

Overcoming Closing Obstacles

NOTICE: This page shall only be used as a reference guide. The requirements listed may not apply to all situations. Please contact your Capital Title Escrow Branch for further information concerning the topics listed here.

Closing Obstacle	Why Is This Important?	What Will Capital Title Need?
TRUST	If the property is in the name of the Trust, the closing documents must match the name of the Trust. The Trustee must have authority to sell the property and the Trust must still be in effect.	Original, current (6 months) signed Certificate of Trust A copy of the powers of the Trust
PROBATE	The court assigns a personal representative to sign on behalf of the estate. Closing docs must match the name on the probate docs. A personal representative cannot give Power of Attorney to anyone.	Letter of Authority Order Confirming Sale from the court
BANKRUPTCY	A Court must approve the sale, conveyance, purchase or mortgage.	* <i>Bankruptcy Court Information</i> Court Order or Dismissal Docs from court
COURT ORDER	Title company is required to close the transaction according to the court order.	Copy of Court Order
DEATH	Depending on how title is held, either probate or a death certificate is needed to clear title to sell the property.	Original Death Certificate OR Letter of authority Order Confirming Sale
MARRIAGE	A marriage often results in a legal change of name. The spouse may have a dower or homestead interest in the property and will need to sign the necessary docs.	Name of spouse and any name change information
DIVORCE	Title company is required to close in compliance with the Consent Judgment of Divorce, which may include preparing Quit Claim Deeds and paying off liens. Pending or recently filed cases must be disclosed.	SIGNED, complete copy of Consent Judgment of Divorce with Property Settlement (Information affecting the property can be found anywhere in Judgment).
NAME CHANGE	Names will need to be listed on the Warranty Deed. A name change indicates a possible divorce or marriage.	Correct spelling of current name
DEEDS	A deed can either indicate a change of ownership or a release of interest. This will affect whose name appears on the closing docs. It may clear a lien on title or create additional requirements. A deed that was sent to the Register of Deeds for recording within the last 6 months will not show up on a title search.	Original Deed if unrecorded OR Copy of Deed if recently recorded (6 months), stamped with Liber and Page Execution of a new deed may be required.
LEASE	Capital Title insures only the property on lease transactions and not the lease itself. Rights of tenants may be listed on the exceptions page.	Tenant and Lease Information (if occupied) Termination or Assignment of Lease
LAND CONTRACT SALE	The interest of the Land Contract Holder needs to be released.	Original Warranty Deed from LC Holder to Seller Payoff Letter from Land Contract Holder
LAND CONTRACT PURCHASE	The terms of the Land Contract are necessary to complete the closing documents.	Terms of Land Contract
PRIVATE MORTGAGE SALE	The interest of the mortgagee needs to be released.	Payoff Statement Original Release of Lien or Discharge of Mortgage
PRIVATE MORTGAGE PURCHASE	The Mortgage must be recorded at closing. A private	Terms of Mortgage

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LIENS	mortgage can be insured, but the assignees cannot. The interest of the lienholder must be released.	Payoff Statement Original Discharge or Release of Lien
STATE/FED TAX LIENS	Tax Liens may attach to real estate owned by an individual. Tax Liens need to be paid and released at closing.	Current Payoff Statement Release of Lien
ADDITIONAL LOTS OR PROPERTY	We insure by legal description, not property address. Property owners sometimes sell or purchase additional property at different times during ownership. If we are notified additional land is to be included in the sale after the order has been placed, additional requirements may be added to the commitment.	Complete legal description of property being sold
RECENT MORTGAGES	Recent mortgages (refinances, bridge loans, equity loans, etc.) may not show up in a title search. Any outstanding mortgages must be paid off at closing.	Mortgage info (lender and loan number) Signed payoff authorization Copy of HUD Copy of Mortgage
EQUITY LINE OF CREDIT	Often a line of credit can be accessed and additional money obtained as needed. The entire loan must be paid off and the account closed at the time of closing.	Mortgage info (lender and loan number) Signed authorization to obtain payoff statement, freeze account to future advances and close account upon payoff
MORTGAGE PAYMENTS	Lenders often begin foreclosure proceedings when a borrower is 2 months behind in mortgage payments. There may be fees and penalties that do not appear on the payoff statement.	Mortgage info (lender and loan number) Signed authorization to obtain payoff statement
DELINQUENT TAXES	Taxes that are not paid by March 1 of the following year are transferred to the County Treasurer with additional penalties and interest. The correct amount needs to be paid to the correct treasurer in order to give the buyer clear title. Property owners with taxes that are 2 years delinquent will be foreclosed and the property can be sold at public auction.	* <i>Current tax bill from county</i> Taxes paid in full at closing Release of Interest (TAX TITLE: We cannot insure property purchased at a public auction unless an Order to Quiet Title has been issued).
SPECIAL ASSESSMENTS	Special assessments (sidewalk replacement, sewer installation, street paving, associations, unpaid water, etc.) are a lien against the property and need to be paid at closing.	Information property owner may have received concerning any current, future or ongoing assessments
HOME IMPROVEMENTS	Home improvements or repairs need to be disclosed. A lien can be placed on the property if completed work is unpaid. In order to provide clear title, the title company needs to verify all contractors have been paid in full.	Sworn statement, signed and fully executed by contractor Waivers signed by supplier / subcontractor Release of Mechanics' Liens
PARTIES AT CLOSING	If one or more of the parties will not be able to attend the closing, arrangements will need to be made prior to closing for docs to be signed.	Power of Attorney (original in recordable form) OR Arrangements for docs to be pre-signed

**Requirement will be obtained by Capital Title.*