

WFG Underwriting Bulletin



To: All Louisiana Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 22, 2023
Bulletin No.: LA 2023-05
Subject: Erroneous Special Assessments and Supplemental Property Tax Bills

We have been made aware of a growing number of claims and potential claims for supplemental property tax bills being issued due to special assessment levels or freezes based on age, disability or veteran status that property owners were no longer qualified to receive and which were cancelled retroactively by the assessor. These supplemental bills are being issued to current property owners for up to three prior tax years and after the sale of the property by the former property owner. R.S. 47:1966 authorizes supplemental assessments of omitted or improperly assessed property for no more than three years of back taxes.

In the cases we have seen, it appears that the supplemental tax bill was triggered when a succession administrator or heirs placed in possession by a judgment of possession or small succession affidavit sold property that had an age freeze in place after the decedent died. While the current set of claims all involve Orleans Parish property, these special assessment levels are authorized under state law and supplemental bills could be issued in any parish.

Because Orleans Parish property taxes are paid in advance, there is a greater risk of a supplemental assessment and tax bill for the current year in which a sale closes in New Orleans. In all other parishes, taxes for the current year largely are not due and payable when the sale closes and can be estimated based upon the higher sales price rather than the lower special assessment. But a supplemental assessment and bill for prior years is a potential risk statewide.

To address this risk, we have adopted the following guidelines for transactions that have not yet closed. These apply to the sale of property in any parish where an owner's title insurance policy will be issued.

NOTE: This Bulletin is for the sole purpose of establishing underwriting positions and policies reflecting WFG National Title Insurance Company's best business judgment. 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.

1. Review the property tax assessment and tax bills to determine if a special assessment level was applied in at least any of the last three years. Pay particular attention when you have a sale by a succession representative or heirs recently placed in possession, or who will be placed in possession in connection with your sale.
2. If an age freeze or any other special assessment level was in effect at any time during that period and the taxpayer of record is not your seller:
 - a. Avoid issuing, or committing to issue, a Homeowner's Policy. Use a standard Owner's Policy instead.
 - b. Put the following additional exception on the commitment and owner's policy: "Supplemental taxes for the current year or prior years due to an erroneous special assessment level." You may put a note on the commitment that the exception will be deleted from the loan policy only.
 - c. Disclose the special assessment level and exception to the buyer prior to closing.
 - d. If you are unsure whether the property is or has been subject to a special assessment level, contact the assessor's office for confirmation or follow the guidelines above.
3. Consider adding express provisions to your standard closing documents to address the potential risk, regardless of whether the tax bill indicates a special assessment level.
 - a. On the seller's affidavit and indemnity agreement: "Seller knows of no erroneous special assessment level or freeze affecting the property for the current or three prior tax years."
 - b. On the tax proration agreement: "Seller hereby agrees to pay supplemental taxes assessed for prior years due to an erroneous special assessment level or freeze."

If you discover a supplemental property tax bill on a transaction you already closed, reach out to the sellers; inform them of the bill and, if necessary, their obligations under the closing documents; and request payment of the bill (or their re-prorated share if the assessment relates only to the year of the sale). If the sellers are not responsive or cooperative, the Insured can submit a claim for review to the WFG Claims Department using the contact information provided in the policy or to claims@wfgnationaltitle.com.

We will continue to monitor this situation as it evolves and may adjust these guidelines as needed. If you have any questions, please do not hesitate to contact underwriting counsel.

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