

Tallahassee Report

2017
 Issue #1

Serving Title Professionals throughout Florida

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A Message from the President

Karla Staker | Fidelity National Title Group



President's Address

The 2016 FLTA Annual Convention held at the Renaissance World Golf Village Resort in St. Augustine on November 9 - 11 was a huge success, with almost 300 attendees. I would like to thank all of our members who attended, as well as the many volunteers, speakers, sponsors and vendors who made the convention possible. Our Executive Director, Alex Overhoff, and her administrative assistant, Jena Daly, deserve a special thanks for the outstanding job they did in planning and coordinating this major event.

In addition to continuing education and committee and section meetings, the convention agenda was loaded with fun activities, including the annual banquet, a '70s dance party, a golf tournament, a bike trek and a motivational speaker. The highlight of the Insurers

Section meeting was the signing of the Fourth Revised Florida Mutual Indemnification Agreement. Please see the article below for details.

For those of you who could not attend, we will be looking for you at the 2017 convention! Please mark your calendar for November 8 – 10 in Lake Buena Vista. Although hotel reservations are not yet open, we have reserved a much bigger room block for the 2017 convention since rooms have sold out fast the last few years.

Looking forward to the first quarter of the New Year, plans are well under way for FLTA's 2017 Lobby Days. This annual event will take place in Tallahassee on January 24 and 25. Not only will we visit with many of our state legislators, but we will have the opportunity to hear from Florida Insurance Commissioner David Altmaier, who was appointed in 2016. We will also hear from David Daniels, FLTA Agent Section Lobbyist, who will entertain and inform us with his insight into the composition and inner workings of the Florida House and Senate. I hope that many of you will attend, and would encourage booking hotel reservations and registering for the conference promptly at FLTA.org.

Best regards,

Karla Staker

Treaty Revised

By Karla Staker

Most Florida title agents are already familiar with the mutual indemnification agreement ("Treaty"). The Treaty facilitates closings in certain situations where the new title search discloses a potential title defect covered by a prior policy. Under the Treaty, the title insurer for the seller or mortgagor (Indemnitor) indemnifies the title insurer for the new transaction (Indemnatee) for certain covered title issues, without the necessity of issuing an indemnification letter.

What you may not know is that the participating title insurers recently signed a revised Treaty at FLTA's 2016 Annual Convention. The revised Treaty became effective November 10, 2016, and is now the Fourth Revised Florida Mutual Indemnification Agreement. The revisions were the work of the Insurer's Section of FLTA. The 2016 revisions:

1. Reduce the minimum age requirement of the Indemnitor's policy from one (1) year to six (6) months.
2. Add deficiencies in, or the lack of, an affidavit of non-military service filed in prior court proceedings to the Treaty coverage.
3. Provide that a copy of the Indemnitor's policy must be retained in the file of the Indemnatee or the Indemnatee's agent.
4. Clarify that pending foreclosure proceedings will disqualify a prior mortgage from being covered by the Treaty, not prior foreclosure proceedings which have been dismissed.
5. Clarify that Treaty coverage includes the lack of subscribing witnesses on any deed in the chain of title or insured by the Indemnitor's policy.
6. Clarify that Treaty coverage includes the lack of a corporate seal on any recorded instrument in the chain of title or insured by the Indemnitor's policy.

A copy of the signed, revised Treaty is available at FLTA.org under the [Indemnity Treaty and Request for Indemnity Letter tab](#).

FLTA's 2016 Annual Convention was a huge success! Thank you to our exhibitors, sponsors and all attendees that made that possible!! Click [HERE](#) to see photos!

Congratulations to the winning team at the golf tournament, all with Fidelity National Financial in Jacksonville.

Matthew Baylor

Jason Hill

Kyle Knopsnyder

Drew Mandl



Fraud Against The Real Estate Settlement Service Industry Increases: Protecting Yourself Against Common Frauds



Financial crimes against real estate settlement agents, law firms and others involved in the real estate settlement process are increasing exponentially. Fraudulent deeds, mortgages, satisfactions, releases and other documents have been and continue to be a major source of fraud with Cyber-crimes now constituting a growing and continuously evolving financial threat to not only settlement agents, law firms, buyers and sellers but to the entire financial services industry. These frauds are not limited to the United States but are occurring throughout the world. This article will highlight certain common frauds and their common fact patterns to help you recognize potential threats, the necessity of creating defenses against cyber-crimes and the necessity of having both Privacy & Data Breach (Cyber) Insurance and a Crimes Insurance Policy (with a Social Engineering Fraud Endorsement) to cover the escrow or trust account losses. All staff members should be educated on these issues to assure you have your best defense in place to protect your business, customers and clients from becoming victims of these common frauds.

Check Fraud/Inspection Period – This fraud involves perpetrators posing as a property owner and a buyer who deliver a sales contract with a cashier's check in a large amount to a settlement agent. The sale contract contains a clause or addendum stating the buyer has a very short time to inspect the property and upon a satisfactory inspection the buyer is to notify the settlement agent who is then to immediately transfer a large portion or all of the deposit to the seller. The inspection is, of course, satisfactory and the buyer notifies the settlement agent who then wires the deposit to the seller. Several days later, almost 10 business days from when the cashier's check was deposited, the cashier's check is returned as counterfeit leaving the settlement agent with a massive shortage in their account. The settlement agent's bank had even provided verbal assurance that the cashier's check had cleared which turned out to be erroneous. It is recommended that you contact the bank or entity issuing the cashier's check to confirm that the cashier's check number and amount is valid prior to depositing the item in your account. Most banks will confirm this by telephone. Due to the increasing occurrences of counterfeit cashier's checks, most banks have instituted mandatory holds on cashier's checks. It is not uncommon for a hold to last up to 10 days (check with your bank to confirm their policy). Wired funds are always the best source of receiving funds. However, make sure that your bank's policy does not allow for wired funds to be called back. If your bank does not have such a policy, consider opening a "Zero Balance" account. This is simply a "pass-through" account designed to receive wired funds in and immediately transferred to your main escrow account to avoid for the possibility of a wire being called back without your knowledge.

Email Identity Fraud is now one of the most common frauds affecting the real estate settlement industry. The two typical scenarios involve (1) hackers gaining access to the email account of a settlement agent, law firm, realtor, seller or buyer or (2) fraudsters setting up email accounts with nearly identical email addresses as one of those parties.

Once that is accomplished an email is sent to another party in the transaction providing fraudulent wiring instructions accompanied by a plausible explanation as to why prior wiring instructions have now changed. As an example hackers have sent such emails purportedly from the settlement agent to buyers with fraudulent wiring instructions for wiring a deposit or more likely the proceeds needed to close. When the buyers arrive at closing they are informed the wire has not been received leading to significant repercussions. All parties involved should be on alert for any emails or other communications which provide new wiring instructions for any of the parties. The fraudsters can be very creative and they are constantly becoming more sophisticated in their attempts. It is important that you vet all of the parties in your transaction when communicating by email. Avoid common email servers such as Hotmail and Yahoo.

International Wires – All out-going international wires should require an “in-person authorization” from only those authorized signors’ on your account. Your bank should have this in writing to protect you and your company. Accounts have been accessed by hackers operating internationally, due to security lapses, which have allowed the creation of false wiring instructions. Once funds are wired internationally the chance of any recovery or reversal of the wire are minimal. International electronic espionage and financial fraud is already rampant and continues to increase.

Mail Away Fraud - Mail away transactions always present an opportunity for fraud. A typical “red-flag” can be where the address of the sellers doesn’t match with the information on file at the property appraiser’s office, or the area code of the seller’s phone number is not from the area where they are supposed to reside. A seller from Ohio with a 305 area code is a bright red flag. Be aware of excuses to justify a different mailing address such as: *“We are currently in Miami taking care of our ill son, please send the package to this address”*. Vacant land fraud is also a great target for the fraudster because the owners are not at the property and their identity can be easily assumed.

Post-Closing Identity Theft Fraud – The scenario usually unfolds with someone impersonating the buyer contacting the settlement agent asking for copies of all of “their” documents including but not limited to deed, mortgage, note, mortgage application, cancelled checks and other unrecorded documents under some pretext of urgent need. The person impersonating the buyer then gives an email address very similar to the buyers real email address which is already in the file. The information gained is then used to perpetrate identity theft crimes against the buyer or even the settlement agent or other party based on account numbers obtained. E-mailing any non-public information, post-closing, to anyone by email always presents a threat for fraud. Some settlement agents now use a secured password protected portal in which the parties of the transaction are provided with login credentials in order to access their closing documents. This significantly reduces the potential threat of a third party or fraudster from obtaining personal information that can be used to commit future fraud.

Forged Document Fraud – Deeds, mortgage releases or satisfactions placed of record without any indication of a contemporaneous sale or refinancing of the property within 1 year of your new transaction should be treated as suspect (commonly referred to as a “naked transaction”). Requirements calling for a new deed prepared by and executed under the supervision of the settlement agent should be placed in the commitment. Verification of the mortgage release or satisfaction or that the account has been paid in full and closed should be obtained from the mortgage holder. These frauds are fairly common throughout the United States and are classic red flags of fraud. Deeds granted from one spouse to another as required by a marital settlement agreement or divorce decree are not included in this scenario.

Remember-

1. Never disburse on funds unless you are certain they have cleared without the chance of the check being returned which may be 10 business days or longer. Statements by bank personnel that funds have cleared are usually not binding and checks can easily be returned as counterfeit after your bank has stated the funds are good. I am familiar with one settlement agent who refused to refund \$900,000 notwithstanding extreme pressure from customers demanding the return of their escrow funds and their bank assuring the agent that the check had cleared only to have the bank manager call them 10 business days after the check was deposited to inform them the check had been returned as counterfeit. If the agent had disbursed as demanded their account would have been short \$900,000 with little chance of recovery leaving the agent needing to fund the shortage.
2. Any change in wiring instructions from any party in the transaction should be assumed to be fraudulent unless re-confirmed with all of the parties verbally using phone numbers provided initially or preferably in person. Some settlement agents have designed a “communication verification form” for all parties involved in the transaction to fill out in order to protect all of the parties and their communication methods.
3. Prohibit all outgoing international wires unless authorized in person with identification provided. Even if the bank is later found liable for the loss the settlement agent or law firm has had a significant shortage in their escrow or trust account for the months during the investigation and possible litigation which will almost certainly cause catastrophic harm unless immediately funded which may be difficult to accomplish.
4. Never send private financial information contained in your files to anyone by email without first verifying that the requesting party is entitled to receive it and secondly, that the email of the party entitled to receive such information

has been vetted as the correct email address originally placed in your file and is on a secured and encrypted email server.

5. Deeds or satisfactions or releases of mortgages recorded within the last year without any evidence of a contemporaneous sale of refinancing should be treated as red flags of potential fraud. This is often referred to as a "Naked Transaction". New deeds should be obtained from the grantors in order to verify the recorded public information and verification from the mortgage lender whose satisfaction or release was recently recorded that the account has been paid in full and closed obtained.

If you have suspicions of a fraudulent transaction please feel free to contact your local underwriting counsel to discuss the facts of the transaction.

Education Committee Charles Ferguson, CLS | First American Title Insurance Company



Hello all! The recently formed Education Committee has gotten off to a great start! At the FLTA Convention in St. Augustine, the Committee had met and came up with a plan to bring an education plan to the masses. It is very clear that we don't have a lot of people breaking down doors to get into our business. We are all tight for time when it comes to training new people, so the idea is to create a platform for FLTA members to utilize for training purposes. Since many new laptops do not have CD drives anymore, the thought is to make it available via the web. The first phase is to reach out and train folks to be title examiners. The closer training module will be developed later. If all goes well, the online module should be able to have people who have never had any exposure to the title industry to be able to generate their first (of many we hope!) basic report, being an Ownership and Encumbrance report. Building off of that, the next step would be to show these up-and-coming examiners what is needed for effective Commitments and the final product would be that of the Policy. The training will be very generic so the basics are taught. Company specifics will follow once the new employee is comfortable with what they are doing.

We have thrown around various ideas on how it should look and I am very excited to have a rough draft done as soon as possible!

REGISTER NOW!!

FLTA Lobby Days -- 2017 Legislative Session

Join us in Tallahassee Tuesday, January 24th and Wednesday, January 25th.

Help decision makers learn about title!

January Membership Corner

FLTA would like to introduce 2017 Membership Co Chairs, Melodye Marvin of Fidelity National Title Group, Maitland, FL and JoAnne Quarles of Treasure Title, Winter Garden, FL.

Did you know that if you are a member of FLTA that your staff can also get our newsletter and be informed as to upcoming events? That helps you become more efficient and frees up your time! Look for more information about what your Membership can do for you and your company in each newsletter! Thank you to all that have renewed their membership for 2017!!

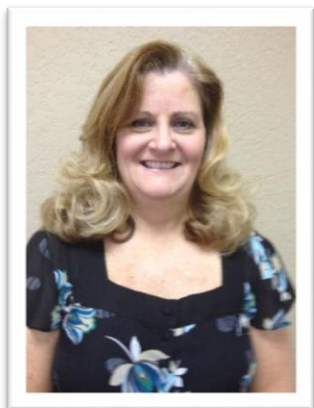


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WOW! Can you believe it? 2016 has come and gone in lightning speed time. My mother always told me the older you get the faster time flies. Again, she was right!

I was honored to recognize and present the 8 new members of the institute with their beautiful plaques at the convention this past November in beautiful St. Augustine.

I would like to wish all a prosperous and happy 2017. As I've said on multiple occasions, I am very proud to be part of the Certified Land Title Institute! The Institute sets the bar pretty high. We are committed to making sure that our members have the tools to be proficient, experienced and highly educated professionals. And with that commitment to professionalism, comes our focus on education. With this designation, you will be immediately recognized by your peers and the industry for your understanding of the importance of proper procedure. Earning your Certification is an accomplishment that will translate into all aspects of your work. Additionally, having the Certification will not only put your employers at ease knowing that they have a committed and informed employee representing their business, but it will affirm to your clients that you are foremost in your field in knowledge, professionalism and commitment to your chosen craft.

Whether you are a closer, searcher or examiner, please take a moment to look over the information on the [Certified Land Title Institute page of the FLTA](#). On top of all the other benefits, you will have the distinct honor of being recognized at our annual Convention held in November.

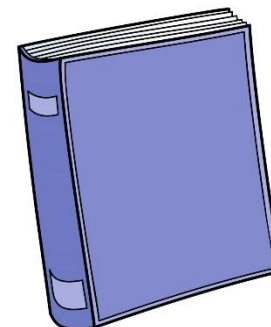
To obtain the certification of CLC (Certified Land Closer) or CLS (Certified Land Searcher), one must work for a title agency (corporate and/or attorney) and/or underwriter (in the capacity of the designation) for a minimum of 5 years, at the time of application. The purpose of this time frame, is to assure the applicant is completely familiar with a great deal of what is part of the position of a closer or searcher. We want the applicants to pass the exams. Having the full 5 years of experience will increase that wish, along with studying for the exam. The exams are divided into a morning and afternoon session, and both combined are expected to take 8 hours to complete. We split the exams into one being more technical directed questions and the other more practical, packages for closers and legal descriptions for searchers.

As employers, in searching for a candidate to fill a closer or searcher/examiner position, I would think one who holds a CLC or CLS would be put at the top of the list for hire. In addition, marketing would be easy to state you have certified personnel by the CLT Institute in your office. Another plus, when one receives the designation, 10 hours of credit (7 hours practical and 3 hours ethics) are awarded by the state!

We are hopeful that all who are qualified to sit for the exam do so. We want our industry to be strong and keep the professionalism to the highest degree.

If you hold the designation of CLC or CLS and wish to become involved in the institute, please reach out to me at mcameron@firstam.com. I look forward to hearing from you.

Click [HERE](#) to order The Basic Title Insurance Handbook with the Booth Supplement Chapters.



Dear Agents,

As I chair the Agent Section for 2017, I look forward to contributing to the FLTA in shaping our industry to be the best it can be. To me, that comes in the form of providing our collective expertise as agents to the Florida legislature, and it manifests itself as proposing laws and weighing in on them with our state senators and representatives.

Every day, as I transact the buying or selling of someone's real property, more often than not I learn that it is my customer's biggest investment and the majority of their wealth. I can appreciate how critical it is that we, as agents, transfer property free and clear of liens and encumbrances, and that title gets divested and vested properly. And with a stack of paper in front of me, containing a plethora of private information, I can also appreciate the best practices we are all to adhere to in keeping that data private.

The laws of our state that govern these transactions are the bedrock of our industry and therefore the bedrock of protecting our customers' wealth.

In 2017, the FLTA will be providing our collective expertise on bills that will, hopefully, be adopted into law. Two of the bills focus on the Data Call and on the Documentary Stamp Tax.

The Data Call bill is the first one, and a good example of the FLTA working with the state legislature to create an exemption from the Sunshine Law while the Office of Insurance Regulation is able to obtain the data it deems necessary. In Florida, per the Sunshine Law, any records received by any public agency are open to inspection by anyone, unless a specific exemption exists by statute. This would mean that all the information we provide as agents for the data call is public record and open to inspection. However, the FLTA is supporting a bill that would provide an exemption of this information from the Sunshine Law, and preserve the privacy our customers' information. This exemption was successfully adopted into law in 2016 to exempt the data provided in 2016. We expect the exemption to be adopted into law in 2017 for the data provided in 2017.

The Documentary Stamp Tax bill is a good example of public policy that FLTA supports. Currently, as you all know, a payment of documentary stamp tax is required for any conveyance of land that is either encumbered by a debt or consideration was paid, unless a specific exemption in statute exists.

Interestingly, an exemption exists for the conveyance of property pursuant to a divorce; ironically, one does not exist for adding a spouse.

The bill, which is proposed by the Real Property, Probate and Trust Law Section of the Florida Bar, and supported by FLTA, allows for a real property owner to add a spouse to the deed and avoid such taxes.

When I think of these two bills, grinding their way through the legislature, being considered at various committees, both for and against, with our senators and representatives asking questions, I think of who would propose these bills? Who would lobby in favor them? Who would show up in Tallahassee with some expertise to answer questions, and explain the good public policy they offer, or how they benefit citizens of Florida?

A recently married couple who would add the new spouse to deed but for the taxes? Surely not.

New home owners, who have good reason to keep their information private? They are busy moving in, enrolling their children in school and getting to know their neighbors.

We, as title agents that collectively make up the FLTA, are the best answer. We have the foresight to propose and support new bills, and the expertise to answer questions in Tallahassee that will get these bills adopted in to law.



January 24 and 25 are lobby days in Tallahassee. These are fast and furious (and fun!) days where FLTA members visit with members of the legislature in both chambers to discuss their support of the bills we are interested in.

March thru April is the legislative session in Tallahassee and when committees meet to consider any proposed bills.

More FLTA faces in Tallahassee means more support. Contact myself or Alex Overhoff if you are interested for more details.

Agent Section Lobby Fund

The Florida Land Title Association is unique in retaining a political consulting firm in Tallahassee specifically to advise and represent the Agents Section. The cost of these professionals is paid from voluntary contributions to the Agent Section Lobby Fund.

Please donate to support your industry by mailing a check to:

FLTA

**249 East Virginia Street
Tallahassee, FL 32301**

OR CLICK 



FLTA Career Center



The holidays are officially over and your organization is officially getting back into the work groove and ready to fill your open positions – but so is everyone else. During the competitive month of January, it is especially important to take advantage of valuable resources that can optimize your job posting.

At the [FLTA Career Center](#) our diverse suite advertising enhancements is designed to reinforce your brand and enhance the perception of your company among the most highly qualified, elite professionals.

It makes sense for you to be the employer of choice among any candidate and it makes even greater sense to use our recruitment branding tools to help. Visit the [FLTA Career Center](#) to start (or continue) the search for a title professional to positively impact your business in 2017!

Mind the Gap

By: Stacy Kalmanson, VP and State Counsel, Fidelity National Title Group



Anyone who has travelled to London is familiar with the often repeated phrase “Mind the Gap” when riding the tube. The same warning is also appropriate to title insurance. Title professionals are constantly reminded to record documents promptly to avoid items adverse to the title being recorded in the gap. But, what exactly is the gap? How does it affect closings? And, is the gap the only reason recording promptly is so important? This article addresses two concepts, what is the gap and what is the reason behind prompt recording (spoiler alert: it is more than just a gap issue).

Once issued, a title policy insures title to real property through the time the insured documents are recorded, thus covering any items recorded in the gap. Traditionally, the gap period is the time period between the date of the pre-closing title search and the recording of the transaction documents. However, more than one gap period exists within the title insurance realm. A second gap period is between the date of the closing and the date of the recording of the insured document (e.g., deed, mortgage or lease). A third gap period is related to the indexing of the documents by the clerk of court or comptroller. For example, you may wonder why if you receive a title update on June 7th, the “through date” might only be May 27th. The reason for the earlier through date stems from the delay in the time the document is recorded and the time the clerk of the court or comptroller indexes the document so that it can be discovered in a title search. And, each of Florida’s sixty-seven counties has a different through date, which can change on a daily basis.

The title company is vulnerable in the gap. Judgment liens against the seller may be recorded. And, a situation could arise where an unscrupulous seller records a deed or obtains a mortgage loan on the property in the gap. In some states, title companies do not disburse at closing. Instead, the title company records the documents, updates the title to ensure no problematic documents were recorded in the gap and disburses once it is confirmed the gap is clear. Since it is customary to fund at the closing table in Florida, that practice increases the risk of gap matters.

To illustrate how the gap works, assume the following:

Patty Purchaser is buying a condominium unit from Sam Seller. The title agent ordered a title update on July 7th, which was clear. The title agent closed and disbursed funds on July 14th. A valid judgment lien was recorded against Sam on July 14th. The transaction documents were recorded on July 15th. Patty will be covered for any loss or damage arising from this judgment lien because title insurance insures against matters recorded in the gap. And, a fundamental principal of title insurance is that a gap period should be kept to a minimum for this reason. Hence, the reason the title agent should obtain a title update as close to the closing as possible and why it is prudent to record transaction documents as soon as possible as well.

As mentioned earlier, the gap is not the only reason a title professional must record transaction documents promptly. Provisions in the 2006 ALTA Owner’s and Loan Policies with Florida modifications are a reminder that a delay in recording documents can have disastrous results. The owner’s policy contains the following exclusion:

Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws, that the transaction vesting the Title as shown in Schedule A, is

- (a) a fraudulent conveyance or fraudulent transfer; or
- (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.

The loan policy contains nearly an identical exclusion with the only change being that the Covered Risk referenced is Covered Risk 13(b) instead of Covered Risk 9. However, what many do not realize is that limited creditor’s rights coverage exists where transaction documents are not promptly recorded. And, the concept is complicated. Under the Bankruptcy

Code (11 USC § 547(e)(1)), because the mortgage was recorded so long (more than 30 days) after the note was signed, the mortgage is considered as securing pre-existing (antecedent debt). This situation is a perfect example of why it is so critical to record transaction documents in a timely manner.

If the borrower files bankruptcy within 30 days, the mortgage could be set aside as a preferential transfer. Covered Risk 13(b) of the loan policy provides coverage if the mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency or similar creditors' rights laws by reason of the failure of its recording in the public records to be timely or to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

Thus, although the creditor's rights exclusion generally excludes from coverage creditors' rights challenges to the lien of the mortgage, coverage is provided only if the challenge results from the failure to record the mortgage timely or from the failure of the mortgage to constitute notice due to some technical defect in the mortgage. Note that Covered Risk 9 of the owner's policy contains similar coverage if the vesting deed is not recorded timely or fails to impart notice to third parties. This Covered Risk makes a lot of sense. If the title company or agent actually causes a situation in which an insured instrument could be vacated in a bankruptcy proceeding by the closing agent's failure to record it timely, the policy cannot very well exclude coverage for that.

For example, Marvin Mortgagor secures a loan in favor of Big Time Bank. Marvin executes the mortgage on July 29th. However, the title agent does not record Marvin's mortgage until August 31st. In the interim, Marvin files bankruptcy. In this situation, the failure to record promptly is an example of a situation where the title policy provides limited creditor's rights coverage.

Insuring the gap is part of title insurance in Florida. Nonetheless, obtaining title updates close to the closing and prompt recording of documents minimizes the risk of insuring over unforeseen items. Further, it will shield the insured from any problems resulting from a bankruptcy filing of the seller or mortgagor. As they say on the other side of the pond ... "mind the gap."

DFS Information of Note

DIVISION OF AGENT AND AGENCY SERVICES

Receivership Title Insurance Surcharge

The \$3.28 surcharge imposed on each title insurance policy issued in Florida has been used to offset the claims or other losses of the title insurance companies currently in receivership. This surcharge was added to the title insurance premium of each policy and remitted to the Florida Department of Financial Services, Division of Rehabilitation & Liquidation by each title insurer writing business in Florida.

The Office of Insurance Regulation and the Division of Rehabilitation & Liquidation have determined this surcharge is no longer needed. **The surcharge is not to be collected as of January 1, 2017.** Any monies collected for this surcharge after that date must be refunded directly to the party paying the premium and surcharge for the title insurance policy.

If the claims or other losses of the title insurance companies held in receivership should increase and exceed the funds available, then a new surcharge could be calculated and reinstituted at that time. We will keep you posted of any updates in the future.

Sale of a Licensed Agency

If you sell your insurance agency you can arrange for the business name, assets, liabilities, building and equipment to transfer to the new owner as part of the sale. However, the agency license and any appointments associated with it are not transferable. A license or appointment issued under the Florida Insurance Code is valid only to the person or entity named and is not transferable to another person. Please see [s.626.441](#), F.S.

Title Agencies: Update Your Info for the 2017 Administrative Surcharge

Subsection [624.501\(27\)\(e\)2](#), F.S., requires any title insurance agency licensed in Florida on January 1 of each year to remit an administrative surcharge of \$200 to the Florida Department of Financial Services. Therefore, we are [reminding](#) all title agencies that the 2017 administrative surcharge due date will soon be approaching.

Any title insurance agency licensed in Florida on January 1, 2017, will be emailed a reminder a few days afterward to the agency's **email address** on file with the Department. To ensure you receive the invoice and avoid failing to pay by the January 30 due date, please log in to the [MyProfile](#) account for your title agency and make sure the correct email address is on file. While doing so, we also recommend you do the same for your individual [MyProfile](#) account.

Occasionally we discover agencies that were not aware of the reminder because of the retirement or termination of the employee assigned to monitor the email address provided to the Department. Failure to open the email sent by the Department containing the administrative surcharge reminder does not release an agency from the January 30 deadline. Please verify your information soon so this does not happen to you. If you need our assistance, you may contact us at Title@MyFloridaCFO.com to assist you through the steps to update your information. Be proactive; do not procrastinate.

Failure to pay the surcharge on or before January 30, 2017 will result in administrative action which could include a fine, in addition to the original surcharge. Payment must be made securely online via the title agency's [MyProfile account](#). Paper checks are not accepted.

NOTE: This surcharge is **not** related to the one imposed on each new policy written due to the receiverships of National Title Insurance Company and K.E.L. Title Insurance Group, Inc., which is ending December 31, 2016.

Title Agency Data Call 2017

2017 marks the third year title insurance agencies are required to submit information to the Florida Office of Insurance Regulation (OIR) under the data call required by section [627.782\(8\)](#), Florida Statutes. Title agencies have until June 1, 2017 to make their submission to the OIR. The OIR will send an email to each licensed title agency in Florida to remind them of the new law with instructions on how to complete the process accurately.

The Title Agency Data Call is performed by the title agency by first downloading the template from the OIR website to complete offline. To do this, the agency will need to create an account and subscribe to your agency in the Data Collection and Analysis Modules (DCAM) used by the OIR, which is located at <https://apps8.fldfs.com/DCAM/Logon.aspx>. (The user's guide for DCAM is located at: <https://apps8.fldfs.com/DCAM/Help/DCAMUserGuide.pdf>)

Once the agency's data template form is completed and the agency is ready to certify it is accurate, the agency must upload the form to the OIR before the deadline, **June 1, 2017**.

The data template has seven tabs or worksheets:

1. **Version:** includes the OIR contact information and reporting date reminder
2. **Instructions:** data template must be downloaded from DCAM for the purpose of reporting information

3. **Report Lines:** Two columns extend down a series of questions and required responses (enter either text or numeric in the two columns, as shown)
4. **Schedule A:** Additional agency information
5. **Schedule B:** Agent activities
6. **Schedule C (Residential):** Title agent statistical information submission for 1-4 residential units
7. **Schedule C (Commercial):** Title agent statistical information submission for commercial units

Each agency's submission must contain a Filing Certification signed by an agency officer (electronic signature accepted), stating the information provided is accurate to the best of their knowledge and belief. A sample copy is available on the OIR's website at: www.floir.com/siteDocuments/CertificationOfTitleDataSubmissionExample.pdf

The agency may include a cover letter, but this is an optional component for the filing.

Each agency is encouraged to include any additional or optional information that is deemed important to the overall submission. These optional items may be uploaded as PDF documents under the "Other Information/Documents" component.

It is important to know that the agency's submission is not considered to be complete until the agency receives an email receipt showing the agency's file log number.

If you have any questions regarding this filing process, please contact the OIR's Market Data Collections Unit at 850-413-3147 or via email: TitleAgencyReporting@floir.com.

Title Industry of Florida - PC

FLTA IS THE VOICE OF TITLE INSURANCE IN FLORIDA, AND YOU ARE FLTA.

THANK YOU FOR BEING A MEMBER!!!!

FLTA would like to give a BIG thank you to those that have not only contributed a portion of their membership dues, but contributed even more throughout the year!!

Chairmen's Club (\$1,000)

South Bay Title Ins. Agency
Gary Dechellis

President's Club (\$500)

North American Title Co.
North American Title Ins. Co.
Southern Title
Island Title & Escrow Agency

Ambassador's Club (\$250)

Carr, Riggs & Ingram, LLC
Melissa Murphy

Gold Club (\$100)

Larry Deal

Silver Club (\$50)

1TRACT-Lee Swaffield
Barry Scholnik



Help your voice be heard in Tallahassee by donating today!



2016 was a very busy, but successful, year for your Florida Land Title Association. The Association remains focused on improving and protecting the entire process of real property conveyancing and title insurance. The last year presented us with many challenges across the legislative, regulatory and judicial landscape.

Beginning with legislative matters, the industry was successful in doubling its capacity by increasing the amount of liability a given underwriter may assume in Florida before laying off risk through reinsurance. An insurer may now retain a single risk equal to 100% of its surplus to policy holders. The Association is very appreciative of the support of both Rep. Bill Hager and Senator Garrett Richter in achieving this significant change.

In a second technical but significant bill, Florida refined the reserve structure required for a domestic Florida title insurer to make Florida more attractive for out of state companies to re-domesticate to Florida. This effort was spearheaded by Rep. Jim Boyd and Senators Rob Bradley and Dorothy Hukill.

Your FLTA continued the fight to curb unconscionable fees for the production of estoppel information from condominium and homeowner associations and their third-party management companies. This continues to be a very difficult battle against well funded opponents, one that we will continue to wage in the upcoming legislative session.

The Association has been involved in two important pieces of litigation within the last year that impact the insurability of real property titles. The FLTA filed an *amicus curiae* (Latin for "friend of the court") brief in *Ober v Town of Lauderdale-By-The-Sea* on the impact of a *lis pendens* filed properly in a foreclosure action on liens or conveyances filed after the final judgment of foreclosure but before the recording of the certificate of title. As of this writing, the litigation is ongoing and we will report of this case as it evolves. We are very appreciative of the assistance of Carlton, Fields, Jordan, Burt in the preparation of our brief.

The FLTA also filed a Notice of Intent to file and Amicus brief in *St. Andrews Holdings, Ltd., Etc., et al. v Save Calusa Trust*, urging the Court to reaffirm that all may rely upon MRTA to vest marketable title "free and clear of all claims except the matters set forth as exceptions to marketability" in the statute, as per s.712.02, Florida Statutes. The Court in this case judicially created another exclusion to the applicability of MRTA for "zoning covenants" in a way that undermines the legislative intent and utility of the Act to eliminate certain interests. Unfortunately, the Florida Supreme Court recently declined to hear this case on appeal so the FLTA will be looking for an opportunity to address the issues raised in this case legislatively.

2016 was an extraordinarily busy regulatory year for the FLTA. Both State and Federal regulations impacting the industry were addressed.

In Florida, the FLTA worked with the Department of Financial Services on the significant new rule regarding Unlawful Inducements. After several meetings and workshops, important refinements to the original draft were added to the rule. More importantly, our title agent regulators grew their understanding of our industry.

The FLTA was the only association to request a workshop with the Department of Financial Services on the new Continuing Education Rules that impact not just title agents, but all insurance agents generally. Given the unique space our industry occupies, we required several alterations to the proposed rule as it was applicable to title insurance agents and CE providers. The Association is appreciative of the constructive dialogue with our regulators on these matters.

DFS also worked closely with FLTA representatives on the rule creating the form for proper disclosure of a simultaneous premium in this new TRID world. We appreciate that the resulting form is clumsy to implement but trust you appreciate that this effort was designed to protect the issuing agent from violating Florida law by quoting an improper premium because Federal regulations require the Loan Estimate to quote the premium for a standalone loan policy.

Since membership entitles your entire office to enjoy the benefits of FLTA membership, hundreds of you (record numbers!) have earned CE and CLE credits through our webinars and convention. In 2016, our seven webinars covered the Marketable Record Title Act (“MRTA”), Unlawful Inducement, Sovereignty Lands, 1031 Exchanges, FINCEN, FIRPTA and Steps to a Successful Closing. For 2017, webinar topics will include the 4th Revised Mutual Indemnification Treaty, Facilitating a Successful Closing, Legal Descriptions, and we anticipate at least three more. Those who attended the convention could have earned up to five hours, learning about ALTA, CFPB, DFS and OIR, “Closing Sand Traps,” and ways to avoid potential Ethics landmines. We are working on this year’s convention, and welcome all ideas for topics and speakers!

Speaking of legislation, you can register now for [FLTA’s 2017 Lobby Days](#)! You can meet with legislators and help them understand our industry and legislative goals. Mark your calendar for your trip to Tallahassee on Tuesday, January 24th and 25th. We set up your appointments and give you talking points. It’s a great way to represent your industry.

Internally, we are working on making your association work better for you. In 2016, members voted to update the Bylaws and streamline the Board of Directors. The revised FLTA Code of Ethics better speaks to FLTA’s identity and goals. Are you looking for your next amazing employee, or are you looking for your next fantastic employer? Check FLTA’s new Job Board. This year, also be prepared for increased Committee efforts, Zone meetings, and a new and improved website.

We start the year with optimism, knowing that 2017 will also be full of, shall we say, challenges. Florida’s title insurance industry has always proven to be RESILIENT, and your hard work, intelligence, dedication and passion should make this year no different.

FLTA stands to support you.

HOT COMMITTEES!

FLTA Government Affairs Committee and Agents’ Section Committee

Use your powers for good! Join FLTA’s Government Affairs Committee and Agents’ Section Committee and help shape and carry Florida title insurance initiatives. Please contact Jena at jena@flta.org to join today!

Our first webinar for 2017 is next month!!

**Join us on Tuesday, February 14th at 11:00 a.m. Fourth
Revised Mutual Indemnification Agreement Webinar
presented by David Morgan with Fidelity National Title Group**

REGISTER NOW!!

FLORIDA LAND TITLE ASSOCIATION
Promotion. Education. Advocacy.
Supporting the title and settlement services professional for over 100 years