**Practices when Issuing WFG Policy in Reliance on   
Indem Letters & Mutual Indemnity Agreements**

**Updated 10-17-17**

1. So that there is no question later about whether the defect was known and disclosed to the customer, and so WFG is aware of potential recoveries under a MIA, language similar to the following should be included in any WFG commitment and policy issued in reliance on the MIA:

Note: The title search revealed [describe the defect including any recording information]. No exception to coverage is being taken for this matter based on the indemnities provided in the [Name of Mutual Indemnification Agreement or Description of Other Company’s Indem Letter] and Title policy #XXXXX issued by [Company].

Sometimes lenders object to this language and it will need to be removed from the loan policy. But that still shows we, or our agent, disclosed the matter.

1. A copy of the prior company’s policy should be attached to the WFG policy when the WFG policies are submitted to WFG.
2. New WFG Policy, the other company’s Indem letter and prior policy should be submitted in normal fashion to [WFGScanning@wfgnationaltitle.com](mailto:WFGScanning@wfgnationaltitle.com).

**When We Issue an Indemnity Letter**

1. The evaluation for either type of indem letter is essentially the same evaluation we make when considering a claim. Does WFG have liability under the policy for this matter? Do we have any legitimate defenses? Will the matter get worse, harder or more expensive to fix if not addressed immediately? Keep in mind that by issuing the indem letter, we are giving up potential defenses.
2. Where appropriate, underwriters may issue an indemnity letter without undertaking, and may reject a request for an Indemnity letter with undertaking. For the most part, the underwriting team doesn’t have the resources to follow up on the undertaking being committed.
3. You may use the form of indemnity letter customary in your state or the ALTA form indemnity letters.
4. If an indemnity letter with undertaking is thought appropriate, the underwriter will still do the work-up and submit the package to the claims team for issuance and follow-up.

Send the following to [claims@wfgnationaltitle.com](mailto:claims@wfgnationaltitle.com):

* 1. the request
  2. the prior WFG policy
  3. your search and any research – so that the claims team doesn’t have to redo the work
  4. Your detailed recommendation on providing the indem letter
  5. A draft suggested letter.
  6. The contact for who is to receive the indemnity with undertaking.

1. Since in our indemnity letter we are taking on liability for a known defect, it is important to retain these letters not only in your file, but to link them to the underlying “Defective” policy, so that the same mistake isn’t made again in reliance on a “bad” prior. The indem letter and a cover email including the policy number in the subject line should be sent to [WFGScanning@wfgnationaltitle.com](mailto:WFGScanning@wfgnationaltitle.com).
2. The agency support team will place the indemnity letter at the beginning of the policy in the policies database.