



UNDERWRITING BULLETIN - TEXAS

No. 28

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RE: Recognizing Fraud and Forgery - 2013

Real estate and mortgage fraud costs everyone many millions of dollars annually. Title insurance companies and agents are particularly vulnerable and incur significant losses. WFG has identified certain high risk situations based on its national experience. As part of our efforts to collaborate with our agents we want to pass this information along to you for everybody's protection. Fraud prevention is everybody's business.

The first line of defense against fraud and forgery is due diligence on the part of the agent. Any situation that does not feel right justifies a pause in the transaction and a review within your company and/or with Underwriting. Any claim, no matter how small or meritless, will erase the premium earned as well as cause additional expense. Trust your instincts.

The following circumstances are considered extra-hazardous risks. Although prior Underwriting approval is required only when specifically stated below, you should always feel free to contact us any time questions arise.

1. A sale of non-owner occupied land, especially unimproved land, where the buyer is paying all cash or is getting a third party loan from a non institutional lender. An additional red flag is having an out of state seller.

These types of transactions represent a disproportionately high level of claims, especially when the seller does not reside in Texas. Look closely at situations of this type involving so called "hard money lenders", which usually make loans at interest rates higher than what is prevailing in your local market. Such loans are not made on the credit worthiness of the borrower, but instead rely on a fast re-sale of the property to pay off the loan.

2. The Seller or borrower has been in title for less than a year, claiming under a deed which recites no consideration.

Gift deeds or "no consideration deeds" between apparent strangers are a common start of a fraudulent transaction. Inquire as to the underlying facts.

3. A seller or mortgagor took title within the last year without placing a purchase money deed of trust against the property. Evidence indicates a property value of \$50,000.00 or more.



Be careful when a deed indicates the transaction was a purchase but there was no purchase money lien placed against the property at that time. Most buyers cannot afford to make a significant real estate purchase without borrowing. The explanation that the seller or borrower provides must be plausible.

4. The name of the spouse joining with the seller or borrower is different than the name of the spouse on prior instruments.

Confirm which name is accurate by a same name affidavit or a marital affidavit.

5. A deed of trust in a substantial amount (\$50,000.00 or more) has been released in the last year but without evidence of payment by a subsequent mortgage. ("Subsequent mortgage" includes a refinance, a HEL, a reverse mortgage, or a buyer's purchase money DT).

Inquire into the circumstances of payment of the prior lien, i.e., the source of the funds to pay off the prior lien.

6. The use of a POA on a file where over \$50,000 in proceeds is being disbursed to the attorney in fact.

The use of a POA always presents an extra hazardous risk, and their use should never become a matter of routine. WFG does not require that Underwriting approve all POAs; if an agent has a question about a particular POA, please submit it with the POA questionnaire which was published with WFG Underwriting Bulletin No. 7.

7. A deed was recorded months after it was executed.

The agent should investigate the reason for the delay. If the deed was recorded after the death of the grantor, please call Underwriting.

8. A deed recites unusual consideration, such as a swap of land, or other non-monetary items such as precious metals.

Please call underwriting in these situations.

9. The original note and DT were held by an individual, and there has been an assignment to a third party who now quotes a payoff.

Require a transfer or assignment of lien from the original DT beneficiary, and examine the original note to confirm that it has been endorsed over to the party now claiming payment. If the note holder is not local, request a copy of the original note showing the endorsement.



10. Seller's or borrower's proceeds exceed \$100,000.

Take extra time before closing to review any file where the seller or borrower will walk away from closing with cash in excess of \$100,000.00, especially when there has been a recent change in ownership or there is an additional red flag in the transaction.

11. An entity, such as a corporation or an LLC, takes title before it was legally organized.

A deed into a non-existent entity would probably be a void deed in Texas. Call Underwriting in these situations.

12. Double check the ID.

Verification of identity when notarizing a signature is a key component to avoiding forgery losses. Take an extra moment to compare signatures and faces.

13. Rushed transactions coupled with other red flags. A customer requires you to move through all of the hoops at the speed of light without having the opportunity to adequately familiarize yourself with the transaction.

Use your best judgment and skill to determine whether this situation requires you to step back and take more time to examine the documents, signatures, and acknowledgements. A rush situation may be acceptable if there are no other red flags present and you are dealing with a trusted realtor or lender. Beware of being rushed by a new customer.

14. Documents not signed in the agent's office.

If signing was outside of the closing, examine the documents carefully; if there is any concern talk to the notary who took the acknowledgement. If you are still uncomfortable, contact Underwriting. Using a national notary service is generally safer than relying on a broker's notary or an independent notary.

15. Requests to verify a closing proceeds check. Be wary of situations where a bank or check cashing operation calls and asks if your check to a seller or borrower is "good".

Be wary of such requests. It is a red flag if a party does not deposit the proceeds into their own bank account. If you are suspicious, call Underwriting.

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