

WFG Underwriting Bulletin



To: All Policy Issuing Agent for WFG National Title Insurance Company
From: Underwriting Department
Date: February 23, 2018
Bulletin No. NB 2018-02
Subject: Refinancing of Properties Vested in Trusts

Background

Many properties, including primary residences, are held in trusts. This is usually done for estate planning purposes. Because lenders typically lend money to individuals rather than to trusts, they will require that borrowers transfer properties out of any trust and back into their individual names.

Agent's Role

Agents will frequently be asked by lenders and borrowers to insure loans in the names of individuals after the properties are conveyed out of a trust. This is often coupled with an understanding that the property will be conveyed back into the trust once the transaction has closed. Agents are also frequently asked to prepare the deeds removing and placing the property back into the trust and sometimes asked regarding the financial and legal consequences of such transfers.

The agent's role in these transactions is not to give any legal or financial advice, but only to state under what circumstances a loan policy can be issued. Document drafting and execution as well as any questions regarding the tax or legal consequences of any transfers should be referred to the borrowers' attorney, accountant, or estate planner. This is to avoid liability should any unintended consequences arise as a result of these transfers. In addition, engaging in any aspect of these transfers outside of issuing a loan policy may constitute the unauthorized practice of law.

Although the agent should avoid being directly involved in the transfer out of any trust, the agent should still do its standard due diligence and request either a certification of trust or other documents sufficient to demonstrate that the trustee had the requisite authority to convey the property back into the names of the individual borrowers prior to insuring any loan.

Please refer any additional questions you may have regarding this subject to underwriting counsel.

NOTE: This Bulletin is for the sole purpose of establishing underwriting positions and policies reflecting WFG National Title Insurance Company's best business judgment. The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.