



UNDERWRITING BULLETIN

To: SC Agents and WFG Employees

From: Underwriting Department

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Name: SC Attorney Closing

South Carolina is a traditional "Attorney State", which means that real estate closings are considered the practice of law. The SC Supreme Court has emphasized that the closing of a loan without attorney supervision constitutes the unauthorized practice of law. A loan closing, even a refinance, conducted by a lender or title agency without attorney supervision, will result in an unenforceable mortgage.

In *BAC Home Loan Servicing, L.P., v. Kinder* decided July 25, 2012 the Court clarified an earlier decision and held that if the mortgage was recorded on or before August 8, 2011, any purported illegality due to the mortgage being closed without an attorney will not bar recovery on that mortgage. The case may be found at:

<http://m.sccourts.org/opinions/HTMLFiles/SC/27146.pdf>

South Carolina attorneys that work with a lender or title insurance agency in a loan closing cannot just perform a witness closing. They are charged by the SC Supreme Court with responsibility for supervision of (1) document preparation, (2) title search, examination and preparation of abstract, (3) closing and (4) recordation. While the attorney is not required to disburse he is required to supervise the disbursement procedure.

WFG agents must coordinate any SC transactions with a licensed SC attorney.

Please contact Roger Blauvelt, VP & National Agency Counsel rblauvelt@wfgnationaltitle.com or Clint Yarborough, South Carolina Manager & Counsel cjyarborough@wfgnationaltitle.com with any questions.

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