

WFG Underwriting Bulletin



To: All Texas Policy Issuing Agents of WFG National Title Insurance Company
From: Underwriting Department
Date: August 19, 2016
Bulletin No. TX 2016-58
Subject: Guidelines for Affidavits of Heirship

WFG does not require that Affidavits of Heirship (AH) be routinely submitted to Underwriting for approval.

If you have a specific question about a particular AH which you are reviewing, please send the AH to Underwriting, let us know what needs to be addressed, and we will be glad to help.

Please observe the following WFG guidelines:

1. If you doubt the truthfulness or accuracy of the AH, do not close the transaction. WFG relies on our agents and we do not want to insure on a transaction if our agent is not comfortable with it. Feel free to contact Underwriting in these situations.
2. WFG does not have a minimum time limit for how long the decedent must have been dead before we will accept an AH in lieu of formal probate.
3. When the decedent has been dead less than 4 years, our agent must address the possibility of creditors of the decedent's estate. These creditors might have a statutory lien which has priority over the interests of any purchaser or lender we will insure. This requires due diligence on the part of the agent. If you find that there are creditors, contact Underwriting and we will discuss it with you.
4. On all files where some or all of the title is vested in heirs, the heirs must sign an indemnity agreement protecting WFG against potential creditors of the decedent's estate. Please use the form of Indemnity Agreement which is attached. This form also covers claims from unknown heirs or devisees under un-probated wills. The indemnity should not be recorded; just keep the fully executed and notarized original in your file. This requirement may be waived if the decedent has been dead for more than 4 years.
5. Ideally, an AH should be signed or verified by two disinterested people. A "disinterested" person is someone who has nothing to gain financially from the transaction, and who is not related to someone who has something to gain. We recognize that in some situations it can be difficult to locate two disinterested people; contact Underwriting when this situation arises.

6. The purpose of the AH is to state the facts upon which a determination of heirship can be made. You should disregard any conclusions contained in the Affidavit as to who the heirs are. For example, a statement such as “Decedent’s only heir is his surviving spouse” is a conclusion of law and not a fact.
7. We do not have an established time limit for how long an affiant on an AH must have known the decedent, but it should have been long enough to reasonably believe that the affiant has a good basis for knowing the facts stated in the AH.
8. It is often helpful to search the internet for an obituary on the decedent which can be used to corroborate the statements made in an AH.
9. All conveyances by heirs must be by general warranty deed.
10. If the decedent left a will which will not be probated, you should examine the original will, make a copy, and retain the copy in your GF file. **Everyone who would have taken the property under the will and all of the heirs as shown by the AH must sign the deed(s) out.**

Attached for your use is the Indemnity Agreement.

[Unsecured Indemnity from Heirs](#)

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.