

WFG Underwriting Bulletin



To: All Indiana Policy Issuing Agents of WFG National Title Insurance Company and WFG Offices

From: Underwriting Department

Date: August 7, 2019

Bulletin No.: IN 2019-04

Subject: Required Charges and Non-Allowable Charges for Indiana Transactions

The Indiana Department of Insurance (IDOI) routinely audits title agents and title underwriters who are doing business in Indiana. During these audits, if the IDOI discovers that title agents and title underwriters are collecting fees and premiums that are not included in the title underwriters' rate manuals or are not permissible under Indiana law, the IDOI requires the title agents/title underwriters to refund these fees and premiums to the consumers and also fines the title agents/title underwriters for non-compliance. Additionally, if the IDOI discovers that the title agents/title underwriters are not collecting fees mandated by Indiana law, the IDOI requires the title agents/title underwriters to pay these fees and also fines the title agents/title underwriters for non-compliance.

In an effort to assist our agents with staying in compliance, please note the following:

(1) **WFG Does Not Charge for Endorsements for Residential Transactions**

WFG **does not charge** for endorsements for **residential** transactions. Please make sure to follow our filed Indiana rate manual when calculating rates, fees, and charges for Indiana transactions; attached is the most current WFG rate manual on file in Indiana. It has an effective date of July 1, 2013; please do not follow any other rate manual. WFG does charge for the issuance of endorsements for **commercial** transactions as set forth in the rate manual. If you have any questions as to whether a particular transaction is classified as residential or commercial, please contact your Indiana State underwriters.

(2) **You MUST Issue and You MUST Charge for the Issuance of a CPL (Closing Protection Letter) for Residential Transactions**

For any closings conducted after **June 30, 2013**, title companies are required by Indiana law to issue a closing protection letter (CPL) to a **lender, borrower, buyer** and **seller** of the property in all residential real estate transactions in which a title policy is to be issued by the title company or insurance producer and the title company or insurance producer is also acting as a settlement or closing agent. A fee charged to each party receiving the benefit of the CPL will be payable at closing and reflected on the ALTA Settlement Statement/Closing Disclosure. The charge is **\$25** per **CPL** issued and must be remitted to WFG. CPLs are not required to be issued on commercial transactions but may be issued upon request

of any of the parties to the transaction. Attached is WFG's Filing Memo with the IDOI which confirms that WFG charges \$25 per CPL.

(3) **You MUST Collect Five Dollars (\$5.00) Per Policy Issued for the Title Insurance Enforcement Fund Fee (TIEFF)**

In 2006, the Indiana General Assembly passed IC 27-7-3.6-7 (as added by PL 171-2006, Sec. 5). This chapter created the Title Insurance Enforcement Fund Fee ("TIEFF"). The TIEFF was created for the following purposes:

- (1) To provide supplemental funding for department (of insurance) operations that are related to title insurance; and
- (2) To pay the costs of hiring and employing staff in the area of enforcement of title insurance law.

The statute has an effective date of July 1, 2006. IC 27-7-3.6-7 states:

- (a) A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars (\$5) as a fee for the title insurance enforcement fund at the time of payment for the title insurance policy.
- (b) A title insurer shall:
 - (1) retain two dollars (\$2) of the fee collected under subsection (a) as an administrative fee; and
 - (2) pay to the department three dollars (\$3) of the fee collected under subsection (a) for deposit in the title insurance enforcement fund.

For residential transactions, the five-dollar (\$5.00) fee must be reflected on the ALTA Settlement Statement/Closing Disclosure as the TIEFF. The fee applies to all title insurance policies including, but not limited to, Owner's Policies, Loan Policies and Policies issued for second mortgages. All companies, individuals, attorneys and lending institutions that conduct real estate closings in which a title policy is issued, or is to be issued, shall facilitate the collection of fees which must be remitted to the Department of Insurance (IDOI). Failure to collect or remit the fee can result in disciplinary action arising out of but not limited to the following statutes IC 27-1-3-19, IC 27-1-17-9, IC 27-4-1, and IC 27-1-15.6.

The five-dollar (\$5.00) TIEFF fee should be remitted to WFG as WFG then remits the three-dollar (\$3.00) portion to the IDOI.

(4) **Re-Issue and Simultaneous Issue Rates/Discounts Must be Given when Applicable**

- (a) **Re-Issue Rate.** You must give the re-issue rate/discount to the consumer when applicable. Pursuant to Chapter 1, Paragraph F ("Re-Issue Rates") in WFG's filed Indiana rate manual, the re-issue rate, where applicable, shall be 60% of the original customer charge. Re-issue rates may apply to an owner's policy or a homeowner's policy, when a prior owner's policy of title insurance, issued by any underwriter within the preceding 10 years, is presented with the application for title insurance. Re-issue rates may apply to a loan policy, when a prior owner's or loan policy, issued by any underwriter within the preceding 10 years, is presented with the

application for title insurance. The re-issue rate may be applied up to the face amount of the prior policy.

- (b) **Simultaneous Issue Rate**. When an owner's or leasehold owner's policy and a mortgagee's loan policy covering identical property are issued simultaneously, the rates applicable for the owner's or leasehold owner's policy shall be the Standard Rate. The premium for the loan policy so simultaneously issued shall be \$50.00 for the amount of insurance not in excess of the owner's or leasehold owner's policy. The premium on the amount of the loan policy, if any, exceeding the owner's or leasehold owner's policy shall be the Standard Rate for mortgages.

In all cases the owner's or leasehold owner's policy shall be issued for the full insurable value of the premises, if insuring a fee simple estate, or for the full insurable value of the leasehold estate, if insuring a leasehold estate. Both policies must bear the same effective date and the owner's or leasehold owner's policy must show the mortgage as an exception. It is not essential that the fee simple or leasehold estate be acquired simultaneously with the issuance of the mortgagee's loan policies.

(5) **There is a Charge for Deletion of the Survey Exception**

If you are asked to delete the survey exception from either an owner's policy or a loan policy, there is a fee for removing the survey exception.

The rate is \$100.00 for the survey exception to be deleted from an owner's policy.

The rate is \$50.00 for the survey exception to be deleted from the loan policy.

You should not charge for the deletion of the survey exception on short form policies as they do not contain a survey exception.

We truly value your business and the relationship that we have with you. Please let us know if there is anything that we can do for you.

If you have any questions at all pertaining to this Bulletin or to Indiana transactions in general, please do not hesitate to contact your Indiana state underwriter, Stanley J. Czaja, at (773) 706-3779 or via email at SCzaja@wfgnationaltitle.com.

NOTE: 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.