



## NATIONAL UNDERWRITING BULLETIN

**FROM:** WFG Underwriting Department

**DATE:** September 8, 2014

**TO:** All Policy Issuing Agents of WFG National Title Insurance Company

**BULLETIN NO.:** NATIONAL 2014-08 [Renumbered from NATIONAL 2014-06]

**SUBJECT:** Creditors' Rights Endorsements No Longer Approved

Yesterday, a lender asked one of our agents to either issue a creditor's rights endorsement (the now unapproved ALTA 21-06) or an endorsement removing the creditor's rights exception from the policy.

As most of you know, the standard ALTA policies (and most state variations) have long provided creditor's rights coverage for **Past Transactions**. Our insureds are protected if title is impaired because a prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws. The standard policy also provides coverage if the insured deed or mortgage is found to be a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws based on delayed recording or a failure to give constructive notice. Nothing in this bulletin alters those protections.

On March 8, 2010, the American Land Title Association (ALTA) decertified the ALTA 21-06 and ALTA 21 Creditors' Rights endorsements. These endorsements were designed to provide affirmative creditor's rights coverage for the Current Transaction. Effective September 1, 2011, the Texas Legislature not only banned the issuance of creditors' rights coverages for current transactions in Texas, but provided that a title insurer which issues those coverages anywhere in the United States, may not engage in title insurance business in Texas. [Tex. Ins. Code §2502.006](#). The only exception is where the laws of the other state affirmatively require such coverages.

WFG National Title Insurance Company has never provided creditors' rights coverage as a matter of company policy. Specifically, the company does not provide and its agents are prohibited from issuing:

1. the ALTA 21-06 or 21 Creditors' Rights Endorsements or similar endorsements;
2. any deletion of the creditors' rights exclusion directly or by endorsement;
3. any modification in any other way, of the basic policy form to provide affirmative coverage for creditors' rights issues for the current transaction; or
4. The 1970 ALTA Owners Policy or the 1970 Loan Policy (which do not include a creditors' rights exclusion).

Since Lenders are again requesting such coverages, we felt it appropriate to remind our agents of this policy and to provide an explanation of the basis for our position. Please feel free to share this bulletin with your lender customers.

To avoid any erroneous issuance of these endorsements, we urge our agents to delete these forms and endorsements from your systems and to remind your staff of the WFG policy.

As always, if you have any questions, please call your favorite WFG underwriter.

**NOTE:** This bulletin is intended for use by title issuing offices, title insurance agents and approved attorneys of WFG National Title Insurance Company and any reliance by any other person or entity is unauthorized. This bulletin is intended solely for the purpose of underwriting policies of WFG National Title Insurance Company.