

## **FLORIDA BULLETIN 99-7**

TO: ALL AGENTS AND TITLE PLANT OPERATIONS

FROM: DONNA M. ROBERTS, FLORIDA CLAIMS ADMINISTRATOR

DATE: JULY 20, 1999

RE: REVOLVING LINE OF CREDIT, MORTGAGE PAYOFF AND SATISFACTION  
RETRIEVAL PROCEDURES

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Claims resulting from revolving line of credit (RLC) mortgages appear to be avoidable if company and agency personnel are familiar with the features of the loans and the problems associated with the payoff process. Title examiners and searchers can assist in claims prevention by identifying a mortgage as a revolving line of credit, where possible. Several Florida claims could have been avoided if the settlement agent or closer had followed the instructions contained in the lender's payoff letter to obtain and furnish at the time of payoff, or prior thereto, written authorization from the borrowers requesting the closing of the account. A sample of the "Borrowers Home Equity Affidavit" form is attached.

The "revolver" feature in these line of credit loans gives the borrowers the right to borrow against the line of credit, pay it down from time to time, and borrow against it again. Unless the intent is expressly understood and agreed to by both the borrowers and the lenders, the loan and mortgage are not cancelled or satisfied, even if the outstanding balance is paid in full. In addition, if the account is not frozen, the borrowers may borrow against the account by writing checks on it or by using an account credit card. Written authorization from all borrowers must be furnished to the lender prior to payoff or must accompany the payoff in order to guarantee the RLC is being closed. In an effort to reduce our liability because a payoff is short and the lender refuses to satisfy that mortgage, the following procedures shall be required when an RLC is being paid off :

1. Have the borrowers complete and sign a "Borrowers Home Equity Affidavit" and fax it to the lender. (Attach the fax confirmation to your file copy of the Affidavit.) The Affidavit must contain all the pertinent information: borrowers' names, address, property address, loan number and signatures. The language in the body of the Affidavit should include a statement that the borrowers intend no further draws or advances against their RLC and that they agree to forfeit their rights to receive any such draws or advances, effective immediately.
2. Require the borrowers to surrender and return all unused checks, credit cards, vouchers or other means of accessing the credit line. If possible, verify with the lender the number of the last check that cleared the bank and compare it to the number of the first check the borrowers surrender. Also verify with the lender that any missing checks or checks out of sequence have cleared the bank prior to closing.
3. Obtain an original payoff letter from the lender before closing. **TELEPHONE** the lender on the day of closing to verify the accuracy of the payoff figures. If the verbal payoff differs from the original payoff letter, a written revised payoff letter must be requested from the lender and received prior to disbursing the transaction.
4. Forward the payoff check via an overnight delivery service. The check must be accompanied by a cover letter instructing the lender to close the account and release its lien. In addition, a copy of the signed Borrowers Home Equity Affidavit, together with compliance of any other requirements made pursuant to the lenders instructions for payoff, must be enclosed. Then, follow up by obtaining any outstanding satisfactions.

We realize this may create some additional work for the closing staff; however, given our claims experience in this area, these guidelines are absolutely necessary.

Should you have any questions regarding these procedures, please do not hesitate to contact our office.

