



UNDERWRITING BULLETIN - TEXAS

No. 26

DATE: January 18, 2013

RE: Short Sale Deed Restrictions

Those of you who have handled short sales know that it is common for the seller's lender to require that the short sale deed contain a restriction regarding subsequent sales. The Federal Housing Finance Agency (FHFA) and Freddie Mac and Fannie Mae have implemented deed restrictions such as the following:

"Grantee herein is prohibited from conveying captioned property for any sales price for a period of 30 days from the date of this deed. After this 30 day period, Grantee is further prohibited from conveying the property for a sales price greater than \$ [insert 120% of short sale price] until 90 days from the date of this deed. These restrictions shall run with the land and are not personal to the Grantee."

When you see a requirement for a deed restriction clause similar to this, you must place the following exception in any title commitment or policy which you issue within the 90 day period:

"Deed restriction, prohibiting certain subsequent resale transactions for up to 90 days, contained in the deed from _____ to _____, dated _____, and recorded in Vol. ____, Page _____, of the Official Records of Real Property of _____ County, Texas."

In these situations, do not insure any transaction within 90 days after the short sale deed was executed without written approval from WFG underwriting counsel. When requesting such approval, please furnish WFG Underwriting a copy of your commitment, showing the exception both in B-1 and also as a separate Schedule B item.

Other lenders are adopting similar requirements, but the language of the deed restriction and the time periods may vary. Every deed in a short sale transaction should be reviewed very carefully, and an exception must be inserted in commitments and policies where such a restriction exists. You should of course adjust the time period to fit the the actual restriction.

Freddie Mac Bulletin No. 2012-16 can be found at:

<http://www.freddiemac.com/sell/guide/bulletins/pdf/bl1216.pdf>

Fannie Mae Servicing Guide Announcement SVC-2012-19 can be found at:

<https://www.fanniemae.com/content/announcement/svc1219.pdf>

Please contact WFG underwriting counsel if you have any questions or concerns.

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