



UNDERWRITING BULLETIN

To: All Florida Agents of WFG National Title Insurance Company

From: WFG Florida Underwriting Department

Date: October 1, 2015

Bulletin No.: FL2015-13

Re: Florida Insurance Premium Disclosure & Settlement Agent Certification

Form #: DFS-H1-2146

Rule 69B-186.008 Florida Administrative Code

The purpose of this Bulletin is to explain the new Florida Insurance Premium Disclosure & Settlement Agent Certification form, new Rule 69B-186.008 Florida Administrative Code, and the problem caused by the CFPB and TRID Rules that necessitated the new form and Rule. The Florida Insurance Premium Disclosure & Settlement Agent Certification form, Form #: DFS-H1-2146 (hereinafter referred to as the "Florida Disclosure") is different than the Closing Disclosure form which replaces the HUD-1 Settlement Statement for transactions governed by the CFPB and TRID Rules (hereinafter referred to as "TRID") after October 3, 2015. However, the Florida Disclosure works in conjunction with the Closing Disclosure for transactions governed by TRID.

In WFG's webinar titled, Emerging Trends in the Title Industry, we explained the "Reverse-Simo" problem caused by TRID. Under TRID, the premium for the lender's policy is required to be shown on the Closing Disclosure at the full rate and the premium for the owner's policy is shown at a net smaller amount. Therefore, when both an owner's policy and a lender's policy are being issued, the premium for the lender's policy must be shown on the Closing Disclosure at the full rate, and the premium for the owner's policy is shown on the Closing Disclosure at the simultaneous issue rate ("simo rate") for owner's coverage up to the amount of the loan policy plus regular rates for any owner's coverage over and above the amount of the lender's policy. The formula to calculate the owner's policy premium for the Closing Disclosure is as follows: full owner's rate + simo rate – full lender's rate = owner's policy premium (hereinafter "Simo-Rate Plus").

The problem for title agents is that under Florida's Insurance Rules, there is no simo rate premium for an owner's policy. The simo rate is only available for lender's policies when full premium is paid for an owner's policy. Accordingly, if full premium is paid for a lender's policy, Florida's Insurance Rules do not authorize an owner's policy to be issued at the simo rate. However, under TRID, where both an owner's policy and a lender's policy are being issued, the rate for the owner's policy is shown on the Closing Disclosure at Simo-Rate Plus which violates Florida's Title Insurance Rules. The portion of our webinar that explains the Reverse- Simo problem can be found on our WFG AGENT website at <https://wfgagent.com>, under Agent Training, category "All", scroll down to "Emerging Trends in the Title Industry".

The challenge for title agents is that when both an owner's policy and a lender's policy are being issued, you will have to comply with Federal law (TRID) and show the rate for the owner's policy on the Closing Disclosure at Simo-Rate Plus and the lender's policy at the full rate. However, since Florida does not have a simo rate for an owner's policy, by complying with Federal law, you will be violating Florida law because Florida's Insurance Rules do not have a simo rate for an owner's policy.

Due to the Reverse-Simo problem created by TRID, DFS worked with the FLTA, Underwriters, and Agents to promulgate the Florida Disclosure and the Rule. The primary purpose of the Rule and the Florida Disclosure is to make it possible for title agents to comply with Federal law when showing premium for an owner's and lender's policy on the Closing Disclosure while at the same time not violate Florida law. The secondary purpose of the Rule and the Florida Disclosure is to require a settlement agent to sign a Settlement Agent Certification as explained below.

Primary Purpose of the Florida Disclosure and the Rule - Premium Comparison

The primary purpose for promulgating the Florida Disclosure and the Rule is to address the Reverse-Simo problem by requiring the agent to provide the buyer and seller with a written comparison of the premium as shown on the Closing Disclosure with the premium as calculated under Florida's Insurance Rules. The Rule and the Florida Disclosure require the buyer and seller to sign-off on the written comparison of premium authorizing the settlement agent to disburse the premium as calculated under Florida's Insurance Rules.

Clauses From The Rule

1. Subparagraph 6(a) requires the title agent to provide the buyer and seller with a written comparison of the premium as calculated under Florida's Insurance Rules with the premium as shown by the Lender on the Closing Disclosure if the premium as shown on the Closing Disclosure is different than the premium as calculated under Florida's Insurance Rules. The premium as shown on the Closing Disclosure will always be inaccurate when both an owner's policy and a lender's policy are being issued.
2. Subparagraphs 4(a) and (b) require the title agency to provide to the parties of the transaction the following, no later than the time that the funds are disbursed: (a) the name and license number of the title insurance agency issuing the policy; and (b), the name and license number of the settlement

agent responsible for disbursing the escrow funds. If the settlement agent is not licensed, then a license number is not required.

3. Subparagraph 5 requires all buyers, borrowers and sellers involved in the transaction to give written authorization to the title agent to hold and disburse escrow funds.
4. Subparagraph 6(b) requires all sellers, buyers and borrowers involved in the transaction to authorize the title agent in writing to disburse the premium according to the premium disclosure certification.
5. Subparagraph 6(c) requires the written comparison of the premium to also disclose the premium charged for Endorsements.
6. Subparagraph 8(a) requires a completed and signed copy of the Florida Disclosure be provided to the buyer, seller, and lender named in the transaction.
7. Subparagraph 8(b) requires the title agency to maintain a copy of the executed Florida Disclosure in its agency file for at least 5 years.
8. Subparagraph 9 provides that Form #: DFS-H1-2146, the Florida Disclosure Form, meets all of the requirements of the Rule.

Secondary Purpose of the Florida Disclosure and Rule - Settlement Agent Certification

The secondary purpose of the Rule and the Florida Disclosure is to require a written Certification from the settlement agent that he/she has reviewed the forms prepared for the transaction and agrees to disburse the escrowed funds in accordance with the transaction and Florida law. The Certification is required for all transactions, including commercial transactions, whether TRID applies or not. So, for non-TRID transactions, you still need to complete the Agent Certification portion of the Florida Disclosure but you won't need to complete the portion of the Florida Disclosure that provides the comparison of the premium.

Clauses From The Rule

1. Subparagraph 3 requires the settlement agent to certify that he/she has reviewed the forms for the transaction and agrees to disburse the escrow funds in accordance with the transaction and Florida law. The settlement agent must certify as follows:

“I have reviewed the Closing Disclosure, the settlement statement, the lender’s closing instructions and any and all other forms concerned with the funds held in escrow, including any disclosure of the Florida title insurance premiums being paid, and I agree to disburse the escrow funds in accordance with the terms of this transaction and Florida law.”

2. Subparagraph 9. As referenced above, Subparagraph 9 provides that Form #: DFS-H1-2146, the Florida Disclosure Form, meets all of the requirements of the Rule.

Copies of the Florida Disclosure, Form #: DFS-H1-2146, and Rule 69B-186.008 Florida Administrative Code are attached to this Bulletin.

NOTE: This Underwriting Alert is directed to WFG National Title Insurance Company's policy issuing agents and is not intended to reflect negatively on the person(s) or entity(s) listed herein. The contents of this Alert should not be shared with third parties.

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69B-186, F.A.C.: Title Insurance

69B-186.008, F.A.C. Escrow Disbursements

(1) For purposes of this rule, the term “settlement agent” refers to the title insurance licensee or licensee’s designee who receives and disburses funds in accordance with § 626.8473 F.S.

(2) Any person disbursing escrow funds being held as part of a real estate transaction in which one or more title policies are to be issued, must provide the parties to the transaction with the information required by this rule.

(3) A written statement by the settlement agent must certify that he or she has reviewed the forms prepared for the transaction and the escrow funds, and agrees to disburse the escrow funds in accordance with the terms of the transaction and Florida law. Compliance with the aforementioned certification requires the settlement agent to certify to the truth of the following statement: “I have reviewed the Closing Disclosure, the settlement statement, the lender’s closing instructions and any and all other forms concerned with the funds held in escrow, including any disclosure of the Florida title insurance premiums being paid, and I agree to disburse the escrow funds in accordance with the terms of this transaction and Florida law.”

(4) The title agency must provide the parties to the transaction with the following information no later than the time such funds are disbursed:

a. The name and license number of the title insurance agency issuing the title insurance policy, and /or holding and disbursing the escrow funds. If there is more than one title agency involved in the transaction, then a separate form is to be provided by each agency. Any agency not holding any escrow funds should disclose that to the parties to the transaction at this time.

b. The name and license number of the settlement agent responsible for disbursing the escrow funds. If the settlement agent is not licensed, then the license number is not required.

(5) All buyers, borrowers and sellers involved in the transaction must provide written approval authorizing the holding of escrow funds and disbursement of escrow funds by the named title agency.

(6) In addition to the requirements listed above, the title insurance agency must provide the parties to the transaction with the following information when a Closing Disclosure form is completed by the lender and the cost for the title insurance policies being purchased differs from the premium calculated pursuant to s. 69O-186.003, F.A.C.:

(a) A written comparison of the cost of the lender's policy versus the cost of an equivalent policy based on Florida premium rates.

(b) All sellers, buyers and borrowers involved in the transaction must acknowledge and authorize in writing that the title insurance premiums will be disbursed from the escrow funds in accordance with the premium disclosure certification

(c) The cost comparison must clearly disclose the premiums being charged for all endorsements in addition to the base policy.

(7) Any form or forms that satisfy the requirements of this rule will be considered part of a title insurance and escrow transaction in Florida. Such form or forms will not constitute loan documents.

(8) A completed and signed copy of the approved form or forms must be:

(a) provided to the buyer, seller and lender who are named in the transaction, and

(b) maintained in the title insurance agency files for at least five (5) years.

(9) Form DFS-H1-2146, "Florida Insurance Premium Disclosure & Settlement Agent Certification" form (Effective 10/03/2015), meets all of the requirements necessary to comply with this rule and is incorporated by reference herein. The form is available from the Department of Financial Services, Division of Insurance Agent and Agency Services at <http://www.myfloridacfo.com/Division/Agents>.

Rulemaking Authority 624.308(1), 626.8473(6) FS. Law Implemented 626.8473 FS. History – New.

Florida Insurance Premium Disclosure & Settlement Agent Certification

Agency File # _____

Closing Date: _____

You are being given this form and certification to explain differences between federal and Florida law. Federal law requires the costs of the policies to be calculated using the full premium for the lender policy. Florida law allows the premium for the lender's policy to be calculated using a lower rate when purchased along with an owner's policy.

If both an owner's policy and a lender's policy are being purchased, the title insurance premiums on this form might differ from the premiums on the Closing Disclosure. The owner's policy premium listed on the Closing Disclosure will probably be lower than on this form, and the lender's policy premium will probably be higher.

The chart below lists the amounts disclosed by the lender and the premium for the policies being purchased. These amounts include the charges for endorsements to the policies:

	Closing Disclosure Amount		Florida Premium	
	Buyer	Seller	Buyer	Seller
(a)	Lender's policy:			
(b)	Lender's Endorsements:			
(c)	Lender's Policy Total:			
(d)	Owner's policy:			
(e)	Owner's Endorsements:			
(f)	Owner's Policy Total:			
Total All Policies (c + f):				

The total dollar amount for the policies as disclosed on this form should be equal to the total premium calculated using the Florida Insurance Code. The Florida Premium amounts listed above will be used to disburse the funds from the title agency's escrow account to (Name of Insurer) and (Name of Title Agency).

The undersigned hereby certify that they have carefully reviewed the Closing Disclosure or other settlement statement form, and they approve and agree to the payment of all fees, costs, expenses and disbursement as reflected on the Closing Disclosure or other settlement statement form to be paid on their behalf. We further certify that we have received a copy of the Closing Disclosure or other settlement statement.

Seller Signature	Date Signed	Buyer/Borrower Signature	Date Signed
Seller Printed Name		Buyer/Borrower Printed Name	
Seller Signature	Date Signed	Buyer/Borrower Signature	Date Signed
Seller Printed Name		Buyer/Borrower Printed Name	

Settlement Agent Certification

I have reviewed the Closing Disclosure, the settlement statement, the lender's closing instructions and any and all other forms relative to the escrow funds, including any disclosure of the Florida title insurance premiums being paid, and I agree to disburse the escrow funds in accordance with the terms of this transaction and Florida law.

Settlement Agent Signature	Date Signed
Settlement Agent Name	Florida License Number
Title Agency Holding Funds	Florida License Number