

## WFG Informational Bulletin

To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: June 4, 2018  
Bulletin No. LA 2018-05  
Subject: 2018 Louisiana Legislative Update

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This is a follow up to Bulletin No. LA 2018-03. The 2018 Regular Session of the Louisiana Legislature ended early on May 18. All of the following acts take effect August 1, 2018.

### **ACT 122 (HB 173): Prescription involving succession property**

R.S. 9:5630 previously provided for a 2-year prescriptive period for actions by unrecognized successors against third parties, running from the “finality” of the judgment of possession. As proposed, the bill would have changed the commencement of prescription to the “recording” of the judgment of possession. As enacted, the statute now provides for prescription to run from the “rendering” of the judgment of possession.

R.S. 9:5632 also provides for a 2-year prescriptive period to challenge the court-ordered alienation, encumbrance or lease of property by a succession representative because of defective legal procedure. This act adds a new subsection B, extending that prescriptive period to sales, leases and mortgages by an independent succession representative provided that there is a court order authorizing the independent administration.

If it has been less than two years since a judgment of possession was rendered or a sale by a succession representative, your title examinations must include a review of the succession pleadings to ensure compliance with law and procedure.

### **ACT 452 (HB 172): Cancellation of inferior liens after a sheriff’s sale**

The Legislature made significant revisions to the bill as originally drafted. As enacted, only the seizing creditor or its attorney of record in the foreclosure suit may file an affidavit to cancel an inferior mortgage or lien in so far as it affects the property sold by the sheriff but not included in the sheriff’s release.

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The act creates R.S. 13:4368, setting forth the requirements for the affidavit. Of note, the affiant must certify that written notice of seizure was given to the inferior creditor prior to the sheriff's sale, and must include a copy of the written notice and evidence of its delivery.

**ACT 202 (HB 219): La. Clerk's Remote Access Authority**

This act requires each clerk of court to become a member of the LCRAA by July 1, 2020, and to provide access to the parish mortgage and conveyance indices through the LCRAA statewide portal. The requirement to provide access to images was struck from the bill.

**HCR 31: Directs the La. State Law Institute to draft e-notary legislation**

SB 358 and HB 572 proposed an electronic notarization framework before the Law Institute, which was tasked by the Legislature with studying this issue, reported its findings and recommendations.

Neither bill was enacted this year, although SB 358 came close. This concurrent resolution, recognizing the increasing reliance on technology and the inevitability of electronic and remote notarization, urges the Law Institute to conclude its review and issue proposed legislation no later than February 1, 2019.

**HCR 86: Directs the La. State Law Institute to study limited authority notaries public**

Citing a shortage created by the demanding commission requirements for the expansive notarial authority unique to Louisiana, this concurrent resolution requests the Law Institute to consider the need for a separate classification of notaries public with limited authority to witness signatures but not draft legal documents. The resolution urges the Law Institute to report its findings and propose legislation no later than February 1, 2019.

**HCR 102: Directs the La. State Law Institute to study the classification of modular homes**

HB 545, which proposed revisions to the Manufactured Home Property Act, did not pass this year. Instead, the Legislature adopted this concurrent resolution, urging the Law Institute to make recommendations by February 1, 2019, regarding the classification and treatment of modular homes as immovable or movable property.

The full text of the acts and resolutions can be reviewed [HERE](#). If you have any questions or concerns, please do not hesitate to contact us.

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