

WFG Underwriting Bulletin



To: All Policy Issuing Agents and Direct Operations of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: May 13, 2021
Bulletin No.: NB 2022-05
Subject: Covenants Requiring Use of a Specific Real Estate Broker on Future Sale

WFG has become aware of programs promoted by real estate brokers/agents which pay a homeowner to grant restrictions purporting to require the use of the brokerage as the listing agent on a future sale. A “memorandum” is recorded in the county records which purports to be a covenant running with the land and essentially creates a lien for the future commission to be earned by the broker/agent.

One brokerage that promotes a program of this type is MV Realty who calls their program, the “Homeowner Benefit Program”. MV Realty does business in multiple states; however, there may be other brokers/agents using similar covenants in your state(s).

Should you encounter such covenants/memorandums, please follow this procedure:

1. Take specific exception to the covenant/memorandum on your commitment and attach a copy of the covenant/memorandum. The following is suggested:

“The agreement and any other matters referred to in [Insert title of the document] recorded _____. The complete terms of said document and any other agreement referred to in said document are incorporated herein as if repeated in full.”

2. Require a release of the covenant executed by the current owner and the real estate agent/broker who is required to be used.

NOTE: 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.

3. Alternatively, the Proposed Insured(s) to the transaction may elect to accept the exception for this matter in their final policy when a release will not be obtained. In such a case, we will require the Proposed Insured to execute a document acknowledging:
 - a. That they are aware of the [Insert title of the document and its recording information] which requires, among other things, the use of _____ as a real estate agent/broker on a future sale of the Land;
 - b. That they have received and reviewed a copy of said document;
 - c. That they have reviewed the Exception for said document in their policy of title insurance; and
 - d. That they have elected to proceed with the transaction and accept their policy of title insurance with the Exception for said document.

This Bulletin supplements, but does not supersede any state-specific bulletin on this subject. If there is a state-specific bulletin that addresses this topic, follow the state-specific bulletin.

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