

WFG Underwriting Bulletin



To: All Policy Issuing Agent for WFG National Title Insurance Company
From: Underwriting Department
Date: March 20, 2018
Bulletin No. NB2018-04
Subject: Standards for issuance of "Replacement" policies

From time to time a WFG agent is asked to issue "Replacement" policies with regard to an institutional loan where no policy currently appears in the lender's file. The assumption is that the loan was insured at the time it was made, but the records were misplaced. This can be profitable business and actually lower risk than the original loan because it has been "aged" allowing potential claims to have made their way into the land records.

But it must be done right and shown appropriately on the policies to be issued.

- Your Search will be run for the normal period required for a loan of this type in the state, and continue beyond the date of the insured mortgage through the current date.
- The Replacement Policy is NOT to be issued without Underwriting approval if the search reveals any post-mortgage liens, changes in ownership, legal challenges, foreclosures, or other matters which would have prevented the issuance of a current loan policy without curative work.
- In most cases, you will be asked to insure the original mortgagee.
- If the request is to insure the current holder of the mortgage, as identified in the affidavit, the proposed insured must be the record holder of the mortgage. Meaning if the original mortgage was made in favor of A, there was an assignment to B, and it is now held by D, additional assignments will need to be placed of record prior to insuring.
- Policy will show "Date of Policy" as of date of recording of the insured mortgage – not the current date. But should separately show a current "Policy Issued on" date on Schedule A. This addresses questions that may arise where the Date of Policy predates WFG's certificate of authority in a state.
- Property must be currently owned by the same mortgagor/homeowner as on the mortgage to be insured with the replacement policy.
- The Policy may be issued for the current outstanding principal amount as shown on the affidavit or the original principal amount as requested by the lender customer. Premium will be charged at normal loan rates for the amount of coverage – applying any discounts or bulk rates that the lender may qualify for.
- All normal loan policy exceptions should be taken. Post mortgage matters of record should be disclosed to the lender, but (unless affecting the validity or priority of the mortgage – such as a foreclosure of a senior tax lien, or bankruptcy or lawsuit challenging the mortgage) need not be shown as exceptions or subordinate matters in the policy.

- As the transaction has already closed, there is no need to issue a commitment with regard to the replacement policy.
- The current Holder of the Mortgage must give the agent an affidavit or statement verifying the following:
 - the current balance owing on the subject mortgage;
 - that they are in possession of the original Note and that said Note is properly endorsed, if applicable;
 - that the loan secured by the mortgage is performing and not in default; and
 - that the borrowers have not made any claim to the enforceability of the mortgage for the full amount of the remaining indebtedness.
- The agent will maintain a normal “file” documenting the search, the lender representations, the policy issued and fees charged.

If you have any questions, please contact your WFG 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.