



To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 27, 2019
Bulletin No.: LA 2019-02
Subject: 2019 Legislative Update

The 2019 Regular Session of the Louisiana Legislature ended on June 6. All acts take effect August 1, 2019, unless otherwise noted below.

ACT 325 (HB 203): Private Works Act privileges

Legislators amended the Law Institute bill as it made its way through the House and Senate. This comprehensive overhaul of the Private Works Act will affect how we deal with construction and provide mechanic's lien coverage. Significant changes were made to 'No Work' affidavits and the lien periods. This act largely takes effect January 1, 2020. An in-depth analysis of the important changes will be provided in a later bulletin or seminar.

ACT 85 (SB 106): Environmental liens

As amended by this act, R.S. 30:2205 will now provide the state, through the DEQ, with a superpriority lien on property remediated with money from the Hazardous Waste Site Cleanup Fund. The state's lien will outrank prior recorded liens, mortgages and other encumbrances for any amount exceeding the fair market value of the property prior to the cleanup. This is similar to the superpriority lien provided by R.S. 30:2281, which is listed as an exception on the ALTA 8.1 endorsement. Stay tuned for further guidance.

ACT 384 (HB 466): Tax sale notice requirements

This bill morphed as it made its way through the legislature. The act now requires the tax collector to send an additional post-sale notice, and apparently an additional notice of delinquency, by first class mail within 90 days of the expiration of the redemption period to each tax sale notice party, which by definition is the tax debtor and anyone who requested notice.

The act also requires the tax collector to demonstrate reasonable and diligent efforts to provide notice of the tax sale to the tax debtor if the notice of delinquency is returned undelivered. In that event, the tax collector must take three additional steps, which may include searching for additional addresses, personal or domiciliary service or posting notice. The provision authorizing the tax collector to execute an affidavit demonstrating these steps was dropped.

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The act also provides that the failure of the tax debtor to receive actual notice does not affect the validity of the tax sale when the collector has complied with the reasonable efforts requirement.

As noted previously, these changes are problematic. The statute still retains its contradictory provision authorizing the tax collector to cancel a tax sale in the absence of actual notice to any tax sale party. Further, as it reads, the reasonable efforts requirement does not apply to the notice of sale required to be sent to all tax sale parties identified through a search of the land records.

Please see Bulletin LA 2018-06 for our guidelines on insuring tax sale titles.

ACT 350 (SB 115): Co-ownership of mineral rights

This act amends Sections 164, 166 and 175 of Title 31 (Mineral Code), authorizing the exercise of rights contained in mineral servitudes and leases granted by co-owners holding at least a 75% ownership interest, down from 80%. This act has prospective application only.

ACT 415 (HB 4): Alternative procedure for sheriff's sales

This revision to CCP Art. 2334 allows the sheriff to post or provide written or electronic copies of mortgage certificates at least 24 hours prior to a sale, in lieu of reading the certificate aloud at the sale. The act also states that the sheriff's failure to provide or read the certificates does not impact the validity of the sale, nor give rise to a cause of action against the sheriff, seizing creditor, and importantly, the purchaser.

ACT 19 (HB 297): Secretary of State forms

The mandatory use of the Secretary's forms was dropped. The act allows the Secretary of State to provide forms for use by businesses but does not require their use. The act also modifies the procedure for suspending a foreign entity's certificate of authority. These changes took effect May 28, 2019.

ACT 334 (SB 49): Out-of-state trust companies

This act amends 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 and if the state where the company has its principal location allows Louisiana-chartered trust companies to operate there. These changes took effect June 11, 2019.

What didn't pass:

Once again, the remote online notarization bill failed to be brought before both houses before the session ended. It will likely be back again next year. Proposed changes to landlord-tenant laws, the homestead exemption and the New Home Warranty Act also died in committee.

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

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