

# WFG Underwriting Bulletin



To: All New York Policy Issuing Agents of WFG National Title Insurance Company  
From: Underwriting Department  
Date: September 21, 2016  
Bulletin No. NY 2016-08  
Subject: Regulatory Compliance in New York-New York Rate Manual

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The New York Department of Financial Services has appointed a new superintendent, has re-staffed the division charged with regulating our business, and is prepared to finalize and enforce the regulations affecting the way we operate. All our sources agree that the DFS is serious about regulating our industry, and all agents are strongly urged to review your procedures to make sure they are in compliance with New York regulations. None of us want to be a test case for enforcement. Please review bulletins NY14-07, -08, and -09, available at <http://wfgunderwriting.com/new-york/>. In addition to the new regulations, there are several directives in the Rate Manual that will also be scrutinized by the DFS:

- Title reports for a loan policy, whether a purchase or refinance, where no owner's policy has been ordered, must contain a Notice of Availability, required by section 26 of the Rate Manual:

## **SECTION 26 - NOTICE OF AVAILABILITY**

(A) When a Company issues a loan policy on a mortgage made simultaneously with the purchase of all or part of the residential (one to four family) property securing the mortgage, where no owner's policy has been ordered, the Company shall inform the borrower in writing that the mortgagee's policy does not protect the borrower, and that the borrower may obtain an owner's title insurance policy for his/her protection. This notice must be provided before disbursement of the loan proceeds and before issuance of the mortgagee's policy. The notice must be on a form approved by the Superintendent of Insurance.

(B) If the borrower elects not to purchase an owner's title insurance policy, the Company shall obtain from the borrower a statement in writing that the notice has been received and that the borrower waives the right to purchase an owner's title insurance policy. If the buyer refuses to provide the statement and waiver, the Company shall so note in the file. The statement and waiver must be on a form approved by the Superintendent of Insurance and must be retained by the Company for at least five years after receipt.

- All charges, rates and fees in the rate manual are mandatory, and cannot be waived, reduced or increased. However, Section 1 (F) allows for additional work charges under certain circumstances:

(F) The Company may impose additional work charges in especially difficult titles. Extra charges may be made at or after the receipt of the application for examination of title which may involve additional tax lots, multiple chains of title, land under water, land in bed of streets, rights-of-way, driveways, easements, strips and gores, foreclosures, proceedings under federal bankruptcy or state insolvency related statutes, or which involve other unusual difficulties, or for unusual

expenditures for travel, or for recording instruments, telephone, telegraph or delivery charges. The Company may impose additional charges for closing attendance in excess of two hours and for any closings extending beyond normal business hours and where additional attendances are necessary or travel arrangements and distance warrant.

- An owners policy must be issued for the greater of the contract price or the fair market value-you may not insure for the "equity" or similar lower number.
- You may not make an additional charge for the title search in Zone 2.
- You may not charge for attendance of a closer in either zone, except in circumstances listed in section 1(F) above.

Please contact underwriting Counsel with any questions.

**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.**