

WFG Underwriting Bulletin



To: All Ohio Policy Issuing Agents of WFG National Title Insurance Company

From: WFG Underwriting Department

Date: June 2, 2020

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Subject: Board of Revision Tax Sales

Ohio Revised Code §§323.65, et seq. states that County Boards of Revision may adjudicate tax foreclosures involving “abandoned” real property. In *State ex rel. Feltner v. Cuyahoga County Board of Revision, et al.*, the Supreme Court of Ohio heard a challenge to the constitutionality of the statute. In a slip opinion issued May 28, 2020, the Supreme Court cited “procedural grounds” unique to the *Feltner* case, and thus declined to decide the underlying issue of whether such BOR tax foreclosures are constitutional.

WFG has consistently taken the position that tax foreclosures through Boards of Revision are uninsurable unless and until either (a) all those with an interest in the property execute and record deeds and all other lienholders execute and record releases, or (b) the Court of Common Pleas in the County in which the property is located issues a quiet-title order after due process notice to all with an ownership or lien interest.

Because we believe the constitutional questions remain unresolved, *Feltner* does not, therefore, change or alter our position on insurability.

Herewith is a link to the *Feltner* opinion: <https://supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-ohio-3080.pdf>

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.