

PENN ATTORNEYS

TITLE ALERT

DATE: 09/11/08

RE: Title Alert 2008-11

HONA 249 Amended by Keith Pearson

IndyMac Bank, REO Releases of Mortgages, Reconveyances, and Powers of Attorney

A number of questions have arisen regarding the seizure of IndyMac Bank by the FDIC. This bulletin is intended to answer many of them.

Background

As part of the seizure of IndyMac Bank, FSB (Old IndyMac), the FDIC formed IndyMac Federal Bank, FSB (New IndyMac). Most of the assets and some of the liabilities of Old IndyMac were conveyed to New IndyMac.

REO Sales

Under 12 U.S.C. Sec. 1821 The FDIC is successor by operation of law (automatically with no further documentation) to all rights, titles, powers, and privileges of IndyMac (Old IndyMac). Additionally, the FDIC has opted to create a new Federal Mutual Savings Association named IndyMac Federal Bank, FSB, Pasadena, California (New IndyMac) and the FDIC is acting as receiver of both Old IndyMac and New IndyMac. The FDIC has the power to convey assets of either Old IndyMac as receiver or New IndyMac as conservator. Attached please find a list of authorized personnel to sign different types of documents for New IndyMac. The FDIC as receiver for Old IndyMac has conveyed real estate of Old IndyMac to New IndyMac via a Purchase and Assumption Agreement dated July 11, 2008. (A copy is available upon request.)

There is no need to put the Purchase and Assumption Agreement of record in your land records. However, the deed of real estate from New IndyMac should state in words similar to the following:

IndyMac Federal Bank, FSB, successor in title to the property described herein from IndyMac Bank, FSB through Purchase and Assumption Agreement, dated July 11, 2008 on file with the Federal Deposit Insurance Corporation does hereby grant, sell, and convey to [Buyer] the following described property ...

If property is held in a special purpose entity, then the FDIC also has authority to convey on behalf of that special purpose entity. New IndyMac did not have these assets conveyed to it. If one of these special purpose entities is deeding, the recital should be:

[Name of special purpose entity] by and through the Federal Deposit Insurance Corporation as receiver for IndyMac Bank, FSB does hereby grant, sell, and convey to [Buyer] the following described property ...

Releases of Mortgages/Reconveyances of Deeds of Trust

The FDIC as receiver for Old IndyMac and conservator for New IndyMac has conveyed to New IndyMac Loans (defined as the loans and all mortgages, liens, etc. securing the Loans). The same attached list has a different group of people that may sign documents of this nature.

Signature Blocks

The signature blocks should read:

IndyMac Federal Bank, FSB By: [insert authorized signatory from attached list and their title]

If the FDIC is signing on behalf of IndyMac Federal Bank (New IndyMac), the signature block should read:

IndyMac Federal Bank, FSB By: Federal Deposit Insurance Corporation as conservator By: [insert authorized signatory and their title]

If the FDIC is signing on behalf of IndyMac Bank (Old IndyMac), the signature block should read:

IndyMac Bank, FSB By: Federal Deposit Insurance Corporation as Receiver By: [insert authorized signatory and their title]

Payoff Demands

Payoff demands for mortgages should be requested from New IndyMac in the same manner and to the same place that requests were made to Old IndyMac although the demand should be from New IndyMac.

Powers of Attorney

Any power of attorney executed by Old IndyMac as principal or appointing Old IndyMac as attorney-in-fact should not be relied upon without prior approval. Contact Penn Attorneys if your transaction involves a power of attorney.

Should you have any questions or if you have an upcoming transaction with IndyMac, please contact us.

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