



UNDERWRITING BULLETIN TO LOUISIANA AGENTS

From: Irl R. Silverstein, State Underwriting Counsel
Dated: September 14, 2015
Bulletin No: LA15-006
Name: **Adjudicated Properties Endorsement (WFGLATSE)**

After much discussion and seeking a way to assist governmental authorities around the state in disposing of properties which have been out of commerce and off of the tax rolls, WFG filed the attached endorsement with the Louisiana Department of Insurance. This endorsement is strictly limited to tax sale properties adjudicated to a governmental taxing agency, and does not apply to tax sales to third parties.

Attached to the endorsement is the specific guidelines for use of the endorsement. Since the filing of this endorsement the City of New Orleans has had three very successful auctions. It is anticipated that the City will hold one auction monthly to dispose of the inventory of property, and further that other agencies around the state, including Baton Rouge will be doing the same.

We are acutely aware of the risks inherent with these properties and thus the pricing for the endorsement, with a minimum charge of \$750.00, with the split between Company and the agent being 90/10, regardless of a particular agent's underwriting agreement.

You may be receiving inquiries to (1) issue and endorsement to increase coverage to an owner, upon completion of improvements; (2) issue a lender's policy, or (3) issue a new Owner's policy in connection with a sale from the tax sale purchaser to a third party. Please be aware that the normal underwriting guidelines still are applicable, as are reissue rates; with the only difference being the requirement to issue and charge the appropriate premium for this endorsement. However, if your customer does not want to pay for the endorsement, you may still issue the policy, but must take exception to the specific risks covered by the endorsement.

Please feel free to call us with any questions.

This endorsement may only be issued upon written authorization from WFG, which will be granted on satisfaction to the Company of one of the following:

1. The agent has provided sufficient evidence, as determined solely by WFG underwriting counsel, that all interested parties were properly and timely noticed prior to the tax sale of the adjudicated property, or subsequent thereto have executed quitclaims or other valid transfers of any interest in the adjudicated property.
2. The agent has obtained, at agent's expense, a certification from a tax title research vendor approved by WFG that the subject adjudicated property has been satisfactorily vetted in accordance with WFG policies entered into with said vendor, as set forth on the Adjudicated Title Insurance Underwriting Guidelines of said vendor, attached herewith for reference.

Irl R. Silverstein

David A. Silverstein

Louisiana State Underwriting Counsel



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IDENTIFIED RISK COVERAGE FOR TAX SALE ENDORSEMENT

Commitment Number:
Agent File Number:
Insured:

Policy No.:
Effective Date of Endorsement:
Date Issued:

1. As used in this endorsement "Identified Risk" means: the chain of title for the insured property contains a tax sale identified in Schedule B, Item(s)_____.

2. The Company insures against loss or damage sustained by the Insured by reason of:

A final judgment of a court of competent jurisdiction that is effective against the insured holding that the tax sale(s) identified in Item(s)_____ is/are invalid due to a payment nullity or redemption nullity as defined by Louisiana law.

3. Upon payment of applicable premiums at the rates then on file for policies and endorsements, WFG National Title Insurance Company will issue its title policies to a future purchaser, lessee or mortgagee of the insured, subject only to defects, encumbrances or other matters shown in this policy and those subsequently filed in the public records.

4. WFG National Title Insurance Company shall have no obligation to increase the Amount of Insurance if either the Company or Insured has received notice of a potential claim that could result in a loss to the Company, other than a claim based upon the invalidity of the tax sale due to a payment nullity or redemption nullity as defined by Louisiana law.

5. The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of the Title by reason of the Identified Risk insured against by Paragraph 2 of this endorsement, but only to the extent provided in the Conditions.

6. This endorsement does not obligate the Company to establish the Title free of the Identified Risk or to remove the Identified Risk, but if the Company does establish the Title free of the Identified Risk or removes it, Section 9(a) of the Conditions applies.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

WFG NATIONAL TITLE INSURANCE COMPANY

By: _____
Authorized Signatory

TAX SALE ENDORSEMENT

This extra-hazardous risk endorsement shall be issued, upon pre-approval of the Company's Underwriting Department, when the chain of title discloses that a political subdivision is the current vestee and seller of the subject property, which was acquired by that political subdivision through a tax sale. This endorsement is primarily to be used to insure tax titles transferred by political subdivisions, at auction to third party developers, who obtain rehabilitation loans to return blighted properties to commerce. The endorsement insures against loss sustained by an insured purchaser or insured lender caused by a final and effective final judgment holding that a tax sale in the chain of title is invalid due to a payment or redemption nullity as defined by Louisiana law. This endorsement also binds the company to insure future sales, leases and mortgages of the property if a future purchaser, lessee or mortgagee purchases the endorsement along with an owner's, leasehold or loan policy.

The rates for the endorsement are determined by the amount of the policy:

<u>Liability</u>	<u>Premium</u>
Up to \$25,000.	\$750
\$25,000 to \$50,000	\$750 plus \$15 per thousand over \$25,000
\$50 to \$150,000	\$1125 plus \$3.75 per thousand over \$50,000
\$150,000 to \$250,000	\$1500 plus \$2.50 per thousand over \$150,000

Explanatory Memorandum

WFG National Title Insurance Company

Form Filing: Tax Sale Endorsement

Effective Date: December 19, 2014

WFG National Title Insurance Company (herein referred to as "WFG") is a member of the Louisiana Title Statistical Services Organization, Inc. (hereinafter referred to as "LATISSO"). LATISSO has been filing rates and forms for its members as authorized by R.S. 22:1466.

LATISSO has not filed an endorsement form for the purpose of providing affirmative coverage for buyers and/or lenders of real property following the processing of a tax sale. WFG has determined that a need exists for local political subdivisions to be able to sell property, which has been the subject of a tax sale, to a bona fide purchaser who can obtain title insurance. These types of transactions have been suspect in the past and have resulted in political subdivisions holding titles to adjudicated properties that most title insurers will not insure. Many of the properties in urban areas adjudicated to the political subdivisions are blighted or abandoned. The inability of the political subdivisions to sell these properties without spending thousands of dollars for additional title searches and curative work has contributed to urban blight.

This proposed endorsement insures the buyer against this ultra-hazardous risk. Courts tend to be sympathetic to property owners who present arguments resulting in judgments annulling tax sales that were conducted in compliance with statutory procedures. A recent decision of the Louisiana Supreme Court allowed a tax debtor to annul a tax sale even where the tax sale purchaser had obtained a judgment quieting title. In *Chase Bank USA, N.A. v. Webeland v. Webeland*, No. 12-0240 (La. 9/28/12); 98 So. 3d 1263, the Louisiana Supreme Court held that the judgment quieting title was not *res judicata* as to tax debtors who did not receive prior notice of a tax sale.

Most title insurance agents do not have sufficient experience in the intricacies of tax sale procedures and lenders will not advance funds to remediate blighted or abandoned properties without the availability of title insurance. Many of the title chains have defects in the chain caused by deceased parties and missing heirs. In order to insure tax titles, additional sources must be reviewed to reduce the risk that a tax purchaser's title will not be disturbed. Additional notices must be given before the political subdivision may include the property in its auction.

Page 2 of 2
Explanatory Memorandum
Tax Sale Endorsement
November 3, 2014

Even after an extensive notification process, if an interested party later claims he did not have sufficient notice of the tax sale in violation of the due process clause; it is highly likely that a court may annul the tax sale.

This endorsement will primarily be used to insure tax titles transferred by political subdivisions at auction to third party developers who obtain rehabilitation loans to return blighted properties to commerce.

The endorsement insures against loss sustained by an insured purchaser or insured lender caused by a final and effective final judgment holding that a tax sale in the chain of title is invalid due to a payment or redemption nullity as defined by Louisiana law.

This endorsement also binds the company to insure future sales, leases and mortgages of the property if a future purchaser, lessee or mortgagee purchases the endorsement along with an owner's, leasehold or loan policy.