



To: All Indiana Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 30, 2020
Bulletin No.: IN 2020-07
Subject: New Witness Requirements to Recorded Documents

To all WFG Agents doing business in Indiana,

Effective July 1, 2020, Indiana Statute 32-21-2-3 will be amended as indicated below:

Sec. 3. (a) Except as provided in subsection (c), a conveyance, a mortgage, or an instrument of writing to be recorded must be:

(1) acknowledged by the grantor; ~~or~~ **and**

(2) proved before a:

- (A) judge;
- (B) clerk of a court of record;
- (C) county auditor;
- (D) county recorder;
- (E) notary public;
- (F) mayor of a city in Indiana or any other state;
- (G) commissioner appointed in a state other than Indiana by the governor of Indiana;
- (H) minister, charge d'affaires, or consul of the United States in any foreign country;
- (I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
- (J) clerk-treasurer for a town; or
- (K) person authorized under IC 2-3-4-1.

This change to one word in the statute is resulting, although unintentionally, in a significant change to the recordation requirements in the State of Indiana. The change from "or" to "and" has been interpreted as requiring a witness and an acknowledgment of the signature of the witness. The witness must satisfy all of the following requirements:

1. The witness is not a party to the real estate transaction (deed, mortgage, lease, etc.) disclosed by the instrument and does not benefit from that transaction.

2. The witness watched the grantor, mortgagor, or original signer execute the instrument with his or her signature or mark.
3. The witness signs the instrument, and the witness's name is legibly printed, typewritten, or stamped immediately beneath the witness's signature.
4. The witness appears before a notary public or other notarial officer, provides satisfactory proof of the witness's identity, and is sworn or placed under oath by the notary public or other notarial officer.
5. The witness swears or affirms to the notarial officer that the witness saw the original signer sign the instrument in the witness's presence.
6. The witness provides any other necessary information to the notarial officer to complete the notarial certificate as to the witness's identity, signature and sworn or affirmed declaration information.

An employee of a title company is a sufficient witness, but the employee will need his/her signature notarized. I have included a [Certificate of Proof form](#) to be attached to documents to be recorded.

In order to properly inform our customers, the following requirement will need to be included in every commitment:

Documents satisfactory to the company that convey the title or create the interest to be insured, or both, must be properly executed by the **signor, acknowledged by a notary and additionally executed by a subscribing witness before a notarial officer** pursuant to IC 32-21-2-3(a) effective July 1, 2020, and recorded in the Public Records.

If a recorded document is not properly witnessed, WFG National Title Insurance Company will be unable to insure the transaction. **It is important to note the form of signor acknowledgment has not changed. The only change and addition involves the [Certificate of Proof](#).**

For questions regarding a specific transaction or if you have any questions regarding this bulletin or if you need any additional information, please contact:



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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.