

## WFG Underwriting Bulletin



To: All New Jersey Policy Issuing Agents of WFG National Title Insurance Company  
From: Underwriting Department  
Date: October 14, 2019  
Bulletin No.: NJ 2019-03  
Subject: Amendments to the Condominium and Homeowner's Association (HOA) Lien Laws

---

On April 29, 2019, New Jersey amended the existing lien laws for condominium associations and for the first time it extended the ability to file similar liens to other planned real estate development associations (i.e. HOA's), but it specifically excludes cooperatives from its provisions.

Before the amendments, the New Jersey Condominium Act, at N.J.S.A. 46:8B-21 (Condo. Act), gave only condominium associations a limited priority over prior recorded mortgages and other liens, except for municipal or federal tax liens, up to an amount equal to 6 months of the customary condominium assessments which ran from the recording of the lien back. However, with the amendment, this 6 months limited priority can now be renewed every year and accumulate year after year. This means an association can now enjoy this 6 months limited priority for each year the lien remains unpaid, provided the association records an amended lien annually to secure each year's additional 6 months of assessments.

In addition to this change to the Condo. Act, the legislature also amended portions of the Planned Real Estate Development Full Disclosure Act (PREDDFA), by adding N.J.S.A. 45:22A-44.1. Before this amendment, only condominium associations were able to claim limited lien priority. But, now for the first time, residential communities with HOA's will have the same limited priority lien rights as condominium associations.

So, like condominium associations, all common interest community associations, other than cooperatives, are permitted to record and annually renew a lien for unpaid assessments and that lien has a limited priority over prior recorded mortgages and other liens, not including municipal or federal liens. These liens roll over and accumulate identical to the amended Condo Act.

**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.**

One practical result of these amendments that affects title agents who also act as settlement service providers is that if a lender delays a foreclosure for more than a year for whatever reason, the association will be entitled to collect 6 months of assessments for every year it filed a renewal and not just limited to the 6 months' worth we're all used to.

Another aspect of these amendments is that these liens are now authorized by the statutes and language has been removed from the old law that required portions of the lien to be authorized by an associations governing documents (i.e. Master Deed, By-Laws, etc.).

WFG requires that whenever any transaction involves a condominium or other common interest community association (HOA's), that a certificate be obtained from the appropriate association showing the amount of any unpaid assessments pertaining to the unit pursuant to N.J.S.A. 46:8B-21(d) and N.J.S.A. 45:22A-44.1(d) and that that amount be paid at closing.

**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.**