

# TITLE INSURANCE STRATEGIES FOR DISTRESSED PROPERTY & BANKRUPTCY

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

Dawn M. Lewallen | October 11, 2023

First American Title Insurance Company and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and ftriam.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

1

## 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

First American Title Insurance Company and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and ftriam.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

2

# 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.



First American Title Insurance Company, and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and titrasm.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third-party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

3

# 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



First American Title Insurance Company, and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and titrasm.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third-party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

4

# Common Methods for Disposing of “Distressed” Property

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



First American Title Insurance Company and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and titelink.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

5

# 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.**

First American Title Insurance Company and the operating divisions thereof, make no express or implied warranty respecting the information presented and assume no responsibility for errors or omissions. First American, the eagle logo, First American Title, and titelink.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates. The following presentation is for informational purposes only and is not and may not be construed as legal advice. First American Title Insurance Company is not a law firm and does not offer legal services of any kind. No third party entity may rely upon anything contained herein when making legal and/or other determinations regarding title practices. You should consult with an attorney prior to embarking upon any specific course of action.



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

©2014 First American Financial Corporation and/or its affiliates. All rights reserved.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Title Insurance Strategies for Distressed Property and Bankruptcy

Also available as part of the eCourse

[2023 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

First appeared as part of the conference materials for the  
57<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending Institute session  
"Title Insurance Strategies for Distressed Property and Bankruptcy"