

WFG Underwriting Bulletin



To: All Virginia Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: August 5, 2016
Bulletin No. VA2016-03
Subject: Important 2016 Legislative and Regulatory Changes

A “designated licensed producer” (an individual insurance agent) has long been responsible for a title agent’s compliance with insurance laws and regulations. However, §38.2-1820 of the Virginia Code was amended in the 2016 legislative session by HB 393. Effective July 1, the amendment requires that the designated licensed producer must be an employee, officer, or director of the agency. The amendment prevents a title insurance agency from using an independent contractor as a title agency’s designated licensed producer, whether or not the title agency is located in Virginia. If an agency has been contracting out those services, it will have to license one of its employees (or an officer or director), and report to the State Corporation Commission (SCC) within 30 days. Thereafter, any change in the designated licensed producer must similarly be reported to the SCC within 30 days.

Although an agency may have more than one licensee, only a “designated” licensee is specifically responsible for the agency’s compliance with insurance laws, rules, and regulations.

In addition to the statutory change, revised “Rules Governing Settlement Agents” (the “Regulations”) will also take effect July 1. By Order dated June 07, 2016, the SCC adopted the Regulations initially proposed by the Bureau of Insurance (BOI) on November 9, 2015 and subsequently modified after a comment period. Both the proposed and final Regulations were sent to all licensed Virginia title agents and agencies that were licensed as settlement agents and can be found at:

<http://register.dls.virginia.gov/details.aspx?id=5732>

Although you should have received the Regulations from the BOI already, for convenience, another copy is attached to this Bulletin. All agents are advised to read them carefully, since the Regulations may require changes to some previous business practices.

Key revisions include:

1. **CRITICAL CHANGE**—the revised Regulations apply to ALL closings, not just residential closings as before.
2. Revised definitions of “designated licensed producer” and employee, as referenced in Virginia Code §38.2-1820 (see above);

3. “Escrow, closing, or settlement services”—a more detailed and specific description than before;
4. CRITICAL CHANGE - Definition of settlement agent—the new definition of settlement agent includes any person “who conducts the settlement conference and receives or handles money.” This may affect “Notary closings” and “mail-aways,” for whose actions the settlement agent will be liable.
5. The BOI now will designate the month in which an agency’s audit is to occur.
6. Agencies will be required to escheat annually to the State any funds for which the proper owner cannot be located. Note however, Virginia Code §8.01-456 allows funds to be paid into Court to pay off and release a judgment lien when a judgment creditor cannot be located.

The above are only some highlights. Again, agents are advised to review the attached Regulations carefully in light of existing business practices and make any adjustments necessary. Download the Regulations by clicking the link below.

[The Regulations](#)

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.