

WFG Underwriting Bulletin



To: All New Mexico Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: March 5, 2021
Subject: Survey Protection - Requirements and Underwriting Guidelines

Effective March 3, 2021

A survey or Improvement Location Report (ILR) is always required to provide survey coverage under a New Mexico title insurance policy insuring New Mexico real property. This bulletin is intended to provide basic guidelines and requirements for providing coverage. Please contact WFG National Title Insurance Company Underwriting Counsel for assistance should you have any questions or comment, or if you are being requested to provide survey protection based upon a survey or an ILR which does not conform to the following defined guidelines.

The following New Mexico regulations were recently deleted:

- 13.14.1.25(F) **DEFINITION OF RECENT SURVEY**
- 13.14.6.13 **UNRECORDED EASEMENTS - STANDARD EXCEPTION 2**
- 13.14.6.14 **SURVEY COVERAGE - STANDARD EXCEPTION 3**
- 13.14.6.12 **UNRECORDED EASEMENTS - STANDARD EXCEPTION 2**
- 13.14.7.13 **SURVEY COVERAGE - STANDARD EXCEPTION 3**
- 13.14.1.25(F) **DEFINITION OF RECENT SURVEY**

and replaced by:

13.14.5.12(B) Unrecorded easements - Standard exception 2:

Standard exception 2 may be deleted if a survey of the property being insured satisfactorily shows that there are no easements or claims of easements affecting the insured property other than those shown by the public records.

13.14.5.12(C) Survey coverage – Standard exception 3:

(1) Standard exception 3 may be deleted in only one of two circumstances:

(a) If the insurer considers the additional risk acceptable, the entire language of this standard exception may be deleted from the policy; or

(b) If the insurer does not consider the shortage-in-area risk acceptable but considers the remaining additional hazard insurable, the exception may be modified to read “shortages in area.”

WFG UNDERWRITING GUIDELINES:

WFG provides the following guidelines for agents to delete standard exceptions 2 and 3 from a WFG title insurance policy:

FOR ALL POLICIES deleting Standard Exceptions 2 and 3, examine the property on Google Earth, if possible, to verify that there is no evidence of adverse use that could create a claim of prescriptive easement or new improvements or additional structures on the property.

I. DELETION OF STANDARD EXCEPTION 2

Require a survey or ILR of any age that shows there are no unrecorded easements or claims of easements affecting the insured property. This is rarely an issue in platted subdivisions. If the property is not in a subdivision and is described by metes and bounds, the survey or ILR must be less than 9 years old.

II. DELETION OF STANDARD EXCEPTION 3

A. RESIDENTIAL OWNER'S AND LOAN POLICIES:

1. Platted Subdivisions

WFG will accept a prior survey or ILR of any age, whether or not it was prepared for the current owner, provided:

- a. the survey or Improvement Location Report "ILR" appears to show all current improvements;
- b. the survey or ILR was prepared by a reputable surveyor; and
- c. the current owner, (and buyer, if a sale) signs an affidavit that the survey or ILR appears to be accurate and no changes or improvements have been made since the date of the survey or ILR and they are unaware of any boundary disputes or claims of adverse use.

If the survey shows only vacant land or only a foundation, and the property has been improved with a structure, a new survey is required.

2. Unplatted Rural Property

A prior survey or satisfactory ILR based on a recorded plat, not more than nine years old is acceptable if:

- a. the survey or ILR appears to show all current improvements;
- b. the survey or ILR was prepared by a reputable surveyor;

c. the survey or ILR shows legal access and all evidence of use, including foot paths, bridal paths and roads,

d. the survey or the recorded plat upon which the ILR is based, contains a complete metes and bounds description; and

e. the current owner (and buyer, if a sale) signs an affidavit that the survey or ILR appears to be accurate and no changes or improvements have been made since the date of the survey or ILR and they are unaware of any boundary disputes or claims of adverse use.

If any of these requirements cannot be satisfied, a new survey is required.

B. POLICIES INSURING TITLE TO COMMERCIAL PROPERTY:

1. Owner's Policies

Generally, attorneys involved in the sale of commercial property will require a new survey. WFG will not provide survey owner's coverage on commercial property without a complete boundary or ALTA survey that is not more than five years old and the current owner and buyer signs an affidavit that the survey or ILR appears to be accurate and no changes or improvements have been made since the date of the survey or ILR and they are unaware of any boundary disputes or claims of adverse use.

If the parties wish to obtain coverage without such a survey, contact WFG underwriting counsel for approval and/or further requirements.

2. Loan Policies

For a refinance of commercial property, WFG will provide survey coverage on commercial property with a prior complete boundary or ALTA survey that is not more than ten years old and an affidavit of the borrower that the survey appears to be accurate and no changes have been made to the property.

If the parties wish to obtain coverage without such a survey, contact WFG underwriting counsel for approval and/or further requirements.

NOTE:

All adverse matters shown on any survey or ILR must be shown as specific exceptions in Schedule B, Part I of the policy. **Please contact WFG National Title Insurance Company Underwriting Counsel for assistance and approval if you have any questions or concerns.**

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.