

California Real Estate Finance
Chapter 11
Processing Real Estate Loans

Chapter Purpose

This chapter examines the process of qualifying the collateral property's title as well as the activities required to close the loan transaction. In the title search, the loan officer looks for any problems that may affect the clear title of the property and jeopardize the priority lien position of the lender. An abstract of title is prepared, and a title policy is issued naming the lender as the insured.

In closing the transaction, the loan officer will present all disclosure information required by California law. In addition, the costs and credits of closing will be examined as well as a closing statement prepared that allocates these costs and credits to the appropriate parties.

Suggestions to the Instructor

The presentation of the material in this chapter could be enhanced by inviting a local escrow officer acquainted with loan closings to the class. A sample closing could be a classroom exercise with each student having a closing statement to fill out. It would also be interesting for the students to examine a title insurance policy, not so much for what it insures, but for what it doesn't insure.

Learning Objectives

Upon completion of this chapter, the student should be able to:

1. differentiate between an abstract and an opinion of title;
2. understand why a title insurance policy is issued, to whom the policy applies, what it covers and who pays the premium;
3. recognize a fault or cloud on a title and what will cure it;
4. understand the reason for and the types of disclosures required under California laws;
5. determine the costs for securing a loan;
6. calculate impound requirements;
7. analyze a completed closing statement.

Presentation Outline

- I. Qualifying the Title
 - A. Notices
 1. Actual
 2. Constructive
 - B. Abstracts
 1. Synopsis of titles' history
 2. Searching the records
 - C. Opinion of title condition
 1. Title company attorney's written report
 2. Interpretation of any faults
 - D. Title insurance
 1. Standard policy: matters of record
 2. ALTA policy: matters not of record
 - a. unrecorded liens
 - b. incompetency of parties
 - c. interests of parties not in possession
 - d. encroachments
 - E. Title faults
 1. Clouds on the title
 - a. mechanics liens
 - b. income tax lien
 - c. property tax delinquency
 - d. zoning violation
 2. Clearing clouds
 - a. suit to quiet title
 - b. judge will remove cloud or modify
 - F. Surveys
 1. To make sure building is on subject lot
 2. Extra protection in case of encroachments or easement infractions
 3. Reveal errors in legal descriptions
- II. Closing the Transaction
 - A. Disclosures in California real estate transactions
 1. Real estate transfer
 - a. age and condition of structures
 - b. description of easements, driveways and fences
 - c. description of room additions or alterations
 - d. potential flooding, drainage or soil contamination
 - e. zoning violations
 - f. homeowner association obligations
 - g. deed and subdivision restrictions
 2. Pest control
 - a. inspection report
 - b. who will pay for repairs if needed
 3. Geological hazards

- a. earthquake potential
 - b. flooding, landslides, erosion
 4. Hazardous waste deposits
 - a. any disposals on property
 - b. any disposals within 2,000 feet of property
 5. Thermal insulation
 - a. R factor of insulation in buildings
 - b. applies to new properties only
 6. Special flood areas
 - a. if property is in flood zone
 - b. identified by Flood Hazard Boundary Map
 7. Special city and county ordinances
 - a. regarding occupancy, zoning, building code, fire and safety code
 - b. use of property must be made clear
 8. Foreign investment real estate tax
 - a. buyer of property from a foreign national must withhold 10% of gross purchase price for IRS
 - b. U.S. resident aliens exempt as are properties sold for less than \$300,000
 - c. California requires withholding 3¹/₂% in certain sales
 9. Condominium documents
 - a. governing documents
 - b. restrictions
 - c. financial statement
 - d. any unpaid assessments
 10. Real property loans
 - a. expected maximum costs
 - b. fees for appraisal, settlement, credit report, title insurance, notary
 - c. points, origination fee, bonuses, kick backs
 - d. estimated installment payments including principal, interest, taxes and insurance
 - e. consumer handbook on adjustable rate loans
- B. Costs of securing a loan
1. Placement or origination fee
 - a. 1 to 3% of loan amount
 - b. covers costs of services
 2. Discount fee (points)
 - a. 1 point equals one percent of loan amount
 - b. 2 points on \$100,000 loan equals \$2,000
 - c. offsets lender's discount in secondary market
 3. Impound requirements
 - a. advance monthly collections of taxes and insurance
 - b. ¹/₁₂ of each to accumulate until due
 4. Interest adjustments
 - a. depend on when loan is closed and when first payment is due
 - b. adjustments charged to borrower at closing

5. Prepayment penalties
 - a. imposed on, which is paid off in closing
 - b. charged to seller
 6. Title insurance premiums
 - a. owner's title insurance (seller pays)
 - b. mortgagee's title insurance (buyer pays)
 7. Mortgage insurance premiums
 - a. DVA funding fee
 - b. conventional or FHA insurance premium
 - c. may be waived to be included in payments
 8. Life insurance premium
 - a. offered at closing
 - b. decreasing term life policy
 - c. to pay balance of loan in case of death
 9. Additional charges
 - a. credit report
 - b. appraisal
 - c. buyer's and seller's attorneys
 - d. escrow
 - e. recording fees
 - f. real estate broker's commission
 10. Additional requirements
 - a. occupancy permits
 - b. special flood insurance
- C. Closing statements
1. Allocating charges and credits (see case in text)
 2. Prorating appropriate charges
 - a. taxes
 - b. insurance
 - c. interest
 - d. rents
 3. Signing closing documents
 4. Record and distribute papers and funds