

Guiding a Smooth Closing

Things to look for on a Title Commitment that might cause a problem prior to or at closing.

Vesting: If the Seller signature(s) in the purchase contract is different than the owner name(s) on the title, you need to find out why.

Taxes and Assessments: Look to see if payments are current. Be sure that all special assessments have been disclosed to the buyer.

Mortgage: Mortgages that are paid off but not released require a satisfaction or court order to remove it from record. It's important for the seller to understand how these loans affect the sale of their property.

Identity Matters: Judgments and Liens may be eliminated with an identity affidavit or a Statement of Information (SI), if they do not affect the party in question. If they do affect the party but have been paid and not satisfied, a release or satisfaction must be obtained and recorded or filed to eliminate these matters.

Pending Actions: A civil action affecting real property will generally have to be dismissed or withdrawn before title to the land can be insured. A pending divorce may not need to be finalized for a sale or loan to close, however, there may be special requirements. A probate may have specific requirements. Please check with your Upward Title & Closing Agency Representative or Title Officer for details.

Maintenance Agreements: Roads, driveways, party walls, and access easements may be affected by joint maintenance agreements which may require future payments for general maintenance purposes. The title report will show such agreements if one is of record. Be sure to request a full copy of the maintenance agreement and have the buyer read it.

ALTA 9 Endorsement: This policy allows title insurance policies to safeguard the lender against loss or damage resulting from violations of the deed restrictions, encroachments, and setback lines from the start of the policy. A property survey is required for purchases of free-standing residential houses and commercial buildings, but not typically condominiums.

Legal Description: The legal description should always be compared to the map attached to the Title Commitment. If you previously received a property profile, compare the legal description in the profile to the report. Be sure that all the property being conveyed has been included in the Title Commitment.

Notice of Lis Pendens: When a seller/owner is behind in payments, a lis pendens is filed. The delinquent homeowner will receive the notice and a summons to which they must respond to within 20 days or risk receiving a default judgement in favor of the lender.

Notice of Default Judgement: If the lender wins the trial or secures a summary judgement, the court will set a sale date varying between 20-90 days from the day of final judgement. Foreclosures are typically scheduled 30 days the final judgement, except in cases of expedited foreclosures, which run consistent with normal proceedings.

Go to leg.state.fl.us or visit hud.gov for further details on CFPA to learn more about Florida foreclosure proceedings.

