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## FINANCIAL INSTITUTION E-BRIEF

### New ALTA/ACSM Land Title Survey Standards for 2011: A Lender's Perspective

Given that an ALTA/ACSM survey is a standard closing requirement for commercial mortgage loans, lenders should take note of the "2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" adopted by the American Land Title Association (ALTA) and the National Society of Professional Surveyors. The 2011 Standards took effect on February 23, 2011, and replaced the existing 2005 Standards. One of the stated purposes of the 2011 Standards is to create a uniform standard of quality surveys which lenders can understand and confidently rely upon.

#### **Certification**

From a lender's perspective, the most significant change in the 2011 Standards is the prohibition against customized long form certifications. ALTA surveys normally contain a certification stating the survey was conducted in accordance with ALTA/ACSM standards. The 2005 Standards provided a standard "short form" certification. However, lenders often required their own "long form" certification containing additional survey requirements not included in the 2005 Standards. Customized long form certifications are now prohibited as the 2011 Standards mandate that the form of certification provided therein shall be the *exclusive* form of certification for land surveys conducted under the 2011 Standards. This new exclusive form incorporates some of the items sought by lenders in their own long form certifications, which is discussed in further detail below.

#### **Changes in Required and Optional Survey Items**

The 2011 Standards require certain survey items lenders

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often requested in their long form certifications even though such items were optional under the 2005 Standards. For example, the 2011 Standards now require the following items:

- a vicinity map showing the surveyed property in reference to nearby highways and major streets;
- an indication of access to public ways such as curb cuts and driveways; and
- in general, more detailed information concerning access, easements and servitudes.

The 2011 Standards also note certain optional items which *may* be required in a survey, such as:

- the zoning classification provided by the title insurer;
- the street address of the subject property;
- the location of wetland areas as delineated by the appropriate authorities;
- the location of improvements within off-site easements; and
- a requirement that the surveyor provide a certificate of professional liability insurance.

**Lenders should closely compare the items listed in their prior long form certifications with those required under the 2011 Standards. To the extent certain desired items are not included in the 2011 Standards, lenders will have to look to other sources to receive the protection afforded by such certifications or require that such items be added to the survey separately from and in addition to the standard certification. Lenders should consult with their legal counsel in evaluating their options under the 2011 Standards.**

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