



UNDERWRITING BULLETIN

May 22, 2013

Bulletin No.: 13-005 Solar Energy issues

Residential Solar Energy Producer Contract.

Existing law requires solar energy companies to record a notice when solar electricity producing equipment is installed on residential property. The code is quite specific that such notice shall be recorded “against the title” to the real property. The code also says that this notice “does not constitute a title defect, lien, or encumbrance against the real property”. What it does constitute against the title is unclear.

As a result, it is necessary to take exception in Schedule B for such a matter in substantially the following form:

AN UNRECORDED INDEPENDENT SOLAR ENERGY PRODUCER CONTRACT AS DISCLOSED BY A NOTICE RECORDED PURSUANT TO SECTION 2869(b) PUBLIC UTILITIES CODE, UPON THE TERMS AND PROVISIONS CONTAINED THEREIN. SAID AGREEMENT CONCERNS CERTAIN EQUIPMENT AND ELECTRICAL ENERGY PRODUCTION LOCATED ON OR AFFECTING SAID LAND. REFERENCE IS HEREBY MADE TO SAID NOTICE AND AGREEMENT FOR FULL PARTICULARS.
RECORDED _____.

In some cases, the solar company has recorded a UCC-1 fixture filing in conjunction with the notice. This UCC-1 must be released.

Some lenders have objected to such an exception. If that is the case, you may eliminate the item from a lenders policy only. Under no circumstances is the exception to be removed from an owners policy without a recorded release of the notice. NOTE: A release of the notice alone is NOT sufficient. The underlying contract must be terminated.

Intentional disregard of the matters contained in this Bulletin may cause any loss sustained under the terms of a policy to be allocated entirely to the Agent