

PENN ATTORNEYS

TITLE ALERT

DATE: 07/09/09

RE: Title Alert 2009-09

Mechanics' Lien Insurance for Owners

The Mechanics' Lien Exception: Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by public records.

Several questions have arisen since our earlier Underwriting Bulletins 2006-23: Mechanics' Lien Changes (see http://www.pennattorneys.com/printable/title_alerts/2006-23.pdf) as supplemented by Title Alert 2007-07, and the purpose of this Alert is to reiterate the circumstances and mechanism under which we may, on a case-by-case basis provide some form of mechanics' lien coverage to an owner/purchaser of new construction.

That Alert 2006-23 in relevant part provides for the mechanics' lien exception to appear on every OWNER policy, unless the risk has been evaluated and **approval to insure** the risk has been obtained from Penn Attorneys.

SCHEDULE B EXCEPTION COUNTERACTS "COVERED RISK" OF POLICY

The 2006 OWNER policy does not include mechanics' lien claims among the covered risks but is silent on the issue, unlike the 2006 Loan policy that does include mechanics' lien claims among the covered risks.

N.B. Raising the mechanics' lien exception on Schedule B of any title insurance policy overrides any Covered Risk/Insuring Provision.

APPROVAL OF MECHANICS' LIEN COVERAGE IN CERTAIN CASES

Penn Attorneys will approve exceptions to our position, that we do not ordinarily provide mechanics' lien coverage to insured owners of new construction, on a case-by-case basis or even a development-by-development basis.

Title Alerts from 1997 to present are available on our website at: <http://www.pennattorneys.com>

Penn Attorneys Title Insurance Co.

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In order to evaluate the risk, we need some or all of the following:

- confirmation of the residential nature of the property and amount of contract and a valid and properly filed waiver of liens (if single residential building)
- search of contractor and builder/developer/owner for history of mechanics' lien claims
- confirmation of whether or not releases have been obtained from subcontractors during the course of the project
- indemnity on Penn Attorneys' General Indemnity Agreement form from all parties to the construction contract with evidence of the financial stability of the indemnitors (preferably financial statements prepared by a licensed CPA)

Penn Attorneys may also require additional information or documentation to evaluate the risk.

Penn Attorneys also reserves the discretionary right to impose an additional Charge as set forth on page 14 of the Manual of Rules and Rates (as of 4/1/08).