

WFG Underwriting Bulletin



To: All Maryland Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: May 22, 2019
Bulletin No. MD 2019-05
Subject: Baltimore City Ransomware Attack | Effect on Baltimore City and Baltimore County Closings

The saga around the ransomware attack against the City of Baltimore (the “City”) continues to evolve. We want to commend the Mayor and other city officials for their efforts in fashioning work-arounds and interim solutions to allow real estate transactions to continue while the underlying computer issues are resolved.

Prior bulletin MD 2019-03 is WITHDRAWN effective immediately.

Last Friday afternoon, May 17, the City issued a press release describing its interim solution.

- The City will issue “zero dollar” Baltimore City Lien Certificates (a “BCLC”) starting Monday, May 20 at 7 a.m.
- The BCLC can be requested IN PERSON at the Municipal Building, 200 N. Holliday Street, Room 1. To catch up some of the backlog, this department will be open from 7 a.m. until 7 p.m. for the rest of this week.
- In order to receive a “zero dollar” BCLC, the property seller/transferor must sign an affidavit affirming their obligation to pay outstanding charges within 10 days of receipt of an invoice from the city. Based upon that affidavit, the new property owner WILL NOT BE responsible for amounts unpaid to the City.

A copy of the City’s Press Release may be accessed [HERE](#).

UNDERWRITING BALTIMORE CLOSINGS

Based on this, WFG’s underwriting position has evolved.

Sale Transactions WITH a “Previously Issued” Lien Certificate showing a Balance Owed

WFG will insure closings of sale transactions of property within the City where the following conditions have been or will be met:

1. A WFG Title Agent has in your possession, a BCLC issued for your transaction by the City on or before May 7, 2019, and your closing will occur within the effective period stated on the lien sheet.
2. Collect the amounts shown as owing on the BCLC for payment to the City and reflect that payment in the Settlement Statement, Closing Disclosure or HUD-1 as appropriate. Absent a payment, we know the seller will owe at least that amount.
3. Have the Seller/Transferor execute the City's form of [affidavit](#) acknowledging their agreement to pay any remaining amounts found to be owing when the City has resolved its computer issues. Have the execution of the affidavit notarized.
4. No escrow agreement is required for the amounts payable to the City, as those amounts are immediately payable to the City. We have been advised that the City is now able to receive those payments – although they may not be immediately posted. If not accepted, the agent is responsible for continuing to monitor the situation and to disburse funds to the City at the earliest opportunity.
5. The agent will prepare and process the City of Baltimore Land Instrument Intake Sheet, calculate transfer and recordation taxes and deliver those to the City Finance Office in the normal manner. We understand that the City is now accepting payments of transfer and recordation taxes and stamping documents for recording.
6. Close and record the instruments following your normal process and issue your WFG Policies.

Sale Transactions WITHOUT a “Previously Issued” Lien Certificate

WFG will insure closings of sale transactions of property within the City, and in portions of Baltimore County in accord with the City's interim process, as follows:

1. A seller affidavit must be obtained in the form set forth. Although the City's form does not require a notarized Jurat, we recommend it be notarized, particularly if the Seller will not be appearing in person at the Municipal Building to obtain the Lien Certificate;
2. A valid “zero dollar” BCLC must be obtained from the City ahead of closing, by the means set forth in the May 17 City press release. The application form is [HERE](#);
3. Anticipate that the City may elect not to issue a BCLC for certain “difficult” transactions set forth in below.
4. If a BCLC is not obtained, you are prohibited from performing purchase/sale closings until the crisis is over.
5. The agent will prepare and process the City of Baltimore Land Instrument Intake Sheet, calculate transfer and recordation taxes and deliver those to the City Finance Office in the normal manner. We understand that the City is now accepting payments of transfer and recordation taxes and stamping documents for recording.
6. Close and record the instruments following your normal process and issue your WFG Policies.

Refinances

We understand that the City is now accepting payments of transfer and recordation taxes and stamping documents for recording. It is permissible for WFG agents and business divisions to perform refinance and HELOC closings in the City, as usual.

THE PRACTICAL PROBLEMS

While we hate to suggest problems that may not occur, it is always better to anticipate and be prepared for the contingencies.

Here are some of the unknowns and potential problems we foresee.

1. In the press release, it was left unstated WHO must appear in person to obtain the BCLC. Some have read this as requiring the Seller to appear in person. It is possible that a title agent or attorney bringing in the fully executed documents will be rejected.
2. The language of the Affidavit can be a bit off-putting, particularly the portions authorizing a confession of judgment. Some sellers may be hesitant to sign the City's form – even though it is the only form which will be accepted.
3. As non-attorney title professionals we are not qualified or licensed to advise our seller as to the legal significance of this agreement. If they have questions or concerns, we recommend advising them to consult their own legal counsel as to the form and their obligations under their Real Estate Contract.
4. We have been verbally advised that if the seller does not appear In Person to obtain the BCLC, that the Affidavit must be sworn and notarized. We recommend that as the best practice in any case.
5. The City has discretion in issuing a "Zero Dollar" BCLC, and understandably doesn't want to have uncollectible fees. This is specifically referenced in language at the bottom of the APPLICATION FOR LIEN CERTIFICATE FORM:

"THE CITY RESERVES THE RIGHT TO REJECT ANY APPLICATION THAT, IN ITS SOLE DISCRETION, IT DETERMINES SUBJECTS THE CITY TO UNREASONABLE RISK"

Because of this, some title insurers have taken the position that they will not insure transactions involving "difficult to collect" sellers, such as short sales, sellers in bankruptcy, tax and sheriff's sales and others. WFG's view is that is a decision for the City to make, and if it chooses to accept the affidavit and issue a "Zero Dollar BCLC, WFG will insure the sale.

CONCLUSION

Although the City has made great strides with this interim solution, the situation will continue to evolve. We will keep you posted as this develops.

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.