

Guidelines for a Closing Attorney in Non-Purchase Residential Real Estate Transactions, including First Mortgage Loan Closing and Junior Lien Mortgage Closings

I. Pre-Closing

1. Determine all conflicts of interests, including but not limited to multiple representation, that need to be disclosed, consented to, and/or waived, and obtain the informed consent of such parties in accordance with the Rules of Professional Conduct
2. Send an engagement letter to the client(s)
3. Certify the title to the subject property
4. Order a survey of the subject property if the client has elected to have a new survey of the property performed, or if obtaining a new survey is a requirement of the loan, and if the survey has not already been ordered
5. Review the survey
6. Prepare and/or review the legal description of the subject property
7. Obtain payoff information for all liens affecting the subject property
8. Ascertain the hazard insurance carrier for the owner
9. Review the hazard insurance declaration page to ensure the policy dates and loss payee information are satisfactory to the lender
10. Collect any letters or inspection reports that are a requirement of the loan
11. Either prepare or review the Loan Documents for compliance with the Closing Instructions and applicable laws
12. Either prepare or review the Settlement Statement for compliance with the Closing Instructions and applicable laws
13. Either prepare or review and approve any Title Insurance Documents required by Title Insurance Company and/or the South Carolina Department of Insurance, which may include, but are not limited to the following:
  - a. Lien Affidavits
  - b. Title Insurance Disclosure Form SC-305
  - c. Survey Affidavit
  - d. Privacy Disclosure
  - e. Insured Closing Letter
14. Review any Power of Attorney to be used in connection with the transaction for compliance with the Lender's and Title Insurer's requirements and applicable laws.
15. Review for compliance with the Closing Instructions and applicable laws any other applicable Closing Documents, which include, but are not limited to, the following:
  - a. Credit Line Closure Authorization

II. Closing

1. Explain to the borrower the closing documents, which may include, but are not limited to the following:
  - a. Disclosure and consent to multiple representation
  - b. Loan documents, specifically noting the following provisions, as applicable:

- i. Prepayment Penalties
  - ii. Late Payment Penalties
  - iii. Loan Assumption Rules
  - iv. Due on Sale Clause
  - v. Judicial Foreclosure
  - vi. Events of Default
  - vii. Annual Percentage Rate
  - viii. Interest Rate, and if the loan has an adjustable rate, point out that fact.
  - ix. Term of the Loan
  - x. Maturity Date
  - xi. Date the First Payment is Due
  - xii. Payment Location
  - xiii. Transfer of Loan Servicing Rights
  - xiv. For rescindable transactions, Notice of Right to Cancel
2. Supervise the proper execution of the closing documents that are executed at the closing
3. Collect the closing funds and verify that all closing funds are properly deposited into the closing attorney's trust account in accordance with the Rules of Professional Conduct
4. Disburse all of the closing funds in accordance with the Settlement Statement. The only exception to this rule is that in the event a borrower is refinancing a loan with the same lender, and that lender is paying off its prior loan to the borrower with the proceeds of the new loan to the borrower, neither the portion of the loan proceeds that are required to pay off the lender's prior loan to the borrower nor the lender's fees in connection with the new loan have to be disbursed by the closing attorney
5. Supervise the recording of the recordable closing documents

### III. Post-Closing

1. Perform the final title update, which includes but is not limited to the following items:
  - a. Verify that the documents were recorded with the correct priority
  - b. Verify that the documents were indexed properly
  - c. Verify that all liens that were paid in connection with the transaction are satisfied of record
2. Issue the final title opinion
3. Transmit all applicable documents to the appropriate parties