



# *FLTA Tallahassee*

## *Report*

**\*Serving Over 4,500 Title Professionals  
Throughout Florida\***

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[www.flta.org](http://www.flta.org) • Alan K. McCall, President  
Lee Huszagh, Executive Secretary-Treasurer

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### **PRESIDENT'S MESSAGE**

by Alan K. McCall

FLTA is engaged in an ongoing review of Senate Bill 444 which has been filed in the Florida legislature. It is very similar, at least, to bills filed by the Office of Insurance Regulation during the past two years which failed to pass. Among other things, the bill calls for a radical change in the way title insurance premium rates are established and prohibits any portion of the premium from being paid to an agent or agency.

Last year, the Florida legislature passed a law that set up a blue ribbon panel, or Study Council, consisting of more than a dozen members from government and the real estate and title insurance industries to gather information and make recommendations about title insurance. That Study Council has met at least once already and is to continue meeting for another year or so until it issues a final report on whether any changes should be made to existing statutes. In the face of the Study Council, it seems as if the decision by OIR to refile their bill again this year is premature. FLTA will take the position that given the sweeping changes to be made in the OIR bill, the legislature should not act on it until after the Study Council finished its work.

Among the proposals in the bill is a radical change from a promulgation system whereby the state sets title insurance rates based on standards set forth in the statutes, to a different method whereby each underwriter would make annual filings of whatever rates they want. After that, the state would have 90 days to either object to the rate or the insurer could begin using them under what is called a "file and use" system. This system exists in several other states in one form or another. FLTA strongly favors the existing system that has served us and our customers well for a long time.

Even in other states that use the file and use system, still the agent is allowed to receive a share of the premium. However, Senate Bill 444 provides that the insurers in Florida will not be permitted to pay a title agent any share of the premium. Thus, the premium rates will become an "underwriter only" premium if the bill passes and is signed into law. FLTA is strongly opposed to this.

While under the OIR proposal each title insurance agent is allowed to charge fees for search and closing, or for the “primary title services,” the agent’s “fee” must be filed with the state who then must post them on a web site for public viewing. Previously, FLTA supported and helped pass legislation that redefined these primary title services and excluded them from the regulatory purview and authority of the state under what was originally known as House Bill 111. Thus, the OIR bill would expressly re-authorize the state to examine the efficacy of the service fees an agent could charge and go even further by publishing those fees.

It is doubtful that there exists anywhere else in the United States such a draconian statutory scheme as proposed by the OIR. Just for illustration purposes, imagine if there was a similar proposal to require all house painters to file and justify their fee for “painting a house” the way the OIR bill will require title agents to file their fee for closing a real estate transaction. Just as every house is unique, every closing presents different demands.

Finally, the Senate Bill 444 contains a provision that adds an extra layer of liability for agents and insurers for their negligence in performing their services up to three times the amount of the coverage. This flies in the face of many years of case law in Florida that upholds the right of the insurer and agent to limit their liability to the insurance contract. As such, current title insurance rates do not contain an extra premium for this added layer of liability sounding in tort.

Whether the legislature defers the bill to the Study Council or decides to consider it this session, FLTA should oppose this bill, in my opinion, in its entirety for a number of reasons. As I see it, there is likely to be unintended consequences that will not serve the best interest of the industry or the public. For instance, if passed, agency revenues could go down. If so, so would incentives to continue to provide the kind of quality services that our customers and clients are entitled to. There might also be a challenge to maintain the high level of integrity in the final title insurance policies if short cuts are taken and corners are cut. Passage of the bill might even reduce revenues to the state in the form of taxes generated by premiums earned and primary service fees. Since the agency network is so essential to the delivery of closing services in our state, the state may also lose revenue that would otherwise be generated by documentary stamp and other taxes on the closings themselves if they are delayed or aborted due to a diminished capacity to provide the customary, efficient closing services.

In addition to the above legislative action, FLTA participated in assisting the Department of Financial Services in their review of current laws affecting rebating of premiums. An informal workshop was held in Tallahassee in early January with representatives of the DFS to work on proposals to regulate rebating on a non-discriminatory basis similar to the way rebating is regulated in property and casualty insurance fields. This workshop included the lobbyist for the Agent’s Section of the Association who provided much valuable input and expertise. I want to thank all who helped (and are helping) in furthering this work. FLTA believes that DFS has submitted proposals for bill drafting though as of this writing nothing may be filed in the legislature. We will continue to monitor and work with the Department on this initiative. This could be among the subjects appropriate for consideration by the Study Council.

FLTA will hold its annual mid-Winter meeting in Tampa, on February 10 & 11. In addition to devising strategy to address the above legislation, there will be a full review of all bills filed in the Florida legislature that may be of interest to the title insurance industry and all those engaged in the conveyancing of real property or interests therein. After this meeting, further updates to this report may be appropriate.

The opportunities we face as this legislative session shifts into high gear will be varied, many and challenging. Please stay engaged and support your association as this work progresses. I know I speak for all the members of the board of directors by saying we will work as hard as we can to keep on top of developments and look for ways to make our industry even better. We'll do our best to keep you informed. And, as always, we look forward to your input.

If there are any questions, I am glad to try to respond. My email address is [Amccall@firstam.com](mailto:Amccall@firstam.com). Lee Huszagh is our Executive Director and he can be reached at [Leeh@flta.org](mailto:Leeh@flta.org).

## **MID WINTER MEETING TIME IS HERE!**

**2009 Committee Workshops are being held February 10 & 11 at the Embassy Suites Hotel, Tampa - Airport/Westshore (Address is 555 Westshore Blvd, Tampa) For reservations please call (813) 875-1555.**

**If you are a committee member, these meetings are for YOU!**

In order for FLTA to make proper arrangements, we must receive your registration by January 31, 2009.

The FLTA registration form (which requires a \$30 per person fee) can be found on our website at [www.flta.org](http://www.flta.org) Choose the Mid-Winter meeting link and then download the form.

Agenda:

**Tuesday, February 10th**

1:00 pm Governmental Affairs and Judiciary Committee Meeting

5:30pm – 7:00pm Attendees Reception

Dinner on own

**Wednesday, February 11th**

9:00am General Session

10:00am Political Outreach Committee Meeting

10:00am CLT Institute Meeting

10:00am Forms Committee Meeting

Lunch on own

1:30pm Agents' Section Meeting

1:30pm Insurers' Section Meeting

2:30pm Joint Agents'/Insurers' Section Meeting

3:30pm Board of Directors Meeting

Dinner on own

**There are no other functions (continuing education) scheduled for this meeting.**



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## **We're changing our format!**

Everyone is being affected by our current economic times and that includes your Association. In an effort to save money, we are once again processing this report "in house". That means we may not look as pretty, or be as fancy as past issues, BUT the value of the content will be the same. We will be a "work in progress" for awhile and the view of the product may change from issue to issue, but every effort will be made to keep the content relative, informative and up to date!

## **2009 Dues are now DUE**

The new dues format was completed and invoices were mailed to all current members in December. Every effort was made to make sure a notice was prepared and mailed to all companies that were members in 2008. If we missed you, or you are NOT a current member and would like to become one, PLEASE contact Linda Martin at the FLTA office or by email at [Linda@flta.org](mailto:Linda@flta.org).

Currently, all the active members listed on our website have been "deactivated" until the 09 dues are paid. Once we receive your payment, your company will once again appear on the website. You will also receive confirmation by mail that your membership is active as we do have a "goodie" packet that is sent to all renewing members. Don't delay – pay your dues today!!

## **2008 Upcoming Events**

### ***Thursday – Friday, February 10 & 11***

FLTA 2009 Mid-winter meeting @ Embassy Suites – Westshore, Tampa

### ***Monday – Wednesday, March 2-4***

ATLA's 2009 Federal Conference in Washington, D C. Visit [www.alta.org/meetings](http://www.alta.org/meetings) for more information

### ***Wednesday – Friday, November 4-7***

FLTA's 2009 Annual Convention at Renaissance Vinoy Resort, St Petersburg, FL. Stay tuned for more details LATER!

## **Keeping Up to DATE**

Keeping our members informed of matters that impact the title insurance industry, is a primary focus of our Association. The quarterly newsletter will continue to keep you abreast of developments, but the term quarterly alerts you to the fact that the news stories that have a short shelf life may be stale when you read them. To stay on top of things on a daily basis consult the FLTA web site, [www.flta.org](http://www.flta.org).

## **Firewalls and Spam Filters Block FLTA E-mails**

It has come to our attention that many of our electronic mailings are being blocked by spam filters and firewalls installed on members computers. If you are not having this problem and are getting our newsletter via e mail and wish to continue to receive it electronically you don't need to do anything! If you would prefer to receive the newsletter by mail, please contact our office, so you can begin receiving it via mail. Our most important goal is providing our members with timely information and we strive to accomplish that. You can also check the FLTA's web site ([www.flta.org](http://www.flta.org)) at your convenience to obtain news and information on upcoming programs.