

# 5 COMMON TITLE CLAIMS

Covered by Title Insurance!



## Unreleased mortgages (Owner's Policy and Homeowner's Policy)



All states have statutes requiring the lender to release their mortgages once they are paid in full. Unfortunately, a significant number of mortgages that have been paid are never released. Many states have statutes that penalize lenders for this, but if you're trying to sell or refinance, those processes take more time than you may have and they're ineffective if the lender is no longer in business.

If you're an Insured under an Owner's Policy (OP) or Homeowner's Policy (HO), your title policy protects you and will enable you to complete the sale or refinance timely in most circumstances. If you're not an Insured, obtaining the release becomes your problem.

## Prior Owner HELOC (OP and HO)

Home Equity Line of Credit (HELOC) mortgages of the seller are one of the most common claims. The mortgage is paid to a zero balance, a request to close the line of credit to new charges is made, and a release is requested. However, the seller's lender will often contact them and convince them to revoke the request to close the account.

You'd be amazed both by how persistent the lender can be and by the number of sellers that will agree to revoke the cancellation. The seller then draws against the HELOC, running up a new balance that is a lien on the buyer's real estate. Problems arise when the seller defaults or the buyer attempts to sell, refinance, or obtain their own HELOC.



## Mis-indexed Records (Both OP and HO)



County Land Records aren't organized in a manner that you might expect. Most are maintained under what is known as a "grantor-grantee" index, where documents are indexed by the names of the parties to the document. You search names rather than searching by property.

Deeds, mortgages, easements, judgments, and other documents in the Public Records occasionally end up mis-indexed by the government officials who keep those records. Think about a mortgage granted by "Kellie Jones," but the clerk indexes it under "Kelly Jones" in error. (Common spellings of "Kellie" include Kelly, Kelli, and Kelley. Lots of room for a mistake to be made.)

While an experienced examiner will make every effort to run through all possible permutations of name spellings, you would be shocked at the number of mis-indexed records due to misspellings resulting in mortgages and other liens not turning up in a search. Both an Owner's Policy and the Homeowner's Policy protect you for documents that were not found due to mis-indexing.

[MORE INFO](#)





## Forgery: Pre- and Post-policy (OP covers pre-policy date forgeries; HO covers pre- and post-policy forgeries)

An Owner's Policy covers forgeries that occurred before the policy date. If the forged document was recorded prior to the policy date, you're covered by an Owner's Policy. A Homeowner's Policy covers forgeries that occur both before the policy date and forgeries after you own it. (Identity theft where someone forges your signature to a deed or mortgage.)

Post-policy forgeries of deeds and mortgages happen more than you might think. Common forgery protections like checking the IDs of persons executing deeds and mortgages are less effective now than in years past. Driver's licenses can be cloned easily using your information with a different photo. There are less-than-reputable companies on the internet that will sell "blank" driver's licenses in bulk so that names and other information can be inserted together with a picture of the forger. (They sell the software and hardware to complete the licenses too.). These "cloned driver's licenses" are identical to your state licenses in appearance, and many of these companies guarantee the magnetic strip on the back will scan properly too.

## Prior improvements without permits (HO only)

The Homeowner's Policy provides the following coverage under Covered Risk 18:

You are ordered by a state or municipal authority to remove or remedy any portion of your existing structure(s)—other than boundary walls or fences—because any portion of your existing structure(s) was built without obtaining a building permit from the proper municipal authority. The amount of insurance for Covered Risk 18 is subject to your deductible amount and our maximum dollar limit of liability shown in Schedule A.

If a prior owner made an improvement without obtaining the proper building permits and you are required to remove or remedy the improvement, the Homeowner's Policy will pay the cost to remove or remedy the matter subject to the applicable deductible and limits shown in Schedule A for Covered Risk 18.

There are many claims for this in states like California, where the Homeowner's Policy is the policy of choice for residential buyers.



Contact me for more information.



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