

title talk

We Know Title. We Know Real Estate. We Know California.

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Why is my title company asking for an Uninsured Deed Affidavit?

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It is important to understand why a Title Company will require an Uninsured Deed Affidavit when a recorded uninsured deed appears in the chain of title of the property. The simple answer is that the Title Company will need to vet the deed to confirm that the recipient (grantee) in the deed can transfer title without any obstacles or issues from the previous owner (grantor) who issued the uninsured deed. This will allow the title company to issue a title insurance policy to the new insured buyer free and clear of liens and fraudulent transfers.

When we talk about obstacles, we are talking about possible bankruptcies and liens against the former owner that could transfer onto the title of the property. A title company will do a title search to verify if any bankruptcies and liens do not exist on any of the current and prior owners. If liens or bankruptcies arise in the title search, prior to issuing a policy of title insurance, the title company will need to clear those matters. To understand this, because this is an uninsured deed, a title company has not cleared any bankruptcies or liens on the parties named in the uninsured deed. Without clearing bankruptcies and liens against those names, the title company could not transfer free and clear title onto the buyer.

When we talk about issues, we are talking about a possible unrecorded agreement or contract that could exist between both the grantor and grantee of the uninsured deed. The agreement between the two parties could be that once the grantee of the uninsured deed sells the property, they must pay a percentage of the sale proceeds to the grantor of that uninsured deed. In the documentation required to clear the uninsured deed, it identifies this issue. Without

vetting the uninsured deed, this agreement or contract that may exist, could create a lawsuit after the close of escrow. That is if the grantor in the uninsured deed did not receive its percentage of payment from the sale.

Another huge issue that could arise is if the grantor of the uninsured deed confirms that they did not actually sign the transfer deed and confirms that the deed is a fraudulent transfer. At that point, the title company would not be able to insure a transfer of title. Unfortunately, forgeries are on the rise and the good thing is that title companies are one of the backstops to help prevent forgeries, as fraud and forgery are one of the main insurance items in a title insurance policy.

There are different ways of being able to identify an uninsured deed. A transfer deed or handwritten deed without a title company name or order number placed on the document could be a way to identify an uninsured deed, or a stamp on the document citing that the document is being recorded as an accommodation. If you have any questions about an uninsured deed in a property profile or the Preliminary Report, please reach out to your title representative to go over the required documentation to clear the matter. This will insure a smoother closing.



California
title company