

TITLE INSURANCE STRATEGIES FOR DISTRESSED PROPERTY & BANKRUPTCY

57th Annual William W.
Gibson, Jr
MORTGAGE LENDING
INSTITUTE

Dawn M. Lewallen | October 11, 2023

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Topics

- What Do We Mean By “Distressed” Property?
- How do we Spot “Distressed” Property?
- The Deed-in-Lieu Option
 - Title Insurer’s Due Diligence
 - Title Insurer’s Underwriting Requirements
 - Steps to Settlement
- Bankruptcy Options
 - Title Insurer’s Due Diligence
 - Title Insurer’s Underwriting Requirements

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What do we mean by “Distressed” Property?

- Property value has plummeted or homeowner unable to pay mortgage.
- Property itself is “distressed” - deteriorating, not being maintained.



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How Do We Spot “Distressed” Property?

Our title commitment may disclose:

- Pending litigation, e.g., Mortgage Foreclosure
- Delinquent real estate taxes
- Divorce proceedings
- Multiple liens and judgments (e.g., mechanic liens)
- Multiple and recent mortgages
- Multiple Mortgage Assignments (special servicer?)
- Seller/Borrower in Bankruptcy
- Lender in title



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Common Methods for Disposing of “Distressed” Property

- Short Sale
- Sale by Court Appointed Receiver
- Auction
- Mortgage Foreclosure
- Deed in Lieu of Foreclosure
- Bankruptcy



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The Deed-in-Lieu Option

- Deed in Lieu of Foreclosure (“*Deed in Lieu*” or **DIL** for short) is an alternative to mortgage foreclosure.
- Borrower offers to deed* the property in return for a release from personal liability.
- By a DIL, lender releases borrower and/or guarantors from personal liability in return for deeding over the property + surrendering possession.

***If the borrower holds a leasehold interest and the lender a leasehold mortgage, the borrower will offer to assign its leasehold interest to the lender. The following also applies to that type of transfer.**

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Title search: Title Insurance Strategies for Distressed Property and Bankruptcy

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