

WFG Underwriting Bulletin



To: All Florida Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: December 23, 2019
Bulletin No.: FL 2019-15
Subject: Public Records Exemption

On April 26, 2019, Governor DeSantis signed Senate Bill 248 (CS/CS/CS/SB 248) in to law which revised F.S. 119.071. The revisions were effective on October 1, 2019.

F.S. 119.07 and Art. I, Sec. 24 of the Florida Constitution require that public records be made available for inspection and copying unless an exemption from the required inspection and copying is asserted by a protected party. Deeds, mortgages and other documents executed in connection with a real estate transaction that are to be recorded constitute “public records” for purposes of the statute and Constitutional provision. Exemptions from inspection and copying are provided in F.S. 119.071 (“Public Records Exemption”). That statutory section allows persons in the protected class, such as law enforcement personnel and others, to request that certain information be redacted from their deeds, mortgages, and other documents before those documents are recorded. Prior to the revisions contained in SB 248, the exemptions allowed the protected party to request that their home address be redacted from their deed or mortgage prior to recording. The purpose of authorizing the redaction is to prevent bad actors from learning the home address of a protected party from the recorded deed or mortgage.

Under SB 248, the definition of “home address” in F.S. 119.071(4)(d) was expanded to include: the legal description of the property, the physical address, the mailing address, the street address, the parcel ID number, the lot number, the subdivision name, and any other information that might reveal the home address of a protected party. Therefore, based on the revised definition of “home address”, a protected party can now require that the legal description be redacted from their deed, mortgage, or other document prior to it being recorded.

Florida law requires a reasonable title search and examination of that title search be performed to determine the insurability of title before a title insurance commitment and subsequent policy may be issued. The statutorily required title search and examination may be impossible to perform when the vesting deed, a deed in the chain of title, or a mortgage has no

legal description. Additionally, F.S. 695.01 requires that a deed, mortgage or other document be recorded in the Official Records to be good and effectual against subsequent purchasers and lenders. Deeds and mortgages recorded without legal descriptions do not provide record notice to prospective purchasers and lenders that the property has been conveyed or mortgaged. Therefore, the parties that the public records exemption is designed to protect, lose the protection afforded by Florida's recording statutes for title purposes

Due to the difficulties or the impossibility of being able to perform the required title search and examination of title where legal descriptions are redacted from deeds, mortgages, and other documents in the chain of title or in the current vesting deed, written approval from WFG's Underwriting Department is required to insure transactions involving these issues.

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.