

WFG Underwriting Bulletin



To: All New Jersey Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: December 30, 2016
Bulletin No. NJ 2016-08
Subject: Insuring Titles Derived Through Tax Sale Foreclosures – Underwriting Requirements

WFG views insuring any title based on a Tax Sale Foreclosure as an extra-hazardous risk and as such the following policy, requirements and exceptions must be incorporated into all commitments and resulting policies whenever asked to insure same.

First, WFG will not insure titles derived through any type of tax sale foreclosure during the statutory 3-month redemption period. N.J.S.A. 54:5-87. The 3-months run from the date of the recording in the county recording office. N.J.S.A. 54:5-104.67.

An Abstract of Proceedings, (a/k/a “Chancery Abstract”) is required whenever a foreclosure is found in the chain of title within the last 20 years, including any type of tax sale foreclosure. If more than one foreclosure is found in that 20 year period, please contact your underwriter.

The following requirements and exceptions must be included in all commitments and policies insuring titles derived through any type of tax sale foreclosure:

On Schedule B-I, as a requirement: **“Proof is required that the owner whose interest was divested by the foreclosure is no longer in possession of the land insured. ”**

[An appropriate Affidavit usually satisfies this requirement.]

On Schedule B-II, as an exception:

- **“Consequences of the entry of an Order re-opening or vacating of the final judgment for a period of one (1) year from the entry thereof, pursuant to New Jersey Rules of Court 4:50.”**

[This exception may be omitted one (1) year following the date of the final judgment but only on the condition that the insured party is a bona fide purchaser for value and NOT the party foreclosing the tax sale certificate.]

- If any right of the United States is affected by the foreclosure: **“Right of redemption of the United States pursuant to 28 U.S.C. §2410.”**

[This exception may be omitted 120 days following the date of the sheriff’s sale if the sole interest of the U.S. is a Federal Tax Lien; otherwise, may be omitted one (1) year following the date of the sheriff’s sale.]

- If insurance is requested to be provided to a party other than the party who actually foreclosed (i.e. a subsequent conveyance after the foreclosure), the following exception must be included: **“Policy does not insure against consequences of any attack on the estate or interest insured herein under any Federal Bankruptcy Law or any State creditor’s rights or insolvency law.”**

[This exception may be omitted two (2) years from the date of the final judgment.]

- Sometimes the foreclosure documents will only contain reference to a tax map and not a street address or a metes and bounds description as required by the Court Rules. If only a tax map reference was used in the foreclosure action, the following exception is required: **“Due to existing variations between the tax map and record descriptions, policy only insures those lands in common to both.”**

Finally, please remember that all covenants, conditions, restrictions and easements existing on the land carry through unaffected by the tax sale foreclosure (i.e. affordable housing restrictions remain, even if it indicates that they expire upon a foreclosure.)

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.