

CB Title Group, LLC

140 Mountain Avenue – Suite 101 Springfield, NJ 07081 Tel: 973-921-0990 Fax: 973-921-0902

www.cbtitlegroup.com

Date: October 10, 2007

To: All Clients and Friends

From: Cliff Bernstein

Re: Payoff Policies

TITLE INSURANCE BULLETIN – NEW JERSEY PAYOFF POLICIES

One of the areas in which our underwriters are experiencing a high number of claims, nationwide, is in the area of improper payoffs. Whether the claim stems from the failure to pay off a home equity line of credit (HELOC) and properly close the account, paying off the wrong loan on the wrong property, or making a payoff based upon an expired payoff demand/letter, these three areas, among others, have led to significant and unjustifiable losses for the underwriters.

This bulletin will set out the underwriters' policies relating to payoffs in these three areas. Procedures should be established by our Closing attorneys, to promote compliance with these policies.

HELOCS

A full pay down of a HELOCS does not extinguish the lien securing the repayment obligation, not does it prevent a borrower from drawing additional funds from the credit line, unless the account is properly closed and the lien is released. If a borrower draws on an open HELOC after a full pay down has been made, the lender's interest in the property will continue to be senior to our insured lender or insured owner. Thus, proper closure of the account is of utmost importance.

When a lender's preferred method for requesting a payoff demand/letter is by fax, use of the attached *Payoff Request* form is required. Moreover, even if a lender's payoff demand/letter includes a statement signature line for the borrower to close the account, use of the attached *HELOC - Authorization to Close* form is required, in addition to the lender's provided form. In those instances where there are specific state requirements that must be addressed, your forms must be updated to include the language of the two attached documents.

Additionally, lenders must be contacted on the day of a scheduled payoff to obtain the most recent account balance and ensure that it comports with the amount reflected in the

demand/letter. If a discrepancy exists, it must be verified and resolved with the borrower. In instances where the discrepancy cannot be resolved, the transaction cannot be closed unless the borrower authorizes payment to the lender based upon the lender's most recent records.

If the timing of the transaction permits, payoff on a HELOC must be made via check, not by wire, and sent overnight through Federal Express (or another reputable courier) to the lender or its servicer. Payoff checks MAY NOT be given to the borrower for delivery. A fax transmittal of the *HELOC – Authorization to Close* form must be sent to the lender the same day as the payoff and a hard copy must accompany the check when distributed. All payoff checks must be stamped with the following language: "Negotiation of this check constitutes full payment and agreement by the payee to release all security instruments." When a wire is absolutely necessary, a fax transmittal and hard copy of the *HELOC – Authorization to Close* form should be sent overnight through Federal Express (or another reputable courier) to the lender or its servicer the same day as the wire. Proof of all transmissions and their receipt must be documented in the file, as this can prove invaluable when handling a claim made under the policy.

PAYING OFF THE CORRECT LOAN

Although it may seem self-evident, payoff demand/letters should be carefully reviewed to determine whether they pertain to the correct loan, especially if it is known that a borrower has more than one loan with the same lender. If the demand/letter does not sufficiently identify the subject property (e.g. no street address provided) and loan, the lender must be contacted to confirm the demand/letter pertains to the correct property.

EXPIRED DEMANDS/LETTERS

Lastly, payoffs should never be made based on expired demands/letters. Regardless of whether or not *per diem* interest can be calculated beyond the expiration date of the demand/letter, valid demands/letters must always be used to make a payoff.

As always, if you have questions regarding this Bulletin, please do not hesitate to contact CB Title.

(Attorney Name and Address)

(Date)

To: (Mortgagee-Lender holding the home equity line of credit – HELOC)

Via fax # (Insert Mortgagee-Lender's fax #)

Re: (Name of Seller/refinancing Home Owner)

(Our File/Title #)

(Loan #)

(Property Address)

PLEASE FAX THE PAYOFF DEMAND TO:

(Attorney Fax Number)

Please make your payoff good through (expected date of payoff delivery)

In a transaction opened with this company, we have been instructed to pay the above-referenced loan **IN FULL** upon closing. To enable us to comply with this instruction, we hereby request that you send your demand/letter/statement to the address and fax number indicated above.

IF THIS IS AN EQUITY LINE OF CREDIT DEED OF TRUST/MORTGAGE, PLEASE FREEZE AND CLOSE OUT THE LINE OF CREDIT. YOU MUST CONTACT US WITH ANY AND ALL INCREASES AS THEY OCCUR. PLEASE ADVISE BY TELEPHONE IMMEDIATELY AND FOLLOW UP WITH WRITTEN CONFIRMATION.

PLEASE BE ADVISED THAT, PUSUANT TO APPLICABLE LAW, WE WILL RELY UPON YOUR WRITTEN DEMAND/LETTER/STATEMENT TO ESTABLISH THE AMOUNT NECESSARY TO PAY THE OBLIGATION IN FULL, AND AS YOUR COMMITMENT TO DELIVER A FULL AND UNQUALIFIED DISCHARGE OF MORTGAGE.

Thank	you	for	your	prompt	attention	to	this	request.
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Sincerely,

(Name of employee and/or company)

Sample Payoff Request

(Attorney Name and Address)

(Date)						
То:	(Mortgagee-Lender holding the home equity line of credit – HELOC)					
Re:	(Name of Seller/refinancing Home Owner) (Our File/Title #) (Loan #) (Property Address)					
	AUTHORIZATION TO CLOSE ACCOUNT					
Enclos	ed please find out check no in the amount of \$					
	ative language, if the payoff was wired to the HELOC lender: On, 2007, the ng wire was transmitted to your office:					
Bank N ABA N Accoun	o.:					
funds a	ave, as of this date, received funds to pay the above referenced line of credit in full. These are intended to pay the undersigned's line of credit in full and close it. As such, you are instructed to close this line of credit.					
Please	issue your Discharge of Mortgage to (your name)					
	curn of any overpayment should be sent to the undersigned, at the following address: 's new address, or the address of the refinancing Home Owner)					
Thank	you.					
(Name	of employee and/or company)					
Borrov	ver Signature(s):					
Signatui	re of Seller or refinancing Home Owner Signature of Seller or refinancing Home Owner					

Sample HELOC – Authorization to Close