

McMillan & Terry, PA

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To: _____, Closing Paralegal

From: _____, Listing Agent

Re:

Buyer: _____

Seller: _____

Address: _____

EQUITY LINES

IMPORTANT NOTICE TO SELLERS, LISTING AGENTS AND OTHER SELLER CLOSING REPRESENTATIVES

The purpose of this memo is to advise you of the procedures that McMillan & Terry, PA will follow to handle closings when equity line loans are secured by the property being sold.

BACKGROUND

North Carolina law provides that in order for a lender to terminate an equity line and mark the loan papers paid for cancellation, two things must happen:

First, the borrower must request in writing that the loan be terminated; and

Second, the loan balance must be paid to zero, which is done at closing.

Many sellers are actually unaware that these lines of credit are in fact secured by a deed of trust on the property being sold. Lenders often secure personal lines of credit so that the interest may be deductible for the borrower. There is a significant risk that sellers may continue to use their equity lines up until the time of closing, and there have been many instances where sellers have continued to use these lines of credit after closing.

Although the vast majority of sellers are willing to take immediate steps to pay any deficiencies in a payoff, there have been more and more cases where sellers have refused, forcing attorneys to use their own funds to pay the shortage and then take steps to recover the amount advanced.

There have also been numerous cases where banks have received the borrower's written request to block and close the account, but the appropriate steps were not taken internally. Sellers then began re-using the lines of credit after closing, making it impossible to obtain the paid loan papers and provide clear title to the buyer.

PROCEDURES

For the above reasons, when our title examination reveals the existence of a secured equity line, we will require that the seller permanently block the equity line from any further advances **BEFORE CLOSING** and that the lender provide us with written proof that this has been accomplished. It will be our goal that this blocking take place at least three (3) business days prior to closing. We will then be able to obtain a payoff that will reflect the fact that all outstanding items have cleared the loan account.

It is important that we be provided with lenders' names, phone numbers, loan numbers and sellers' social security numbers as promptly as possible so that we can obtain timely payoffs.

If we are unable to have the equity line accounts blocked in time to obtain accurate payoffs, it might be necessary to withhold the entire principal amount of the loan from the seller's proceeds until an accurate payoff can be obtained.

If a seller has a compelling need to use a line of credit just before closing (for such things as moving expenses, repair costs or to buy a new home prior to the sale), please let us know. We will work out a solution.

Thank you for appreciating the risks that are involved in this equity line situation and for working with us to continue to produce smooth closings.