

SOLAR PANEL PURCHASE TRANSACTIONS

How they are Handled in Colorado



SOLAR PANELS AND REAL PROPERTY LAW IN COLORADO

Solar panels can be owned free and clear but more than likely, there is a lien on the solar panels. The lien will be in the form of a UCC Financing Statement (“UCC”). A UCC is a lien on the solar panel and if homeowner defaults on a lease or financing, the panels can be removed. Buyers, sellers and their agents should be aware of the title company’s role when handling a closing when there are solar panels installed on a property.

HOW ARE SOLAR PANELS HANDLED IN A PURCHASE TRANSACTION?

If the solar panels are being leased, a buyer needs to decide whether they wish to continue the lease and/or service or, have them removed from the home. Buyers will need to qualify for the lease payments so steps should be taken to make sure buyers have the ability to assume the lease. The lease payments on a solar system may affect mortgage loan qualification calculations so best to approach this earlier rather than later.

If the solar panels were purchased but seller is still making payments on the contract, buyer and seller would have to negotiate the terms with regard to paying the remaining contract price or buyer taking over the contract.

In each of these situations, the buyer and seller need to decide how they will proceed and reach out to the solar panel company/service provider to notify them of the change of ownership where the panels are affixed and request a transfer. The solar service provider will prepare all documents that need to be signed for the transfer.

The recorded UCC will show on the title company’s title commitment as a requirement to closing. In addition to the transfer documents, the UCC will usually be terminated and a new one recorded after the transfer of ownership. The solar company will usually work with the title company to complete the transfer, have documents signed at closing and record any termination or new filing.

If the solar panels are owned free and clear, they will be transferred with the real property as a fixture.

It is also important, regardless if leased or owned, that the solar panels are included or specifically excluded, whichever the case may be, in the purchase contract. You don’t want to get into a situation where panels are leased, not included in the purchase and now the seller is still personally responsible for paying on the leased panels on a home they do not own.

Bottom line—sellers, buyers and their agents need to establish whether the solar is owned or leased right away to begin working with the service provider or company to transfer ownership/lease rights or in the end, even have the panels removed. The parties should also notify their title company as soon as practicable regarding the details of the solar transfer.

