

UNDERWRITING BULLETIN

To: Florida Agents and WFG employees
From: Florida Underwriting Department
Date: August 12, 2010
Bulletin No: FL-10-6
Name: New FAR/BAR Form

After years of hard work, the 2010 version of the FAR/BAR contract has been approved and will start appearing in your closings shortly. As title agents, we always have to carefully review the contract and close in accord with the agreement of the parties. However, the 2010 FAR/BAR contract makes some important and helpful changes to the “default” provisions including the following:

- All payments are subject to “ACTUAL and FINAL COLLECTION” into your trust account. While an escrow agent or closing agent may disburse on uncleared official checks, under the 2010 FAR/BAR you are not obligated to do so. We urge all WFG agents to insist on wire transfers of final closing payments because stopped and fraudulent official and cashier’s checks have been the source of major losses for agents. At a bare minimum, we recommend calling the issuing bank to verify the validity of any official or cashiers’ checks which are not part proceeds of an expected mortgage loan.
- The 2010 FAR/BAR now includes space to provide name, address, phone, email and fax for the escrow agent. Consider providing all this information in a convenient form to your Realtor friends as part of good marketing.
- The closing agent now establishes the time of closing on the closing date set by the contract. We suggest this be communicated to all parties in writing. (sec. 4)
- Under the new HUD-1 rules, deviations from the Good Faith Estimates are sometimes triggering new Truth in Lending disclosures. The 2010 FAR/BAR provides for an automatic extension of the closing date by up to 7 days to meet TILA notice requirements. (sec. 5(a))
- If extreme weather or other *Force Majeure* conditions make utilities, or hazard, wind, flood or homeowners insurance unavailable prior to closing, closing can be extended for up to 3 days after restoration of utilities or availability of insurance – but if the problem continues more than a [fill in the blank] number of days, either party may terminate the contract (sec. 5(b))

- All of the closing cost allocations are consolidated into section 9 of the contract. Section 18K contains the standards for pro-ration of costs.
- If required repairs are not complete before closing, the contract mandates that an amount equal to 125% of estimated cost be escrowed. We recommend you utilize a separate escrow agreement spelling out the conditions for the release of funds if you will be holding such an escrow.
- If the Seller has an existing Owners Title Policy, they are obligated to provide a copy to the Buyer and Closing Agent within 5 days of the effective date of the contract. This should expedite your searches and facilitate proper use of reissue rates. (sec. 9(c)).
- “Owners Policy and Charges” becomes a defined term which includes the Owners Title Policy premium, the charges for owners policy endorsements, title search and closing services. (sec. 9(c)).
- If the seller has a survey, they are obligated to provide a copy to the Buyer and Closing Agent within 5 days after the effective date. (sec. 9(d)).
- The Seller has an express obligation to disclose in writing any improvements made to the property without required permits or open permits (sec. 10(b)).
- The contract now includes express advice from the broker to the parties to consult appropriate professionals for legal, tax, environmental and other specialized advice. Please be careful not to say anything that could negate this advice or you may inadvertently become responsible for the customers decision not to seek necessary advice.
- The Seller is obligated to deliver a “no changes” affidavit (if true) for any existing survey. (sec. 18B)
- Copies of each lease affecting the property and estoppels letters are to be delivered within 5 days after the inspection period.

We have attached a copy of the 2010 FAR/BAR which has been highlighted to point out major changes. While a good form contract is always helpful, the burden remains with the title agent to review whatever contract is presented and close in accord with its terms.

NOTE: This Bulletin is intended for use by title issuing offices, title insurance agents and approved attorneys of WFG National Title Insurance Company and any reliance by any other person or entity is unauthorized. This bulletin is intended solely for the purpose of underwriting policies of WFG National Title Insurance Company.