

WFG Underwriting Bulletin



To: All Florida Agents of WFG National Title Insurance Company
From: WFG Florida Underwriting Department
Date: March 10, 2016
Bulletin No. FL-2016-05
Subject: Insuring Title Based On Tax Deeds

The purpose of this Bulletin is to set forth WFG's Florida requirements to insure title based on tax deeds.

After a tax deed has been issued for at least 4 years, F.S.95.191 and 95.192 provide protection to a tax deed grantee from claims by the former owner(s) and other adverse claimants as long as the tax deed grantee has been in actual possession of the property during that 4-year period and the former owner(s) was not in actual possession of the property during the first year after the tax deed was issued. If those conditions are met, the former owner(s) and other adverse claimants are prohibited from bringing a lawsuit to recover possession of the property.

Based on F.S. 95.191 and 95.192, WFG's requirements to insure title based on tax deeds is separated into two categories:

- I. Tax deeds recorded less than 4 years, and
- II. Tax deeds recorded 4 years or longer.

I. Requirements to insure title based on tax deeds recorded less than 4 years:

1. The ownership interests, mortgages, judgments, liens, and other interests to be eliminated can be separated in to three groups, as follows:

A. Ownership interests, mortgages, judgments, and other liens not referenced in the Tax Deed procedure. Obtain a title search to determine if there are any ownership interests, mortgages, judgments, liens, or other interests in the back chain of title that were not addressed in the tax deed procedure. You must obtain deeds, mortgage releases, judgment releases, lien releases, and other documents required by the title search to perfect title to the back chain.

B. Ownership interests, mortgages, judgments, and other liens that were listed in the in the Tax Deed procedure but were not properly served with notice of the Tax Deed sale. Review the Tax Deed file to confirm that notice of the Tax Deed Sale was properly mailed

by the Clerk of Circuit Court to the addresses contained in the deeds, mortgages, judgments, liens, and other interests for all legal titleholders, mortgagees, judgment holders, lienholders, and all other parties on the tax collector's list of persons to be notified of the Tax Deed sale. You must obtain deeds, mortgage releases, judgment releases, and lien releases from all legal titleholders, mortgagees, judgment holders, and lienholders who were on the tax collector's list but who were not given notice of the Tax Deed sale at the address contained in their deed, mortgage, judgment, or other lien.

C. Ownership interests, mortgages, judgments, and other liens that were listed in the in the Tax Deed procedure and who received proper notice of the Tax Deed sale. Quiet title lawsuit against all legal titleholders, mortgagees, judgment holders, and other lien holders – whose interests were purportedly eliminated by the tax deed procedure and who did receive proper notice of the tax deed sale, culminating in a final judgment quieting title in to the tax deed grantee [his/her/its successors or grantee(s)].

2. Agent must provide Underwriting with copies of the following:
 - A. Complete copy of tax deed file
 - B. From the quiet title lawsuit:
 1. Complaint
 2. All summonses and returns of service
 3. All answers filed
 4. Final judgment quieting title
 5. All other documentation required by Underwriting

3. Underwriting will review the summonses, returns of service, and answers filed - if any, for all former owner(s), mortgagees, and lien holders to ascertain the interests that were eliminated by the quiet title case. After that review, Underwriting will determine whether any additional deeds, mortgage releases, lien releases, or other documents are required.

II. Requirements to insure title based on tax deeds recorded 4 years or longer.

1. The ownership interests, mortgages, judgments, liens, and other interests to be eliminated can be separated in to two groups, as follows:

A. Ownership interests, mortgages, judgments, and other liens not referenced in the Tax Deed procedure. Obtain a title search to determine if there are any ownership interests, mortgages, judgments, liens, or other interests in the back chain of title that were not addressed in the tax deed procedure. You must obtain deeds, mortgage releases, judgment releases, lien releases, and other documents required by the title search to perfect title to the back chain.

B. Ownership interests, mortgages, judgments, and other liens that were listed in the Tax Deed procedure but were not properly served with notice of the Tax Deed sale. Review the Tax Deed file to confirm that notice of the Tax Deed Sale was properly mailed by the Clerk of Circuit Court to the addresses contained in the deeds, mortgages, judgments, liens, and other interests for all legal titleholders, mortgagees, judgment holders, lienholders, and all

other parties in tax collector's list of persons to be notified of the Tax Deed sale. You must obtain deeds, mortgage releases, judgment releases, and lien releases from all legal titleholders, mortgagees, judgment holders, and lienholders who were on the tax collector's list but who were not given notice of the Tax Deed sale at the address contained in their deed, mortgage, judgment, or other lien.

2. Agent to provide Underwriting with complete copy of tax deed file.

3. Underwriting will review the tax deed file to ascertain the interests that were eliminated by the tax deed procedure. After that review, Underwriting will determine whether any additional deeds, mortgage releases, judgment releases, lien releases, or other documents are required.

4. While Florida Statutes 95.191 and 95.192 provide statutory protection to tax deed grantees as discussed herein, WFG may not rely on that protection to insure over mortgages after a review of the tax deed file. That decision will depend on the following:

- A. Whether notice of the tax deed sale was provided to the lender at the addresses listed in the mortgage
- B. Proof that that lender held the mortgage
- C. The face amount of the mortgage
- D. The age of the mortgage
- E. Evaluation of the risk

5. Affidavit of Possession. The tax deed grantee must execute an Affidavit of Possession establishing the tax deed grantee's actual possession of the property during the 4-year period after the tax deed was issued; and establishing that the former owner(s) was not in actual possession of the property during the first year after the tax deed was issued. The Affidavit of Possession must be recorded.

Tax Deed Services. WFG will not rely on certificates from tax deed services in lieu of a quiet title lawsuit to insure title based on a tax deed recorded less than 4 years.

Interests Not Eliminated By a Tax Deed. Certain interests cannot be eliminated by the tax deed procedure and must be released from the property or listed as exceptions in the policy; and there are other interests that WFG is not willing to insure over. Those interests are:

- 1. Governmental liens held by municipalities, Counties, special districts, and community development districts. F.S. 197.552.
- 2. Covenants and restrictions. F.S. 197.573.
- 3. Easements for conservation, public service purposes, ingress and egress, telephone, pipelines, power transmission, and drainage. F.S. 197.572.
- 4. Oil, gas, and mineral rights.
- 5. Federal tax liens. While it may be possible to eliminate Federal tax liens with proper notice to the Internal Revenue Service, WFG will require all Federal tax liens be released from the property or listed as exceptions in the policy.

6. Association fees and assessments. WFG will not insure over Association fees, dues, costs, or special assessments. F.S. 718.116(1)(a) and 720.3085(2)(b) make all owners jointly and severally liable with the previous owner for all unpaid assessments.

Note: A company by the name of Judicial Research can obtain copies of court file documents for a fee. Their number is: 305-379-3900.

Affidavit of Possession- Form attached hereto:

[FL 2016-05 Affidavit of Possession For Tax Deed](#)

NOTE: This Bulletin should not be interpreted as reflecting negatively upon the character of an individual or entity mentioned herein and 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.