

February 5, 1968

SUBJECT: INSURANCE

Circular Letter No. 1 (1968)

TO ALL AUTHORIZED TITLE INSURANCE CORPORATIONS

Gentlemen:

Re: Losses from (a) diversion of closing funds and (b) priority of mechanics' and materialmen's liens

In recent years title insurers licensed in this state have suffered substantial losses arising out of the foregoing causes, more fully summarized below:

1. Diversion of closing funds by outside representatives, permitting prior liens to remain unpaid.
2. Emergence of mechanics' and tradesmen's liens (outside New York State) as superior to the insured liens.

The diversion of closing funds appears attributable to the delegation of responsibilities without adequate supervision.

The ascendancy of mechanics' and tradesmen's liens appears attributable to one of two causes: (a) defective underwriting procedures or (b) diversion by developers of funds obtained under construction loans.

Through these shortcomings, title insurers have exposed themselves to hazards more commonly identified with coverages issued under Section 46(16) (fidelity and surety) of the New York insurance Law.

This Department expects each authorized title insurer to adopt effective procedures to guard against the foregoing hazards. Please indicate what steps you have taken or propose to take to accomplish this, noting your reply for the attention of Mr. J. Salant, Principal Insurance Examiner.

Very truly yours,

[SIGNATURE]

Superintendent of Insurance