



State of Michigan
John Engler, Governor

Department of Consumer & Industry Services
Kathleen M. Wilbur, Director

Office of Financial and Insurance Services
Frank M. Fitzgerald, Commissioner

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February 5, 2002

Mr. John R. McCarragher
State Filings Coordinator
United States Liability Insurance Company
190 South Warner Road
Wayne, Pennsylvania 19087-2191

Re: United States Liability Insurance Company
Mortgage Processors Errors and Omissions Program
Withdrawal of Approval

Dear Mr. McCarragher:

You are hereby notified that the approval of the policy forms and/or endorsements and manual rules, rates, and/or rating systems listed in this letter is withdrawn. These forms and manual rules, rates and rating systems were approved or put into use as an exempt form on the effective date specified in the list below. The following forms and manual pages are affected by the withdrawal of approval.

<u>FORM NUMBER</u>	<u>TITLE</u>	<u>EFFECTIVE DATE</u>
Exempt Forms	Mortgage Processors Errors And Omissions Program	June 1, 2000
<u>MANUAL PAGES</u>	<u>DESCRIPTION</u>	<u>EFFECTIVE DATE</u>
MPEO-R-001 (05/00)	Mortgage Processors Errors And Omissions Pages 1 and 2	June 1, 2000

The withdrawal of approval of the manual rules, rates, and/or rating systems and prohibited issuance of the form listed above is being made pursuant to MCLA 500.2236(5) and MCLA 500.2418. The effective date of this withdrawal of approval is 60 days from the date of this letter. None of the previously approved or exempt forms or manual rules, rates, and/or rating systems may be issued, used, or delivered in Michigan on or after the withdrawal effective date.

Given the lack of authority in the insurance code to combine title risks with non-title risks in a single, hybrid, policy, and the specific code definition for title insurance, it appears that separate policies need to be issued if an insurer wishes to underwrite risks that fall both within and outside the definition of title insurance. In such instances, the insurer will need both title authority and the authority needed for the non-title coverage.

United States Liability Insurance Company

February 4, 2002.

Page 2

In order to fall within Michigan's definition of title insurance, a policy must insure, guarantee, or indemnify an individual or entity with a legal interest in the real estate covered by the policy. The legal interest can be based on: ownership of the real estate, a lien on the real estate, an encumbrance such as an easement or right of way, or any other interest in the real estate. (MCL 500.7301(a) and (c)). We then need to look to what types of risks the policy covers. Policies that guarantee, insure, or indemnify the holder of a legal interest in the real estate from the following risks of loss fall within the Section 7301(a) and (c) definition of title insurance: risk of loss due to a defect in the title to property; an unmarketable title; the property is subject to prior superior liens; the status of the insured's lien on the real estate on the date the policy is issued; and, the property is subject to other interest of record existing when the lender's mortgage was given by the borrower.

It is our understanding that the United States Liability Insurance Company (USLIC) mortgage processors errors and omissions policy defines a claim as:

1. When the insured is unable to foreclose due to a mortgage processing error or omission
...or
2. When the insured is able to foreclose and the real estate is sold or disposed of in a manner that results in a loss to the lender due to a mortgage processing error or omission.

The risks insured against are defined as:

The failure of the insured or the insured's employees to:

1. Accurately reflect ownership of the covered property in the mortgage;
2. Accurately state in the mortgage the description of the covered property as stated in either:
 - a.) the copy of the deed to the covered property,
 - b.) the copy of the tax bill at the time of the origination of the home equity loan, or,
 - c.) the copy of the in force title policy to the covered property.
3. To identify third parties at the time of the origination of the home equity loan with pre-existing third party interests which become threats to the insured's security interest at the time of foreclosure and sale.

The failure to accurately reflect the ownership of the property and the failure to identify third parties with recorded pre-existing interests in the property, fall within the scope of risks reserved to title insurance. These risks must be covered by a title policy.

However, the risk that a lender or its employees will inaccurately transcribe a property's description from a deed, title insurance policy, or tax bill is not a risk covered by title insurance. This risk could be authorized as a form of casualty insurance

If United States Liability Insurance Company wishes to offer this coverage in Michigan it must first apply for and be granted title insurance authority, in addition to the casualty authority it already possesses. In addition, the title coverage must be written in a title insurance policy

United States Liability Insurance Company

February 4, 2002

Page 3

separate from the casualty coverage. As currently drafted, the policy unacceptably combines title risks with casualty risks.

Should you desire to dispute this withdrawal of approval of the forms and manual rules, rates and/or rating systems listed in this letter, you may, pursuant to MCLA 500.2236(6) and MCLA 500.2418 request a hearing before the Commissioner of the Office of Financial and Insurance Services or his designated representative.

Review of the items specified in this letter was completed by Teresa L. Pizana, Departmental Specialist. Technical questions should be directed to Ms. Pizana of the Securities and Insurance Offerings Division at (517) 373-2671.

Sincerely,

Kathleen Parsons

Kathleen Parsons
Deputy Commissioner
Securities and Insurance Offerings Division