

Providing Proof of Insurance Coverage to Your Lender

When property is financed, the lending institution will generally insist upon evidence of insurance in accordance with requirements in the loan agreements. While the insurance policy provides such evidence, it is rarely available by the time of the closing of the loan. As a result, evidence of insurance is often provided by a binder (also known as the ACORD 75) or by an Evidence of Property Insurance form (ACORD 27) or Evidence of Commercial Property Insurance form (ACORD 28).

The binder is a temporary insurance contract which substitutes for the policy until it is issued. Although there is less information on the binder than that contained in the actual policy, the binder represents all of the terms and conditions of the policy itself, from the actual coverages to any required notice of cancellation, and it provides proof of coverage until the policy is available. The evidence of insurance forms, on the other hand, may contain more detailed policy summary information (such as the coverages and limits provided by the policy), but they grant no rights to the recipient and are provided for informational purposes only.

It has recently come to our attention that some national lenders are refusing to accept the current (2006) editions of the ACORD 27 and ACORD 28 as evidence of insurance and are insisting that prior (2003) editions of these forms be provided. As your agent, we are unable to provide the prior editions for the important reasons explained below.

First, the older editions of these forms inappropriately suggested that the form recipients were being provided with certain rights under your insurance policy, and the forms were revised because they were not in compliance

with the laws and legal requirements of most states. The current editions of these forms now include statements clarifying that the forms are for informational purposes only and confer no rights to their recipients. Under the insurance laws of most states, only insurance policies and binders can confer policy rights — and those documents must be filed with state insurance regulators.

Second, any agent or insurance company who provides a lender with a document purporting to extend policy rights could be in violation of state insurance laws if it is not filed as a policy form, and the ACORD 27 and ACORD 28 are not filed as policy forms.

Third, these forms are created, published, and owned by the ACORD Corporation. According to the licensing agreement that allows us to issue their forms, a prior edition of a form cannot be used beyond one year after the date of publication of a new version of the form. Therefore, the licensing agreement bars use of the previous editions of the ACORD 27 and ACORD 28.

Binders are often provided to lenders as proof of coverage, and the insurance laws of most states require lenders to accept binders for this purpose in lieu of the actual policy. The ACORD 27

and ACORD 28 forms are, in contrast, provided simply as a courtesy to the lender to summarize more policy detail than is included in the binder. However, only the binder or policy actually grants policy rights sought by lenders.

While binders provide sufficient proof of coverage to lenders, it should be noted that insurance industry representatives recently spent more than a year discussing the potential development of an expanded binder form for use by the lending community. The proposed expanded binder would have extended rights as only a binder or policy can, while also incorporating additional policy details of interest to lenders. The insurance industry's offer was unfortunately declined by some lenders who continue to request certain documents that insurers and agents are simply unable to provide due to legal restrictions.

Although state insurance laws and contractual licensing restrictions prevent us from providing certain outdated forms, we would be pleased to provide your lender with an insurance binder (ACORD 75) and/or the current versions of the evidence of insurance forms (the ACORD 27 or ACORD 28). ■

Source: ILABA.



Insurance Policy