



THE CLOSING EXPERIENCE
(rev. 09/16)

The Lender “Clear-to-Close”

- No industry standard for what this term means.
- Generally, all of the conditions imposed by the lender have been satisfied (except final signing conditions).
- Typical Lender Conditions
 - Credit Report
 - Appraisal (and adequate loan-to-value ratio)
 - Verification of Income (VOI)
 - Verification of Employment (VOE)
 - Insurance binder
 - Survey (if required)
 - Unusual title issues cleared
 - Access issues (private road maintenance; easements)
 - Inspections (FHA)

Clearance of Title Requirements

- Pre-Closing Requirements
 - Health Department inspections (i.e. Ottawa County well and septic)
 - Breaks in the chain of title
 - Prior mortgages (current and prior owners)
 - Pay-off letters from lienholders
 - Access (easements, private roads)
 - Document Review
 - Judgments of Divorce
 - Trust Documents
- Closing Table Requirements
 - Deed and mortgage
 - Authorization documents (preferred before closing)
 - Funding

Closing Table Questions

- Not all lenders are created equal
 - Terms of loan not adequately explained
 - Monthly payment different than what is expected
 - Principal and interest
 - Escrows for taxes and insurance
 - Private mortgage insurance (PMI) (lump sum or monthly payments)
 - Signatures of spouses (dower; principal residence)



- Funds Due at Closing changed
- TRID
 - Seller's CDF and Closing Statement
 - What is the Seller CDF and when is it used?
 - Detail of Seller CDF from lenders varies widely
 - Buyer CDF
 - TRID Disclosure Timing and Closing Implications
- "Costs of Transaction"
 - Loan fees (origination; processing, credit reports, appraisals, flood insurance)
 - Real estate commissions and broker fees
 - Closing fee and title insurance premium
 - Transfer Taxes
 - Recording fees
- "Prepaid Expenses"
 - Homeowner's insurance
 - Escrow Account Funding
 - Taxes
 - Insurance
 - Prepaid Interest
- Tax Prorations
 - Typically calendar-year prorations

Funding Process

- Timing of receipt of lender's funds (before closing vs. after closing)
- Funding Approval (certain closing documents must be sent for review before funding permitted)
- Initiation of Wire Transfer
 - Funds not sent by some lenders until funding approved
 - Some funds cannot be released even if funds received in advance
- Federal Reserve – Wire cut-off is approximately 3 p.m.
- Check versus certified funds
 - Often determined by lender
 - No industry requirement/standard in title industry
 - Checks – held for up to three days
 - Certified Funds – still may be delayed
 - Only wire transfers are instantly available when received

Split Closings

- Responsibility
 - Listing Side – Signed Deed
 - Buyer Side – Lender documents and all funding



- Conflicts/Timing
 - TRID disclosure timing issues
 - Cooperation among title agencies
 - Funding Risks
 - Title company on listing side may not release deed until seller's funds (and agent commissions) are received.
 - Title company on selling side may not be able to send seller's funds until it receives lender approval, which will likely require a copy of the deed.
 - Timing
 - If seller signs first, they leave the table without funds.
 - If buyer signs first, funding may be delayed until lender receives copies of certain seller documents (deed, FHA documents)

Post-Closing Activities

- Pay-offs Sent
 - Seller's mortgage
 - Seller's other liens
 - Real estate taxes
- Recordings/Filings
 - Deed (with transfer taxes)
 - Real estate taxes must be paid
 - Buyer's new mortgage
 - State Transfer Forms
 - Property Transfer Affidavit (PTA)
 - Rescission of Principal Residence
 - Principal Residence Exemption (PRE)
 - Principal Residence Timing
 - If non-homestead, may stay non-homestead for first tax bill depending on timing of transaction (May 1 and November 1).
 - Lien Releases
 - Banks and other regulated institutions must record mortgages
 - Private lienholders must exchange funds for signed release (title company would record)

Legal Update