

# Chancery Abstracts

**Q: My chancery abstract provider is calling attention to quite a few items within their notes – which kind of common notes should I be actively addressing?**

Glad you ask! Chancery Abstracts can be confounding to read through, especially when puzzling through the various “deficiency” items your provider notes at the front of the abstract. This “notes” portion of the chancery reviews the regularity of the court proceedings and may raise concerns that we can typically pass over, but we want to highlight a few that do require action; this is not meant to be an exhaustive list but addresses some of the most common notes encountered.

**Consideration should be given as to the adequacy of inquiry as to defendants:**

Typically seen when the complaint to foreclose and subsequent court documents cannot be directly served on a distressed mortgagor or other joined defendant. The effort our foreclosing attorneys put into tracking down parties, particularly when foreclosing a principal residence or 2<sup>nd</sup> home, or when dealing with a mortgagor who has since died, needs to be carefully weighed and your underwriter at Old Republic is always on hand to assist.

**Non-Military Service or Inability to Ascertain Military Status:** The chancery must evidence that every effort was made to determine the military status of our defendants along with a certification that they are not on active duty. Our servicemembers, while they are actively serving in the armed forces, enjoy protection against default judgments being entered against them while on duty.

**Consideration should be given as to if/when the bankruptcy stay was lifted:**

When we see a bankruptcy having been filed by our distressed mortgagor(s) during the period of time in which they are being foreclosed, it is vital to confirm that the automatic stay was lifted permitting our foreclosure to continue. The automatic stay kicks in upon the filing of a bankruptcy petition and the enforcement of liens against debtor property is at that time halted. (An excellent resource to research this is PACER – account required: <https://www.pacer.gov/>)

**No proof found of mailing of Notice of Sale:** The owners being foreclosed or any defendants who entered an appearance that were joined in the final judgment of foreclosure may redeem the amount of the judgment up to and through the delivery of the sheriff’s deed. The standard number of days contemplated by the courts for the delivery of the deed is until at least 10 days have elapsed from the date of sale. Notifying these parties as to the proposed date of sheriff’s sale is vital in demonstrating that all parties that had the right to redeem during this time were not deprived of that right. The court could extend this redemption period if the defendants could successfully prove they were not properly noticed. We hope the above summary of some common chancery notes proves useful. This is in no way meant to be a complete list of the only notes we would be concerned with; rely on your underwriter to help when faced with a notation by your chancery provider that you are unfamiliar or uncomfortable with.