MORTGAGE IMPAIRMENT EXPLAINED

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Mortgage Impairment was developed primarily to protect mortgage lenders from potential loss as a result of the failure of the borrower to maintain appropriate property insurance on the building(s) involved in a mortgage with the lender. This is done as "contingent property loss" coverage that insures the lender only. It also provides legal liability coverage for liability resulting from the failure of the lender to maintain appropriate property damage insurance on behalf of the borrower from an escrow account.

There are several forms of mortgage protection insurance sold by both domestic and international insurers. In that regard, management needs to carefully weigh these various policies to determine if they provide the appropriate coverage. In that regard, keep in mind the following:

1. **Mortgage Errors and Omissions -** this is the basic form which provides the least in coverage. The lender is required under these forms to keep a copy of the primary property insurance maintained by the borrower (or the lender if out of escrow) in the bank's files on premises. They must also track the renewals and/or any notices that seem to say coverage is reduced, cancelled or non-renewed.

2. **Mortgage Impairment -** does not require that the lender keep the primary policies on file. However, many if not most of these policies will still require the lender to track renewals etc.

3. **Mortgage Impairment - Non-Tracking -** a lender can purchase a Mortgage Impairment Policy that does not require the lender to track the loans for renewals or notices of cancellation etc.

All of the policies cited above will still need a follow-on policy for properties where the borrower has failed to produce evidence of primary property insurance on the property mortgaged. Usually these policies provide either 60 or 90 days additional coverage from the point in time where the lender is notified that coverage is not or no longer in place.

Of course, it's preferable to insist on 90 days as 60 may not be sufficient to locate the borrower and for them to get the evidence in place. Once the 90 days expires and there's still no insurance in place, the lender would have the right to force place the insurance in accordance with their loan agreement.

The cost of the force placed coverage can be charged back to the borrower. It's critical that the lender make sure that the coverage is force placed at or prior to the expiration of the 90 days described above. This follow-on program is known as Force Placed Property Insurance Policy. You can often include REO (foreclosed properties owned and controlled by the lender).

4. **Mortgage Impairment - Non-Tracking - 90 Day Waivers**. This is the ultimate policy in today's market. This does everything mentioned in #3 above and has a feature that allows

the lender to not force place property coverage even after the 90 day period usually provided in Mortgage Impairment Policies.

This means the bank would not have to purchase a Force Placed Property Policy. Further, they could ignore any notices of cancellation or non-renewal as they would have on-going coverage for all mortgage loans without having to force place at the end of the 90 day period.

The following are some other insuring agreements available as options to the basic coverage as described above:

- Difference in Conditions coverage on mortgage loans
- Lenders Failure to Pay Property Taxes from Escrow Account
- Lenders Failure to Notify VA, FHA or SBA that a loan is in arrears and potentially losing the guaranty these agencies provide
- Lenders Failure to affect or maintain mortgage life, mortgage disability or mortgage A&H
- Borrowers Failure to Pay Property Taxes
- Lenders Failure to comply with FNMA, GNMA requirements

With the exception of #4 *which doesn't need this feature*, these other policy options generally have provisions in them that will remain in full force and effect until the lender receives notice that the primary policy maintained by the borrower has been cancelled or non-renewed.

Then, there's 90 days of coverage left in which to get the borrower to provide evidence that coverage has been purchased. If the borrower continues to fail to provide evidence on the 90th day, the lender would need to force place insurance on that property.

Mortgage Impairment Endorsements:

Retro Amelioration Endorsement - Provides the potential for a reinstatement of the policy aggregate limit of liability upon the exhaustion of the aggregate limit provided for the entire policy. This extension is contingent upon the Underwriters approval and in consideration of an additional premium.

Post Termination 1990 Extension - Amendment under Section A (2) of the policy (Liability of Assured in Procuring or Maintaining Borrowers Insurance Policies) **-** to extend the coverage provided under Section A (2) (for the Insured's interest as mortgagee, mortgage fiduciary or mortgage servicing agent) for a period of 12 months after the loan has been satisfied (paid off or moved to another lender).

Failure to Pay Real Estate Taxes Section A Extension Clause (1990) - Covers the Insured against loss resulting from the seizure and sale of property securing a mortgage loan with the Insured when its mortgage interest has been "extinguished" by a governmental agency or political subdivision thereof as a result of failure to pay real estate taxes (other than the deliberate failure by the Insured). The Failure to Pay Real Estate Taxes must have been on the part of the borrower **-** not the lender.

Legal Assistance in Prosecution of Claims Section A (1) Extension - Indemnifies the Insured for costs and expenses incurred (with the Underwriters consent) in the prosecution of claims against insurance coverage that may be available to respond to a loss for which the Insured has filed claims under Section A (1) of this policy. The limit of coverage is $25,000 any one loss – subject to an annual aggregate for all such claims of $250,000. No deductible will apply.

Mobile Home Extension - Modifies Exclusion 12 of the policy to provide coverage for mobile homes or modular houses - only if they are permanently fastened to a concrete foundation or similar substantial base.

Mortgage Bankers Addendum - Extends to coverage provided under Section A(2) "Liability of Assured in Procuring or Maintaining Borrowers Insurance Policies" and "Loss of Veterans Administration, Federal Housing Administration, Small Business Administration and Private Mortgage Guarantee Coverage" to provide those coverages in regard to Mortgage Banking activities where the Insured is servicing mortgage loans on behalf of another party.

Second Mortgage and Home Equity Loan Extension – Extends coverage provided under Sections A and C of the policy to include Home Equity Loans and 2nd Mortgage Loans.

Special Assessments Section B(1) Extension - Extends Section B(1) "Real Estate Tax Liability" to include liability coverage for negligent acts, errors or omissions in the Insured's failure to pay real estate taxes when the Insured is acting as a mortgagee, mortgage fiduciary or mortgage servicing agent.

Post Termination - Amends Section B (1) "Real Estate Tax Liability" to provide coverage up to 12 additional months after the satisfaction of a mortgage (but in no event past the policy anniversary date).

AD&D Section B (3) Extension - Modifies Section B (3) of the policy – "Life and Disability Insurance" **-** to provide coverage for negligent acts, errors and omissions in procuring and maintaining or failing to maintain valid life and accidental death or dismemberment or disability insurance on the life or health of the owner and mortgagor of the property which the insured holds a mortgage interest as a mortgage servicing agent or for another lending institution.

Condominium and Mortgage Interest Rider - Extends the coverage provided to the Insured to include mortgages on condominium or "co-operative loans" where the borrower is purchasing primary property coverage from the condominium association and would not be able to provide a copy of the policy – and further defines mortgage interest to accommodate the unique nature of ownership of condominiums or co-operative loan relationships. Provides that mortgage interest in such loans includes the stock purchased in the co-operative corporation and the proprietary lease such co-operative corporation would have under a security agreement or other similar document.

Loss Payee and Right to File Claims Endorsement (GNMA, FNMA and FHLMC)

With regard to Sections A, B or F of the policy – if the Insured services mortgages for GNMA, FNMA or FHLMC – the policy provides those organizations with the right to file a claim under the attached policy as the mortgage owner – and any claims check will be issued on a joint payee basis naming the appropriate agency involved (FNMA, GNMA or FHLMC).

Application of Deductible Endorsement

Defines the term "any one mortgage" to mean all of the Insured's mortgage interest in any one property to any one borrower – and defines how the policy deductible will apply.

Specific Notification Endorsement

Adds additional Conditions to the policy under Sections A – “Required Perils” and C – “Balance of Perils” to provide a maximum of 90 days continuing coverage on a specific property included in a mortgage – once the insured or representative becomes aware that the borrowers obligation to maintain primary coverage on the property has not been fulfilled including the initial purchase of coverage by the borrower, or any subsequent