

WFG Underwriting Bulletin



To: All WFG Policy Issuing Agents; All WFG Title Examiners and Officers
From: WFG Underwriting
Date: August 27, 2025
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Subject: Risks Associated with Unrecorded and Delayed Delivery Deed

We recently had a claim in which a deed, dated before the grantor's death, was recorded after their death.

Many people have the mistaken belief that a "desk drawer deed" will serve as a will substitute, effectively allowing them to change their estate plan any time before delivery of the deed, but accomplishing a transfer upon death.¹ The law in most states is that a deed, even if fully executed, is only effective to convey title upon delivery to the grantee – or upon constructive delivery by recording it.

In a recent claim, the family dutifully recorded the desk drawer deed after the grandfather's death. When the property was later sold, the examiner found both a judgment lien for final hospital expenses and a Federal Tax Lien. Since both liens were dated after the date on the deed (but before recording), they were ignored.

Further inquiry revealed that the deed hadn't been effectively delivered, so was ineffective to transfer title out of the Grandfather. The liens attached, and probate was required.

WFG's underwriting position is that any deed recorded after the death of the grantor must be carefully scrutinized to determine if there are facts showing that it was, in fact, delivered to the grantee before death.

If you are provided an unrecorded, post death deed, discuss it with your underwriter before recording and creating a record title issue.

Written approval of a WFG underwriter is required to rely on any deed recorded after the death of the grantor, after the pertinent facts have been investigated and provided to the underwriter.

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 In some states a Transfer on Death Deed or an Enhanced Life Estate Deed will serve as probate alternatives, but almost always have to be recorded before death. That is not what we are talking about here.