

WFG Underwriting Bulletin



To: All WFG Policy Issuing Agents; All WFG Title Examiners and Officers
From: WFG Underwriting Department
Date: March 16, 2020
Bulletin No.: NB 2020-02
Subject: Recording Office Closings – Coronavirus

In the wake of the declaration of a national emergency regarding Coronavirus, we are receiving notices that recording and other government offices across the country are being “closed”. There are wide variations in what “Closed” seems to mean – and figuring out exactly what that means will become our first task.

Notices received to date have ranged from: “We’ve gone home and there will be nobody here to receive, post, index, or process incoming recordings until we decide to come back.” to “It’s business as usual, but no one who doesn’t work here will be allowed in the building.” We’ve seen multiple steps in-between those extremes.

This variability, and the fact that the announcements are coming out almost hourly, places the burden on us to reach out to the recording office before closing in that jurisdiction to confirm the recording office is still “open” and on what terms.

Aside from continuing to monitor the situation and build an internal database of known “closings,” our standards are as follows:

For Closings:

Where you have completed your normal searches, issued commitments, cleared objections, gathered payoffs, and are otherwise ready to close in the normal course:

1. Check with the recording office before closing to confirm that they are still open and what that really means as far as restrictions on acceptance of documents for recording. If your office routinely closes with the same recording offices, we’d suggest checking with them at least twice a day and sharing that information with the entire staff.
 - a. If the recording office is still accepting and processing online recordings, close as normal – but expedite your e-recording.

- b. If the recording office does not accept (or has never accepted) online recordings but is accepting and processing mailed or delivered paper recordings, close as normal and expedite your delivery.
 - c. If you can't tell or find out whether online recordings are being accepted (and your state law allows), submit the recording before disbursing other funds. If you don't receive the usual confirmation, you know there is a potential problem which should be discussed with your underwriter for that State.
 - d. If the relevant recording office will not currently accept any recordings, DO NOT CLOSE.
2. Check your contractual and other obligations closely. Many closing instructions require prompt recording. Many escrow instructions and purchase agreements – and some state laws – do not permit the “Breaking of escrow” until recording has been confirmed. Those agreements continue to govern unless modified. So, review them carefully and seek modifications if that will permit closings to continue.
3. As always – get your recordings done promptly. The list of closures is changing almost hourly.
4. If you have a closing pending which does not fit these parameters, please contact your WFG underwriter to discuss options.

Closing with Rescission Periods:

Certain refinances are subject to a three-day rescission period. In those cases, the normal practice is to have everything signed, deliver the rescission notices and wait the three days before recording and disbursing funds. During that time, our lenders are obligated to fund, and are entitled to rely on our commitment. Where the relevant recording office is closed during the three-day rescission period, you are authorized to complete the transaction and issue the final policy notwithstanding the inability to immediately record. The standard ALTA coverages will ensure this “Gap” for your lender.

Searches:

Some of the recording office closings will eventually affect the availability of data necessary for a proper search. We are hopeful that most offices will continue to make online search tools available and keep postings current. Our standards during this period of difficulty are as follows:

1. If you can update your search online, do so. Issue commitments, and close normally.
2. If your title search has a “certified through” date that is less than [30] days prior to the scheduled closing, you may issue commitments and close normally based on that search.
3. If your search has a “certified through” date that is between [30] and [90] days prior to the scheduled closing, you should not issue a commitment without approval of a WFG underwriter.
4. We will continue to rely on third party plant information, including Property Insight, DataTrace, ATIDS and others.

5. In some jurisdictions, the only source of title data requires access to the records rooms of the local recording office. If that access is not available, your ability to conduct any meaningful search will be constrained and we have no current solution for that.
6. Where recording office online records are available, but they are not “deep” enough (alone or in combination with available plant data or priors) to satisfy the search requirements in your state, consult your WFG underwriter.

Impact on other Sources of Data, Pre-conditions to Recording.

It is not just recording office closures that we have to deal with. As this evolves, we will find other government offices and private offices closing. Those closures may affect our ability to get payoffs, association dues, lien releases, and other information necessary for normal closing. As you come across those issues, please reach out to your WFG underwriter.

We urge you to be especially cautious in those areas where other government clearances and approvals are a pre-condition to recording new instruments.

What is my Liability as a WFG Agent?

If you follow these standards, during this time of emergency, or otherwise follow the directions of your WFG Underwriter in handling a matter, WFG will NOT attempt to shift responsibility for resulting claims back to one of our agents. As always, when deviating from good title practices, it is important to retain copies of emails and other communications from your underwriter.

Other Resources:

We know that your lenders and customers will have questions, and are putting together an FAQ document.

State by State Variations:

There will be state by state variations to the policies in this bulletin. Please watch for those updates.

NOTE: This Bulletin should not be interpreted as reflecting negatively upon the character of an individual or entity mentioned herein and 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.