



COVID-19 Closures of Recording Offices

Hello Agents:

Our lives continue to be affected in numerous ways as a result of COVID-19. ATGF is aware that some state or county offices have closed in response to public health concerns related to the COVID-19 outbreak. This information is rapidly developing, and local operations must be alert to changes in recording availability.

In an effort to continue uninterrupted service to you, we are addressing these potential possibilities.

A. Traditional Search and Recording Available:

In many cases, electronic recording will remain available even where county recording offices are closed to the public. ATGF authorizes the issuance of policies provided Agents are able to do customary searches. No changes to your practices are required.

B. No Title Search is Available:

If you are unable to secure current searches (no online access and offices are closed) and if you do not already have satisfactory title information, ATGF WILL NOT INSURE THE TITLE. This does not apply to a pre-closing title update or date-down search. If you have questions regarding the adequacy of the search, please call your local underwriting counsel.

C. Title Evidence Available, No Recording Available:

If you have satisfactory title information available, but you are unable to record the real estate documents (including any mortgage or deed) because the county or other recording office is closed and is not accepting electronic filings, ATGF will insure the title without specific ATGF underwriting counsel approval if the following conditions are met:

1. If any form of recording is still available (e.g., electronic) it must be used.
2. Add the following Note to the end of Schedule B1 of the Commitment/Preliminary-Report: “In the event County Clerk and Recorders offices are closed, neither ATGF nor its title agents can provide any estimate as to the date of recordation of title documents in the land records.”
 - A. If a particular Lender’s Closing Instructions state that they cannot close if the documents cannot be recorded then you must get a waiver signed, or not perform that closing.
3. If local practice, contract documents, escrow instructions or closing instructions provide that documents be recorded prior to disbursement, they must be properly amended to permit the closing to occur with recording to occur when possible (Particularly important in Utah).
4. If any form of alternative search information is available to date down the title it should be used before recording, including bankruptcy court records.



Attorneys
Title Guaranty
Fund, Inc.

5. The insured mortgage is not a construction mortgage, there has been no recent construction and the Buyer/Borrower confirms in their affidavit that they shall not commence any construction on the property.
6. Transactions involving non-traditional financing are excluded from this protocol without senior underwriting approval, including “hard money” lenders.
7. Any transaction involving a seller in financial distress should be carefully considered. Indications are judgment or tax liens, unpaid property taxes and HOA dues, and currently in default on existing mortgage.
8. Any risk beyond simple gap risk, such as inability to obtain payoff information, HOA information, etc., should be discussed with senior underwriting on a case by case basis.
9. Procedures must be in place to safely store original documents being held for later recording. Documents must be promptly recorded as soon as it becomes possible.

If your transaction will not comply with all of the guidelines, you must secure transaction specific approval

In those cases where, after review by Senior ATGF underwriting counsel, we are not willing to assume the gap risk for a particular transaction, the following Schedule B exception should be used:

Owner’s Policy:

“Any defect, lien, encumbrance, adverse claim, or other matter created by or arising out of the inaccessibility of the [applicable recording office], including, but not limited to, (i) an inability to search the Public Records, or (ii) any delay in recordation of [the documents vesting Title] in the Public Records.”

Loan Policy:

“Any defect, lien, encumbrance, adverse claim, or other matter created by or arising out of the inaccessibility of the [applicable recording office], including, but not limited to, (i) an inability to search the Public Records, (ii) any delay in recordation of the documents [vesting Title or] creating the lien of the Insured Mortgage in the Public Records, or (iii) any claim based on an assertion that the recording of the Insured Mortgage failed to be timely.”

In the Event a County Clerk and Recorder Office is Fully Closed and will not accept documents for recording, you MUST use the Affidavits for the Seller/Borrower and Buyer available to you in EPIC.

We will continue to provide additional information as guidance as necessary, and are here to lend assistance and support in any way that we can.