

## THE ATTORNEY TITLE AGENT: CORE TITLE SERVICES IN NEW YORK

CATIC Title Insurance Company (“CATIC Title”) is New York’s only Bar-Related® title insurance company. At CATIC Title we are committed to supporting the attorney’s pivotal role in the closing process. Accordingly, CATIC Title works with and through our attorney agents to deliver quality title services to their clients and our insureds. This communication is forwarded to assist you in further understanding your role in the process and how you, as our attorney agent, provide “core” title services.

As you are aware, state and federal laws require that a title insurance agent perform certain “core” title services in order to earn a commission on the issuance of a title policy. Since CATIC Title operates in multiple states with different statutory and regulatory schemes, we constantly monitor this rather dynamic area of the law on your behalf. This is more important than ever as the statutory and regulatory framework is constantly changing along with the interpretations by courts and regulators. With no simple bright line tests, it bears constant watching.

What is always true is that you represent the interests of your client and serve as an agent for CATIC Title. In both roles, you are responsible for attending to the myriad details that result in the successful consummation of a real estate closing and the protection of the interests of your clients and our insureds. CATIC Title believes that attorneys are critical to the process of properly representing the consumer in New York, and we support their continued involvement in this process despite the attempts by some underwriters to move to direct operations.

In New York, CATIC Title operates through a network of attorney agents. CATIC Title conducts a vetting process prior to the appointment of an attorney title agent. This process is designed to ensure that as a CATIC Title agent, you are knowledgeable in this area of practice, of good character, and duly licensed as a title insurance producer in the State of New York. Then after the vetting process was completed, you entered into an Agency Agreement with CATIC Title.

### IN THAT AGENCY AGREEMENT YOU OBLIGATED YOURSELF TO:

- a. Conduct the agency business in a prudent, careful, sound, timely, and ethical manner;
- b. Issue title policies according to recognized underwriting practices and instructions given by CATIC Title or imposed by state and federal law;
- c. Determine that title policies correctly reflect the status of title of the insured property, as of the date of issuance of the policy, with appropriate exceptions as to liens, defects or encumbrances known to the agent or as is disclosed in the search;
- d. Preserve all documents supporting the issuance of title policies; and
- e. Maintain a comprehensive liability insurance policy for errors and omissions in an amount of at least one million (\$1,000,000.00) dollars.

Accordingly, as part of your routine practice it is our view that you provide the following core title services in connection with the issuance of title insurance policies to your clients:

## **1. PLACING AND REVIEWING THE TITLE ORDER**

The attorney agent provides CATIC Title with relevant details regarding the transaction to be insured, including the parties, the proposed insureds and amounts of insurance, property identification, mortgage lender information, and copy of the purchase contract. CATIC Title will send a confirmation of the order to the attorney agent. The attorney agent reviews this confirmation for completeness and accuracy. The attorney agent will request any additional searches or any special instructions that may be required for the particular transaction. The attorney agent will provide any missing or incomplete information and correct any errors. The attorney agent will follow up with CATIC Title to assure that all reports are delivered in a timely manner.

## **2. REVIEWING AND DELIVERING AN ESTIMATE OF TITLE CHARGES**

CATIC Title will send the agent an estimate of title charges based upon the information provided by the agent. The agent will review the estimate for completeness and accuracy and provide a copy of the estimated title charges to the proposed insured. The agent will confer with the proposed insured to explain the charges and answer any questions or correct any discrepancies.

## **3. DELIVERY OF THE TITLE COMMITMENT AND RELATED SEARCHES**

CATIC Title will send the agent a preliminary title commitment and related searches which have been prepared based upon the information provided to CATIC Title by the agent. The agent will examine the reports for completeness and accuracy, including the title commitment, tax searches, violation searches, municipal searches, street searches, judgment and lien searches, and such other searches as may have been requested for the transaction. The agent will report any errors, discrepancies, or inaccuracies to CATIC Title, and the preliminary commitment will be revised as necessary to accurately reflect the status of title and underwriting objections. The attorney agent will then deliver the title insurance commitment to the proposed insured and other parties to the transaction.

## **4. EVALUATION OF TITLE AND CLEARANCE OF UNDERWRITING OBJECTIONS**

The attorney agent will work with CATIC Title to evaluate the title and to identify the conditions and underwriting objections that must be satisfied before a policy can be issued. The agent will review the legal description, covenants, conditions, restrictions, easements, and agreements of record for insurability and affirmative coverages. The agent will work with CATIC Title to obtain necessary authorizations, clearances, authorities, indemnities, and documentation as may be required for the issuance of a policy. The agent will work with CATIC Title, seller's attorney, and lender's attorney to satisfy conditions and obtain clearance of underwriting objections.

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## **5. REVIEW OF SURVEY**

The attorney agent and CATIC Title will determine whether an updated or new survey will be required. If so, the agent will communicate with a surveyor, get quotes for the survey, arrange for property access, and arrange for proper certification and payment. The agent will review the survey and legal description for title objections and arrange for affirmative coverages as may be appropriate regarding survey matters. The commitment will be revised as necessary to reflect any matters revealed by the survey or to provide affirmative coverages as appropriate.

## **6. REVIEW OF TITLE WITH CLIENT/PROPOSED INSURED**

The agent will review the policy coverages and exceptions with the proposed insured, including legal description, survey, covenants, conditions, restrictions, easements, and agreements of record. The agent will discuss the coverages and benefits of an owner's title insurance policy. The agent will discuss appropriate affirmative coverages and any underwriting concerns and advise CATIC Title of any known risks to be assumed by the insured.

## **7. PREPARATION FOR CLOSING**

The agent will work with CATIC Title, the seller's attorney, and the lender's attorney to get the file ready for closing. The agent will advise CATIC Title when all underwriting conditions have been satisfied and the file is clear to close. CATIC Title will send to the agent a closing package of title documents, including a final title bill and a pro forma title policy. The agent will review the final title bill with the proposed insured, confirm that the charges are correct, and make arrangements for payment. The agent will review the pro forma title policy for completeness and accuracy and will request revisions as necessary. The agent will review the documents in the closing package for completeness, accuracy, and sufficiency to issue a title policy. The agent will either arrange for a title closer to attend the closing or the agent may act as the title closer.

## **8. CONDUCTING THE CLOSING**

The agent will request and review a title continuation prior to closing and will resolve any issues raised in the continuation. The agent will attend the closing and supervise the execution and delivery of documents and transfer of funds. If a closer is present, the agent will supervise the activities of the closer. The agent will mark up the title commitment or supervise the closer in marking up the commitment. The agent will supervise the collection and disbursing of funds, including title fees, recording fees, and transfer and mortgage taxes. The agent will sign and deliver the final title policy to the insured. The agent will confirm that the necessary documents and funds are remitted to CATIC Title.

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## 9. POST-CLOSING

The agent will work with CATIC Title for clearance of any post-closing matters or post-closing escrows.

We are extremely proud of the fact that CATIC Title and its attorney agents conduct their business in accordance with applicable law. We know and expect that you routinely perform these core functions. But given this constantly evolving area of law, we thought it prudent to consult with our Chief Compliance Officer and our outside retained national compliance counsel, as a resource for you as our valued attorney-agents in New York. Our experienced staff is available to assist you, should you have any questions regarding core title services or any other question related to your providing title services for your clients. For more information concerning the ethical and legal requirements of acting as an attorney title agent, refer to our publication "[Can a New York Attorney Represent a Client and Act as a Title Insurance Agent in the Same Transaction?](#)" posted on the Become an Agent section of our website under Law and Ethics.

If you have any questions, please feel free to contact us. Thank you for your continued support!

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