

3 REASONS WHY HELOCs MAY CREATE TITLE HEADACHES

Keeping good records can help avoid close of escrow delays.

Home Equity Lines of Credit (HELOCs) may be difficult to obtain in today's market, but not too long ago, everybody had one. There are several reasons why HELOCs often cause title nightmares, and keeping good records can help avoid delays in closing.



Issue #1: Funds on a HELOC can be redrawn

Traditional Mortgage: When a first mortgage is paid off on a property, since the loan cannot be redrawn, the mortgage is automatically closed and a release should be recorded.

HELOC: Even if all of the borrowed funds are repaid, the account does not automatically terminate. This is because the funds on a HELOC can be redrawn. So unless a request to close the account accompanies the payment in full, the HELOC will remain open.

Common Example: The HELOC was paid off six years ago but the lender was never instructed to close the account, so now a release must be obtained. This scenario is not too bad, as long as the HELOC lender can be found (with the recent bank takeovers, old accounts can sometimes be difficult to track). Since it is common that the lender needs time to research the information, delays during closing may occur.

Issue #2: HELOC is a lien on the property

Even if a HELOC was never used, it is still a lien on the property....If there is no monthly payment due, the HELOC lender does not send a monthly statement. This makes it possible to have never used a HELOC, never received a bill, but still need to close the account and obtain a release. Keeping good records can save the day, but often sellers have little to no record of a HELOC that was never used and the closing is at the mercy of the HELOC lender's research team.

Common Example: The seller is asked if there are any mortgages/liens on the property; the response is no. A title search is done and reveals a HELOC was taken out eight years ago. When the seller is notified, they respond with, "I never used that HELOC and I have no information on it."

Issue #3: Title insurance not typically required on a HELOC

Common Example: The seller had a HELOC with Bank A for \$50,000, then three years later, obtained a new HELOC from Bank A for \$100,000. Since HELOCs typically do not require title insurance, no title company was used for the new HELOC, and Bank A never bothered to release the original HELOC. Often, the seller believes that no new lien was recorded, just a modification, but that's usually not the scenario. Now a release needs to be obtained for the first lien for \$50,000.

In summary, we cannot stress enough the need to keep good records. Homeowners tend to treat HELOCs with less regard than mortgages, and therefore do not keep necessary records. Typically issues with HELOCs can be resolved, but they can often cause closing delays.



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