

**13.14.18.11 ADDITIONAL AFFIRMATIVE COVERAGES:**

**A.** When issuing a commitment for an owner's or loan policy, or issuing an owner's or loan policy, exceptions as to easements, rights-of-way, and restrictions must detail any matters of violation, protrusion, encroachment or overlap on to easement, right-of-way, adjacent property, building set back lines or other violated restriction, which are revealed by an inspection or survey of the property.

**B.** In the case of commitments issued for loan policies (construction and permanent), and in the issuance of said loan policies, but not in the case of commitments for owner's policies, leasehold owner's policies and contract purchaser's policies, or the issuance of said policies, when there are no violations of restrictions the following language may be added to each such restriction exception: "These (or this) restriction(s) have (has) not been violated, and a future violation thereof shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in schedule B. However, this policy insures that any violation of these (or this) restriction(s) relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein."

**C.** Alternatively, and only in commitments for or the issuance of loan policies, when there are violations revealed, the following language may be added to each such restriction exception: "These (or this) restrictions(s) have (has) been violated in that (insert language stating what violation(s) exist(s)). This (or these) violation(s) will not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in schedule B. However, this policy insures that any violation of these (or this) restriction(s) relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein."

**D.** Additionally, and again only in commitments for or the issuance of loan policies, when protrusions, encroachments or overlaps into or upon easements, rights-of-way, adjacent property, the property to be insured, or building set-back lines (as described in restrictive covenants or plats filed of record) are revealed by a survey, the following paragraph may be added as a separate specific exception: "Encroachment (protrusion or overlap) of the improvements over (on, onto, in, into or upon) the (here describe the easement, right-of-way, adjacent property, the land to be insured, or building set-back line) as shown on a survey prepared by \_\_\_\_\_ dated \_\_\_\_\_. This policy insures the insured against loss or damage as defined in this policy by reason of the entry of any final decree entered in a court of competent jurisdiction and of last resort ordering the removal of said improvements presently situate on the land which constitute the (protrusion, overlap or encroachment)." This affirmative coverage language may be inserted into the foundation endorsement, NM form 61, in accordance with [13.14.10.44](#) NMAC.

**E.** Each insurer shall establish its written underwriting requirements necessary to offer these additional affirmative coverages or determine that it does not desire to offer said coverages under any circumstances. No company may provide affirmative coverage by the intentional omission of an exception to any adverse matter disclosed by inspection, or unrecorded survey or other evidence, or by a search and examination of the public records, or by any adverse matter arising by operation of law except as specifically authorized by these rules.

[6-16-86...4-3-95; [13.14.18.11](#) NMAC - Rn, [13](#) NMAC 14.2.12, 5-15-00; A, 7-1-04]