

# NJ Mortgage Foreclosure Insurance Policy (1-13)

Liability: \$ \_\_\_\_\_

Policy No.:

Title No.:

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND THE PROVISIONS OF THE CONDITIONS AND STIPULATIONS CONTAINED IN THIS AGREEMENT

herein called the Company  
INSURERS

\_\_\_\_\_, [insert name of insured] herein called the Insured, against loss not exceeding the liability amount stated above which the Insured shall sustain by reason of any incorrectness in the statement which the Company hereby gives that, according to the public records customarily searched to determine an interest in real estate, on the effective date stated below:

1. Title to the mortgaged land is vested, or record, in:
2. The necessary parties to foreclose the mortgage set forth in Schedule "B" are those set forth in Schedule "C".
3. All liens or encumbrances affecting the land subsequent to the recording of the mortgage to be foreclosed, which are filed or recorded in those records in the County Clerk's Office, and in counties having a Register in the Register's Office, established by state statute for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge are listed in Schedule "D".
4. The records of the taxing authority show that all taxes and assessments and other municipal charges which are a lien against the land have been paid as of the date herein, except for those taxes and assessments, which are shown as open on the Tax and Assessment search.

The following SCHEDULES are annexed hereto and made a part hereof: "A", "B", "C", "D", "E" and "F". This certificate is void unless all schedules are attached hereto.

EFFECTIVE DATE: \_\_\_\_\_

By:

\_\_\_\_\_  
(Authorized Signatory)

#### EXCLUSIONS FROM COVERAGE, CONDITIONS AND STIPULATIONS, AND OTHER PROVISIONS

##### 1. Definitions:

The following terms, when used in the Policy, mean:

- a). "land": the land described in Schedule "A" of this Policy and the improvements affixed thereto which by law constitute real property.
- b). "date": the effective date of this Policy.
- c). "Insured": the party or parties names as the Insured in this Policy or in an Endorsement to this Policy.
- d). "Mortgage": mortgage, deed of trust, trust deed, or other security instrument which constitutes a lien or the "land".
- e). "Necessary Parties": Those persons or entities whose joinder is necessary, under the appropriate State and Federal laws, to foreclose the mortgage set forth in Schedule "B" as to the land, so that judgment may be entered ordering a sale free of the interests set forth in Schedule "C".
- f). "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

##### 2. Exclusions from Coverage:

The Company shall not be liable for any loss, cost or damage by reason of:

- a). Defects, liens, encumbrances, adverse claims against the title, or other matters
  - (1) created, suffered, assumed, or agreed to by one or more of the Insured or
  - (2) resulting in no loss to the Insured.
- b). Taxes, Assessments or other Municipal Liens which are not shown as existing liens by the records of any taxing authority by reason of the reinstatement of a tax, assessment or charge previously omitted or reported as paid by reason of the non-collection of funds or otherwise.

- c). Unpatented mining claims; reservations or exceptions in patents, water rights, claims or title to lands now or formerly under water.
- d). Title to any property beyond the lines of the land expressly described in Schedule "A" or title to streets, roads, avenues, lanes, ways or waterways on which the land abuts.
- e). Any governmental charge which may be filed in any governmental office, department, or agency other than those filed in the office of the local Taxing Authority.
- f). Rights of any person or entity whose interest in the land would be disclosed by an accurate survey of the land.
- g). The rights of any person or entity which would be disclosed by the examination of the Office of the Surrogate in counties other than the county in which the land is located.
- h). The interests disclosed by assignments for the benefit of creditors; receiverships; bankruptcy petitions filed in districts other than the one in which the land is located; Uniform Commercial Code filings in offices other than the Recording Office of the County in which the land is located or which are not indexed against the land, bankruptcy petitions filed by or against any party, other than the record owner.
- i). Rights or claims of any person claiming priority over the mortgage in Schedule "B".
- j). This policy does not insure against the failure of the insured to obtain a judgment foreclosing the mortgage described in Schedule "B" or divesting any interest named herein.

### 3. Prosecution of Actions:

- a). The Company shall have the right to institute and prosecute any action or proceeding or do any other act which, in its opinion, may be necessary or desirable to establish or confirm the matters herein insured; and the Company may take any appropriate action under the terms of this policy whether or not it shall be liable thereunder and shall not thereby concede liability or waive any provision hereof.
- b). In all cases where the Company does so institute and prosecute any action or proceeding, the Insured shall permit the Company to use, at its option, the name of the Insured for such purpose. Whenever requested by the Company, the Insured shall give the Company all reasonable aid in prosecuting such action or proceeding, and the Company shall reimburse the Insured for any expense so incurred.

4. Notice of Loss-Limitation of Action:

A statement in writing of any loss or damage for which it is claimed the Company is liable under this Policy shall be furnished to the Company within sixty days after such loss or damage shall have been determined and no right shall accrue to the Insured under this Policy until thirty days after this statement has been furnished, and no recovery shall be had by the Insured under this Policy unless action shall be commenced thereon within two years after expiration of this thirty day period. Failure to furnish this statement of loss or damage or to commence the action within the time hereinbefore specified, shall be a conclusive bar against maintenance by the Insured of any action under this Policy.

5. Option to Pay, Settle or Compromise Claims:

The Company shall have the option to pay or settle or compromise for or in the name of the Insured any claim which could result in loss to the Insured within the coverage of this Policy, or to pay the full amount of this Policy or, if this Policy is issued for the benefit of a holder of a mortgage, the Company shall have the option to purchase the indebtedness secured the mortgage. The purchase, payment or tender of payment of the full amount of the policy shall terminate all liability of the Company hereunder. In the event, after notice of claim has been given to the Company by the Insured, the Company offers to purchase the indebtedness, the owner of the indebtedness shall transfer and assign the indebtedness and the mortgage securing the same to the Company upon payment of the purchase price.

6. Limitation of Liability-Payment of Loss:

- a). The liability of the Company under this Policy shall be limited to the actual loss sustained by the Insured because of reliance on the assurances herein set forth, but in no event shall the liability exceed the amount of the liability stated on the face page of this Policy.
- b). The Company will pay all costs imposed upon the Insured in litigation carried on by the Company for the Insured and all costs and attorney's fees in litigation carried on by the Insured with the written authorization of the Company, but in no event shall the liability exceed the amount of liability stated on the face page here of.
- c). No claim for damages shall arise or be maintainable under this Policy (1) if the Company after having received notice of an alleged additional necessary party defendant, removes the defect, lien or encumbrance on the land held by the additional necessary party defendant within a reasonable time after receipt of notice, or (2) if the Company after having received notice of an alleged additional necessary party defendant, takes steps which it deems proper for the purpose of perfecting the title, whether by foreclosure, re-foreclosure, strict foreclosure, or otherwise and in such action or actions to plead subrogation whenever

the Company deems it necessary, or (3) for liability voluntarily assumed by the Insured in settling any claim or suit without written consent of the Company.

7. Subrogation Upon Payment or Settlement:

Whenever the Company shall have settled a claim under this Policy, all right of subrogation shall vest in the Company unaffected by any act of the Insured, and the Company shall be subrogated to and be entitled to all rights and remedies which the Insured would have had against any person or property in respect to the claim had this Policy not been issued. If the payment does not cover the loss of the Insured, the Company shall be subrogated to the rights and remedies in the proportion which the Company's payments bears to the amount of the loss. The Insured, if requested by the Company, shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right of subrogation, and shall permit the Company to use the name of the Insured in any transaction or litigation involving these rights or remedies.

8. Policy Entire Contract:

Any action or actions or rights of action that the Insured may have or may bring against the Company arising out of the subject matter hereof must be based on the provisions of this Policy. No provision or condition of this Policy can be waived or changed except by a writing endorsed or attached hereto signed by an officer of the Company.

9. Notices, Where Sent:

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at \_\_\_\_\_ [insert].

10. Failure to Disclose:

This Policy shall be null, and void if Insured, its attorney or agent, makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to the Company to material inquiries before the issuance of the Policy.

11. Purpose of the Policy:

This Policy is issued to, and accepted by, the Insured on the express condition that it is to be used solely for the foreclosure of the mortgage(s) described in Schedule "B". The Company shall have no liability to the Insured in the event this Policy is used for any other purpose.

12. Miscellaneous Provisions:

- a). The use of this policy for any purpose other than that for which it is issued, or by any person other than the Insured, shall not subject the Company to any liability.
- b). Acceptance of this Policy limits the Company’s liability to the terms of this Policy. The Insured waives any rights to sue or claim damages it may have other than under this Policy including, without limitation, the right to claim negligence on the part of the Company.

By:

\_\_\_\_\_  
*(Authorized Signatory)*

*SCHEDULE “A”*

The land secured by the mortgage to be foreclosed is: \_\_\_\_\_  
\_\_\_\_\_ [insert legal description]

*SCHEDULE “B”*

The mortgage to be foreclosed is:

Mortgagor(s): \_\_\_\_\_

Mortgagee(s): \_\_\_\_\_

Date executed: \_\_\_\_\_

County of Recording: \_\_\_\_\_

Date recorded:

Mortgage Book and Page: \_\_\_\_\_

Face amount of the indebtedness secured by the Mortgage: \_\_\_\_\_

Record Assignments (if any):

*SCHEDULE “C”*

The parties necessary to foreclose the mortgage are:

1. The owners of record of the mortgage to be foreclosed:  
\_\_\_\_\_ [insert names]

2. The record owners of the land: \_\_\_\_\_ [insert names]

3. Spouses, if any, of the record owner of the land.
4. Parties in possession of the land
5. The judgment creditors appearing in Schedule "F"
6. Any party or parties known to the party bringing the proposed action having an interest, or claim of interest, in the land which is not disclosed of record.
7. If either the mortgagor or the current owner of the land is a corporation, the State of New Jersey, by reason of the lien or unpaid Franchise Tax, unless it can be established that all Franchise Taxes have been paid.
8. [etc. - here list all parties having an interest in the land having an interest which is to be cut off by the foreclosure.]

*NOTE: In the event any party listed above cannot be identified by name, appropriate joinder shall be made for unknown parties.*

*SCHEDULE "D"*

The following matters, not listed on any other Schedule hereto, appear in the land records since the date of recording of the mortgage described in SCHEDULE "B":

*SCHEDULE "E"*

The tax and assessment searches annexed hereto shows items which will not be affected by the foreclosure.

*SCHEDULE "F"*

The judgments listed below (or attached hereto) may affect the land