

Title

FREQUENTLY ASKED ^ QUESTIONS

February 2012

Q Our insured owners are conveying title to an LLC of which they are the owners. Do they need new title insurance for the LLC?

A It depends on the form of owners policy originally issued to them and whether or not the LLC will be paying consideration.

The definition of "Insured" in a 2006 ALTA Owners Policy includes:

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes . . .

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

Thus, under the 2006 ALTA Owners policy, if the named insured is conveying to a wholly-owned entity for nominal consideration, the policy will continue as of its original date in favor of the grantee without further endorsement.

It should be noted, however, that the 2006 ALTA Owners Policy does not include intra-family conveyances (i.e. those where the grantor and grantee are related by blood or marriage) in the definition of "Insured". In this circumstance, a Successors and Transferees Endorsement (Rate Manual Sec. 10-41) would be appropriate when such a conveyance is being made for nominal consideration.

The 1987 Residential Owners policy does not contain the same definition of "Insured". Under this policy form in order for it to continue in favor of the LLC under the stated circumstances (or a family member or a trust where the insured owners are trustees or beneficiaries) a Successors and Transferees Endorsement (Rate Manual Sec. 10-41) would be appropriate.

As always, feel free to address any questions to a member of our underwriting staff.