



# ***FLTA Tallahassee Report***

**\*Serving Title Professionals Throughout Florida\***

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**Shelley Stewart, CLC, President**

**Lee Huszagh, Executive Secretary-Treasurer**

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## **Short Sale Minefield**

Today's most prevalent closing transaction, the short sale, is a dangerous minefield for the title agent. If the title closing business wasn't risky enough, the short sale has increased the risk factor almost exponentially. This article will discuss some of the land mines the title agent should consider when working on a short sale transaction.

Negotiating the Short Sale – Effective January 1, 2010, it is unlawful for any person to “act as a mortgage broker” in Florida without a current, active Florida mortgage broker’s license. Sec. 494.0025(2), Fla. Stat. (2009). The definition of “act as a mortgage broker” is defined in Section 494.001, Florida Statutes, as: “... for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, accepting or offering to accept an application for a mortgage loan, soliciting or offering to solicit a mortgage loan on behalf of a borrower, **NEGOTIATING OR OFFERING TO NEGOTIATE THE TERMS OR CONDITION OF A NEW OR EXISTING MORTGAGE LOAN** on behalf of a borrower or lender, or negotiating or offering to negotiate the sale of an existing mortgage loan to a noninstitutional investor.” {Emphasis added.} There are two basic exemption categories: (1) a Florida Bar licensed attorney may “negotiate the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client”; and (2) a person making a mortgage loan using his or her own funds who does not hold himself or herself out to the public as being in the mortgage lending business. Therefore, with respect to the title agent’s business, unless you are a licensed mortgage broker or attorney representing a client in the negotiation of a short sale, you are prohibited from negotiating a short sale. Whoever knowingly violates these statutes commits a felony of the third degree. Each such violation constitutes a separate offense. Sec. 494.0018, Fla. Stat.

The Florida Department of Financial Services, which regulates title insurance agents and agencies, had deemed that a title agent’s license is not authorization to negotiate short sales even before this statute took effect on January 1, 2010. Hence, the DFS, backed by the provisions of these new statutes, maintains that a title agent should not perform any part of the negotiation with a lender to be paid off in a short sale transaction (including a refinance where the lender will be accepting less than what is owed). Merely acting as a conduit between the lender and the borrower in transmitting copies of documentation could be considered negotiation by the DFS. However, merely requesting estoppel information would generally not be considered negotiation.

Unlicensed Practice of Law – Could negotiating a short sale and/or completing documents over and above those customary for a common real estate closing be considered the unlicensed practice of law? Is the nonlawyer title agent practicing law when he or she negotiates or assists in the negotiation of a short sale? The Florida Bar's Standing Committee on the Unlicensed Practice of Law is studying the issue of nonlawyers assisting buyers in negotiating and finalizing a real estate short sale. Short sales are now in the cross-hairs of The Florida Bar. One could argue that negotiating a short sale is the unlicensed practice of law inasmuch as the statutes referred to above (Sec. 494.025, Fla. Stat.) exempt Florida Bar licensed attorneys negotiating a short sale during the course and as a part of the representation of the client. One should be reminded that the unlicensed practice of law is a criminal offense, a felony of the third degree. Sec. 454.23, Fla. Stat. (2009).

No Errors & Omissions Coverage – A title agent's errors and omissions policy may not cover the acts of negotiating a short sale. Nor, would the negotiation of a short sale be a covered matter under a title insurance policy. This would render the nonlawyer, non-mortgage-broker-licensed title agent virtually without any insurance coverage for his or her acts of negotiating a short sale.

Fraud Upon the Lender or Other Parties to the Transaction – Closing instructions and/or estoppel letters from the lender receiving a short pay may include language that allows that lender to renege on accepting the short pay and releasing the property from the mortgage if the lender felt it was misinformed and mislead into accepting a much smaller amount than the outstanding balance of the mortgage. Some closing instructions or estoppel letters state that the lender may renege on giving a release of its mortgage if a subsequent "flip" transaction occurs soon after the short sale transaction. Reversing the short sale transaction may be impossible, as un-doing a closed transaction is a nightmare that most agents do not want to experience. Nor, would a title agent want to be accused of participating in a mortgage fraud scheme of misleading the short pay lender as to the financial conditions and factors of the short sale transaction.

These are some of the problems a title agent should consider. The title agent is cautioned to walk lightly through the minefield of short sale transactions.

<b>ByLaw Committee Report</b> <b>by Frank Tricomi, TICOR Title – FLTA Zone 3 Vice President</b>
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The Bylaws Committee is moving towards an updated version of FLTA's Bylaws. Since the Committee's initial organizational meeting at the Association's mid-year conference in February, the Committee has met on several occasions with the goal of both updating the content of the Association Bylaws and streamlining the format. The current goal of the Committee is to present a draft revision of the Bylaws to the FLTA Board of Directors in June. After review, comment and possible further revision by the Board of Directors, the revised Bylaws will be submitted to the full FLTA membership at the November annual convention for a ratification vote.

If you have any suggestions, insights, and/or recommendations for the Bylaws' revision, please feel free to submit them to [phancock@fnf.com](mailto:phancock@fnf.com) or [frank.tricomi@ticortitle.com](mailto:frank.tricomi@ticortitle.com).

## Forms Committee Report

by Jim Russick – Old Republic National Title – FLTA Zone 4 Vice President

Effective October 2006, the American Land Title Association (ALTA) approved new Owners and Mortgagee forms of title insurance. Amendments to the commitment and the existing endorsements were accomplished as well.

The FLTA Forms Committee has been working with the Florida Office of Insurance Regulation to assist in the adoption of the 2006 forms. A subcommittee made up of Pat Hancock, Ken Jannen, and I had multiple meetings with OIR officials to go over the forms and explain some of the subtleties they contain. It has been a protracted and methodical process, but their adoption is imminent. We anticipate that the ALTA 2006 forms will be available in Florida by July 1, 2010 and that you will be hearing more from your underwriter(s) on this issue soon.

The Committee has also had multiple meetings with regard to the Indemnity Treaty that is designed to meet our policy obligations and to efficiently protect the commercial needs of consumers. This is an ongoing project with an uncertain terminus for which we solicit input from the entire membership. Please direct your ideas to either Beverly McReynolds, the agent representative to the Committee, me, or your underwriting counsel.

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## **Are You Prepared for eMortgages?**

**by Dr. Vicki DiPasquale, CLC**

Open any mortgage banking magazine today and you will find articles about eMortgage strategies for residential lending. The mortgage industry has been talking about **electronic** origination, processing and closings for more than 10 years yet, until now, many lenders have been slow to adopt eMortgage technology and even slower to move forward with e-closing efforts. The economic slowdown has revitalized these efforts making eMortgages ever more enticing as lenders step up competitive and cost-savings measures.

A current Fannie Mae brochure notes that the needed legislation and technology is in place for eMortgages from loan origination throughout the life of the loan. Today, the majority of loan originations and closings are still a combination of new technology and old tradition. Lenders sometimes create and deliver loan files electronically, but title companies still typically print the documents on paper for “wet” signing and notarization. The paper is then shipped back to the lender where it gets scanned, indexed and stored electronically. The paper is retained and is used mainly as backup to the images. A typical loan transaction is still paper intensive and costly due to numerous process duplications that occur between loan application and warehousing. It has been estimated that at least one ream of paper is used for every residential closing. Consider the waste! Paperless solutions in the mortgage processing cycle would offer the real estate industry benefits such as improved customer service, faster processing, less data duplication, and reduced operating costs.

Current eMortgage strategies eliminate the need for printing and wet signing, allowing a full electronic closing experience. EMortgage documents can be generated, delivered, signed, notarized, recorded and returned, all without printing to paper. After funding, Lenders submit the electronic loan for registration ensuring legal enforceability through the Mortgage Electronic Registration System (MERS). eRegistry, eNote, and eVault technologies are all used to validate and protect today’s eMortgage solutions. The registry protects the ownership of the transaction and provides secure storage of the electronic loan documents.

E-Closings reduce many costs throughout the loan process such as copying, printing, storing, shipping, data entry, and other process-driven expenses. These per-transaction savings can also benefit the title companies involved in electronic transactions. While e-closings are still not common, they are possible. Some lenders are already closing their loans electronically and it is projected that these numbers will rapidly increase over the next several years. Part of the slow progress is due to the persistent need for the mortgage to be converted to paper due to a lack of e-recording capabilities in many counties. E-recording enables the completion of the e-closing cycle. While lenders are already able to electronically originate and underwrite their loans, the next obvious step is to follow the paperless origination process into an electronic closing through electronic recording and warehousing.

E-Recording is not technology of the future it is being done in thousands of title offices around the country today. Title companies find significant benefits with e-recording and in moving to a paperless work environment. Closing offices can improve workflow, save money, reduce costs and provide better service to customers by embracing e-recording and paperless processing. These steps also prepare title companies to meet the eMortgage needs of lenders. Because quick change is often difficult, title companies can begin preparing today by embracing electronic technologies such as paperless closing files and e-recording in enabled counties.

E-Recording is an easy, manageable step toward better customer service to your real estate customers through streamlined post-closing processes and faster recording document delivery. Efficiencies supported by e-recording include:

- Early preparedness for eMortgage transactions
- Fewer costly file touches by closing staff
- Lower courier, mail and delivery expenses
- Reduced copier, toner and paper costs
- Reduced gap exposure
- Less chance for document fraud
- No more hunting for the file when the recordings are returned
- No more piles of files waiting for policies to be typed
- No more delinquent policy demand letters from lenders
- No more recording checks sitting in closed files
- Recording, policy typing, and post-closing become one step
- E-Recording Helps You Go Green!

If your county isn't e-recording yet, ask them why not. More than 500 counties across the country are e-recording today. As lenders adopt eMortgage strategies, you can be ready. E-Recording is today's standard for public record document recording, offering a beneficial solution to title professionals' recording needs. E-Recording simplifies and accelerates all aspects of the recording process.

Written by Dr. Vicki DiPasquale  
Vice President and National Sales Manager

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## 2010 Upcoming Events

### TOWN HALL MEETINGS –

FLTA is sponsoring a series of Town Hall meetings in various locations throughout the State to discuss the issues facing all title agents and to encourage you and your company to become INVOLVED. Check our web site ([www.flta.org](http://www.flta.org)) OFTEN, as details for these events can be found there, and the information is updated and new meetings posted throughout the year.

### ***Wednesday, September 1***

Is the deadline to apply for **2010 FLTA Scholarships** – FLTA now sponsors TWO scholarships annually, with a THIRD totally funded by our friends at Old Republic National Title. The instructions and application are included in this newsletter AND can be found on our website. (See below for details)

### ***Wednesday – Friday, November 3-5 SAVE THESE DATES!***

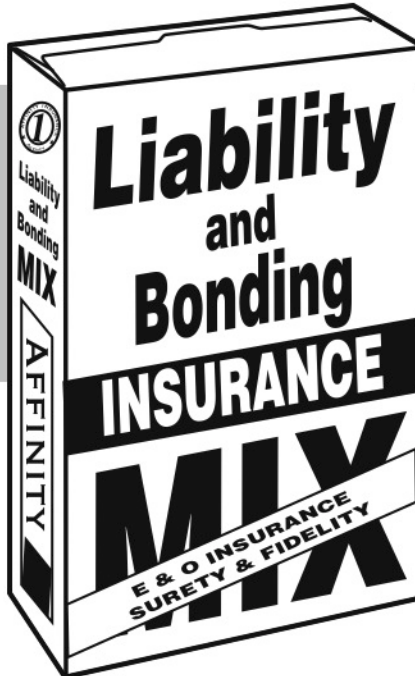
FLTA's **2010 Annual Convention** – will be held at the **Sawgrass Marriott**, located at **1000 PGA Tour Blvd, Ponte Vedra, FL 32082**, where we will “Accentuate the Positive”.

To book your room at the FLTA rate of \$149 per night, go to [www.sawgrassmarriott.com](http://www.sawgrassmarriott.com) and choose the “**Reservations**” link. Be sure to select the + sign next to “Special Rates & Awards”; then scroll down to “Group code” and enter **FLLFLLA** to get the FLTA room rate, which includes a standard room with either a King or 2 Double Beds. For reservations by phone call 800-228-9290 (or 904-285-7777) and request the FLTA plan and using the **FLLFLLA** code.

Plans are in progress and the details will be available soon, but the format will be similar to last year. Committee meetings, official FLTA business, dynamite speakers, CE credits and fun, fun, fun to be had by all. Make your plans NOW to be there!



Professional Liability (E&O) insurance has become a difficult issue for the title community. The marketplace is shrinking with carriers withdrawing, rates skyrocketing and restrictive endorsements becoming the norm.



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## **We're SO HAPPY to have you with us!**

In these tough economic times it can be difficult to find something to cheer about. FLTA membership has taken a beating like everything else in our world these days, but we do have something positive to report. The following is a list of very smart companies who have taken that first big step and joined our Association, or have rejoined after a short hiatus.

### **Advantage Title Partners, LLC**

Martha Moon  
Clearwater, FL

### **Advantage Title Services, Inc**

Denise Brown  
Lakeland, FL

### **Aloma Title Company**

Bill Primo  
Winter Park, FL

### **American Patriot Title**

David Rankin  
Lutz, FL

### **Atypical Title, LLC**

Justin Hidy  
Ft. Lauderdale, FL

### **Barrister Title Services, Inc**

Linda Rubinchik  
Plantation, FL

### **Bella Title Company, Inc**

Kelly Steen  
Port Richey, FL

### **Commerce Title Company of America, LLC**

Sandra Houghton  
Sarasota, FL

### **Emmanuel Title, LLC**

Craig R Terpening  
Naples, FL

### **Enterprise Title of Tampa Bay, Inc**

Phillip W. Clark  
Tampa, FL

### **Equilliance Closing Services, LLC**

Bill Mays  
Winter Park, FL

### **Excellence Title Agency, Inc**

Barbara Pita  
Doral, FL

### **Heritage Title Insurance Agency, Inc**

Reesa Watson  
Ft. Lauderdale, FL

### **Home/Land Title, Inc**

Beth Yealy  
Brooksville, FL

### **Keyes Title Services**

Tonia Osteen  
West Palm Beach, FL

### **Law office of Cameron Story, PA**

J. Cameron Story, III, Esq  
Jacksonville, FL

### **Lenders Title Solutions**

Ian Gorman  
Clearwater, FL

### **Mizner Title & Escrow, Inc**

Catharina VanKleeck  
Boca Raton, FL

### **New Urban Title & Escrow, Inc**

Jon Bettner  
Delray Beach, FL

### **Nexstar Title and Escrow, LLC**

Ronald Cika  
Ft. Lauderdale, FL

**AND we're not DONE!! See next page**



**Patriot Title Services, LLC**

Shari Garcia  
Fort Myers, FL

**Peter C Norden**

Osprey, FL

**Realty Pro Title**

Billie Jo Kaler  
Ormond Beach, FL

**Ryan and Marks Attorneys, LLP**

Jeffrey B. Marks, Esq  
Jacksonville, FL

**SRS Title Services, Inc**

Marianne Jackowski  
Cape Coral, FL

**Statewide Title Services, LLC**

Chris Rodriguez  
Tampa, FL

**Treasure Title Insurance Agency, Inc**

JoAnne Quarels  
Winter Garden, FL

**Tropical Land Title Insurance Agency, Inc**

Wendy Depinto  
Jupiter, FL

**WFG National Title Insurance Company**

Michael T. Sexton, Esq.  
Safety Harbor, FL

**Perdigon Title Services**

Scott Perdigon  
Miami, FL

**Prestige Title, LLC**

Mary Elliott-Armstrong  
Oviedo, FL

**Roberto & Associates Title Agency &  
Closing Services, Inc**

Joe Roberto  
Ft. Lauderdale, FL

**South Bay Title Insurance Agency, Inc**

Michael Anthony  
Ruskin, FL

**Starr Title Insurance Agency, LLC**

Carrie Starr Rummery  
Sarasota, FL

**Townsend Title Insurance Agency, LLC**

Tracy Townsend, CLC  
Cape Coral, FL

**TriNet**

Gene Mathis  
Gainesville, FL

**Watson Title Services, Inc**

Gary R. DeChellis  
Longwood, FL

**Winged Foot Title, LLC**

Chris Black, Esq.  
Fort Myers, FL

The increase in membership since the Mid-Winter meeting is due in no small measure to some very hardworking members. The Town Hall meetings have been organized by our zone VP's and membership committee members. The speakers at these meetings have been provided by our Underwriter and Agent members. Several of our Associate members have helped defray the costs of these meetings by contributing funds for these events. The "worker bee's" for these events "get it". Our industry is only as strong as our voice, and our voice will only be strong if we continue to grow and to work together on a common goal. These meetings have been a collective effort of Agents, Underwriters and our Associates working together. "YES we CAN" make a difference.

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## **DON'T FORGET TO SUPPORT OUR ASSOCIATE MEMBERS**

If you are not a title insurance underwriter or title insurance agent, then you are an associate member. Many of us on the agency side have been classified as associate members when we join our local Realtor or builder trade associations. AGENTS - Remember how upset you were as a member of that local trade association when you find out other agents who are NOT members and not supporting the local programs seem to get a LOT of the title orders? Well, OUR associate members do more than “just pay associate dues”, too. They show up at our meetings and conventions, PAY for the privilege of having a spot to display their products, often contribute additional funds to our luncheons, receptions, banquets, etc AND pay to advertise in our programs, brochures, and YES!! the Newsletters!! **DON'T FORGET OUR ASSOCIATE MEMBERS!** When you need a new product or service, be sure to check the member list and give our Associates the FIRST opportunity to earn your business.

## **The Agent Section Report – by Beverly McReynolds, CLC – Section Chair**

Since the beginning of 2010, the Agents' Section has been working on two important projects. Our Legislative Subcommittee poured over the multitude of Bills that were introduced during this past legislative session that could affect our daily processes for the title and/or escrow functions. Our lobbyists provided us with copies of the Bills as they were introduced and after reading them independently, the committee members spent many long hours on conference calls developing the Agent Section position(s) on the various Bills. We are pleased to report that our position(s) received the support of the Governmental Affairs Committee and the Board of Directors. Therefore, the Florida Land Title Association was able to speak out with a united voice either in support of or against the issues.

Our other project was developing a response to the proposed Unlawful Inducement Rule that was published by the Department of Financial Services in March. While the Department created this, in part, as a response to the industry's request for clarification of appropriate methods of marketing and advertising, the Agent Section felt that the language was too broad and would leave small title agents without the ability to effectively market their services. We also felt that it redefined RESPA and would create an environment where we would have two interpretations of an already complicated regulation to abide by. You can find our complete letter of response to the DFS on the FLTA website.

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## **A special “thanks” to our advertisers**

We would like to extend a special thank you to our members that have taken the time to update their ad formats (including working with a novice in the publishing arena) and paid for the privilege of having a black and white ad included in this edition of our quarterly newsletter. We so appreciate your continued support of our Association.

Many thanks to:

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Associated Attorney Title & Closings Co

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SoftPro and

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for contributing to this issue. We can't do it without you!

## **And we also need to thank our Town Hall meeting sponsors**

So many people have contributed to the success of our Town Hall meetings. Our Zone Vice Presidents were in charge of orchestrating the events and our Membership committee took on a significant amount of the planning in the various locations. Several of our Underwriter members provided speakers. Many of our Associate members contributed funds to help defray the costs and several members offered their offices or found locations willing to donate the space so these meetings could be held in more than one locale. It's impossible to thank everyone, but those that have consistently participated and contributed to the success of these events – either with their time and/or money are as follows:

**Affinity Insurance; Old Republic; reQuire Release Tracking; Simplifile; Westcor; and**

**Lisa Blythe; Robin Cardella; Vince Cassidy; Ted Conner; Alan Fields; Sue Geigle; Pat Hancock; Curtis McClung; Beverly McReynolds; Jim Russick; Barry Scholnik; Skip Straus; Bill Teufert; and Frank Tricomi**

There are so many people to thank. If I missed mentioning your name specifically, the error is mine and I am truly sorry for the oversight.

**Did you know** that **17%** of all paid off mortgages are never released or recorded?

**Did you know** that **36%** of all real estate transactions have some type of lien release clean up that must be done prior to closing?

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## **UPDATE on HB 853/ SB 1836**

**By James C Russick, Esq – Old Republic National Title**

The 2010 Florida legislative session saw a number of bills that were of interest to the title insurance industry, but none was more important than HB 853/ SB 1836. Sponsored by Representative Kevin Ambler and Senator Cary Baker, this bill was designed to implement the recommendations of the Title Insurance Study Advisory Council reported on December 2009. Further, this was the bill designed to address the core issues before the industry as represented by SB 260.

SB 260, filed by Sen. Michael Bennett on behalf of the Florida Office of Insurance Regulation, would have terminated the promulgated rates designed to promote the public's ready access to competitively priced title insurance and escrow services. The bill, if passed, would have redefined the title insurance "premium" to prohibit any portion being earned by a title agent. Further, it would require closing agents to post their fees on the internet on a site run by the regulator and fostered both price and product competition between insurers. These initiatives appear driven by the overly simplistic view that the consumer is protected strictly on price. The professionalism of the agent is relegated to meaningless.

This singular focus throughout the bill is disrupted only by the concept that an insured should be able to be compensated by three times the amount of the policy should the policy be issued negligently. The obvious impact on rates should be obvious.

The Title Insurance Study Advisory Council recommended the continuation of the promulgated rates coupled with a termination of the discriminatory rebates currently found in the marketplace. Further, it recommended a unified regulator for the title insurance industry and a host of other more technical initiatives.

HB 853 would have implemented these study council recommendations. The bill, notwithstanding some favorable committee support in the House, failed to get traction in the Senate. Accordingly, it did not pass this legislative session.

HB 853 / SB 1836 have been recommended to be the focus of significant staff analysis as an Interim Project before the start of the next legislative session where these concepts will again seek legislative resolve.

This project has been the focus of an enormous amount of work by many members of the Florida Land Title Association, the Real Property Probate and Trust Law Section of the Florida Bar, and others that are all focused on good public policy. These issues are so fundamental to our industry that they command your attention and involvement. Thank you for your continued support of the Florida Land Title Association.



## Governmental Affairs Report – by Alan Fields, Esq. - Chairman

Thanks to the hard work of Executive Director Lee Huszagh, the lobby team of Matt Bryan and Julie Myers representing the FLTA Agents Section, the support of the lobby teams from our loyal underwriters, the Government Affairs team from the Real Property, Probate and Trust Law Committee of the Florida Bar (RPPTL) and the hard work of many FLTA members, the 2010 Florida Legislative Session was not nearly as bad for the Title Industry as we feared it could have been.

On the positive side for the Industry, all but one of the bills opposed by FLTA failed to pass during this session. Among these were:

- **SB 260 File & Use** -- Senator Bennett's proposal to radically restructure the method of determining premiums, eliminate any share of premium being paid to a title agent, and allow for treble damages for negligent errors. This bill is supported by the Office of Insurance Regulation, so expect this bill to be reintroduced for the 2011 session.
- **SB 216 Sales Tax on Services** – which would have postured the “Sunsetting” of the current sales tax exemption for services thereby subjecting closing services fees and probably premium to sales taxes – was withdrawn early in the process.
- **HB 1523/SB 2270 Non-Judicial Foreclosure.** This bill which would have replaced our current system of court supervised foreclosures with a model allowing property owners to lose their property following only notice to an out of date e-mail address. Granted there were other procedural requirements in the bill, but ultimately it would have created serious title problems by the lack of recorded documentation showing that the procedures were followed. This bill died at the end of the legislative session, but there are rumors that it will be a Senate Summer Project.
- **SB 956 Encroachments** – This bill would have allowed the prevailing party in any encroachment lawsuit to recover their attorneys' fees and costs. The FLTA was very concerned that this would provide an incentive for aggressively litigating otherwise minor encroachments of fences and trigger substantial numbers of title claims.
- **Foreclosure Amendments** -- Quite a few bills affecting rights in foreclosure were cause for concern because no one had clearly thought through the impact on marketable title and the ability to insure a sale of the foreclosed property. The concerns fell into two main categories. One set of bills would have increased the amount of Condominium and HOA assessments for which a first mortgage lender would be responsible to amounts above what is permitted under FHA/Fannie Mae guidelines for conforming loans. While this is probably the “right” public policy answer, those proposals could have made all Florida Condo mortgages “non-conforming.”

The second approach was to give the tenants in foreclosure additional rights, in some cases even a statutory right of first refusal. All of the bills which included these concepts failed.

Likewise, three of the bills supported by FLTA also failed and are expected to be reintroduced.

- **HB 853/SB 1836 Title Insurance Rewrite** – The major rewrite of the Title Insurance Code and consolidation into a single chapter and other changes recommended by the Title Insurance Study Advisory Council – failed to pass. The Title Insurance Committee of RPPTL has agreed to work with FLTA on improvements to the draft for reintroduction in the next session.
- **HB 1069/SB 2248 Hidden Liens.** This is a RPPTL proposal which would have (i) required all governmental liens (other than taxes, special assessments and those for

utility services) to be recorded in the official records; (ii) eliminated the cross-attachment of code enforcement liens (which has become a huge problem with bank foreclosures); (iii) clarifying and requiring a statement of the priority of liens asserted by local governments on the face of the filed lien; and (iv) expanding the homestead determination mechanisms of s. 222.01 to apply to other types of lien.

- **HB 1179/SB 1288 Electronic Recording Fix** – This bill passed unanimously in House, but died in Messages to Senate after passing all but one committee of reference.

The only significant loss to the Title Industry was **CS HB 435**. This bill creates a new exception to the Marketable Record Title Act such that it would no longer eliminate any interests held by a Water Management District, the Trustees of the Internal Improvement Trust Fund or the United States of America. The amendment is NOT retroactive.

The bill contained a non-objectionable provision allowing advertising of a renewal in lieu of a certified mailing to all affected landowners. It has passed both houses and is awaiting signature by the Governor.

### **Technical Assistance**

As is the case every year, the biggest value provided by FLTA and the various lobby teams with whom we work is technical expertise. Title is a highly technical industry and few people understand the technical problems and title issues which can be triggered by an otherwise well intentioned change in the law. In the course of the session, members of our Governmental Affairs Committee provided input and technical changes to quite a few bills, including the following:

- **HB 1411/SB 2358 Timeshare – Non-Judicial Foreclosure**. This bill establishes a non-judicial foreclosure mechanism for timeshares. Unlike the general non-judicial foreclosure bill, this bill was fair and balanced, provided for actual notice, and the recording of affidavits of compliance with the procedures in the Official Records. This bill passed both houses and has been submitted to the Governor.
- **HB 415/SB 606 Termination of Residential Rental Agreement in Foreclosure**. This bill roughly tracks the federal law on the subject, but died at the end of the session. We worked with various committees to insure that the scope didn't exceed the federal standard.
- **HB 109/SB 234 Doc Stamps on Short Sales**. As many of you will recall, there was some controversy about 18 months ago as to whether Doc Stamps were due on the amount of debt forgiven in a short sale. After some back and forth, the Department of Revenue issued its letter opining that no taxes were due. This bill codifies and gives authority to the DoR opinion that no Doc Stamps are due on the amount of debt forgiven in a short sale. The Bill passed and is awaiting the Governor's signature.
- **SB 292/HB 887 Adverse Possession** – This bill would have required Tax Collector to give notice of adverse filing to owner of record. FLTA and RPPTL offered technical suggestions. The bill later died in committee.
- **HB 561/SB 1196 & 1222 Condominiums** -- Among quite a few changes in condominium administration and procedures, there were three main changes which will affect the title world. Those were (1) permitting bulk buyer to acquire title without assuming all developer liabilities and (2) in making the mortgagee responsible for 1% or 12 months of condo assessments.

Most importantly for the Title Industry, language was included “reversing” Double AA Inv. Group, Inc. v. Swire Pacific Holdings, Inc., (S.D. Fla., March 30, 2010) which held that the first 10% deposits on a condominium purchase agreement must be held in a separate segregated account FOR EACH PURCHASER. Consolidating all deposits into a single account (even with proper ledgers) was held a violation of the condominium statute entitling the purchaser to terminate the contract. The bill passed and is awaiting signature by Governor.

**HB 927/SB 1884 Transfers of Property** – allows transfer to spouses and additional categories w/o losing “Save our Homes” benefits. This Bill passed and is awaiting signature by the Governor.

- **HB 7179/SB 2322 – Energy Improvement Districts.** This bill allows local governments to help fund energy improvements and place a non-ad valorem assessment on property (with priority ahead of mortgages) to repay their advances with interest. The improvements can be up to 20% of assessed value without approval of the mortgage holder, and in unlimited amounts if the annual savings are anticipated to exceed annual assessment. **This type of lien will take priority over a pre-existing mortgage** and highlights why most underwriters discourage their agents from giving any type of “first lien” letter or assurance beyond that implied in your title policy. It passed and is awaiting the governor’s signature.
- **HB 693/SB 1048 Construction bonds – Perpetual Notice of Commencement.** – We negotiated out the concept of a perpetual NOC and agreed to work with subcontractor groups on compromise solutions over the summer. The objectionable provision was removed and it passed the senate but died in the House.

While some of these changes will complicate our lives as title agents, on the whole, it was a successful year for the Title Industry in the Florida Legislature. For more detail, copies of each of these bills are available on the Florida Legislature website [www.leg.state.fl.us](http://www.leg.state.fl.us)

## Remembering Kelly Abrams

Last week, some very tragic news was shared with us. **Property Debt Research**, one of our Associate members had to deal with the sudden death of their Operations Manager, **Kelly Abrams**. Many of you may have met Kelly at the convention last year, or other events sponsored by FLTA. Kelly was the victim of a senseless murder-suicide. Its something that no one expects to ever happen to anyone they know, and leaves such a trail of tragedy behind them. Kelly was a single mother with two young children, Jordan and Nathan, ages 7 and 5. An education trust fund has been created at **Regions Bank** to help these children, and we are including the information HERE in the hopes that others will feel as strongly as we do about the need to act and help take care of one of our own. Our hearts go out to Kelly’s children and to Brooke and Jason Mitchell who not only lost an employee, but a friend.

Donations can be made at any Regions Bank branch, or can be mailed to the attention of **Lee Giresi, Regions Bank, 1100 5<sup>th</sup> Ave South, Naples, FL 34102**. Checks should be made payable to: **The Property Debt Research Trust Fund f/b/o Jordan & Nathan Abrams**. If more information is needed, call 800-734-4667.



## *Congratulations* Brooke Mitchell

The entire staff at Property Debt Research joins the Gulf Coast Business Review in recognizing Brooke's leadership.



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## 2010 Scholarships Award Information

# Florida Land Title Association, Inc.

2010 Sam D. Mansfield, Marjorie S. Schwartz and John Starr Thornton, Jr.  
Memorial Scholarships

### GUIDELINES

An applicant must:

- Be a member or the child, grandchild, brother, sister, niece or nephew of a principal or employee of a Florida Title Association member. (Regular Member or Associate Member).
- Be a resident of the State of Florida.
- Be accepted to any accredited institution of higher learning in the United States.
- **If you meet this criteria please complete the application (next page) include the bio described below and return prior to September 1, 2010 to:**

**Florida Land Title Association, Inc.**  
Attn. Scholarship Committee  
249 East Virginia Street  
Tallahassee, Florida 32301

*If you have any questions, please call FLTA at (850) 681-6422; or  
Toll Free in Florida at 1-800-552-1065.*

### **About the Scholarship Award:**

The Sam D. Mansfield Memorial Scholarship Award was created in 1985 by the Board of Directors of the Florida Land Title Association, Inc., in memory of its namesake. Mr. Mansfield was a Past-President of this Association and was involved in many civic endeavors, always stressing the importance of education. The Marjorie S. Schwartz Memorial Scholarship was added in 2001 to commemorate our good friend Marge who, like Sam Mansfield, was an FLTA President and ardent supporter of our Association. The John Starr Thornton, Jr. Scholarship was added in 2003 to commemorate an outstanding FLTA member and title industry giant. **Many thanks to the generous donation by Old Republic National Title Insurance Company who has been underwriting the Thornton scholarship since its inception.**

The amount of the scholarship award is \$1,000.00 and will be awarded at the FLTA Annual Convention in November.

The scholarship committee, which consists of members of the Past President's Council, will review the submissions and make their selection based on major field of study, grade point average, and other information provided by the applicant.

**APPLICANT MUST SUBMIT WITH THE APPLICATION:  
A ONE-PAGE DOUBLE SPACED ESSAY DESCRIBING YOUR FUTURE GOALS  
UPON COMPLETION OF YOUR HIGHER EDUCATION**

Mail Completed application, postmarked by September 1, 2010, to  
Florida Land Title Association, Inc.  
Attn: Scholarship Committee  
249 East Virginia Street  
Tallahassee, FL 32301

(See next page for Application)

# Florida Land Title Association, Inc.

2010 Sam D. Mansfield, Marjorie S. Schwartz and John Starr Thornton, Jr.

Memorial Scholarships

## APPLICATION

(Deadline: is September 1, 2010)

FLTA Member Sponsor: \_\_\_\_\_ Relationship: \_\_\_\_\_

Sponsor's Company: \_\_\_\_\_ Phone: \_\_\_\_\_

Company Address: \_\_\_\_\_

Student's Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

### Mailing Address:\*

(\*THIS is the address we will use to communicate with you – i.e. we need more info, or to inform you about the status of the scholarships. PLEASE be sure it's accurate)

Permanent Address: (if different) \_\_\_\_\_

Phone: \_\_\_\_\_ Scheduled Date of Graduation: \_\_\_\_\_

List Honors, Awards, Scholarships, etc.: \_\_\_\_\_

\_\_\_\_\_

List Clubs, Competitions, Research, etc.: \_\_\_\_\_

\_\_\_\_\_

Areas of Interest for College Study : \_\_\_\_\_

\_\_\_\_\_

Name of accredited college or university in the United States in which you have been accepted or are currently enrolled: \_\_\_\_\_

High School GPA: \_\_\_\_\_ College GPA: \_\_\_\_\_ Dual Enrollment? Y / N

Contact information of the person in the school's Admissions office for verification of enrollment:.

Name \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

Date completed \_\_\_\_\_ 2010.

\_\_\_\_\_  
Applicant's Signature

(DON'T FORGET THE BIO!)

## 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).

### Looking for an experienced closing & settlement company in New England?

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## WEB site changes are brewing!

Nothing in life is free (or at least very little). The FLTA website has always been open to the public in the hopes of attracting the attention of others in the industry and inspiring them to join our ranks. While many areas will continue to be accessible whether you are a member or not, certain areas will require membership for the data to be retrieved.

When the changes are ready, you will have plenty of notice and we will tell you what you need to do to obtain your "access code". In the mean time, encourage your industry neighbors to join the FLTA so they too will benefit from all the information we have to share.



## **A word (or two) about our Basic Title Insurance Handbook and Florida Land Titles by H.D. Booth**

The first edition of a book call Florida Land Titles by H.D. Booth was published in 1976. Most of us who have been in the industry long enough to remember that event have over the years fondly referred to it as “The Booth Book”. For years it was our only source of reference unless you wanted to pour over the Florida Statutes or consult with your underwriting attorney. It was also the primary study material for the CLS test.

By the mid 80’s enough things had changed that everyone knew the Booth book should be updated. We quickly discovered this was no easy task. For every step forward, we seemed to move backwards. Once we had a plan and work actually began on the update, it seemed smarter to create a new book rather than try to fix an old one. A committee was formed to write a new book and this time we would include a section for our closers. There were parts of Booth that were still viable and no one wanted to reinvent the wheel, so it was decided we would offer the chapters of Booth that were pertinent as a “supplement” to the new handbook, rather than paying the cost for a full reprint. In 1993, the FLTA Basic Title Insurance Handbook was published for the first time, and a handful of historical Booth chapters were offered as a supplement.

Now, here we are in 2010, and the Basic Handbook is in the same boat as Booth. It too, needs to be updated and we do have authors working on that task, BUT the updates are not yet ready. Booth was a bound book, which meant updating only one chapter meant reprinting the entire book. The Basic Handbook was created in loose-leaf fashion to make updating individual chapters easier. While that has worked as planned, and individual chapters can be addressed as needed, the unfortunate side of this is, to have the book reprinted would be cost prohibitive, so once again, we are at a crossroads. How do we keep the data current, readily available and cost effective?

It appears our next solution will be to put the data on CD’s. We are experimenting with that process at this time and hope that as chapters are updated it will be much easier to keep the book current. The downside right now is, we are out of printed books. We do anticipate having CD’s ready for purchase later in the summer, but by the time you receive this newsletter, there will be no more paper versions of the Handbook available.

If you are one of those fortunate people that has a real Booth book (not just the supplement) hang on to it, as it’s no longer available for printing. Unfortunately, the same is now true for the Basic Title Insurance Handbook.

## Stewart's AgencySecure™

In the last five years, four out of ten small business owners have experienced fraud losses of at least \$50,000. By integrating technology and services to create a new product — AgencySecure — Stewart is doing something to help.

AgencySecure offers the ability to better manage potential claims resulting from poor quality search work and helps prevent escrow theft and mortgage fraud. It provides access to all agency technology and services, enabling title agencies to efficiently process closings, issue title policies, eReport, eRemit and electronically store closed-file documents. AgencySecure also provides automatic "three-way" bank reconciliation; detects suspicious activities; provides best practice alerts; and proactively monitors files continuously for fraudulent activities.

### AgencySecure can help you

- Reduce title claims
- Reduce escrow losses
- Improve your company's image
- Simplify your underwriter audit process
- Reduce software costs
- Reduce hardware costs
- Reduce IT staffing
- Reduce risk of data loss

#### Top Ten Features of AgencySecure

1. Property validation at time of order to assure valid escrow file
2. Proactive patriot name and fraudulent party searches (e.g., special alerts)
3. Duplicate file notification to prevent multiple transactions on one property
4. Flip transaction alert
5. Stewart-managed title search with online ordering, electronic import and documents
6. Pre-closing down date and post-closing mortgage release verification
7. Positive Pay program to monitor issued checks against accounts, where available
8. Daily "three-way" bank reconciliation
9. Suspicious disbursement activity and escrow account monitoring to identify out-of-balance files, uncleared checks, unassigned deposits, etc.
10. Electronic file storage (paperless office)

To learn more about how AgencySecure can help you avoid fraud and improve your business, please call (866) 608-6657 or email [donna.sutton@propertyinfo.com](mailto:donna.sutton@propertyinfo.com)

Technology provided by PropertyInfo Corporation, a Stewart company.



## 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.

## Hurray for Spring!

This is our official **Spring** issue of the FLTA newsletter (even though Summer is officially just around the corner). If you missed any of the exciting issues that were distributed last year, be sure to visit our website, as all past issues can be found there.

The next "official" issue is scheduled to publish in August. Until then, check the website for updated info, or make sure we have your correct email address as many things are now delivered via email by broadcasting to our membership list.