

PENN ATTORNEYS

TITLE ALERT

DATE: 7/24/08

RE: Title Alert 2008-07

NEW PAYOFF FUNDS REQUIREMENTS

It has come to our attention that many lenders have either revised conditions or have begun enforcing existing requirements in their payoff letters that call for either certified funds or wired funds for loan payoffs. Meaning that even if in the past, these lenders have accepted title agent or attorney checks for payoffs, some are now rejecting them. And what is more alarming is that many such lenders will return the rejected check by *regular mail* as the *only* notification that agent or attorney checks are not acceptable forms of payment for a loan payoff.

The consequences of rejected payoffs and delayed notification of same can be serious, ranging from the accrual of additional interest and possible late charges to worst-case scenarios such as the expiration of short-sale payoff quotes or the failure of a lender to stay a previously scheduled Sheriff Sale. In these situations, both you and Penn Attorneys risk exposure to serious financial consequences and potential claims.

- Carefully read and heed all payoff funds' requirements provided in loan payoff statements.
 - *Wire payoff funds including specific information identifying the loan to be paid off or the information shown in the wire instructions, OR
 - *Overnight either a cashier's check issued by your bank, or send your company check which has been certified by your bank ("certified" means your check is marked as guaranteed by your bank).
- If you are accustomed to dealing with a particular lender who has accepted your check in the past, contact them to confirm it will continue to accept non-certified funds for payoffs.
- In all cases, track the payoff by using overnight carrier delivery confirmation, or in the case of wires, by confirming the funds were not only delivered, but were not returned to you. (Check with your bank or use on-line monitoring.)
- REMINDER: DO NOT DISBURSE ANY FUNDS IN ANY TRANSACTION UNLESS YOU HAVE GOOD FUNDS IN YOUR ACCOUNT.** This means that you have confirmed with your bank that a wire has been transferred into your account and that the wire cannot be recalled, or that you have received a cashier's or certified check. "Good funds" does NOT mean that you have received a funding number from the lender. "Good funds" does NOT mean that the lender told you the money was wired, even with a Federal Reserve reference number.

Penn Attorneys Title Insurance Co.

900 State Street, Ste 320 Erie, PA 16501
Tel 814-454-8278 or 800-352-2216
FAX 814-453-5983 or 1-800-234-2352

erie@pennattorneys.com