

The Reporter

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RADIAN LIEN PROTECTION

The End of Title Insurance as We Know it?

Proposed alternatives to title insurance are not new. These products commonly referred to as "Mortgage Impairment Insurance", have been around for some twenty years. Unlike title insurance, such programs generally require no search or a minimal title search. They are based on the traditional insurance approach of calculating the likelihood of loss. Like an automobile insurance carrier assessing the frequency of accidents, the companies underwriting these policies assess the risk of loss due to title issues respecting mortgages in default. Of course, to reduce the likelihood of loss, these products are usually available only on loans to "A" credit borrowers.

A few years ago, NorWest Bank, one of the nation's largest mortgage lenders, introduced such a product with great fanfare. It has been received rather poorly in the marketplace. Now there is a new player in the field, the Radian Lien Protection (RLP) program, which is being marketed aggressively as an alternative to title insurance.

Product Outline

RLP was introduced into the mortgage origination market in September 2001. It is offered by Radian Guaranty, Inc., through its sister company, Radian Express. Radian Guaranty Inc., the mortgage insurance subsidiary of Radian Group Inc. (NYSE: RDN), provides private mortgage insurance and risk management services to mortgage lenders nationwide. The parent company, Radian Group Inc.,

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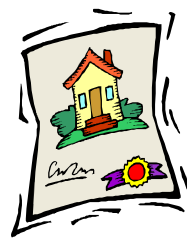
MARKETING TIPS/REMINDERS:

- ★ Provide light refreshments at closings;
- ★ Set up a "Kids Corner" in your office to de-stress parents;
- ★ Consider re-arranging office hours and stay open late one evening per week to accommodate buyers with hectic schedules.

is a leading credit enhancement and mortgage services provider to the financial and capital markets.

Radian refers to its new product as "A *title insurance alternative – for less than half the cost!*" and offers it to lenders in connection with refinances, second mortgages and home equity loans. RLP will cover loans up to \$650,000 on existing single-family homes and condominiums used as primary residences and second homes only. Because it is a casualty-type product, RLP places risk-based restrictions on its insureds. Specifically, it is limited to borrowers with high credit rating. Further, it is not available for Condominiums that do not comply with FreddieMac/FannieMae requirements, leasehold estates, manufactured housing, co-ops and properties over five acres. And lastly, certain types of refinances are also excluded, i.e. spousal buyouts (refinances) and family transfers. RLP will provide insurance coverage to a Lender for a variety of losses arising from a borrower's default under a covered loan, including losses due to undisclosed liens.

Under the program, Radian provides the Lender with a Mortgage Lien Report, which consists of a credit report obtained from three credit companies to determine the creditworthiness of the applicants and a public records report. This public records report is a current owner rundown, which is intended to disclose any monetary liens affecting the applicants and the property being encumbered by a new mortgage. In addition, the Lender receives an Ownership and Legal Description Verification Report relative to each loan. It is up to the Lender, or its closing agent, to review the report and compare it to the application provided by the borrowers, in order to determine the new lien priority. The Lender is required to secure an Affidavit from the Borrowers stating that there are no other liens on the property that might affect the priority of the new mortgage. It is the Lender's responsibility to make sure that any outstanding liens are paid off or subordinated to its new mortgage.



If a Lender incurs a loss for an undisclosed lien, it can file a claim only when the following prerequisites are met:

- a. Borrower must be in default;
- b. A loss is incurred by the Insured Lender as a result of the default; and,
- c. A foreclosure has occurred, after which the Lender finds itself in inferior position.

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Unlike title insurance, RLP is not designed to cover the full amount of each and every mortgage; it protects a pool of mortgages. Based on loss history, the lender determines the amount of coverage for the

loan pool. The coverage is usually set at 1/2 % of the sum of the mortgages in the mortgage pool. Therefore, if the mortgage pool is \$10,000,000.00, then the maximum coverage would be \$50,000.00. If the lender's losses exceed that amount, there would be no further recovery for that pool of mortgages.

Currently, Radian has 13 Service Centers nationwide, including one in Braintree, Massachusetts, which offers RLP in CT, MA, ME, NH, NY, RI and VT.

In March 2002, RLP was accepted by Lehman Brothers as an alternative to title insurance on asset-backed and mortgage-backed securities. Last year, Radian received approval for RLP from Standard and Poor's, Fitch Ratings and Moody's.

Title Insurance Industry Response to RLP:

While Radian claims that RLP is not a title insurance product, American Land Title Association (ALTA) believes otherwise. In November 2001, ALTA filed suit in Orange County, CA against Radian Group, Inc., Radian Guaranty, Inc. and ExpressClose.com. The case was later removed to U.S. District Court in Los Angeles. ALTA demanded an injunction prohibiting Radian from selling RLP to California consumers and sought monetary damages for all licensed title underwriters who have been harmed by Radian's sale of RLP. The issue before the District Court is whether or not RLP is a title insurance product. In its letter to the Editor of "American Banker", dated November 2, 2001, ALTA maintained that RLP is title insurance, that Radian is not licensed to sell it, and that RLP is being issued in direct violation of title insurance laws of most states. It is ALTA's position that RLP is a title insurance product because it provides coverage against undisclosed liens. It warns lenders and consumers about limitations of RLP and risks involved in using it in place of a title insurance policy.

In order to demonstrate the clear advantages of traditional title insurance, ALTA created the "RLP and ALTA Title Insurance Policy Comparison Chart" which was published in the March 18, 2002 Edition of The Legal Description and is posted on our website (www.ortboston.com).

Howard Yaruss, Radian's Senior Vice President and General Counsel, in his response to the ALTA chart in the April 1, 2002 issue of The Legal Description, continued to maintain that RLP is not a title product but rather a mortgage guarantee product, and appealed to lenders to evaluate the relative merits of each product and make an informed decision.

Whatever the outcome of the lawsuit, many title insurers may view RLP as a challenge to the title industry to improve its service, streamline the process and lower its prices -- especially on refinance transactions. In other words, to adapt to the demands of the mortgage market.

One such opportunity is educating the real estate industry to the clear advantages of title insurance when it comes to the issue of marketability of title. Because RLP is not addressing marketability of titles to real property, the title insurance industry is actually the only industry that would be in a position to offer adequate protection to homeowners.

Further, since RLP is only available in a refinance transaction and does not offer any direct protection for real property, the title insurance industry will be able to turn the RLP issue to their advantage to enhance their own products and services and continue to play an essential role in educating and protecting the consumer.

It is up to all of us to help educate lenders and borrowers of the advantages of a true title insurance policy and the dangers of products such as Radian's RLP.

HAVE YOU BEEN ON THE WEB?

- Ü View or print ALTA Endorsements!
- Ü Browse our Underwriting Library!
- Ü Get info on 1031 Tax-Free Exchanges!



www.ortboston.com

Employee Spotlight – Amanda Dion



Amanda Dion has been working at the Boston Office of Old Republic Title since August of 1998, after her fiancé's father found us in the Yellow Pages! Amanda and her fiancé, Steve, had been living on the West

Coast for a while before deciding to move back home. Ironically, Amanda was working at Old Republic Title Company in Oakland, CA and enjoyed her work there so much that she decided to work for us on the East Coast.

Amanda began as our Receptionist, but quickly was promoted to Agency Accounting and then to her present position, Claims Administrator. She enjoys her work with Agents and policyholders and is very resourceful when it comes to tracking discharges and finding lenders whose names have changed. She is also quick to lend her assistance with back title requests, ICL's and has a real knack for helping co-workers with computer issues.

Amanda earned a degree in English from Merrimack College, where she played on the Women's Soccer Team. She enjoys horticulture, hiking and music and is a devoted follower of the legendary band "Max Creek". She has a great attitude and a great smile... and she makes a mean pot of coffee.

