



## **UNDERWRITING BULLETIN**

**To:** All Florida Agents of WFG National Title Insurance Company

**From:** WFG Florida Underwriting Department

**Date:** October 16, 2013

**Bulletin No.:** FL 2013-14

**Re:** Pre-Closing Updates Insuring the GAP

This Bulletin discusses two issues that have emerged pertaining to pre-closing updates and the post-closing GAP.

**Pre-closing updates.** We are seeing a trend where pre-closing updates are either not being done or are being done too early to be effective. The purpose of obtaining a pre-closing update is to determine if any instruments adverse to title have been recorded after the effective date of the commitment. When timely performed, pre-closing updates reduce claims because you have the opportunity to resolve any adverse matters disclosed in the update prior to closing the transaction even if an extension of the closing date is required; or, to cancel the closing if necessary. Pre-closing updates should be done as close as possible to the date of the closing. The best practice is to do them 24 hours before the closing date.

**Post-closing GAP.** The Underwriter's liability for the GAP is found in Florida Statute 627.7841, which provides as follows:

*If a title insurer issuing a commitment or policy of title insurance upon an estate, lien, or interest in property located in this state through its officers, employees, agents, or agencies disburses settlement or closing funds, the title insurer shall insure against the possible existence of adverse matters or defects in the title which are recorded during the period of time between the effective date of the commitment and the date of recording of the document creating the estate or interest to be insured, except as to matters of which the insured has knowledge.*

Under Sec. 627.7841, the GAP between the effective date of the commitment and the date that the insured instruments are recorded is insured by the Underwriter. We are seeing a trend where the insured documents are not being recorded for extended periods of time after the closing. In one transaction, the delay was 48 days after the closing. We have also seen situations where the insured documents were returned, unrecorded, to the agent by the recording office with instructions to correct an error, and those documents remained in the agent's file, unrecorded. If the insured instruments are returned to you to be corrected, you must perform the correction and return the documents to the recorder as soon as possible.

We realize that you have no control over delays within the recorder's office but you have the responsibility to deliver the insured documents to the recording office as soon as possible after the closing. The best practice is to e-record in counties that allow e-recording.

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