



To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: April 3, 2019  
Bulletin No. LA 2019-01  
Subject: 2019 Proposed Legislation

---

The 2019 Regular Session of the Louisiana Legislature gets underway Monday, April 8, and is scheduled to run through June 6. Below are summaries of some of the pre-filed bills of interest to the title industry.

**HB 4 (Dwight): Alternative procedure for sheriff's sales**

Current law requires the sheriff to read aloud the mortgage certificate. This bill would allow the sheriff to make the certificate available to the public by other means, including posting or providing copies.

**HB 12 (Carter) / 439 (Ivey): Local option for homestead exemption**

These proposed constitutional amendments would allow parish governments to adopt ordinances adjusting the property tax homestead exemption if approved by voters. HB 12 would permit reductions in the exemption but maintain a statewide maximum of \$7,500 in assessed value (\$75,000 fair market value). HB 439 would authorize the exemption to be reduced or increased.

**HB 130 (Carter): Term of trusts**

The trust code currently provides for a maximum term, generally not to exceed the later of the death of the last surviving income beneficiary or the expiration of 20 years from the death of the last settlor to die. This bill would amend R.S. 9:1832 to provide that a trust instrument may provide for any term, including an indefinite one.

**HB 136 (Pylant): Assessed value for homestead exemption**

Under current law, properties with assessed values below \$7,500 may not be subject to any taxes. Under this proposed constitutional amendment, the first \$1,000 of assessed value would be subject to property taxes with the next \$7,500 in assessed value exempt.

**HB 203 (Miller): Private works act privileges**

This comprehensive revision of the Private Works Act, drafted by the La. State Law Institute, proposes both substantive and stylistic changes. Regarding "no work" affidavits, the

*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.*

amendment would require that the site inspection must occur and the affidavit must be filed within four business days before or four business days after the filing of the mortgage. The bill also raises the threshold for the requirement that a notice of contract be filed when the price of the work exceeds \$100,000, up from \$25,000. The bill alters some of the applicable lien filing periods. Notably, it sets six- and seven-month lien periods for subcontractors and general contractors respectively, running from substantial completion, when there is a recorded notice of contract but no recorded notice of termination. It also eliminates the 70-day lien period for sellers of movables used in residential projects. The amendments include an express requirement that the clerk cancel, upon written request, a statement of claim that has prescribed for failure to file a timely notice of lis pendens.

#### **HB 231 (Pearson): Public access to running waters**

Running waters are considered public things owned by the state per Civil Code Art. 450. This bill would enact R.S. 9:1251.1, providing that private property owners may not restrict public access to running waters navigable by registered motorboats except in limited circumstances. This proposal would include waters covering a privately-owned water bottom with direct, natural or man-made, access to a state-owned water body.

#### **HB 297 (Howard and Foil): Mandatory secretary of state forms**

This bill would amend various provisions of Titles 9 and 12 of the Revised Statutes to require the use of forms prepared by the secretary of state.

#### **HB 466 (Davis): Tax sale notice requirements**

Under this proposal to amend R.S. 47:2153(A)(1), the tax collector could record an affidavit describing efforts to locate a tax debtor and provide the required notice of delinquency. The bill provides that the failure of the tax debtor to receive actual notice would not affect the validity of the tax sale when the collector demonstrates reasonable efforts to provide notice of the tax sale.

This is problematic. First, the proposed amendment conflicts with existing Subsection C, which authorizes the tax collector to cancel a tax sale in the absence of actual notice to any tax sale party. Second, it applies only to the initial notice of delinquency sent to a tax debtor and not to the notice of sale required to be sent to all tax sale parties identified through a search of the land records.

#### **HB 514 (Garofalo): Remote online notarization**

The La. State Law Institute drafted this bill following last year's defeat of a more expansive RON proposal and the passage of HCR 31. As proposed, the new law would authorize remote online notarization by certain Louisiana notaries with statewide jurisdiction and physically located in the state. A party could execute an act before an approved notary using audio and video technology while physically located outside the notary's presence or even the state.

Notably, the law would prohibit the use of remote online notarization for authentic acts generally, as well as wills, trust instruments, donations, and matrimonial agreements specifically. The bill would also require clerks to accept for recording a hard copy of an electronically signed instrument if certified by the notary before whom it was executed. The

*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.*

bill requires the secretary of state to promulgate rules for implementation before August 1, 2020, when the law would take effect.

**SB 26 (Martiny): New Home Warranty Act**

This bill proposes a number of changes and clarifications to the New Home Warranty Act, R.S. 9:3141 *et seq.* Among the changes: it removes “additions” from the scope of work contained within the definition of a “Builder”; provides that the “Warranty commencement date” means the earlier of the date of occupancy or date a certificate of occupancy is granted when a home is constructed on land previously acquired by the owner; and eliminates certain exclusions, including for fences, driveways and walkways, and limits other exclusions, including those for insect and water damage, based on the absence of the fault by the builder. Of particular note, a builder would lose the protections of the Act by failing to provide the owner with the timely required notice of the statutory warranties. The bill also makes clear that an owner maintains the right to bring contractual claims against a builder.

**SB 28 (Price): Residential leases and evictions**

A less comprehensive overhaul than what was proposed in 2017, this bill would amend the law governing residential leases by mandating a statutory 10-day grace period to pay rent and extending the notice requirement to terminate a month-to-month lease from 10 to 30 days. The bill would also prohibit a waiver of the 5-day notice to vacate prior to eviction except in cases of serious health and safety violations, and permit a judge to delay rendition of a judgment of eviction up to seven days in exceptional circumstances to prevent undue hardship to the tenant.

**SB 49 (Fannin): Out-of-state trust companies**

The bill would amend the trust code to permit an out-of-state trust company to serve as a trustee of a Louisiana trust only if it maintains a physical office in this state.

**SB 106 (Lambert): Environmental liens**

This bill would amend R.S. 30:2205 to provide the state with a superpriority lien on property for which funds were expended from the Hazardous Waste Site Cleanup Fund. Similar to the existing lien rights under R.S. 30:2281, the state’s lien would outrank previously-filed liens, mortgages and other encumbrances for any amount exceeding fair market value of the property prior to closure, assessment or remediation. Passage of this bill may require changes to the ALTA 8.1 endorsement.

**SB 115 (Ward): Co-ownership of mineral rights**

The Mineral Code authorizes the exercise of rights contained in mineral servitudes and leases granted by less than all co-owners. This bill would reduce the consent requirement to those holding at least a 75% ownership interest from the current 80%.

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

*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.*