



The Bills Paid Affidavit

At some point during a real estate closing, a “Bills Paid Affidavit” or an “Indemnity and Affidavit as to Debts and Liens” is produced by the closer. In a sale situation, the seller will be asked to sign it. In a refinance situation, the borrowers will be asked to sign it. In a construction or home improvement loan, both the contractor and owner will be asked to sign it. Why?

Title companies use this document to help discover any liens or encumbrances that may not be of record or did not appear in the title search. Since it may take several days for a lien to officially appear in the public records, it is possible for a transaction to take place before recordation of a prior lien is complete. Therefore, most title companies ask the appropriate party to disclose knowledge of any lien that has not been satisfied (or, at least, addressed) on the closing statement. This helps the title company avoid future claims against the property.

In a construction loan, the title company asks the contractor to sign the affidavit to acknowledge that all subcontractors and suppliers have been paid by the time of closing. The title company could have liability after the closing for a properly recorded mechanic's lien. In the event of a claim, the title company may try to recoup any losses based on the fraudulent execution of this very important instrument.