

Douglas S. Tingvall

Attorney at Law
12015 93rd PL NE
Kirkland, WA 98034-2701
425-821-2701/Fax 896-0390
DougTingvall@RE-LAW.com



Haven't got a CLUE about Insurance?

Homeowners and property insurance is becoming harder and more expensive to get. Whether the cause is increasing claims, larger judgments, terrorism, or declining investments, the result is insurance companies limiting new policies, increasing premiums, tighter underwriting and broader exclusions.

The insurance crisis is having an impact on the housing and real estate brokerage industries. Homebuyers must obtain insurance in order to get financing. What used to involve the buyers simply making a phone call to their insurance agent to obtain a binder a day or two before closing, has become a potentially major obstacle to the buyers' ability to obtain financing.

One of the biggest obstacles has been the relatively new Comprehensive Loss Underwriting Exchange ["CLUE"], a nationwide database for insurance claims. Insurance companies obtain CLUE reports on the claims history of properties and buyers within the preceding five years. Insurers are particularly concerned about water-related problems that may result in mold claims. Based on CLUE reports, insurance companies sometimes are refusing to issue a policy at all or issuing a policy only at extraordinarily high premiums.

The Northwest Multiple Listing Service ["NWMLS"] is seeking to address the homeowners and property insurance crisis through revisions to its forms. As of March 3rd, the financing addendum (NWMLS Form 22A) contains the following provisions:

NOTICE TO BUYER CONCERNING INSURANCE. The availability and cost of homeowners or property insurance on the Property depends on a number of factors, including your personal insurance, financial and credit history, materials and conditions present in or on the Property, and the claims history for the Property. Some insurance companies base underwriting decision on Comprehensive Loss Underwriting Exchange ("CLUE") reports on the history of insurance claims concerning the Property or made by you concerning other properties.

INSURANCE CONTINGENCY/APPLICATION. This Agreement is conditioned upon Buyer obtaining a binder for homeowners or property insurance on the Property from an admitted insurer at its rates filed with the Washington State Insurance Commissioner. Buyer agrees to make application for insurance within ____ days (5 days, if not filled-in) after mutual acceptance of this Agreement. If Buyer fails to make application within the agreed time, then this insurance contingency shall be deemed waived.

INSURANCE DEADLINE. This insurance contingency shall be deemed satisfied, unless within ____ days (10 days, if not filled-in) after mutual acceptance of this Agreement Buyer gives notice of inability to obtain insurance. If Buyer is unable to obtain such a

This article contains general information only, and should not be used or relied upon as a substitute for competent legal advice in specific situations.

binder after making a good faith effort and timely gives notice of such inability, then this Agreement shall terminate and the Earnest Money shall be refunded to Buyer.

These provisions are also available in a separate addendum (NWMLS Form 22VV) for transactions not involving new institutional financing.

Under these new provisions, the buyers are required to apply for insurance, just as they would apply for a loan, early in the homebuying process. If the buyers cannot obtain a binder for insurance issued by an admitted insurer at its standard rates, then the buyers may withdraw from the transaction without liability. However, the buyers must do so within an agreed time limit or the buyers are bound.

These changes obviously will not solve the insurance crisis, but at least will protect buyers from unpleasant surprises just before, or even shortly after, closing. Realtors at the state and national levels are working on other solutions, including legislation, so stay tuned for further developments.

So, you still haven't got a clue about the insurance crisis? Take a hint and log onto the NWMLS Xpress Forms server!

By day, Doug Tingvall is a real estate attorney. By night, he sings in light operas and musicals.



This article contains general information only, and should not be used or relied upon as a substitute for competent legal advice in specific situations.