

## GUIDELINE & INSTRUCTIONS FOR CONSTRUCTION DRAWS

A lender, with the help of the title company, coordinates construction draws to be taken by the homeowner or builder.

The title company reviews sworn statements, waivers of lien, and checks the chain of title; then gives an endorsement to lender. The builder looks for quick turn around time, cash flow is the name of the game when working in new construction.

### THE DRAW PROCEDURE

1. A signed and notarized sworn statement must accompany each draw request, as well as, proper waiver forms for each requested item to be funded, the Owner/Designee Affidavit and Construction Disbursement Authorization.
2. We will accept Full and Partial Unconditional and Conditional Waivers of Lien.
3. In some cases Waivers can be turned in after the Draw request. Those Waivers must be turned in prior to the next Draw request.
4. Most lenders will only advance for items 100% complete at time of inspection.
5. Lenders will not advance funds for deposits and do not reimburse for deposits until items are actually installed in the house.
6. The original Sworn Statement must go to the title company and a copy to the lender and Owner/Designee so they can do an inspection.
7. A lender's title insurance policy insures the lien of a mortgage recorded against the property. Claims of construction lien can upset the priority of the mortgage lien. Lenders, therefore, require title insurance for the total amount of money the lender has disbursed in draws. After Cislo Title Company has reviewed and approved the Sworn Statement and Waivers and has determined the amount they are willing to insure, they will issue an Endorsement Letter to the lender based on the bank's inspection for the amount to be disbursed. This letter endorses the policy so that the lender is insured to the extent of the amount of the loan disbursed.
8. Lenders cannot pay the sub-contractor/supplier for items purchased but not yet installed because they generally require a "secured loan". This means the loan is secured by the property (i.e., land and house). When materials are not attached to the house, they are still considered personal property and not real estate, therefore providing no additional value to the real estate.
9. IF A BUILDER'S RISK INSURANCE POLICY AND COPY OF A PAID RECEIPT was not required at closing, you should provide a policy and copy of a paid receipt to the lender prior to requesting the first Draw.

### DRAWS

Draws are based upon balance to complete. Funds are paid as work is completed and paid in "draws". Many lenders require that the draws be paid at pre-specified stages of construction. At all times, the lender must hold enough funds to complete the project, which means the lender **can not** disburse more than the balance to complete shown on the sworn statement.

Draws are based on the greater of (A) original cost to construct (i.e., Building Agreement/Cost Breakdown); (B) mortgage amount; (C) current cost to construct per Sworn Statement(s). You must indicate any changes in cost from estimated costs and reflect them on the Sworn Statement. The Sworn Statement is a legal document that **MUST BE SIGNED BY THE GENERAL CONTRACTOR AND NOTARIZED BY A NOTARY PUBLIC**. Sworn Statements must read consistently from one draw to the next. Indicate all line items on your Sworn Statement for the first draw and then add to it for the next draw and so on.

**IMPORTANT:** The lender and Cislo Title Company must review the Sworn Statement. It is very important that the documents are clearly filled in so that the individuals reading them can understand what is written. Any mistakes or items that cannot be read will delay the processing of the construction draw. It is recommended that the document either be typed or printed for best results. You must always fill in the amount next to an item **EVEN IF THAT AMOUNT IS ZERO**, for all columns.

### **CHANGE ORDERS**

Change orders must be shown on the Sworn Statement, however the lender is not required to fund change orders. The owner must fund change orders themselves. The owner should have all change orders detailed in writing and include an agreement for payment.

### **INSPECTIONS**

Each time a draw is requested, an inspection is required. The purpose of the inspection is to ensure that the work has been completed on the items for which the builder is requesting payment.

### **CLAIMS OF LIEN**

Subcontractors who supply labor and material on a project may place liens on the property to ensure that they are paid. All liabilities, which are related to the draw, must be paid off before the fiends are advanced or paid out of the proceeds to be advanced.

### **WAIVERS OF LIEN**

Waivers of Lien are evidence of payment for labor and materials.

**FULL UNCONDITIONAL** - Represents full payment for total contracted price, waives all construction rights to the property; most obtained waiver by builder from laborers and suppliers.

**PARTIAL UNCONDITIONAL** - Represents satisfaction of payment for partial debt. If labor or material is yet owed, that debt will not be waived.

**FULL CONDITIONAL** - Represents actual payment needed to be paid for total contracted price in order to release lien rights against property.

**PARTIAL CONDITIONAL** - Represents subcontractor/supplier when there is work to be completed and is not paid for. The waiver must state the amount that is owed to date and the date through which the subcontractor/supplier is waiving lien rights.

1. A waiver must be submitted for everyone listed on the sworn statement.
2. All waivers must contain ORIGINAL SIGNATURES (not copies).
3. Waivers must be completely filled in, including the name of the general contractor or homeowners with whom the contract is with, the labor and/or material provided, the legal description (Lot #, Subdivision, County), the name of the signing company, (person signing the waiver must be an officer of the company or an authorized agent of the company), the date and the company phone number.

4. A waiver must be submitted by the general contractor for "ALL WORK UNDER CONTRACT".

## **PAYMENTS**

A construction loan is short-term financing. Payments are comprised of interest only, no principal. The interest rate is variable, and is generally based upon the Prime Rate.

## **HOLDBACKS**

Holdbacks are based on the greater of (A) current balance to complete; (B) Property Inspection Report; and (C) the Cislo Title Company Endorsement Letter.

## **END CONSTRUCTION LOAN**

After the home is complete, the purchaser of the home obtains "traditional" financing (End Construction Loan). Some of the typical closing costs, which are part of the construction loan, may be applicable to the final mortgage. This may not apply if your loan has a conversion option. Your lender can help explain the difference to you.

Most Lenders will require the following on the final draw:

1. A FINAL SURVEY must be requested when the driveway is completed. The title company prior to the final draw must review the FINAL SURVEY if the lender is requiring survey coverage on the loan policy.
2. The lender usually requires a copy of the FINAL CERTIFICATE OF OCCUPANCY.
3. If you have not obtained a HOMEOWNER'S POLICY, you should discuss this with your agent. Most lenders require an endorsement, which gives them coverage.
4. You must request a FINAL PROPERTY INSPECTION. The APPRAISER will do the final inspection. You should check with your lender for its requirements.
5. IF A BUILDER'S RISK INSURANCE POLICY AND COPY OF A PAID RECEIPT was not required at closing, you should provide a policy and copy of a paid receipt to the lender prior to requesting the first draw.
6. You must submit Sworn Statement(s) and Waivers of Lien to Cislo Title Company. A FINAL ENDORSEMENT LETTER INSURING THE LIEN OF THE MORTGAGE FOR THE FULL LOAN AMOUNT WILL BE ISSUED.

NOTE: Your lender and Cislo Title Company are not responsible for the quality of work being done on the property or the time in which it is completed. It is recommended the homeowner check the condition of the materials and work being performed. It is very difficult to recover funds from a builder or sub-contractor once it has been disbursed. The lenders title policy does not cover you the homeowner.

After you carefully read the above instructions, if you require additional information, you may call or make an appointment to meet with someone at our office. Our staff wants to make your construction loan a pleasant experience. Please do not hesitate to call the office and ask questions whenever you feel it is necessary. Someone will always be happy to assist you.

Form furnished by

