



FLTA Tallahassee Report

Serving Title Professionals Throughout Florida

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A Message from the President

Beverly McReynolds, CLC
North American Title



Earlier this year I discussed our rapidly changing world and how the nimble minded title professional would be the one who best survives this whirlwind. I continue to try to be that nimble minded title professional and am doing my best to keep an open mind. Some days, it is easier than others! Our latest upheaval comes in the form of a request (demand) from a

number of lenders that title agencies go through a vetting process in order to be allowed to continue to close loans. This comes in reaction to a letter from the CFPB to lenders making them responsible to "know" their business partners. So far, all the requests that I have seen refer the agent to a single company by the name of Secure Settlements, Inc. You can learn about them and their services on their website: "secur settlements.com."

My first reaction to this news was to wonder how this one company positioned itself to be the decision maker on who would be able to do business with so many lenders. My second reaction was that I did not particularly want to give my personal information to someone that I knew nothing about. As the days passed and the pile of lender requests for SSI

approval grew, I decided to place a call to SSI and see what they had to say. At the same time, I wondered how this was playing out in other states with plant laws and net worth requirements, so I emailed the Texas Land Title Association. I also reached out to ALTA to see what information they could provide.

The call with SSI was different from what I imagined. They were friendly and interested in "selling" their product. I expected a more bureaucratic approach: take it or leave it. They explained what they would need to complete the vetting process and what would qualify me by their standards. In the end, my personal opinion is that their investigation will not make funds more secure. I suspect many of you will have the opportunity to make your own judgment on this matter but I did not find their process

to be as complete as our State licensing process or that of obtaining underwriter approval.

So, the question: how do we communicate to lenders (and/or the CFPB) that this process is not what they think it is? That is a tall order. At best it will take time to accomplish and it is not certain that we can prevail. Nonetheless, I would suggest that agents not rush to jump on this bandwagon. The FLTA, in conjunction ALTA and many other state associations, is diligently working to make the governmental agencies understand that they are not getting what they think they are from

this process. SSI is overlooking a number of items that I feel should be carefully considered before approving individuals and companies to handle loan proceeds. This information needs to be communicated where it will matter.

The positive outcome of this and other recent events is that the lines of communication within our industry are open on levels that I have not previously seen. Agents are talking, planning and collaborating. In Florida where our business is so competitive, we have not seen this type of cooperation in the past. I challenge you to join this effort if you have not

already done so. Further, we each need to seek out our competitors and make sure they are aware of the effects of this issue so that they will join our effort. The current level of cooperation between the state and national land title associations is another positive outcome. Lastly, we are seeing underwriters looking closely at this matter. Will this be an issue that brings us all together? I do hope so. We are not large in numbers but we can be loud if we are all sing the same song.

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Did you know you can be fined for not sending unclaimed funds to the State?

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(course id# 82488)

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North American Title Insurance
North American Title Company
Old Republic National Title
Southern Title
Stewart Title Company
Sue Geigle
The Association of Title Agents
Title Company of Brevard
Title Connection
Universal Land Title



Dear Fellow FLTA Agents:

Your Agent Section has been busy since I last wrote. Since our last newsletter, the FLTA board met for its summer meeting and I presented a proposal that we vetted during several monthly agent calls.

The proposal was to initiate steps to “Raise the Bar” in Florida for Licensed Title Agents. Elsewhere in this newsletter, you will find articles about the national trend where lenders and regulators are seeking greater security and certainty for their mortgage fundings. This was our impetus – we wanted to be prepared for and, if possible, get in front of this national trend. The message delivered to ALTA leadership last year was that lenders were looking for “one throat to choke” when it came to addressing escrow theft –sometimes referred to as Defalcations. Let’s call it like it is – theft hurts every one of us!

Your agent section supported taking action to help solidify the agent model in Florida. Statutes require Underwriters and Agencies to be financially sound. While Underwriters have tests and reserves to prove financial viability, Agencies only have to post a \$35,000 Surety Bond and a \$50,000 Fidelity Bond. Both of these bonds can be obtained for less than \$1,000 in total.

Several agents discussed options as to how to raise the bar to insure Florida Title Agencies can demonstrate financial stability. Options included evidence of a minimum capital level in the Agency, cash deposits with the State or raising Bonding levels. A higher Bonding level is not a new option; several agents active when the Bond was first instituted recall the initial statutory requirement was for a \$100,000 cash deposit with the state. Ultimately a \$35,000 Bond became the requirement. (Asking the state to oversee cash deposits or minimum capital investment is not an option; they are seeking less administrative monitoring). It appears the only viable option that would have the least impact on Agents is looking at bonding levels perhaps to \$150,000 or even \$250,000 over a period of time.

Almost twenty years have passed and the average home price in Florida is closer to \$150,000 than \$35,000. Escrow balances are often six figures or higher, and yet the proven investment our industry requires is a \$35,000 Surety Bond.

With the national trends putting pressure on the agent model, now is the appropriate time for Florida to re-examine the requirements to be a Title Agency while simultaneously demonstrating to lenders that Florida Title Agencies are financially secure and invested in their business, and therefore we can be trusted to receive and hold escrow funds.

Also during the Summer Board meeting, the FLTA Board authorized the Agent Lobbyist to work with the Agent Section to help draft a legislative proposal to clarify the responsibilities of a title agent. As most people know the Office of Insurance Regulation (OIR) regulates the Underwriters while another area, the Department of Financial Services (DFS) regulates Agents. For years DFS has indicated that statutes that cover Title Agents are ambiguous and weak, and DFS is therefore not fully able to regulate agents and hold agents accountable to a higher standard. DFS believes if the statutes were better written and clearly documented the title agent’s roles and responsibilities, DFS would be in a better position to address those agents not in compliance, essentially raising the bar as well.

At this point, Agent legislation is being drafted to address clarification of Agent roles and responsibilities as well as raising the bar. While reasonable minds can, and often do, differ on how best to improve the title industry, the first step is always coming up with an idea and then having the discussion. Look for lots more discussion at the Annual Convention in Tampa. (E.D. Note: We have scheduled a pro and con debate on the entire question of raising the amount of the surety bond as part of the Agent Section meeting at the Convention).

FLTA is unique among all title associations in having a separate lobbyist to represent just the interests of our agent members. Thank you to all the agents who responded to my request to support our Agent Section Lobbyist contract. We have reached a new high point in terms of funding for the Agent Lobby Fund at this time of year. Please see the members of Lobbyist Club on Page 2. When you see these folks at the convention, please thank them for their support. Their financial commitment benefits every title agent in Florida.

Agent Section Report Interview with Bob Booth, CLS

Vincent Cassidy, Chair
Majesty Title Services, LLC



Continuing our series highlighting Title Agencies throughout the state, this issue highlights Community Land Title in Port St. Lucie, owned by Bob Booth, who happens to have the CLS certification. Bob has been active in FLTA for years and served on the board as well. Bob has an interesting story.

Vince Cassidy: *When did you start in title, and why?*

Bob Booth: I started my title career back in 1984, thanks to a training program run by Chicago Title in Merritt Island. Despite having grown up hearing all about the title business from my father & grandfather (who each had remarkable title careers), I never gave much thought to following the family tradition until after my tour in the US Navy. I was 21 then and unsure of the direction to go with my life; attend college, etc., so I talked to my father about the future and listened to the lure of being taught a profession I could sink my teeth into; one I could be proud of (following in the footsteps of my father & grandfather) -- that's when I knew that I wanted to give it a shot.

I recall the memory of my grandfather driving me to my interview; it was like walking in with royalty the way he was greeted as he strolled through the offices in Merritt Island; as he shook everyone's hand. That made a pretty big impression on me.

(E.D. note: Bob is too modest to mention this, but his grandfather, Harvey Booth, wrote "Florida Land Titles" from which generations of title professionals learned our profession. That book, and his grandfather's service to FLTA, led

directly to the formation of the Certified Land Title Institute and the CLS and CLC designations)

Vince: *When did you realize this was a business you wanted to develop and grow?*

Bob: I'd have to say after I had my first taste of management. I was probably over my head at the time (having been in the business all of 5 years) but it was clear to me then what could be accomplished with hard work and the right support team. That's when I really got the itch to learn everything I could about the title business from A to Z and developed my desire to eventually open my own title agency.

Vince: *You have survived during the past several years when others have faltered - what was your strategy, how did you do it?*

I do have one particular concern though -- the "Vetting" of title agents & closers we're all hearing about. I'm very concerned of the potential harm. It could hinder (if not stop) title agents from competing in the market place

If a reasonable solution isn't found, I foresee a plethora of new underwriter branch offices opening -- largely staffed by a lot of former title agents.

Bob: Well there was no grand strategy, I kept my nose to the grindstone and downsized the agency to the point where if I had downsized much more it would be *agent* not agency. Our backyard (St. Lucie) was one of the hardest hit in the nation. Hence our market is comprised of REO sales (we can't get those) and lots of infamous Short Sales, many of which are being handled by the larger brokerages who more times than not have their own AfBA title agency (so we can't get those either). Many traditional sources of title business were shut to us.

Understanding this, I decided to take a different approach to weather the economic storm until more traditional venues of business become available in our

market -- provide Title Evidence. It turns out there are not too many in the industry anymore who can search, examine & underwrite titles -- I had found a niche.

Vince: *What mistakes did you make along the way?*

Bob: Not downsizing sooner! I was too busy chasing shadows (*potential business*) that didn't seem to materialize for one reason or another and I was too stubborn to lay off the good people who worked for me. I never thought the ill-effects of the foreclosure crisis would have been quite so severe or last this long, and by the time I did, it was *almost* too late.

Vince: *What trends do you see developing in the agency side of our industry?*

Bob: The biggest trend I see is not a good one. It seems more title agencies these days are outsourcing the tasks for which they're charged; i.e., obtaining estoppels, transferring mobile home titles and doing their own title search & examination. Many buy their title work at a discount from their favorite underwriters and are absolving themselves of a good deal of the liability associated with insuring title and the justification for their portion of the premium.

Unless we get back to the basics of teaching title agents how to be true title agents, many of today's agencies may be become later defined as "servicers." I have some ideas on how we could accomplish the task as an industry (and thus 'raise the bar') but it'll take a good deal of thinking outside of the box in order to do it. P.S: It's important we re-ignite the 'assurance' factor of our industry -- (short of fraud) title insurance should only come into play if we screw up and training is the best defense to avoid that.

Vince: *Take us through a normal day in running your agency?*

Bob: We're a small agency so it's *hands-on* all day. I've joked to others in our profession that we're basically a mini-underwriter; we do everything an underwriter does ('mostly') except we don't have a claims department.

Vince: *You have been active with FLTA, what made you get involved?*

Bob: My Grandfather played a big role in that. He explained to me the importance of having our title profession represented in matters of legislation & regulation. After I received my CLS designation in 1992, I got actively involved after being invited by the Certified Land Title Institute to join its grading board. I've since had the honor to serve on the FLTA Board (3 times) and currently serve on Governmental Affairs and Agent's Section committees.

Vince: *Do you have any Mentors in your life that framed your life and management approach?*

Bob: Absolutely, I've been very fortunate in that I've had the privilege to work for, and with some of the finest individuals in our profession. My father & grandfather aside, I couldn't possibly name them all but I would like
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to mention Ron Scrabin who gave me 'my shot' by accepting me into a training program at Chicago Title; He also taught me the management skills I'd later apply in life.

I'd be remiss if I didn't mention Len Spangler for teaching me, there's often more than one way to solve any issue. And I could not have learned the nuts & bolts and legal aspects of how to examine title and analyze the risks without the tutelage of some of the best title attorneys in the business, -- Larry Plank; Jim Russick; John LaJoie; Barry Schonik; Ken Jannen; Norwood Gay; Pat Hancock; and I could go on...

Vince: *What would you say is remarkable about your Agency that sets you apart for the competition?*

Bob: On a local basis I'd have to say having the ability to search & examine title in-house and possessing the knowledge to quickly underwrite & solve almost any title situation. I did a rough calculation and determined I've searched, examined, closed and/or insured over 30,000 Florida titles; and I believe that to be a conservative number; hence there's not too much I haven't seen.

Vince: *If you weren't in title, what would you be doing?*

Bob: Oh I'd have to say *rock & roll star/lifeguard for sure (dude)*. Seriously, I have no idea but if I have to speculate, I've always enjoyed teaching title to those new in the business, so I may have pursued being a teacher.

Vince: *How do you see the second half of 2012 vs. 2011?*

Bob: In a word, "Better!" I firmly believe that the worst is behind us. I foresee a slow and steady growth back to stability -- to normalcy if you will.

I do have one particular concern though, the "Vetting" of title agents & closers we're all hearing about. I'm very concerned of the potential harm. It could hinder (if not stop) title agents from competing in the market place. If a reasonable solution isn't found, I foresee a plethora of new underwriter branch offices opening -- largely staffed by a lot of former title agents.

(E.D. Note: Other articles in this newsletter also address the "vetting company" concerns and the bigger picture issues driving it. We expect this will be a major topic of discussion at this year's convention -- so please join us and be part of finding a solution)

What Stops you from e-Recording?

Vicki DiPasquale
VP & National Sales Mgr, Simplifile



The top reason why companies hesitate to adopt electronic recording (e-recording) for their public record documents is fear—fear of fraud, fear of too little security, and fear of change.

E-Recording follows the same process of submitting and processing documents for recording that is done

every day by title companies across the nation, with one change. Rather than send the paper to the county, your original signed paper documents are scanned, sent, received, returned, and tracked via the Internet. This change not only simplifies and accelerates all aspects of the recording process, it is more secure.

Fear of Fraud?

As a title professional, you have control of the original closing documents until you put them in the hands of a delivery service. With e-recording, you retain control of the original throughout the recording process. Paper originals stay securely in your possession while the electronic original is securely prepared, delivered, tracked, and returned recorded. You retain control. The electronic original can't be modified in transit to the recorder's office and you don't have to worry that the payment might be waylaid and changed by some unscrupulous person. Check theft can compromise the safety of your entire escrow account. With e-recording, payments are made after the document is recorded through secure bank-to-bank transfers. Again, you retain control. Fear of fraud...not if you e-record!

Fear of Too Little Security?

With Simplifile, you can rest easy. State-of-the-art security is in place for delivering and returning your documents. Built-in security protections have been approved by some of the largest document submitters in the country. Documents are not touched until they rest securely at the county recorder's office. Forgot the notary seal or legal description? No worries...the document will get rejected and be back in your possession in the blink of an eye—ready for quick repair, re-execution and resubmission. No longer do your unrecorded originals sit in the mail for days. Concerned about security...not if you e-record!

Fear of Change?

It's painless to try e-recording. You only pay when a document has been successfully recorded. Give it a try in your office. Let the staff get comfortable with the process and soon you will wonder why you waited so long to e-record. We frequently hear from submitters wondering why all counties aren't e-recording yet. They get frustrated when they have to submit closing packages to a paper recording county because e-recording is such a simple, fast experience for them. Fear of Change...you might surprise yourself at how quickly this fear is replaced with an appreciation of how easy e-recording fits into your business workflow.

Don't let unfounded fears prevent you from experiencing the many benefits of electronic recording. Thousand of title professionals across the United States e-record in hundreds of counties every day. If your county doesn't e-record yet, ask them why. If they do e-record they are probably wondering why you don't. Get more information about e-recording. Sign up is quick and easy. You can be trained and efficiently e-recording in 30 minutes. Don't wait any longer...**give e-recording a try.**

At the Convention, we'll have Presentations on:

Preparing for the Data Call

How to "Partner" Effectively with a Lawyer

and

The Power of Positive Pay

[Have You Registered Yet?](#)

**[Map of Florida
E-Recording Counties](#)**

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FLTA Offers CE Webinars FREE for Members

On August 15, FLTA offered the first of a series of “For Credit” Webinars – Free for our Members. It proved hugely popular with over 135 attending! Over the last year and a half, we’ve actively been expanding the benefits and value we provide to our members. After getting the computer systems in place to better communicate with our members, we added lots of online resources, and we’re now starting to push out web based continuing education.

The plan is to offer a one-hour, “For Credit” webinar (approved for both DFS and Florida Bar credit) approximately every other month. We will be making these available FREE of charge to our members and their employees. We will be offering enough webinars to meet your annual CE licensure requirements. An additional five hours of entirely different courses will be available at the FLTA Convention in Tampa, November 12-14.

As with any technology, we learned a lot the first time it was offered. For example, in order to make this free for FLTA members and to charge for non-members, we had to do a two step registration process. And frankly, many of you found the two steps a bit confusing. We’ll be trying to

clarify the instructions for the next course. We had a handout for the class, but I apparently made the link too small – Lesson learned!

But the biggest issue we experienced was with people who had not yet “Joined FLTA” as the employee of a member.

There is **No Additional Charge** for signing up all of your employees – and they are all entitled to “member only” discounts, to access the “members only” portions of the FLTA website, and to receive our bulletins, newsletters and other informative materials. But our computer system, being literal, assumes that if someone isn’t registered as an employee of a member, they aren’t a member – so wants to charge them the non-member rate for the webinar.

So please get all of your employees registered with FLTA well in advance of the next webinar. If they don’t want our regular bulletins and newsletters, they can “unsubscribe” in their profile or at the bottom of any email.

Upcoming Webinars

- **Notary Ethics**

DFS Course no. 81545
FL Bar Approval pending
October 9, 2012 at 11:30 AM.
[Click here to Register](#)

- **Florida Homestead – Part I**

DFS Course no. 81795
FL Bar Approval received
December 4, 2012 at 11:30 AM.

Watch for your Invitation

Live CE at the FLTA Convention

ALTA Tackles Federal Issues Affecting Florida

Chris Abbinante
ALTA President, Fidelity
(course id# 82459)

Duties of a Title Insurance Agent as to Unclaimed Property

Aldon Asher
Bureau of Unclaimed Property
(course id# 82488)

Shades of Grey – Ethical Dilemmas

Sue Dutcher
First American
(course id# 82457)

Understanding Your E&O Coverage

Michael Cohn
Awerbach & Cohn, P.A.
(course id# 82458)

And Much, Much More! [Register Today](#)

What your Friends said about the First Course (And Yes! Your feedback really does guide our future plans)

How do you feel about FLTA offering "For Credit" Webinars as a member benefit?

	COUNT	PERCENT
Great Idea, Keep it up!	90	100%
Don't waste your time -- or ours	0	0%
I hate webinars -- and only attended because I was up against a reporting deadline.	0	0%
I don't feel strongly positive, or negative about it	0	0%
Good Idea, but I'd rather attend zone meetings with CE or the convention	0	0%

What time of day is best for our Webinars?

	COUNT	PERCENT
Before Noon	59	66%
Over the lunch hour	18	20%
Mid-afternoon	13	14%
on Saturday	0	0%
After normal business hours	0	0%

Should we occasionally "repeat" courses that have already been presented?

	COUNT	PERCENT
Yes, If I miss a course, I'll want to go back and get the credit	44	50%
Yes, it lets us "stagger" our staff attendance.	37	42%
No, the online recordings (not for credit) provide the needed information	7	8%

Should FLTA develop non-credit webinars on topics that relate to your business (this will be a future project, if we pursue it at all)

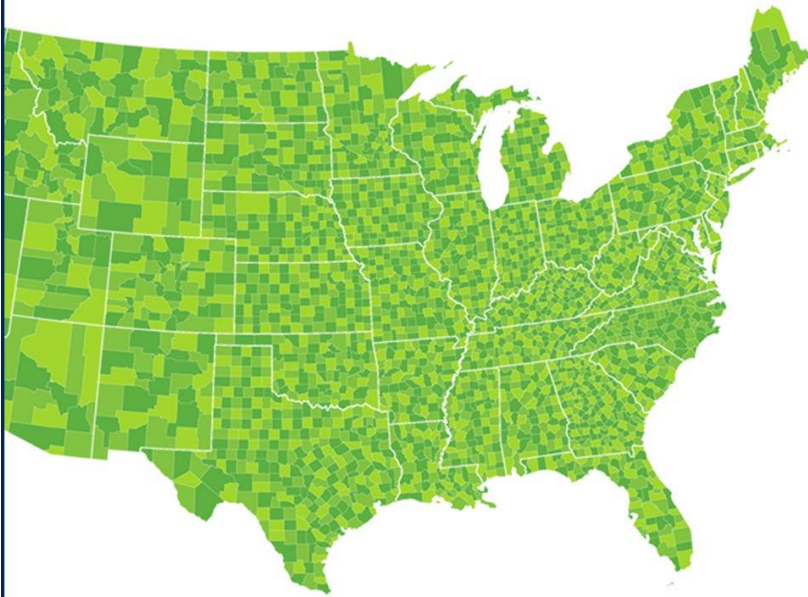
	COUNT	PERCENT
Yes -- any business topic that FLTA feels might enhance our business -- we'll decide whether to attend.	59	66%
Yes, but limit it to "title" matters like the Data Call, the new Closing statement/GFE/TILA	18	20%
No, limit webinars to those where we can meet our CE Requirements?	12	13%

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At no cost to you, reRequire will ensure data accuracy, work directly with the payoff lender, search for releases with constant reporting on the status of each release, certify that all releases have been properly recorded, confirm all HELOCs or 2nd mortgages are closed, and eliminate the need for follow-up work because **everything you do to a file after closing costs you money.**



- ✓ **Largest** release tracking company in the United States.
- ✓ Tracks releases in **all 50 states**.
- ✓ On Inc.'s List of **Fastest-Growing Private Companies**.
- ✓ Tracking more than **200,000** releases in 2012.
- ✓ Nearly **1 million** records tracked overall.
- ✓ Currently servicing more than **2,000** agents.
- ✓ Benefits **all** parties associated with a real estate closing.
- ✓ Celebrating **10 years** of release tracking.
- ✓ Still **no cost, no risk**.

SETTLEMENT AGENTS & ATTORNEYS:

- Enhances customer service to all parties of a closing
- No direct cost to the settlement agent or attorney
- Payoff disbursement package
- Online file status reporting
- Patented tracking process
- Provides a review of release accuracy

UNDERWRITERS:

- Identification of payoff shortages
- Identify open lines of credit
- Fewer claims related to unreleased mortgages
- Assurance of follow-up of indemnity letters
- Overall lower risk

REAL ESTATE AGENTS & CONSUMERS:

- Identification of potential clouds on title
- Alert the consumer of potential problems with the marketability of title



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Welcome New Members - We're so glad to have you with us!

Aqua Title

Wendy Lewis
Destin FL

Lexant Title Company

Daniel Jacobson
Fort Lauderdale FL

Shutts & Bowen

Margaret Rolando
Miami, FL

Dirito & Goode, P.L.

Bryan Goode
Jacksonville Beach FL

MSC Title, Inc.

Laura Bowers
Sarasota FL

Sierra Title

Matthew Rocco
Lake City FL

Esquire Title Services, Inc.

Christine White
Orange City FL

Olympia Title & Escrow Corporation

Ali Egeli
Fort Lauderdale FL

Skyline Lien Search, Inc.

Denys Ferreiro
Miami, FL.

Federated Title & Trust LLC

Steven Sussman
Coconut Grove, FL

Online Land Surveyors, Inc

Eddie Perez
Miami, FL

Southeast Professional Title, LLC

Deborah Farnell
Maitland FL

First Western Title Company of**America, LLC**

Sandra Houghton
Sarasota FL

Paramount Title Corporation

Rhia Winant
Tampa, FL

Squire Sanders (US) LLP

Jeffrey Butt
Tampa FL

Gibson, Kohl, Wolff & Hric, P.L.

Lauren P. Kohl
Osprey, FL

Pointe Group Title & Settlement, Inc.

Naivi Reyes
Coral Gables FL

Steven M. Lee, P.A.

Steven Lee
Miami, FL

Harbor Title, Inc.

Arianna Goldman
Fort Lauderdale, FL

Premier Guaranty Title & Trust, Inc.

Laurie Planamento
Plantation FL

Sun Trust Title, LLC

Jose Pol

Suncoast Title of Clearwater, Inc

Cheryl Greiner
Treasure Island FL

Hemisphere Title Company

Patricia Gonzalez
Miami, FL

Premier Title Company

Bernard Baker, III
Palm Beach, FL

Sunshine Title Corporation

Rickie Thomas
Jacksonville FL

Heritage Title Services of North Florida

Janet Donalds
Live Oak, FL

Professional Lien Search

Savannah Taylor
Sarasota FL

The Law Offices of Giselle Franco, P.A.

Giselle Franco
Miami FL

Investors Title & Settlement Services

Jeffrey Fishman
Tampa, FL

Professional Risks Organization

Lawrence Galpern
Coral Springs FL

The Title Station, Inc.

Kimberly Jackson
Melbourne, FL

Island Breeze Title, Inc.

Maria de Yampert
South Pasadena, FL

Real Estate Closing Solutions

Dana Ward
Orlando, FL

Title Resources of Gainesville, Inc.

Katherine Raabe-Prevatt
Gainesville FL

Kuhlman & Associates, Inc.

Karen Kuhlman
Bradenton, FL

Reliable Land Title Corporation

Donn Parsons
Navarre, FL

Winged Foot Title, LLC

Chris Black
Fort Myers, FL

Serenity Title Group

Marisol Morales
Miami Lakes FL

Allied Industries Committee Report

Shelley Stewart, CLC
Committee Chair
Southern Title Holding

The Allied Industries Committee is off to a great start. The mission of this committee is to foster collaborative relationships between FLTA and the members of Florida's real estate related industries to promote goodwill, education and our common legislative interests for the benefit of FLTA members and Florida consumers. The Allied Industry groups that we are focusing on are:

- Florida Realtors® [FR]
- Home Builders [FHBA]
- Mortgage Bankers [MBA]
- Mortgage Professionals [FAMP]

The first group that the committee decided to focus on was the Realtors®. The Committee has developed and received FLTA Board approval on three (3) Realtor pieces, which include talking points and promotional materials. The talking points piece has been developed to be used as a "cheat sheet" during scheduled meetings and the promotional materials will be left behind. You can review these materials on the [Allied Industries Committee resources page](#) on the FLTA website.

Allied industry committee members from each zone will schedule appointments with the local Board of Realtor offices to speak with the presiding President, Executive Director, Legislative Chair and Education Chair. Our goal is to introduce and educate Realtors® on FLTA and the benefits of working with its members. After these initial meetings, the representative(s) will report back to the committee regarding educational or legislative opportunities to support these industry groups that were identified during the meetings. Realtors® are very active in their state association and have a high regard for professional standards; the FLTA is trying to demonstrate that our organization has similar characteristics and goals.

If you are interested in becoming involved in this committee, please feel free to contact me by email at: ssewart@stitle.com

Alan Fields is working with the Florida Bar on a series of informative consumer-targeted brochures. The key topics

under consideration include short sales; ways of holding title; POAs; and FIRPTA, as well as many others. These informative brochures will help our member agents respond to consumer inquiries on potential UPL topics.

The committee's next step will be to begin preparing collateral materials geared toward builders.



The Market is FINALLY coming BACK!

Florida Title Premium Volume Jumps 17.4% in Second Quarter

Title insurance premium volume increased in all 50 states by an average of 20% during the second quarter of 2012 compared to the same period a year ago, according to ALTA's 2012 Second-Quarter Market Share Analysis.

The states generating the most total title insurance premiums during the second quarter of 2012 were California (\$415.1 million, up 29.8 percent compared to the second quarter of 2011), Texas (\$333.7 million, up 16.6 percent), Florida (\$218.1 million, up 17.4 percent), New York (\$193.6 million, up 14.8 percent) and Pennsylvania (\$113.2 million, up 16.8 percent). This is quite a change from a few years ago when Florida was close to surpassing California as the largest title market in the nation.

In terms of growth rate in premium, Florida ranked 14th, suggesting that our real estate economy is recovering at a slower rate than other states including Hawaii, California, Georgia, North Carolina, and Texas.

All-in-all a very positive trend for Florida's title industry which we hope translates to a stronger bottom line for many of our agent members.



The unifying theme of the next few articles is that, like it or not, change is coming to the title industry. As I was writing this article, I came across three quotes that highlighted the progression of my own thoughts about the changes that are to come.

I stared off embracing the view of J.D. Salinger. **We've had things pretty good for a long time – we ought to just leave them alone.** Heck, I'm enough of a dinosaur, there are times when I think we should go back to the "good old days" of examining abstracts from the earliest public records forward; of actually fixing title problems rather than insuring over

them, and that you shouldn't work in this industry if you can't map out a metes and bounds description. I'm also enough of a realist to know that I don't want my bones displayed in the Smithsonian.

Certain things, they should stay the way they are. You ought to be able to stick them in one of those big glass cases and just leave them alone.

-J.D. Salinger

Change in our world is inevitable. As an industry we have all ready responded to our customer's demands for quicker turn-around time; we've adopted to the lender's "last minute" delivery of packages and even to their efforts to shift liabilities to the closing agent in unfair lender closing instructions.

And still more changes are coming! Since the housing bust, lenders (encouraged by regulators, investors and the public) have been reassessing their operations, looking for areas that could lead to losses. Much emphasis has been placed on settlement because of a few highly publicized defalcations. Concerns have been raised about small agencies handling large amounts of closing proceeds; the potential for significant losses due to escrow theft; and the significant regulatory penalties written into the RESPA and TILA rules. With the permission of our friends at ALTA, we have reproduced an excellent article by Jeremy Yohe that provides some context for the lender and regulatory pressures driving this discussion.

*Change is inevitable.
Change for the better is a
full-time job.*

-- Adlai Stevenson

Other articles address the "Vetting" requirements certain lenders are placing on their closing agents; and demands that our insurers accept more liability for the errors and omissions of their agents.

This is all part of the ongoing discussion (that will continue at [the Convention](#)) of whether Surety Bonds should be significantly increased as a partial response to these lender and regulatory pressures. While some of the ideas floated may not prove popular, part of FLTA's value is in stimulating the discussion about ways to

improve our industry. In the meantime, we urge every member to share their thoughts on this vital issue in the [FLTA Title Forum](#).

Make no mistake about it, these pressures will continue and CHANGES ARE COMING! It is up to each and every one of us to be an active part of the discussion to make certain that the Change is for the Better! This is our industry and our livelihood. Protecting it is a full time job!

None of these are easy issues. There is no “obvious” answer and good, honorable people will sometimes reach very different conclusions on what is best for the title industry. Any change, even a change for the better, will be accompanied by drawbacks and discomforts. **The first step to making sure that the change is for the better is showing up and getting involved. I implore each of you to get involved.**

*You must be the change
you wish to see in the
world*

-- Mahatma Gandhi

There is lots of discussion of these and other “World Changing” matters on each Agent Section Call (usually the first Wednesday of the month, but check the [FLTA Calendar](#)) and some tough decisions will have to be made at this year’s [FLTA Convention](#). If the change is going to be “For the Better,” you must “Be the Change.”

Participate like your Livelihood Depends On It! *It Does!*

Vetting Companies

Many of you have heard from lender clients about new requirements that settlement agents submit to vetting by third party companies in order to continue to do business with those lenders.

Some of these communications cite the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the GSEs and the National Mortgage Settlement as the source of these requirements. While it is true that lenders face new responsibilities and pressures from their regulators, investors, clients and the public, there is no specific requirement or government action that is driving lenders to impose these vetting requirements.

Some of these also cited to the April 12, 2012 bulletin that was published by the CFPB on lenders’ liability regarding the actions of their service providers. The CFPB published this memo to remind banks that they do not transfer liability for compliance with “Federal consumer financial law to avoid consumer harm” when they contract with a service provider to conduct business on their behalf. This reminder was consistent with regulations in place for large national banks.

The April 12 bulletin is one of many pressures on lenders, and it is important to note that the bulletin does not require any specific practice or vetting

program, nor does it set a specific timeframe for lenders to start a vetting program.

Our counterparts at ALTA are working aggressively with the lender community and the federal regulators to keep settlement agents in the role they currently serve -- as independent third parties to the transaction. On a parallel track, these vetting requirements have been the subject of extensive conversation on both FLTA’s Insurer Section and Agents Section calls and among the State Land Title Execs from the large states.

In an attempt to identify the scope of the problem, FLTA surveyed our agent members and identified the following lenders which require their closing agents to submit to vetting as a condition of closing their loans:

- American Capital Corp.
- American Pacific Mortgage Corp
- Amerisave Mortgage Corp
- Cascade Financial Services
- Cascade Land Home Financing
- Circle Mortgage Corporation
- DAS Acquisition Company (St. Louis, Missouri)
- Fidelity Funding Mortgage Corp
- First Choice Lending
- First Choice Loan Services, Inc.
- First Choice Mortgage

- First Equity Mortgage Bankers
- First Tennessee - Mortgage Warehousing Group
- GT Financial (a Division of American Pacific Mortgage)
- Residential Home Funding Corp.
- Residential Home Mortgage
- Texas Capital Bank

Most have set a January 1, 2013 date for compliance, although a few have indicated the requirement will become effective November 1. If you identify other lenders imposing these demands or have comments to add, please [contribute to our survey](#). Good information helps us develop an appropriate response.

In the short term, we urge our members to open the lines of communication with their lender clients and mortgage brokers and ask:

- What banks/investors/warehouse lines do you write business for?
- How much of your business do you do with those entities which are enrolled in these vetting programs?
- What types of pressures are you facing from investors, regulators and the public? Specific laws, bulletins or investor guidance is helpful to give us a fuller picture.

- Are there any specific programs that help you alleviate those pressures? This includes asking whether lender clients have been examined by a regulator and what recommendations the regulator made to reduce risk in the settlement space.
- What do you believe the settlement industry needs to do—above and beyond what we are doing today—to help lenders meet these pressures? This includes asking about why things like state licensing or the CPL may not be sufficient for their concerns.
- What the lender needs from you to continue to do business with your company in the future?

These conversations are great starting places for you to tell your lenders about your processes and the work you do to protect their money, the background checks and audits your title insurers already put you through, and the extensive protections they are afforded under the Closing Protection Letter and by Florida Statutes. In many instances, lenders do not know about everything we do to protect them.

Once you have these conversations, please forward what you learn to [Alan Fields](#) and [Justin Ailes](#), ALTA's vice president of government and regulatory affairs. This information will be vital to helping determine if and how the industry as a whole should respond to this rising trend.

What Our Lenders Expect

Our counterparts at ALTA have been engaged in discussions about the "Future of the Title Industry." As part of that process, they held discussions with large lenders about what the Lenders expected from title insurers in their supervision of their appointed agencies. Here's the list that resulted:

1. Perform background checks at pre-approval and annually for everyone who handles bank and customer funds as well as everyone who interfaces with bank data and customers (direct operations, affiliates, independent agents, principals).
2. Perform credit checks at pre-approval and annually for everyone who handles bank and customer funds as well as everyone who interfaces with bank data and customers (direct operations, affiliates, independent agents, principals).
3. Escrow controls and process will include (i) 3rd party reconciliation, (ii) reconciliation on all uncleared checks, (iii) segregation of duties, (iv) dual signatories, (v) validation of bank accounts, and (vi) separate escrow, trust and operating accounts, (vii) dedicated computer for escrow functions, (viii) minimum of monthly reconciliation of all accounts.
4. Title Policy inventory controls and process to (i) include tracking and reporting of lag between CPL to Title Policy issued, (ii) enforce submission of remittance 30 days after funded date, (iii) enforce delivery of final Title Policy to bank 45 days after

funded date and (iv) ongoing monitoring of aged Title Policies not yet remitted.

5. Title Underwriter audit process of agents to (i) occur pre-sign and annually, (ii) include financial account (escrow, operating and trust) reconciliations, (iii) uncleared check reconciliation, (v) validate adequate insurance coverage, (vi) validate adequate capitalization and (vii) validate compliance with all local, state and federal regulatory requirements.
6. Title Underwriter operational oversight of agents to include (i) enforcement of agent to follow bank closing instructions, (ii) enforcement of agent to issue the final title policy within 45 days of funding, (iii) agent training and certification program, (iv) proactive notification of change of agent status (cancelled, re-certified) and monthly validation of active

approved/inactive agent lists and (v) management and reporting of Title Underwriter-Agent claims ratio and (vi) enforcement of agent contract with the Title Underwriter.

I want to stress that this is a “Wish List.” It is not something that is being mandated or even recommended. But it is indicative of what our lenders are thinking; and of the types of things ALTA’s “Future of the Industry” project must consider. But from our standpoint of Making Changes for the Better, these reflect perceived problems that must be addressed in one fashion or another.

Jeremy Yohe’s article “Market Demands on Lenders Impacting Settlement Service Providers,” which appears below, provides context on some of the factors driving these discussions.

Market Demands on Lenders Impacting Settlement Service Providers

Jeremy Yohe
American Land Title Association



Uncertain regulatory requirements coupled with recent monetary settlements have forced lenders to be more sensitive to the types of companies they do business with. Consequently, regulators’ increased demand to protect consumers has forced lenders to adjust their relationships with service providers.

Recent bulletins and consent orders from the Federal Reserve, Consumer Financial Protection Bureau (CFPB) and Office of the Comptroller of the Currency (OCC), and requirements for more oversight of foreclosure practices by lenders and servicers coming out of the national mortgage servicing settlement all point to increased focus on service providers and holding lenders responsible.

While lenders have been responsible for their service providers’ actions for years, it’s only been until recently that enforcement orders and corrective actions have demonstrated regulators’ intent that the banking organizations are expected to oversee actions of third parties.

ALTA’s Board of Governors recently met in Chicago to address the increased regulatory pressures, and consequently, the rising trend of lenders demanding more information from settlement agents.

“Since the housing bust, lenders have been reassessing their operations, looking for areas that could lead to losses,” said Frank Pellegrini, chief executive officer of Prairie Title and ALTA president elect. “Lenders have put a focus on settlement services because of the potential for significant losses due to escrow theft and the significant regulatory penalties written into federal laws, including TILA and RESPA.”

Consent Orders Driving Lender Decisions

While recent actions by the CFPB has garnered much of the attention, consent orders reached with federal and state authorities is the main driver forcing lenders to rethink relationships with their service providers.

Last year, several federal banking agencies announced formal enforcement actions requiring 10 banking organizations to require lenders to improve oversight of bank and nonbank vendors in the foreclosure area. Among

other things, the companies must submit plans acceptable to the Federal Reserve that “establish robust controls and oversight over the activities of third-party vendors that provide to the servicers various residential mortgage loan servicing, loss mitigation, or foreclosure-related support, including local counsel in foreclosure or bankruptcy proceedings.”

Then in February 2012, 49 state attorneys general and the federal government announced a \$25 billion joint state-federal settlement with the country’s five largest loan servicers. It also requires servicers to oversee and manage its third-party providers. Servicers subject to the settlement must perform due diligence of third-party providers for their qualifications, expertise, capacity, reputation, consumer complaints, information security, document custody practices and financial viability. The settlement also requires servicers to conduct reviews of third-party providers to ensure any fees and costs charges to consumers are lawful and reasonably incurred.

The \$140 million enforcement action CFPB took against Capital One Bank for credit card activities in July amplifies the actions regulators are examining to prevent third-party providers from harming consumers. Capital One hired a third-party call center that used deceptive marketing tactics. Korsmo said this enforcement action is instructive because it shows the CFPB will penalize financial institutions when their third-party vendors’ actions harm consumers.

“We know that the CFPB and other state regulators have targeted so-called residential mortgage ‘service providers’ for heightened scrutiny,” said Francis Riley III, a partner of the law firm Saul Ewing LLP in New Jersey. “However, who is a ‘service provider’ in the CFPB’s mind? There is good reason to believe that the definition now includes, will include or may include—at the regulator’s discretion—title agents with respect to title insurance procurement, but most certainly concerning settlement and closing services.”

CFPB to Hold Financial Institutions Liable for Vendor Violations

A bulletin issued in April by the CFPB fanned the flames even more that lenders need to increase oversight of their service providers. The memo indicates that financial institutions under Bureau supervision may be held

responsible for the actions of the companies with which they contract. The Bureau said it will take a close look at service providers’ interactions with consumers and hold all appropriate companies accountable when legal violations occur.

“Consumers are at a real disadvantage because they do not get to choose the service providers they deal with—the financial institution does,” said CFPB Director Richard Cordray. “Consumers must not be hurt by unfair, deceptive, or abusive practices of service providers. Banks and nonbanks must manage these relationships carefully and can be held accountable if they break the law.”

The Bureau’s bulletin, which mirrors past guidance from the other federal banking regulators, urges supervised financial institutions to have an effective process for managing the risks of service provider relationships to “limit the potential for statutory and regulatory violations and related consumer harm.” According to the memo, some examples of oversight by mortgage lenders and servicers include:

- Conducting thorough due diligence to verify that the service provider understands and is capable of complying with the law;
- Requesting and reviewing the service provider’s policies, procedures, internal controls, and training materials to ensure that the service provider conducts appropriate training and oversight of employees or agents that have consumer contact or compliance responsibilities;
- Including in the contract with the service provider clear expectations about compliance, as well as appropriate and enforceable consequences for violating any compliance-related responsibilities;
- Establishing internal controls and on-going monitoring to determine whether the service provider is complying with the law; and
- Taking prompt action to address fully any problems identified through the monitoring process.

“Based on what we’ve seen, we believe that title agents are likely to face increased scrutiny regarding their business practices, policies and procedures,” Riley said. “It’s imperative for title agents to begin preparing for potential examinations by the CFPB and audits by mortgage lenders and mortgage servicers. Title agents should begin to work

with their compliance attorneys to determine exactly what next steps should be taken before they are behind a curve that will be extremely hard to get around.”

Lender Liability Not New

While the CFPB memo has caused new concern, lender liability for the acts of its service providers is nothing new. In 2001, the Office of the Comptroller of the Currency (OCC) issued guidance to national banks on managing the risks that may arise from their business relationships with third parties.

The OCC guidance says a bank’s use of third parties does not diminish its responsibility “to ensure that the third-party activity is conducted in a safe and sound manner and in compliance with applicable laws.” Additionally, Fannie Mae and Freddie Mac in its seller/servicer guidelines indicate the action or inaction of a third party constitutes “the lender’s breach of a selling warranty.”

While lenders face increased regulatory scrutiny, Michelle Korsmo, ALTA’s CEO, said there are no specific requirement or government action that is driving lenders to impose these new requirements. She said the CFPB published the memo to remind banks that they do not transfer liability for compliance with federal consumer financial law to avoid consumer harm when they contract with a service provider to conduct business on their behalf. This reminder was consistent with regulations in place for large national banks, according to Korsmo.

To highlight this, the Federal Deposit Insurance Corp. (FDIC) issued guidance in 2006 raising the awareness of third-party arrangements. The FDIC said that third-parties can help institutions attain strategic objectives, but also present risks.

“Failure to manage these risks can expose a financial institution to regulatory action, financial loss, litigation, and reputational damage,” the FDIC’s guidance said. The FDIC encouraged financial institutions to recognize risks and implement an effective risk management strategy.

Meanwhile, the CFPB has made it clear that banks must ensure that consumers are not harmed, specifically if there is a violation of federal consumer law. Federal consumer law is defined in Dodd-Frank and includes RESPA, TILA

and Gramm-Leach-Bliley, among others. From the CFPB’s perspective, lenders can prevent consumers from being harmed by knowing who they do business with.

“One of the problems we face right now is that we don’t know what the final regulations will look like,” Pellegrini said. “But it’s important for title companies and settlement service providers to understand the demands being put on lenders and to be proactive and be aware of how the industry will operate going forward.”

Vetting Companies Popping Up

An outcome of this has been the creation of settlement agent vetting companies. Settlement agents are receiving letters from their lender clients—mainly warehouse lenders—indicating they must be vetted by these third-party companies in order to continue closing loans for them. Warehouse lenders provide a short-term revolving line of credit to a mortgage banking company to fund the closing of mortgages from the closing table to sale in the secondary market.

While the CFPB’s bulletin is one of many demands on lenders, Korsmo said it is important to note that the document does not require any specific practice or vetting program, nor does it set a specific timeframe for lenders to start a vetting program. ALTA encourages members to reach out to lender clients and learn what they need to meet regulatory requirements.

“It’s crucial that you talk to your lenders to understand these demands and how you can work with them to meet their needs,” Korsmo said.

ALTA will continue to examine the increased regulatory demands on lenders. In coming articles, ALTA will examine:

- How title agencies and settlement service providers are responding to requests from third-party vetting companies
- Solutions ALTA is working on to help meet lender demands

This article was previously distributed by ALTA and is reprinted with permission

Tired of Eating Condo Fees on Deals that Don't Close? Well Stop Doing it!!

Alan B. Fields
FLTA Executive Director

As I visit agents around the state, I regularly hear complaints about how the Condo and HOA management companies are “gouging them” for estoppel letters (I’ve heard figures over \$700 being charged for an estoppel certificate), and how our agents wind up “eating” those fees when a deal doesn’t close. The very concept of having to pay in order to be told how much I have to pay -- has never sat right with me. Especially when the person refusing to tell me is himself being paid by the association to collect what is owed.

But until we can change the law (and there is a pretty influential lobby against taking away that revenue stream), we are stuck with that reality. But thanks to changes in the law we helped push through several years ago, we have a better option.

You can get your money back! If you give written notice that the deal fell through within 30 days of the date for which the estoppel was obtained, they must give you your money back! But you have to follow certain steps – and sometimes will have to push it beyond the initial refusal. If they don’t and a lawsuit is necessary, they have to pay your attorneys’ fees and costs.

But the good news is that FLTA members have a [handy-dandy checklist, sample forms](#) and even a couple of attorneys who are willing to represent FLTA members on a contingent fee basis and waive their normal retainer to help get your money back. So quit giving away your bottom line to benefit Condo and HOA management companies – Use the tools available to you as an FLTA member.

Allied Industries Committee Releases “Ghost Agencies” Project

Shelley Stewart, CLC
Committee Chair
Southern Title Holding



In recent months, the title industry has identified a new type of fraud targeting lenders and our own good names and reputations. In this type of fraud, the Bad Guys find a legitimate and usually well regarded title agency and create a corporate entity having a deceptively similar name.

They establish bank accounts and Tax ID numbers in that name. The “ghost agencies” create documents purporting to be title insurance commitments and provide lenders with fraudulently created insured closing letters, and even entire closing packages – and then run off with the money.

FLTA is urging every title agency to periodically check Sunbiz.org to see if someone has set up a name which is deceptively similar to yours and to caution your staff to raise the red flag if you receive a call or documents regarding a transaction that is not in your system. More on this fraud can be found in [this FLTA bulletin](#).

As a step to help spot these frauds, the Allied Industries Committee has created a warning brochure that can be distributed to your lender and mortgage broker clients to help them verify the legitimacy of the agents they are dealing with and the Closing Protection Letters they receive.

The Allied Industries Committee developed these with the expectation that FLTA members could download these materials, add their company name, and distribute them to your lender and mortgage broker clients as both a public service and a marketing tool. To be most effective as a marketing and crime prevention tool, the brochure should be accompanied by a call and an explanation. Talking points for that call and other materials can be [downloaded here](#). FLTA members are granted a limited license to use these talking points, add their name and logos to this brochure and distribute them.