LesMark Capital, LLC

SELF-AMORTIZING BOND LOAN PROGRAM

Environmental Insurance

The Securities Valuation Office (SVO) of NAIC anticipates that all CTL transactions submitted for Schedule D reporting will have a Phase I report. If the Phase I reports sets forth an unfavorable matter, a Phase II report can be ordered to provide a more detailed study of the issue. Depending on the nature and extent of the contamination, and any remediation performed to date, the SVO will make a determination as to whether the risk to the investor can be successfully mitigated through insurance or some other acceptable solution.

Environmental insurance policies that protect the lender are referred to as Secured Creditor policies, but may have other names. Policies that protect the property owner/borrower are called Pollution Legal Liability and Environmental Site Liability policies. Secured Creditor policies protect the lender by paying off the loan or the cost to clean up the contamination, triggered by **both** a loan default and the presence of environmental contamination in excess of current permissible limits. The preferred policy will simply pay off the unamortized balance of the loan, thus eliminating the need for the lender to foreclose on the property or to clean up the contamination. A more readily available lender protection policy is known as the “lesser-of” form. Similar to the “loan balance” form, it is triggered by simultaneous occurrence of monetary default and contamination at the site. However, instead of paying the lender the unamortized balance of the loan, it will pay the lesser of the cost to clean up the contamination or the loan. The “lesser of” policy is less desirable since the lender may wind up in the chain of title, depending on the circumstances of the claim. This policy is less expensive than the “loan balance” form.

The Secured Creditor policy has three components:

Coverage A: Coverage for loss arising from a default by a borrower on a commercial real estate loan secured by an insured property. Policy will pay the lesser of clean-up costs or outstanding balance.

Coverage B: Coverage for third-party bodily injury, property damage and clean-up costs associated with an insured property resulting from on-and off-site pollution conditions. Policy will pay on behalf of the insured when the insured becomes legally obligated to pay as a result of claims.

Coverage C: Coverage for clean-up of on-site pollution conditions at insured properties owned by the insured (foreclosed properties held as real estate owned).

Loans can be pre-qualified for Secured Creditor prior to performing additional due diligence in the form of a Phase I or Phase II. Since a Phase I will be required in any event to qualify for Schedule D reporting, the most likely use for pre-qualification option for the CTL Program will be in lieu of a Phase II. This would mitigate an existing Phase I that had disclosed an unresolved environmental concern, or an ongoing state remediation plan pending the receipt of a no further action letter from the authority. The lender may qualify the property simply by submitting an application/questionnaire, along with the properties financial statement and any previous Phase I or environmental due diligence. Insurance company underwriting takes about 10 days and no costs are incurred to qualify until the loan is funded and the property is insured.

LesMark Capital, or its placement agent, will secure environmental insurance at the request of the borrower with a national provider. The premium for the policy is paid up-front and the policy is assignable to subsequent lenders without consent. Terms of up to 20 years are available. Pricing typically runs from 75 to 150 basis points of the loan amount.

CURRENTLY UNAVAILABLE