

**MLTA 2017 Fall Education Seminar**  
**Access Claims**  
**Handout**

A “right of access to and from the Land” is a Covered Risk set forth in the ALTA 2006 Loan Policy, the ALTA 2006 Owners Policy, the ALTA Homeowner’s Policy of Title Insurance in an expanded form and the ALTA 17-06 and 17.1-06 Endorsements. The number one claim cause in Montana is due to access issues and is excessive compared to other states across the country. Understanding proper search and exam procedures and the risks associated with access and easements granting access, is a fundamental part of title insurance and sound underwriting practices, and is necessary to reduce this type of claim.

**1. Policy Coverage**

- ALTA 2006 Loan Policy *Covered Risk No. 4*
  
- ALTA 2006 Owners Policy *Covered Risk No.4*
  
- ALTA Homeowner’s Policy of Title Insurance *Covered Risk No.11*
  
- ALTA 17-06 and ALTA 17.1-06 Endorsements

**2. Increased Risk and Claims - What’s the difference and why do we care?**

- ALTA Homeowners Policy of Title Insurance – Enhanced access coverage
  
- Insuring access on Schedule A as Parcel II
  
- Endorsement ALTA 17-06 – Access and Entry
  
- Endorsement ALTA 17.1-06 - Indirect Access & Entry
  - Claim

3. **Basic Searching Procedures** – What are we missing?
  - Identify legal access
  
  - Authority to grant access
  
  - Consent or subordination of existing lien holders
  
  - Documents recorded subsequent to easement on easement parcel
  
4. **Unusual Claims** – Things we should always consider
  - Failure to correctly identify legal access
    - Oops, forgot to verify
  
    - COS
  
    - Easement by Reference Doctrine
  
    - Access to the COS
  
  - Land abuts a highway
    - Controlled Access Highway
  
    - MCA 60-5-105
  
  - Access across state or federal land
    - Claims
  
  - Overburdening/After Acquired Title
    - Claim