



# *Ask the TITLEMAN™*

Q & A

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*Q. I have questions to ask you regarding deeds of release. 1. Is it mandatory for a title company to have a deed of release from a prior lender before (or at the time of) closing on a subsequent loan of the same property (in order to guarantee 'clean title')? I have seen closing documents (instructions) state that all liens need to be resolved and deeds of release recorded before closing. (I am curious to know if this is more of a 'guideline' than a rule.) 2. If not required at closing, must a deed of release be recorded within a certain period of time after closing, again, to guarantee clean title to the buyer? If so, what is that time period, and is there an Arizona statute (or other regulation) controlling this? Thank you so much for providing answers to my questions - it is greatly appreciated!*

A. You bring up a common inquiry I receive. The instructions in the transaction likely deal with the issuance of title insurance as you say offering a "clean title" - meaning not showing or insuring over the item being released/ paid off at closing. Typically the releases occur much later after closing. As far as your second question, the answer is no. There is no set time period for a title company to record a release after closing. A lender is typically required to release within 30-60 days of being paid off for certain loans but typically the recorded release happens much later for a variety of reasons.

*Q. My research in AZ indicates that title companies often prepare deeds. However, I know there is a constitutional amendment specifically permitting real estate agents to prepare deeds. Seems to me if the folks had wanted title agents in that mix,*

***they would have been part of the amendment as well. Is this an accurate statement of the law/practice in AZ regarding deed prep?***

A. The statutory reference was part of the real estate licensing statutes so it was intended to address their roles in the transactions. As far as title companies, they do prepare such documents at the direction the parties. The escrow closing agent regularly prepares such documents in the pendency of the transaction. The State Bar of Arizona has a long standing understanding that this is a customary practice within Arizona.

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