

Major Changes to PAR Standard Agreement of Sale (Form ASR)

August 2015 Revision

The August 2015 revision to the residential Agreement of Sale was not a full scale rewrite of the form, but rather specific changes due to the (at the time) pending implementation of the Consumer Financial Protection Bureau's "Know Before You Owe" Rule, otherwise known as the TILA-RESPA Integrated Disclosure (TRID). This document will review those changes; please refer to the Guidelines for Preparation and Use for the full explanation of the entire form (currently under revision, to be released soon).

The ["marked up" version of the form](#) has text in 3 colors to help you see what's changed for 2015.

Black type is used for text that has not changed in this revision.

Blue type is used for text that is essentially the same, but has moved to a new location in the form.

Red type is used for text that is new or substantially altered in this revision.

To help answer your questions, we have an [online question/suggestion form](#), available under the Standard Forms section of the PAR website. This form sends your questions (as well as suggestions for future changes) directly to PAR staff for a response. Many questions can also be answered by referencing the Guidelines for Preparation and Use.

License Numbers

One of the new forms lenders will use for qualifying mortgage loans is called the Closing Disclosure. On the last page of the Closing Disclosure, lenders will be responsible for adding the contact information and state license numbers of the real estate brokerage(s) and licensee(s) involved in the transaction. All of this information was found on Page 1 of the Agreement of Sale with the exception of the license numbers. As an accommodation to lenders, space was made for inputting this information though it is not required to have a binding contract.

Paragraph 8: MORTGAGE CONTINGENCY

Previous versions of the Agreement defined a mortgage application as a "written" application, and included the requirement to order an appraisal of the property if required by the lender. The CFPB has changed the definition of "application" to include just six pieces of information that, once received by a lender, constitute an application: the buyer's **name**, **income**, and **social security number**, the property **address**, the **loan amount** sought, and the **estimated value** of the property. Further, the CFPB only permits a lender to charge a fee for a credit report to the applicant until the applicant has indicated an intent to proceed with the mortgage; the lender may not charge the applicant for an appraisal.

To keep the language of the Agreement in line with the CFPB Regulations, the requirement that the application be "written" was removed along with the phrase which obligated the buyer to order and pay for an appraisal as part of the mortgage application.

The buyer must still cooperate in good faith with the processing of the mortgage loan, which includes ordering and paying for an appraisal when requested by the lender. Failure to do so will result in the buyer being in default of the Agreement.

Paragraph 12: BUYER'S DUE DILIGENCE/INSPECTIONS

Subparagraph (A) now permits the buyer to make two pre-settlement walkthrough inspections of the property. TRID timelines will require the lenders to have all necessary information in hand at least one week prior to the settlement date, which means that the old practice of conducting a pre-settlement walkthrough inspection the morning of settlement could cause unnecessary delays. The Committee has revised the ASR and the Pre-Settlement Walkthrough Inspection Report ([Form PSW](#)) to allow the buyer to make *two* pre-settlement walkthrough inspections with the idea that one would be conducted before the lender prepares the Closing Disclosure and the second would be closer to the actual settlement date.

Paragraph 17: TITLES, SURVEYS AND COSTS

Subparagraph (B) is new. It was added to encourage a discussion between the buyer and the buyer's agent about title insurance. On the Loan Estimate, title insurance is broken down between the lender's insurance policy and the owner's insurance policy with the latter being described as "optional." The lack of an owner's policy can leave some buyers without protection from claims on the title. Buyers' agents should encourage their clients to discuss their options for standard and enhanced policies with a title insurer.

Paragraph 30: COMMUNICATIONS WITH BUYER AND/OR SELLER

Subparagraph (A) is new and will require the buyer to provide copies of the Loan Estimate and Closing Disclosure to his or her agent upon receipt. TRID regulations place increased responsibility for accurate disclosures on the lenders, and as a result it is more likely that the lender will be preparing these documents. However, these documents are to be provided directly to the consumer – both because of confidentiality issues and because of what the regulations require - not to the buyer's agent. It is important for agents to be provided with these documents to ensure that the buyer is applying for a mortgage according to the terms of the Mortgage Contingency, to make sure that the timeline is being followed, and (of course) to know that closing can occur as scheduled.