insuring provision number 4 is hereby deleted."**
- b. To the Mortgagee Policy: **"Lack of a right of access to and from the land. Insuring provision number 3 is hereby deleted."**
- c. To the Residential Owner Policy (Form **T-1R**): **"Lack of a right of access to and from the land. Company deletes the insurance of access under Covered Title Risks".**

## ■ OWNER POLICY OF TITLE INSURANCE

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- 1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
- 2. Any defect in or lien or encumbrance on the title;
- 3. Any statutory or constitutional mechanic's, contractor's, or materialman's lien for labor or material having its inception on or before Date of Policy;
- 4. Lack of a right of access to and from the land;
- **5. Lack of good and indefeasible title.**

The Company also will pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

**STEWART TITLE GUARANTY COMPANY**

By

\_\_\_\_\_

President

\_\_\_\_\_

Secretary

## ■ EXCLUSIONS FROM COVERAGE

- The following matters are expressly excluded from the coverage of this
- policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:
  - 1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations), restricting, regulating, prohibiting or relating to
    - (i) the occupancy, use, or enjoyment of the land;
    - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
    - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
    - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

## ■ EXCLUSIONS FROM COVERAGE

■ The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

■ 1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to

■ (i) the occupancy, use, or enjoyment of the land;

■ (ii) **the character, dimensions or location of any improvement now or hereafter erected on the land;**

■ (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or

■ (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

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■ (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or

■ (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

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■ (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;

■ (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or

■ (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

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  - (i) the occupancy, use, or enjoyment of the land;
  - (ii) the character, dimensions or location of any improvement now or hereafter erected on the land;
  - (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or
  - (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- **(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.**

## ■ EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

. . .

- 2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking that has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

## ■ EXCLUSIONS FROM COVERAGE

- The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:
  - . . .
  - 3. Defects, liens, encumbrances, adverse claims or other matters:
    - (a) created, suffered, assumed or agreed to by the insured claimant;
    - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
    - (c) resulting in no loss or damage to the insured claimant;
    - (d) attaching or created subsequent to Date of Policy;
    - (e) resulting in loss or damage that would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

## ■ EXCLUSIONS FROM COVERAGE

- The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:
- . . .
- 4. The refusal of any person to purchase, lease or lend money on the estate or interest covered hereby in the land described in Schedule A because
- of unmarketability of title.

## ■ EXCLUSIONS FROM COVERAGE

- The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

. . .

- 5. Any claim which arises out of the transaction vesting in the person named in paragraph 3 of Schedule A the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or other state or federal creditors' rights laws that is based on either (i) the transaction creating the estate or interest insured by this Policy being deemed a fraudulent conveyance or fraudulent transfer or a voidable distribution or voidable dividend, (ii) the subordination or re-characterization of the estate or interest insured by this Policy as a result of the application of the doctrine of equitable subordination or (iii) the transaction creating the estate or interest insured by this Policy being deemed a preferential transfer except where the preferential transfer results from the failure of the Company or its issuing agent to timely file for record the instrument of transfer to the insured after delivery or the failure of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

## ■ CONDITIONS AND STIPULATIONS

### ■ 1. DEFINITION OF TERMS.

- The following terms when used in this policy mean:
- (a) **“insured”**: the insured named in **Schedule A**, **and**, subject to any rights or defenses the Company would have had against the named insured, **those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate, partnership or fiduciary successors, and specifically, without limitation, the following:**

- (i) the successors in interest to a corporation, limited liability company or limited liability partnership resulting from merger or consolidation or conversion or the distribution of the assets of the corporation or limited liability company or limited liability partnership upon partial or complete liquidation;
- (ii) the successors in interest to a general or limited partnership or limited liability company or limited liability partnership which dissolves but does not terminate;
- (iii) the successors in interest to a general or limited partnership resulting from the distribution of the assets of the general or limited partnership upon partial or complete liquidation;
- (iv) the successors in interest to a joint venture resulting from the distribution of the assets of the joint venture upon partial or complete liquidation;
- (v) the successor or substitute trustee(s) of a trustee named in a written trust instrument; or
- (vi) the successors in interest to a trustee or trust resulting from the distribution of all or part of the assets of the trust to the beneficiaries thereof

## ■ CONDITIONS AND STIPULATIONS

### ■ 1. DEFINITION OF TERMS.

- The following terms when used in this policy mean:
  - (d) **“land”**: the land described or referred to in Schedule A, and improvements affixed thereto that by law constitute real property. The term **“land”** does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

## ■ **CONDITIONS AND STIPULATIONS**

### **2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.**

- **The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.**

■ **SCHEDULE B**

File No. Policy No.

■ **EXCEPTIONS FROM COVERAGE**

- **This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) that arise by reason of the terms and conditions of the leases or easements insured, if any, shown in Schedule A and the following matters:**
- **1. The following restrictive covenants of record itemized below (the Company must either insert specific recording data or delete this exception):**
- **2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.**
- **3. Homestead or community property or survivorship rights, if any, of any spouse of any insured.**

■ **SCHEDULE B**

File No. Policy No.

■ **EXCEPTIONS FROM COVERAGE**

- This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) that arise by reason of the terms and conditions of the leases or easements insured, if any, shown in Schedule A and the following matters: . . .
- **4. Any titles or rights asserted by anyone**, including but not limited to, persons, the public, corporations, governments or other entities.
  - a. to **tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or**
  - b. to **lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or**
  - c. to **filled-in lands, or artificial islands, or**
  - d. to **statutory water rights, including riparian rights, or**
  - e. to the **area extending from the line of mean low tide to the line of vegetation or the right of access to that area or easement along and across that area.**

## SCHEDULE B

File No. Policy No.

### EXCEPTIONS FROM COVERAGE

- This policy does not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) that arise by reason of the terms and conditions of the leases or easements insured, if any, shown in Schedule A and the following matters:
  - . . .
  - 5. **Standby fees, taxes and assessments** by any taxing authority for the year \_\_\_\_\_ and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, **but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.**
  - 6. **The following matters and all terms of the documents creating or offering evidence of the matters** (The Company must insert matters or delete this exception.):

# Thank you

Please email password and attendees name to Ken  
Wrider at [kwriders@stewart.com](mailto:kwriders@stewart.com)

Certificates will be emailed to you next week.

Check [www.StewartTexas.com](http://www.StewartTexas.com) for presentation  
materials next week.

## Next Texas TIPS Online

6/21/07—The Mortgagee Policy: What Does it  
Actually Insure? By Bill Pratt

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