



To: All Illinois Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: September 27, 2018
Bulletin No.: IL 2018-08
Subject: Summary – Illinois Legislative Updates - 2018

To all of our Illinois agents,

This Informational Bulletin was created to keep you apprised of current, vetoed, passed and/or approved legislation in Illinois, which directly impacts the title insurance and real estate industry. Please see the complete summary below listing all of the legislative updates for 2018:

(1) Public Act 100-1034 - Predictable Recording Fees

Provides that on and after January 1, 2020, counties of the third class (counties with a population of greater than 1,000,000) shall adopt and implement a predictable fee schedule for standard documents that eliminates surcharges or fees based upon the individual attributes of documents to be recorded with the county recorder. Provides for notice and a public hearing prior to approval of the predictable fee schedule. Provides that each standard document shall fall within one of five document class flat fee classifications and the fees are inclusive of county and State fees required for each recorded document. Provides that the county board may increase the document flat fees by ordinance or resolution if the established fees are not enough to cover the costs of providing the services related to the document class. Makes conforming changes. Effective January 1, 2019.

(2) SB3052 - Contractor Prompt Payment Act - VETOED

Provides that a retainage of 10% of the payment may be withheld from a payment under a construction contract prior to the completion of 50% of the contract. Provides that after 50% of the contract is completed, the amount of retainage for any subsequent payment may not exceed 5%.

(3) SB65 - Limiting Title Insurance Choice (Bifurcation) - VETOED

Amends the Title Insurance Act. Provides that in a transaction for the sale and purchase of residential real property, all title insurance policies for that transaction shall be issued through the same policy issuing entity, except as otherwise agreed by the seller and buyer.

(4) Public Act 100-0722 - Tax Lien Registry

Amends the statute that created the Uniform State Tax Lien Registration Act, which provides that the Department of Revenue shall establish and maintain a public database known as the Uniform State Tax Lien Registry. It also provides that, if any person neglects or refuses to pay any final tax liability, the Department of Revenue may file in the registry a notice of tax lien within 3 years from the date of the final tax liability and that the tax lien is perfected upon inclusion in the registry and shall be attached to all of the existing and after-acquired property of the debtor. Provides that the Department of Revenue may impose filing fees and fees to release the lien. The amendment provides that the tax lien shall also include the county or counties where the real property of the debtor to which the lien will attach is located. The amendment also provides that the lien will attach to all of the existing and after-acquired personal and real property of the debtor. Effective August 3, 2018.

(5) Public Act 100-1048 - Summons and Foreclosure

Amends the Code of Civil Procedure. Provides that the court's jurisdiction is not affected by a technical error in the format of a summons if the summons has been issued by a clerk of the court, the person or entity to be served is identified as a defendant on the summons, and the summons is properly served. Provides that a petition to reopen a foreclosure proceeding must include as parties to the petition, but is not limited to, all parties in the original action in addition to the current record title holders of the property, current occupants, and any individual or entity that had a recorded interest in the property before the filing of the petition. Provides that when a petition is filed to reopen a foreclosure proceeding, the purchaser or successor purchaser of real property subject to a foreclosure sale who was not a party to the mortgage foreclosure proceedings is entitled to remain in possession of the property until the foreclosure action is defeated or the previously foreclosed defendant redeems from the foreclosure sale if the purchaser has been in possession of the property for more than 6 months. Provides that actions for the recovery of real property following a foreclosure shall be brought within 2 years after possession is taken. Provides that every person in the actual possession of lands or tenements, under claim and color of title, as a purchaser following a foreclosure, and who for 2 successive years continues in possession, and also, during such time, pays all taxes legally assessed on the lands or tenements, shall be held and adjudged to be the legal owner of the lands or tenements, to the extent and according to the purport of his or her paper title. Amends the Mortgage Rescue Fraud Act. Provides that it is a violation for a distressed property consultant to, among other things, enter into, enforce, or act upon any agreement with a foreclosure defendant, whether the foreclosure is completed or otherwise, if the agreement provides for a division of proceeds between the foreclosure defendant and the distressed property consultant derived from litigation related to the foreclosure. Adds language concerning applicability and severability. Effective August 23, 2018.

(6) Public Act 100-0786 - Trust and Trustees Act

Amends Sec. 6.5 of the statute by removing the requirement of the trustee's acceptance to be included on the written instrument of conveyance into the trust. The amendment also deletes Sec. 6.5(b) which requires that the instrument of conveyance be recorded for the interest in real property to become trust property. Effective January 1, 2019.

(7) Public Act 100-1059 - Presumptively Void Transfers

Amends the Presumptively Void Transfers Article of the Probate Act of 1975. Includes a civil union partner within the scope of the term "family member" and includes a transfer on death instrument within the scope of the term "transfer instrument". Makes changes regarding the rebuttable presumption that a transfer instrument is void if the transferee is a caregiver and the fair market value of the transferred property exceeds \$20,000. Provides that if the property in question is an interest in real property, a bona fide purchaser or mortgagee for value shall take the subject property free and clear of the action challenging the transfer instrument if the transfer to the bona fide purchaser or mortgagee for value occurs prior to the recordation of a lis pendens for an action challenging the transfer. Sets forth conditions under which a financial institution or similar entity is not liable for distributing or releasing property when the transfer is challenged. Effective immediately.

(8) Public Act 100-1061 - Mechanic's Lien Act

Creates a mechanic's lien demand and referral pilot program that allows the recorder of deeds to establish an administrative law process to address mechanic's liens that have expired but have not previously been adjudicated or released. Effective January 1, 2019.

(9) Public Act 100-1044 - Uniform Power of Attorney Act

Creates the Uniform Power of Appointment Act that adopts the Uniform Law Commission model but makes it consistent with Illinois law. Effective January 1, 2019.

Should you have any questions, please contact your Illinois state underwriter, Stanley J. Czaja, at (773) 706-3779 or via email at SCzaja@wfgnationaltitle.com.

Information Bulletins are designed to provide our agents with information we think will help in managing their business or just being better title professionals, but which does not rise to the level of being an underwriting mandate and are not within the scope of the agency agreement.