**Agenda Item: 2012-56 (Amended)**

**Submitted by: Jim Gosdin and John Rothermel**

**On Behalf of: Stewart Title Guaranty Company**

**Address: 1980 Post Oak Blvd., Suite 710**

 **Houston, Texas 77056**

**Telephone No.: (713) 625-8228**

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Stewart Title Guaranty Company petitions the Commissioner of Insurance to adopt the following revisions to the Endorsement Instructions III concerning Assignments:

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| **III.** | **USE UPON ASSIGNMENT OF LIEN.** |

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| When a lien is assigned, and upon compliance with Rules [P-9.b.(1)](http://www.tdi.texas.gov/title/titlem4b.html#P-9b1) or [P-9.b.(2)](http://www.tdi.texas.gov/title/titlem4b.html#P-9b2) and [R-11](http://www.tdi.texas.gov/title/titlem3b.html#R-11), the Company may issue the T-3 Endorsement by inserting therein: |

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|   | "Said Loan [~~Mortgagee~~] Policy is hereby amended to name as the Insured: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.The lien described in Schedule A of said policy has been assigned to said named Insured by assignment dated the \_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_, 19\_\_, at \_\_\_\_ \_.M., in the Office of the County Clerk of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County, Texas (here insert clerk's file number or book and page of recording), and Schedule A of said policy is hereby amended to cover said assignment, and it is expressly stated that the effective date of said policy is changed to the date of this Endorsement." |

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| "As of the date of this ~~E~~endorsement, Company insures the insured against loss, if any, sustained by the insured under the terms of the policy if said lien is not a valid lien against the property described in Schedule A of said policy, subject to the matters set forth in Schedule B, the terms and provisions of said policy and the following:" (Here insert any exception necessary by reason of matters arising since the date of the Policy. ~~or delete the immediately preceding words "and except"~~)"The Company insures that all standby fees, taxes and assessments by any taxing authority against the property described in Schedule A of said policy have been paid up to and including the year \_\_\_\_\_\_\_\_\_ except subsequent taxes and assessments for prior years due to change in land usage or ownership, and except: (specify or delete the immediately preceding words "and except".)" ~~["This Endorsement shall be effective when the note or notes secured by the lien insured have been delivered to the Insured named herein."~~] |

“This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses, by reason of any claim that arises out of the transaction creating the assignment by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on:

1. the assignment being deemed a fraudulent conveyance or fraudulent transfer; or

2. the assignment being deemed a preferential transfer.”

“This endorsement shall be effective provided that, at Date of Endorsement:

1. the note or notes secured by the lien of the Insured Mortgage have been properly endorsed and delivered to the Assignee, or

2. if the note or notes are transferable records, the Assignee has "control" of the single authoritative copy of each "transferable record" as these terms are defined by applicable electronic transaction laws.”

Justification:

This proposal amends the Assignment Endorsement (T-3) to add a creditors’ rights exception relating to the transaction. This amendment complies with the requirements of Section 2502.006, Insurance Code, which prohibits certain extra hazardous coverages. This endorsement also amends the exception and condition relating to delivery of the promissory note to be consistent with the exception set for in the ALTA Assignment Endorsements.