

# EARLY START



## WHAT IS EARLY START?

Early Start refers to beginning construction prior to the closing of the construction loan.

## RISKS INVOLVED WITH EARLY START

Building a new home can be both exciting and stressful. For borrower's, getting construction started is a top priority. However, starting construction prior to the closing of the mortgage can have negative effects for all parties involved in the building process.

The day work starts on the property, even work done by the property owner, can create an early start situation. Priority will be given to all mechanics' liens involved with the project. If construction begins prior to the construction loan closing, a mechanic's lien filed by any contractor will have priority over the lender's construction mortgage.

In an early start scenario, the title insurance underwriter will not be able to issue mechanics lien coverage. Without mechanics lien coverage, the lender will not be able to close the loan until the risk of a mechanics lien has been removed. As a result, the borrower cannot begin construction which will more than likely lead to a delayed loan closing, and in turn could delay the completion date.

Sometimes, especially in Minnesota, construction must begin prior to the loan closing. For example, borrowers may want to sink footings before the ground freezes. In these cases, the borrower may apply for early start approval from the title insurance underwriter. The title insurance underwriter will do its own assessment of the borrower's financial strength and gather additional information from the title company and lender. If early start is approved the underwriter will require the borrower to sign a personal indemnification against mechanic's lien, the borrower will need to put in all required equity on the project total and all draw payments must be paid directly by the title company to the subcontractors. Ultimately, the title insurance underwriter will make the decision to approve or decline the request, regardless of any credit approval the lender has already given the borrower.

Minnesota contractor lien rights run from the contractors last date of work for 120 days. A contractor has to file a mechanic's lien within 120 days in order for their lien rights to be protected. They also have to provide the property owner a pre-lien notification that they are working on the project. They then have one year from the same last date of work to file a Lis Pendens to foreclose under the mechanic's lien rights. Construction can be a complicated matter. Let the loan construction experts at Star Bank work with you to find the right solution!

Before any work can begin, to establish priority for the lenders mortgage we need to record the closing documents and then take pictures of the property.

## WORK ALLOWED

- Survey staking of the lot
- Silt fencing
- Soil borings

## WORK NOT ALLOWED

- Material, equipment, or supply delivery to the property
- Tree removal or trimming
- No dirt can be moved
- No buildings can be torn down
- No dumpsters