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LOSS CONTROL TOOLS

Best Practices for Managing Vacant or Foreclosed/Repossessed Properties

When a financial institution forecloses on a property, it becomes "real-estate-owned" or "other real-estate-owned." Often these properties are vacant until the financial institution sells it, although occasionally tenants occupy the property.

RISK MANAGEMENT
To help your collateral hold its value, and to reduce the potential for loss associated with such properties, follow these best practices:

1. Assign responsibility of managing foreclosed properties to a specific person or, depending on the number of foreclosed properties, specific persons.
2. Secure the property immediately upon foreclosure or abandonment to protect against unauthorized entry, vandalism or theft. Inspect the property and require documentation of the property's condition, especially any damage or noted stolen property
3. Establish a central, secure location for keys to such properties.
4. In cold temperatures, take steps to prevent water damage by either setting the heat to an appropriate temperature or turning off the water and draining pipes. If water is turned on (with proper heat), consider a leak detection alarm with shut off system *(Note: If a sprinkler system exists, maintain heat and keep water turned on for the sprinkler system. Often the shut off valve to the sprinkler system can be left open while the rest of the water supply is turned off).*
5. Maintain the property by keeping the grass cut, the shrubs trimmed, beds weeded, etc. and the property clean. Many financial institutions hire third parties to perform these services.
6. If there are damages or other problems, hire contractors or service providers to make repairs and address issues that might detract from selling the property or result in deterioration of the property. Often a local realtor is a great resource for finding qualified contractors at a reasonable price, and may have good suggestions on what needs to be done to help present the property in its most favorable light.
7. When using third part contractors or service providers, or if leasing to tenants, follow best practices for risk transfer. These practices go a long way toward insulating the financial institution from liability and unfavorable loss that both erodes limits of insurance and impacts insurance pricing and/or availability in the future.
   a. Require a Certificate of Insurance from each contractor/provider or commercial tenant for the following types of insurance *(min limits req'd):*
      - General Liability ($1M per occurrence/$2M aggregate)
      - Automobile Liability ($300,00 CSL)
      - Umbrella Liability ($1M per occurrence/aggregate)
      - Workers Compensation (statutory)
   b. The financial institution should be listed as an additional insured on the first 3 types of policies, with "primary and non-contributory" language so that the

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contractor's/provider's insurance is primary and the financial institution's policy is not considered for contribution or sharing of the loss under the 'other insurance' policy condition. Taking this step triggers the obligation for the contractor's/provider's insurance company to defend the financial institution under their policy, and, if necessary, pay damages on their behalf.

    c. Whenever possible, work with a written contract that is specific with regard to the work/services expected and includes a hold harmless agreement in the financial institutions favor for acts, errors or omissions of the contractor/provider. Attorney's can help craft such language and review agreements.
    d. For residential tenants, require evidence of a homeowners insurance policy with the financial institution listed as an additional insured/landlord. Consider lease provisions that prohibit pets (to prevent damage) or at a minimum, limit liability by restricting certain dog breeds.
    e. If leasing space to others, consider incorporating language in the lease that requires tenants to hold the financial institution harmless from liability arising from bodily injury or property damage at the leased property (consult an attorney for appropriate language) (*Note: For more details on managing third party contractors or service providers, see our Loss Control Tools: Facilities Contractors publication)* .

8. Inspect the property frequently and document findings. Consider talking with neighbors and providing contact information in the event they suspect a problem or have a potential buyer. If working with a realtor, often they can help with visual inspections.
9. Make sure there is a "For Sale" sign posted in addition to any other marketing of the property to attract potential buyers. The sooner the property sells, the sooner you recover the outstanding loan balance.

CLAIM EXAMPLES

A financial institution hired a plumbing contractor to repair a leaky pipe with repairs including welding (hot work). The building burned to the ground that evening; the root cause of the loss was determined to be smoldering embers from the hot work performed. The financial institution did not request a Certificate of Insurance with Additional Insured status. Unfortunately the contractor's insurance had recently been cancelled for nonpayment of premium, so the financial institution bore the $210,000 loss entirely on their insurance, in addition to a $5,000 deductible out of pocket.

A financial institution foreclosed upon an expensive home in a remote area, and did not visit the property immediately to inspect and secure it. Upon inspection a week after foreclosure, it was discovered that all of the copper pipes and appliances had been removed, and the home had been vandalized. While suspecting the homeowner was involved, there was no proof, and a loss of $112,000 was incurred, in addition to a $5,000 deductible out of pocket.

Please Note: