## TITLE INSURANCE STRATEGIES FOR DISTRESSED PROPERTY & BANKRUPTCY

57<sup>th</sup> Annual William W. Gibson, Jr MORTGAGE LENDING INSTITUTE

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## **Topics**

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

Also available as part of the eCourse 2023 Special Topics in Residential Lending: CFPB Enforcement; Title Insurance Strategies; and Current Litigation Trends

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