

Title FREQUENTLY ASKED ^ QUESTIONS

August 2016

Q Our search turned up a UCC-1 for solar panels on the land. The document says that it is not a lien on the real estate. Can I omit it or show it as subordinate to the insured mortgage on a loan policy?

A Not without a release or subordination, no.

Many of the typical filings made by solar panel companies state that they are not intending to take a security interest in the real property or to create a lien on real property. An examination of most of these filings indicates that the purpose of the filing is to create a security interest in a fixture - the solar panels. Some of them also purport to create an interest in the power generated by the panels.

These are an exception to title. An owner acquiring the affected real estate will take subject to the interest of the solar panel company unless it is terminated. Likewise, a lender taking a mortgage on the real estate will be subject to the interest created by the Financing Statement.

As always, feel free to address any questions to a member of our underwriting staff.