

WFG Underwriting Bulletin



To: All New York Policy Issuing Agents of WFG National Title Insurance Company
From: New York Underwriting Department
Date: April 22, 2021
Bulletin No: NY 2021-17
Subject: New York State Budget Bill Changes

The Governor has signed the budget bill for the fiscal year 2022. There are several provisions that affect our industry. The following is a summary of the significant changes:

1. Tax Law 1404(a) – Liability for Tax

The law provides that the transfer tax is to be paid by the grantor unless the contract states otherwise. The budget bill adds a cause of action allowing the grantee to sue the grantor if they fail to pay the transfer tax. In addition, if the transfer tax is paid by the grantee pursuant to a contract of sale on residential real property the amount of the transfer tax will not be added to the consideration. This is a significant change from the current law, which requires the transfer tax paid by the grantee be added to the consideration. This change will apply to all transactions closed on or after July 1st unless the contract was entered into before April 1st.

2. Tax law 1409(a) – LLC Disclosure Requirements

The law requires all LLC's that are grantors or grantees in a deed transfer of residential real property up to 4 dwelling units to disclose all their members. The New law specifically removes the requirements for an LLC that is a publicly traded entity, a REIT, an UPREIT, or a mutual fund. This requirement takes effect immediately.

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.

3. Real Property Law 333-1-e

The law now allows transfer tax forms to be submitted to the NYS Department of Taxation and Finance. The State will issue a receipt to be submitted with the documents to be recorded and no separate payment will be made to the County. Please note, they will receive their portion from the State. In addition, pursuant to new Tax Law Section 663(d) receipt from the Commissioner of Finance can be submitted in lieu of IT2663 form for payment of taxes by a non-resident.

4. Tax Law 1423

This section of the tax law is new in its entirety. The Commissioner of Finance is authorized to implement a system for electronic filing and submission of transfer tax forms and may combine the TP and Equalization forms. Electronic filing will be optional and may still be submitted to the County Clerk. If the forms are submitted electronically the fees will be paid to the Commissioner of Finance and a receipt will be provided to be submitted to the County Clerk for recording. The Clerk will be responsible to provide the recording information to the Commissioner of Finance and collect their portion of the tax.

If forms are submitted electronically, the act of submission will be deemed execution of the forms. No additional signature will be required. However, the lack of signature will not relieve a party from the obligation to pay the tax.

The new law will not apply to any City or County that already has an electronic filing system unless that County notifies the Commissioner that they will be following the new system.

In addition, the budget contains a grant program for small business recovery. This may be of interest to our agents, and we will pass along any information that we receive in the future.

Please feel free to contact our office with any questions or concerns.

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