

Overcoming Closing Obstacles

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 powers of the Trust tell us that the Trust has authority to sell the property and that the Trust is still in effect.	Certificate of Trust Preparation Checklist completed by Trustee, Settlor or Attorney for Settlor or Trustee
DEATH	Depending on how title is held, either probate or a death certificate is needed to clear title and sell the property.	Original Death Certificate Letters of Authority Order Confirming Sale (See Probate)
PROBATE/ CONSERVATOR	The court assigns a personal representative to sign on behalf of the estate. Closing docs must match the name on the probate documents. A personal representative cannot give Power of Attorney to anyone.	Letter of Authority/Conservator Order Confirming Sale from the court
BANKRUPTCY Chapter 7, Chapter 13	Court must approve sale, conveyance, purchase or mortgage.	* <i>Bankruptcy Court Information</i> Court Order or Termination Documents from Court
COURT ORDER	Title company is required to close the transaction according to the Court Order.	Certified copy of Court Order
MARRIAGE	A marriage often results in a legal change of name. If it is decided that both parties want to be in title on the property they will both sign the documents.	Name of spouse and any name change information (i.e., Marriage License or Court Document)
DIVORCE	We are required to close in compliance with the Consent Judgment of Divorce, which may include preparing a Quit Claim Deed and paying off liens. Pending or recently filed cases need to 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.	Identification, correct spelling of current name, Marriage License, or Order of Name Change
DEEDS	A deed can either indicate a change of ownership or release of interest. This will affect whose name appears on the closing documents. It may clear a lien on title or create additional requirements. A deed that was sent to Register of Deeds for recording within the last 6 months may 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 number Execution of a new deed may be required.
LEASE	Capital Title does not insure "property-only transactions." Tenants have rights.	Tenant and Lease Information (if occupied) Termination or Assignment of Lease
LAND CONTRACT SALE (INTEREST)	The interest of the Land Contract Holder needs to be released.	Payoff Letter from Land Contract Holder Original Warranty Deed from Land Contract Holder to Seller

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LAND CONTRACT PURCHASE	The terms of the Land Contract are needed to complete 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	Mortgage must be recorded at closing. A private Mortgage can be insured, but the assignees cannot.	Terms of Mortgage
LIENS	The interest of the lienholder needs to be released.	Payoff Statement Original Release of Lien or Quit Claim Deed
STATE/FED TAX LIENS	Although Tax Liens are against an individual, they attach to any and all real estate owned by an individual. Tax Liens need to be paid and released at closing.	Current Payoff Statement Release of Lien or Discharge as to Property
ADDITIONAL LOTS OR PROPERTY	We insure by legal description, not property address. Sometimes property owners sell or purchase additional land. If this additional land is included in the sale, it needs to be included in the legal description of the PA. Additional requirements may be added to the commitment, including tax information.	Complete legal description(s) of property being sold on PA.
RECENT MORTGAGES	Recent Mortgages secured against the property (refinances, bridge loans, equity loans, etc.) may not show up in a title search. The Mortgage must be paid off at closing.	Mortgage info (Lender and Loan Number) Signed Payoff Authorization Copy of HUD or Copy of Mortgage
EQUITY LINE OF CREDIT	Often a Line of Credit can be accessed and additional monies obtained, as needed. Special care needs to be taken to ensure the entire loan is being paid off at closing. The account will be CLOSED to further advances.	Mortgage info (lender and loan number) Signed Payoff Authorization statement, freeze account to future advances, and CLOSE account upon payoff.
MORTGAGE	Lenders often begin foreclosure proceedings when a borrower is 3 months behind in mortgage payments. There may be fees and penalties that do not appear on the payoff statement.	Mortgage information (Lender and Loan Number) Signed Payoff Authorization statement. (If Property in Foreclosure Redemption then a Redemption Payoff)
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 3 years delinquent will be foreclosed and the property can be sold at public auction.	* <i>Current tax bill from county</i> Deed from parties claiming interest for taxes paid. (TAX TITLE: Property purchased at a public auction may require additional actions such as FOIA package review, Deed from prior owners or a court order to Quiet Title.)
SPECIAL ASSESSMENTS	Special assessments (sidewalk replacement, sewer installation, street paving, associations or unpaid water, etc.) are a lien against the property and need to be paid at closing.	Information that the property owner may have received concerning any current, future or ongoing assessments.
HOME	Home improvements or repairs need to be disclosed. A lien can be placed on the property if completed work by a contractor is unpaid. In order to ensure clear title, the title company needs to verify all parties have been paid in full.	Sworn statement, signed and fully executed by contractor. Waivers signed by supplier/subcontractor in last 120 days.
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 documents to be signed.	Power of Attorney (original in recordable form) OR Arrangements for documents to be pre-signed

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