

Private Lender Loan Disbursements Tips to Avoid Fraud

Fraudsters will find any way they can to get money out of a transaction undetected. A very common tactic is through last minute re-directions of loan proceeds to parties unrelated to the transaction. For instance, a fraudster retains a lawyer to act for them on a loan from a private lender. On the day of funding, they ask the lawyer to make a minor change and disburse funds to a numbered company they owe money to. The lawyer complies and the money paid to the numbered company goes missing along with the fraudster who was not the true borrower.

We take the disbursement of funds seriously at Chicago Title and that's why on all private lender refinance transactions there is an exception to the policy dictating how funds should be disbursed. Net loan proceeds should be paid to the borrower as a best practice. When acting for a borrower and accepting loan proceeds in trust on their behalf, make sure any amounts being paid, other than to the borrower, make sense. We consider the following payments to make "sense" and comply with our exception:

- To payout a mortgage or other registered encumbrance on title;
- To pay an institution for unsecured debts of the registered owner (for instance a credit card bill in the borrower's name);
- To pay property taxes, condo/strata fees or utilities in arrears that could result in a lien against the property; and
- To pay disbursements directly related to the insured transaction (examples include legal fees, title insurance premiums, appraisal costs or commissions).

In transactions where there are separate lawyers for the lender and borrower, the lender's lawyer must obtain an undertaking from the borrower's solicitor that they will pay the balance of proceeds to the borrower and make sure any other re-directions are only to the parties listed above.

If you are every concerned with a particular disbursement, please contact one of our seasoned underwriters as they would be happy to discuss the issue with you and confirm whether or not the disbursement is permitted under the exception.