



To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 28, 2022
Bulletin No.: LA 2022-02
Subject: 2022 Louisiana Legislative Session

The 2022 Regular Legislative Session ended June 16. There were a number of bills enacted with potential impact on the title insurance business. Unless otherwise specified, the new laws take effect August 1, 2022.

INSURANCE PRODUCERS

ACT 273 (HB 545) – This law repeals R.S. 22:513(B)(6), eliminating the prelicensing education requirement which was imposed upon title insurance producer applicants as part of the 2020 ‘brick and mortar’ law. The repeal took effect on June 3, 2022.

ACT 264 (SB 230) – Speaking of the ‘brick and mortar’ law, Act 264 tightens the residency requirements for licensees. It adds definitions for “Affiliated business”, “Full-time employee” and “Principal place of business”, and amends the definition of “Agency title insurance producer” to effectively require that a licensed entity have its principal place of business in this state and not just employ a resident individual producer and maintain suitable office space here. This amended definition in R.S. 22:512(11)(b) may conflict with the qualifications for an agency title insurance producer provided in R.S. 22:513(C)(1), which was left unchanged. However, R.S. 22:513(C)(2) was amended to require that the agency designate a resident with a “degree of affiliation” to the entity as its responsible individual producer. The act does not state that it applies retroactively.

ACT 683 (SB 209) – This amendment increases the maximum aggregate penalty from \$250,000 to \$500,000 that the Commissioner of Insurance can impose if he determines that a licensee or other person has engaged in unfair competition or deceptive acts or practices.

SUCCESSIONS

ACT 40 (HB 225) – This law repeals Civil Code Articles 897 and 898, which provided that parents and other ascendants inherited property donated by them to a decedent who died without descendants, effectively leapfrogging siblings and their descendants as to that particular property.

ACT 44 (HB 309) – This law amends Code of Civil Procedure Article 3434(C)(1) and the requirements for a small succession affidavit. A photocopy of a certified death certificate may now be recorded with the affidavit in lieu of a certified copy issued by the registrar.

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ACT 156 (HB 515) – This law amends R.S. 12:1333 and enacts R.S. 12:1333.1, expanding the powers of a deceased LLC member’s succession representative over the company. The administrator or executor for the last surviving member could sell LLC property under existing law. The new law expressly authorizes the succession representative of any of the deceased members to petition a court to dissolve the LLC. The newly-enacted section also makes clear that the death of the member of a single-member LLC does not cause the company to terminate; that the succession representative is fully authorized to exercise management rights of the company while the succession remains under administration; and that heirs or legatees placed in possession of the membership interest are not just assignees but can exercise full membership rights unless otherwise provided in the articles or operating agreement.

PUBLIC RECORDS

ACT 394 (HB 841) – Louisiana has followed the lead of several other states which have enacted data redaction laws in the wake of tragic attacks on public officials and their families. This new law, enacted as R.S. 44:11.1, allows any judge to request the removal of his or her name from information concerning his or her domiciliary address on a publicly accessible website containing the property tax assessment rolls. The request must be submitted in writing annually. Members of the public, presumably including title abstractors and examiners, can submit written requests for redacted ownership information to the tax assessor or collector. Notably, the law expressly provides that it shall not be construed to restrict public access to parish immovable property records. It appears that only tax information made available by the assessor or collector, and not land records maintained by the clerk, will be affected by this law.

ACT 337 (HB 473) – This law, which became effective June 10, 2022, clarifies that a custodian of public records can collect reasonable fees for providing electronic copies.

ACT 481 (HB 549) – This law enacts R.S. 9:2734, declaring that any covenant, condition or restriction in an act affecting immovable property that prohibits the alienation, use or occupancy on the basis of race or religion is void. The law also amends the condominium, timeshare and homeowners association acts to declare that such discriminatory covenants in declarations, bylaws, plans or community documents, already illegal and unenforceable under existing law, are also void.

HOMEOWNERS ASSOCIATIONS

ACT 603 (HB 57) – This act amends R.S. 9:1145 and 1147 dealing with HOA liens. It appears to create a separate class of lien for charges assessed for “alleged violations of community documents”. This lien for violations prescribes one year from recordation. However, the statute provides that a lien for “dues, fees, or assessments” remains effective for five years from recordation, as under existing law. The act does not identify what constitutes a violation of the community documents subject to the new one-year prescriptive period and whether that would include nonpayment of assessments. Given that uncertainty, determining the precise nature of the lien and the applicable prescriptive period carries significant risk for title examiners and insurers. Consequently, WFG will continue to require releases for all HOA lien recorded less than five years prior to the insured transaction.

ACT 581 (HB 1058) – This act, effective January 1, 2023, amends 9:3198 and the mandatory disclosures in connection with residential real estate sales. Sellers will be required to provide HOA governing documents to buyers upon request and notify them how to obtain copies of restrictive covenants and building restrictions affecting the property.

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MISCELLANEOUS

ACT 37 (HB 172) – This act, a product of the Law Institute, amends a provision in the trust code, R.S. 9:2061, to provide that the duties of the trustee are owed exclusively to the settlor, and not to the beneficiaries, if and while the trust is revocable, unless the trust instrument provides otherwise.

ACT 91 (SB 363) – This law, which enacts Code of Civil Procedure Article 2336.1, establishes a procedure for a sheriff or seizing creditor to subpoena a senior lienholder for a payoff in advance of a foreclosure on the seizing creditor's junior lien.

ACT 285 (SB 103) – This act, effective July 1, 2022, purports to legislatively overrule the Louisiana Supreme Court's decision in *Ewing v. Westport Ins. Co.*, 315 So. 3d 175 (La. 2020) and establishes a 'collectability rule' regarding legal malpractice as R.S. 9:5605.2. The new law limits a former client's recovery against an attorney to the maximum amount of damages the attorney shows by a preponderance of evidence that the client could have collected in the underlying matter.

ACT 469 (HB 389) – Significant changes have been made to recently-enacted laws dealing with the suspension of prescriptive and peremptive periods and legal filing deadlines following declared states of emergency or disaster. This act amends Civil Code Articles 3461 and 3472.1, enacts Code of Civil Procedure Article 196.2 and repeals Code of Civil Procedure Article 562, returning to the Governor the authority to temporarily suspend or extend prescriptive and peremptive periods while maintaining the Supreme Court's authority to suspend or extend deadlines applicable to court proceedings, including abandonment of actions.

Importantly, the new law clarifies that suspensions in emergency orders apply only to periods and deadlines which would have otherwise accrued in their absence. After the period of suspension has ended (as stated in the order, or for the duration of the order if not expressly stated), prescription will commence again and run for no more than 30 days thereafter. Parties to legal proceedings will have 30 days to file affected pleadings unless the Supreme Court orders a longer period.

ACT 491 (HB 697) – this act expands Louisiana's medical marijuana program to authorize a maximum of 30 pharmacy locations statewide, up from the nine locations permitted under the original law. As a reminder, marijuana remains illegal under federal law and WFG will not insure property used in connection with a 'state-legal' marijuana business. Please refer to [Underwriting Bulletin](#) NB 2018-07 (revised 6/24/19) for further guidance.

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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