



**OLD REPUBLIC**

**National Title Insurance Company**

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# BULLETIN

**To:** All Agents and Attorneys in the State of New Mexico

**From:** David W. Rhodes, Sr. Underwriting Counsel

**Date:** July 9, 2004

**Re:** New Forms and Rates

## **NM Form 63**

### **Short Form Residential Loan Policy**

**13.14.18.76 NMAC**

This new form of Mortgage Policy is now available for use in New Mexico. It looks different than the other Loan Policies but the coverage is the same as the other forms. The rate for the issuance of the Short Form policy is the same as the other Loan Policy forms.

The Short Form policy may only be issued if the property is one to four family residential property. It may **not** be issued on a construction loan. This form has no policy jacket as you are used to seeing on the other policy forms.

Endorsements to the Short Form Residential Loan Policy are attached by checking the appropriate box in Schedule A of the policy. Preprinted language in Schedule B excludes certain matters from coverage that in the other forms of loan policy would be a Schedule B specific exception. For example: the policy excepts to easements appearing of public record so you don't have to list all the recorded easements affecting subject property in Schedule B. The automatic exclusions from coverage are:

1. Taxes and special assessments that become due and payable after the policy date.
2. Covenants, conditions, and restrictions except that coverage is given as to violations of the covenants, conditions, and restrictions on or prior to policy date; a forfeiture or reversion of title from a future violation of any covenants, conditions and restrictions; or any covenants, conditions, and restrictions that contain provisions under which the lien of the insured mortgage can be extinguished, subordinated or impaired such as a HOA lien that is not automatically subordinated to the insured lien.
3. Any easements of record except affirmative coverage is given against the encroachment of improvements on any easement and any damage to existing improvements resulting from the use of the easement.
4. Minerals are automatically excluded so each mineral lease or reservation need not be listed. Coverage is given for any impairment of use of the land for 1-4 family dwelling purposes and to any damage to improvements because of use of the surface to extract minerals.
5. This section gives coverage against matters that would be disclosed by an accurate survey, including encroachment of improvements onto adjoining land or onto subject property from adjoining land.
6. Arbitration is waived by the Insurer.
7. Water rights

Any of the affirmative coverage given in the Short Form Policy may be removed or modified from Schedule B by including an exception in the Addendum to Schedule B. For example: the survey shows encroachment of the house into a pipeline easement. You would need to add an exception to the Addendum. Likewise, if there is a Bankruptcy or some encumbrance that would be superior to the Insured's lien, an exception should be taken in the Addendum.

Note that Schedule A of the policy contains language making the Date of Policy \_\_\_\_\_ or the date of recording of the insured mortgage whichever is later. The blanks will normally be filled in to show the date of closing so it could be delivered to lender before recording and disbursing.

All of the standard exceptions in the Short Form Policy may be modified or deleted in the way they are in the standard loan policy.

**See 13.14.7.8 C.** for the new language concerning the issuance of NM Form 63. A copy of the form is attached to the bulletin.

**NM Form 61**  
**Foundation Endorsement**  
**13.14.18.74 NMAC**

This endorsement insures 3 basic problems that occur with the foundation of a structure. NM Form 61 insures against loss or damage to the Insured Lender if:

- 1.) the foundation of the structure under construction is not within the boundary lines of the land.
- 2.) if the location of the foundation is in violation of the covenant, conditions, and restrictions (describe the violation or state "none".)
- 3.) if the foundation encroaches onto any of the easements described in Schedule B except (describe the violation or state "none".)

The endorsement is available for Loan Policies and/or Construction Loan Policies. A satisfactory survey is required for review prior to issuance and must show that location of the foundation is within the boundaries of the land described in the policy.

Affirmative coverage may be given against a violation that would be set out in paragraphs 2 and 3 of the endorsement if the risk is acceptable. Please contact Old Republic National Title Insurance Company for approval to give the affirmative coverage. This coverage is given by using the language promulgated in 13.14.18.11 (D) NMAC right after the description of the violation.

13.14.10.44 NMAC establishes a premium charge of \$25.00 if issued for one to four family residential policies and \$50.00 for commercial policies. A copy of NM Form 61 is attached.

**NM Form 62**  
**Assignment of Rents/Leases Endorsement**  
**13.14.18.75 NMAC**

This new endorsement insures an insured lender against two items concerning an assignments of rents or leases. These two items are:

1. any defect in the execution of the document entitled (insert name of the document) referred to in paragraph \_\_\_\_\_ of part \_\_\_\_\_ of Schedule \_\_\_\_\_; and
2. any prior assignment of the lessor's interest in the lease specified in such document including a prior assignment of rents unless set out in Schedule B.

This endorsement may not be issued on policies insuring residential property containing 4 or fewer dwelling units. This endorsement is designed for attachment to a loan policy or leasehold loan policy covering property containing more than 4 units such as an apartment complex.

**A copy of NM Form 62 is attached to this bulletin.**

Gary Sandoval will be sending out a CD with the rate chart and the Endorsements in the near future. These forms are also available on the New Mexico Website found at [www.oldrepublictitle.com/nm](http://www.oldrepublictitle.com/nm). If you have any questions, please contact the Underwriting Department with Old Republic National Title Insurance Company at 1-888-678-1700