



FLTA Tallahassee Report (Part 1 of 2)

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PRESIDENT'S MESSAGE

by Alan K. McCall

ALTA Federal Conference in Washington, D.C.
March 2-4

I landed at Reagan Airport in Washington, D.C. just a few hours before the six inch snow storm that hit the city the night of March 1st. Having lived in the DC suburbs for a number of years in the early 1980's, I remembered how even minor snow storms could shut down traffic and businesses in the city sometimes for days while it dug itself out. So I was glad to get a cab and get to my room at the Willard Hotel, just two blocks from the White House, to attend the ALTA Federal Conference beginning the next morning.

Despite the snow, the conference was fairly well attended and there was a full slate of meetings for the attendees from all over the country. Most of the attendees were either Presidents or executives of other state title associations and nearly all of them confirmed that their businesses and associations were being severely tested by the poor economy no matter what part of the country they came from. The recent further consolidation in the title industry has added to the challenges faced by local land title associations and even the ALTA itself. Still the meeting that lasted three days was informative and helpful and instilled a sense of direction and hope that as things improve our best days lie ahead of us.

Here, in shorthand format, are some of the pending bills and proposals on a federal level that were discussed at the meeting:

- The so-called Federal "Stimulus Package," includes an \$8,000.00 tax credit for first time homebuyers, upped the conforming loan limit in high cost areas to \$720,000.00, provided additional funding for Fannie Mae and Freddie Mac and provided new rules that should increase the ability of these entities to buy loans and, thus, stimulate home purchases and refinances.
- The Foreclosure mitigation bill that passed the House and is now being considered by the Senate includes a mortgage bankruptcy "cram down" for primary residential property (previously only available for second homes or investment properties) and a "Hope For Homeowners" section that allows FHA greater flexibility to insure mortgage refinances in loan workouts by allowing for principal write-downs before any bankruptcy is filed. This bill also includes a

provision that would extend the increase in FDIC insurance for deposits up to \$250,000.00 that currently is set to expire at the end of 2009. The bill also has a “safe harbor” provision that limits liability for loan servicers that should make it easier for them to assist in modifying existing loans on behalf of their lenders and investors.

- The administration is promising an overhaul of the existing regulatory structure that will ameliorate systemic risk in mortgage lending by banks.
- A possible regulatory restructuring of life and casualty insurance industries, called the Federal Charter of Insurance bill, has been proposed as an option for insurance companies who want to opt out of state regulation. ALTA’s position is that this should not be available for title insurance and the proposal, as it stands currently, contains a carve out for the title insurance industry. It is believed that this bill may be filed in either the House or Senate in the next 4 to 6 months in one form or another.

A common theme throughout the discussion of national proposals was that in order to help the economy improve, fixing housing is an imperative. However, it is hard to fix housing without first fixing the credit markets and it is hard to get credit flowing again with the needed regulation to increase confidence in lending and banking again.

It was interesting to hear from a four person panel of Capitol Hill staffers, two who worked for Republican members of congress and two who worked for Democrats. It became apparent that there is an awful lot of effort and long hours being put in by the staff of our elected officials, at least, on these and other bills and proposals and many complicated issues, both in matters of policy and politics, that they deal with on a daily basis.

Later, HUD sent a three person panel, including Ms. Ivy Jackson and Ms. Laura Gipe, to our meeting to discuss the new RESPA rule and to field questions from the attendees. Here are some of the highlights from the question and answer period that followed the HUD panel discussion:

- While the new Rule does not become effective until January of 2010, if a lender chooses to use a new GFE (Good Faith Estimate) in the meantime, then the closer must use the new HUD-1 form.
- The closer must use a separate HUD-1 for each mortgage loan.
- The premium sharing between the underwriter’s share and the agent’s share of the premium must be disclosed on the HUD-1 even though other fee sharing, such as the real estate commission sharing between real estate agent and broker, is not required to be disclosed.
- Charges to third party vendors may be averaged (as an option) over a period not less than 30 days but no more than 6 months. However, if the average cost charge turns out to be greater than the actual charge, then the closer must refund the difference to the party charged and correct the closing statement. As you may imagine there were quite a few questioners from the audience pointing out the difficulties of actually making this work especially in light of the fact that often the seller has left the state for parts unknown. The HUD panel maintained that this is the Rule as adopted by HUD and that cost averaging was merely an option.
- If a discount in a fee or charge is passed along to the consumer (i.e. the one paying the fee or charge), then there is no violation of RESPA, generally.
- However, HUD continues to enforce its position against up-charging, i.e. increasing the charge for third party vendor services to the consumer without adding value.

- The loan originator is responsible, not the closer, for violations of the tolerance caps in GFE charges.

The meeting concluded by a trip to Capitol Hill on Tuesday night for a congressional reception and on Wednesday to meet and greet congressional members and to lobby industry concerns. All in all I found the three day event to have been informative and useful and a great way to learn about what we as an industry and as an association are facing during the coming year from a legislative and regulatory perspective.

Stay tuned.

Certified Land-Title Institute Council says:

The deadline for applying for either the Certified Land-Title Searcher or Certified Land-Title Closer test is **HERE!** **The deadline to apply is 4/3/09.** The forms, instructions, and study outlines can be found on the FLTA website – OR – contact linda@flta.org and they can be emailed to you.

The FUBA's are coming!

The FUBA books are **HERE** (finally) and heading your way. If you've paid your 09 FLTA dues and already received your renewal Certificate and member info packet you might have noticed that your FUBA was missing. Well they are finally here and you should have your copy via USPO mail early next week.

What's a FUBA? It's the annual guide to our Florida legislative members and a very useful tool if you need to contact someone (like your local representative, senator, etc.) and speak your mind about pending legislation that may affect your livelihood. If you don't receive your book by 4/1 – contact linda@flta.org.

WHAT TIME OF YEAR IS THIS?

OOPS! We inadvertently labeled our last Newsletter "Spring". (It was really the dead of Winter) Now we have more to tell you – but WAIT – the "Spring" issue isn't due to publish until May --- So what issue is this? How about Winter-Spring. Don't worry; you'll still get your "Spring" issue in May --- just in time for "Summer"!



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Underwriter Section Report

By Pat Hancock, Chair, Insurer's Section

Proposed Changes to Mutual Indemnification Treaty

The Insurers Section of the Florida Land Title Association in its most recent meeting discussed the provisions of the current Second Revised Mutual Indemnification Treaty ("Treaty"). Keeping in mind that a general purpose of the Treaty was to enable title agents and their customers to enjoy a more streamlined approach to obtaining indemnification over certain alleged title defects, various provisions were revisited and new revisions proposed.

It was the consensus of those attending the meeting that the Treaty be amended to include two more areas of alleged title defects or "doubts." Item IV in the list of Potential Defects in the Treaty states: "Doubt as to whether due process was afforded to certain defendants in court cases involving probate, foreclosure, quiet title, or other proceedings as defined under Section D, below:". Section D then elaborated the provisions of Item IV. The proposed amendments would be to add two new instances to Section D which would further explain that the Treaty applies only to court proceedings which predate the date of the Indemnitor's policy, as to: "(c) Deficiencies in, or the absence of, a non-military affidavit for a defendant in a court proceeding" and "(d) Deficiencies in, or the absence of, proof of proper service upon parties in the case when the court docket does not adequately disclose service of process on a named defendant."

A final draft of the proposed changes will be circulated to all Insurer members for their perusal before a final version can be executed by the Treaty participants.

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!

IT'S JUST TOO MUCH!!

We have so much data packed into this Newsletter most of your servers will hate us and probably reject us if we try to send it as one message. Solution? We're delivering this in **TWO PARTS. PLEASE DON'T IGNORE PART 2! IT'S JUST AS IMPORTANT AS PART 1!** Somebody has to be first!