

UNDERWRITING MEMORANDUM 01-08

To: All South Carolina Agents
From: South Carolina State Office
Date: May 2, 2001
Re: Elimination of affidavits and indemnities for encroachments of borrowers' improvements onto neighboring properties

It has been our policy to require an affidavit and indemnity from the borrower when minor improvements (fences, walls, movable storage buildings, etc.) encroach onto neighboring property. With this affidavit and indemnity, our office has often authorized affirmative coverage for the lender against forced removal of the improvements.

We have decided to eliminate the affidavit and indemnity in this case. We take this step for two reasons. First, we are always interested in assisting our agents in streamlining their closing processes. Second, our experience teaches us that this protection from the borrower is seldom needed unless the borrower is in foreclosure. We find the affidavit and indemnity worthless at that point.

We will authorize affirmative coverage as we did in the past, on a case-by-case basis, but will not require the affidavit and indemnity from the borrower.

Please note that we have not eliminated the requirement for an Affidavit and Indemnity from the neighbor when the neighbor's improvements encroach onto the insured property. Because we are concerned about adverse possession issues, an Affidavit and Indemnity may still be important under those circumstances.

As always, if you have questions about these issues, please call our office.