



FLTA Tallahassee

Report

Serving Title Professionals Throughout Florida

www.flta.org

249 East Virginia Street, Tallahassee, FL 32301

((850) 681-6422; FAX (850) 681-6271

Pat Hancock, Esq, President

Alan Fields, Esq, Executive Director

PRESIDENT'S MESSAGE

- by Patricia (Pat) Hancock, Esq.

BUYERS & BORROWERS NEEDED!

We need more business. More buyers. More borrowers. More loan originations. One of the remedies for our current economic doldrums is to increase the number of real estate transactions. Facilitating good, sound mortgage lending, attracting credit-worthy buyers and borrowers, can result in an increase of business for all connected to the real estate industry. The Florida Land Title Association recognizes your quest to increase your business and equip you with knowledge of current events that may repress business growth.

The majority of the real estate closing business involves new financing. The more mortgages being given, the more business for the closing agents. But, mortgage lenders cannot fall back into the bad habits of recent years, of loaning money to those who cannot afford to pay it back, nor loaning money in excess of the fair market value of the property. Congress is working on amendments to our regulatory laws and a new defined mortgage term has evolved: Qualified Residential Mortgage. Proposed amendments to lending regulations, in furtherance of the Dodd-Frank Wall Street Reform and Consumer Protection Act, will set out underwriting criteria that lenders must follow to meet new standards for originating a Qualified Residential Mortgage – a mortgage based upon sound underwriting practices.

Proposed regulations revisions include: (1) limitation of prepayment penalties; (2) requirement that the lender retain some form of risk on mortgages (perhaps 5%) that do not meet standards or are not Qualified Residential Mortgages; and (3) require minimum down payments of possibly 20%. There have been discussions that the required minimum down payment may be even higher than 20%. While attracting borrowers that have enough cash to meet a 20% down payment would serve to bolster the financial strength of the mortgage transaction, there might not be enough borrowers in the market place that have enough spare cash for large down payments. A balance of these concerns is essential.

A Qualified Residential Mortgage is propounded to be a product that will result in a lower risk of mortgage default. The proposed lender underwriting standards for a Qualified Residential Mortgage include an analysis by the lender of the state of title to the collateral realized through a title search and title insurance policy, thereby reducing credit risk. This is a

recognition that title insurance increases the value of the mortgage loan as an investment. The work that a title agent performs enhances the integrity of the overall mortgage transaction.

The American Land Title Association has been a relentless proponent of title insurance being a key requisite for the Qualified Residential Mortgage. Adding the requirement of title insurance helps to fortify the integrity of a mortgage loan. "Underwriting the real property that will serve as collateral for the mortgage loan is a fundamental part of the underwriting process and can be achieved by utilizing a title search backed by a title insurance policy to investigate, identify, and analyze the state of title to the collateral, thus reducing risk of loss for investors," states Kurt Pfothauer, Chief Executive Officer of ALTA.

The availability of mortgage loans is crucial to qualified buyers and refinancers, including low- and moderate-income households, minority families, and first-time buyers. The Florida Land Title Association is working to promote your title closing business and the professionalism of the real estate industry. We want you to be informed so that you can communicate to your legislators the importance of quality lending standards that will enable sound and accessible mortgages to facilitate our housing and economic recovery. Please encourage your legislators to keep the market doors open and enact legislation to foster fair and accessible mortgage loans. If you don't know a legislator, then talk to others you meet on a daily basis. When someone asks, "How's business?", this is your opportunity to mention the importance of available financing. That person may know a legislator and spread the word -- A real estate closing agent motto: Have good mortgage, will close with confidence.

The NEW FLTA Website is HERE!

Several months ago, many of you responded to a survey telling us what you really wanted from your trade association. We took your ideas and recommendations to heart and the first visible proof that you were heard is our new website. If you haven't already, go to www.flta.org and take a look around.

Our new website is the "front end" for our new integrated Association Management Software. It brings together all of our membership tracking, online directories, event registration, payments and communication. So (hopefully) we will have no more problems with out of date information in the directory, or old e-mail addresses and phone numbers "re-appearing" as if by magic. All of your contact information is now managed by YOU -- simply by clicking the "View Profile" link in the upper right corner of the page.

The more important thing is that this website provides us a platform to bring our members more useful and valuable resources. We have already added membership directories with good search functions; links to our legislative bulletins so you can use them for future reference, a Government Affairs Blog and – in the "Members Only" section – handy search and examination resources, including links to records in each county.

For those who have been active on FLTA committees, we now have a "semi-private" place your committees can share their working drafts and other materials.

This is only the beginning. There is a list of resources that we hope to add in the weeks and months ahead – a title forum for sharing ideas, a jobs boardlinks to online CE, and information on qualifying an agency to do business in Florida. We ask each of you for suggestions on what other resources and tools FLTA should be bringing to our membership. Email your ideas and suggestions to alan@flta.org.

We're also looking for volunteers to help keep different parts of the site current and fresh. So if you are a frustrated blogger, or would like to design and manage an entire new resource for our members, please let me know.

With your help, the new FLTA website will become your "Go To" resource on the internet.

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

Even though the 2011 Legislative Session has ended, this continues to be a busy time for the FLTA and the Agent Section. The Department of Financial Services is contemplating reviving the [Unlawful Inducement Rule](#) that we all worked on last year. They have also announced their intention to revisit [professional designations](#). That conceivably could affect our CLC and CLS designations. Therefore, Alan Fields has requested a hearing so that we can fully understand the goals and intentions of the Department, and work with them to restrict "bad actors" without adversely impacting the designations that our members have worked so hard to obtain.

There have been several successful Zone Meetings over the last two months. The FLTA wants to bring information and training to agents in their own neighborhoods. We understand that in today's market, it is difficult to travel and be away from your offices. Therefore, the Zones are holding meetings and providing topics of interest to members and potential members, often with CE credit.

We are having our Agent Section telephone conferences at the beginning of each month and the attendance is growing steadily. If you have not yet joined us for one of the calls, please make a point to do so on July 6th at 9:30. The FLTA office will be circulating an invitation to the call with the dial in number and code. We will go over the details of the two Rules mentioned above on the next conference call.

We are looking into providing a voluntary study to the agent membership that would give information on the valuation of a title agency. Besides giving confidential information to the participants on the value of their business, it would help the business owner to better understand if he or she is working efficiently. We are also thinking of proving other business related training as a service to our membership.

As always, we are interested in your ideas. Please feel free to contact me at any time at bmcreynolds@nat.com.

The Clerk of Courts is NOT the recorder in Broward County – by Stephanie Patten, Broward County Recording Supervisor

The following is from a message received at the FLTA office. In the spirit of keeping our members informed about things that will have an impact on your ability to conduct business efficiently, we are passing it on. – Ed.

You may not know that the Clerk of Courts is NOT the recorder in Broward County.

The Broward County Charter, which went into effect January 1, 1975, provides in Section 4.02 that all fiscal functions and duties prescribed by the Constitution and Laws of Florida for the office of Clerk of the Circuit Court which relate to recordation of public documents be transferred to the Department of Finance. Sections 3.13 and 3.14 of the Broward County Administrative Code assign the "Official Recording" function to the County Records Division of the Finance and Administrative Services Department.

Even after all these years, this is something that is not widely recognized, even by attorneys and title companies in our neighboring counties of Palm Beach and Miami-Dade. I've tried having the information added to the Clerk's list published by the FACC, but that does not seem to have done the trick.

In a nutshell:

If the objective is to file a document in a case, it goes to the appropriate branch of the Broward County Clerk of Courts.

If the objective is to record a document into the Official Records, or to obtain a certified copy of a previously recorded document, the request should be sent to us.

Both our office and the Clerk's office spend a great deal of time opening mail for each other and then transporting it via interoffice mail. This results in unnecessary delays – and there is always the risk that something could be lost in transit.

I've attached a flyer about our office, and will be happy to email additional information to anyone requesting it by e-mail. Like everyone else in this office, I am inundated with phone calls, and therefore **strongly urge** that all contact be via e-mail using Spatten@broward.org



Stephanie Patten, Recording Supervisor
Broward County Records, Taxes and Treasury
115 S. Andrews Avenue, Room 114
Fort Lauderdale, FL 33301
www.broward.org/records
www.broward.org/revenue



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The 2011 Florida Legislative Session – by Alan Fields, Executive Director

FLTA is your advocate in Tallahassee. One of our primary missions is to monitor the Legislature and our regulators and try to keep anything “Bad” from happening. While we didn’t get everything we might have wanted, the title industry did quite well during the 2011 Legislative Session.

This year, 2,186 bills were filed in the Florida Legislature – and FLTA had to vet every single one of them to make sure there wasn’t something “Bad” hidden deep within the text.

Keep in mind that our concerns are much broader than just laws affecting the regulation of the industry. We monitor everything that affects the conveyancing and marketability of real estate: We monitor proposals affecting construction liens, probate and estates, guardianship, condominium law, trust law, tax law, environmental law, foreclosure and judicial procedure, the traditional real estate statutes, and of course the regulatory structure under which we operate.

In the process we are looking for bad public policy, but also for the myriad ways in which a well intentioned bill would cause technical problems for the title industry. For example:

- If someone is getting a lien that attaches to real estate, it really needs to be recorded and indexed in the Official Records. If not, that is a problem for us.
- If a bill would retroactively change the priority of liens (especially if it is something we have already insured), we worry about that.
- And changing the foreclosure law doesn't do much good if our underwriters are not willing to insure the foreclosed property at the end of the process.

So the scope of bills we are tracking is very broad and I want to thank Ted Conner, general counsel at Attorneys Title Fund Services and the members of the Government Affairs Committee for all of their hard work in reviewing and identifying bills of potential concern.

While the process was marked by many ups and downs and sometimes heated discussions within the title industry, on our issues we had a very successful session:

- We helped pass a fix for the Olmstead case, which would have allowed a creditor of a member of an LLC to attach real property owned by the LLC – without notice in the official records
- We helped pass a separate fix for the Everglades Electric case, which placed severe limitations on our ability to rely on recorded notices that a landlord's interest may not be lienied for tenant improvements.
- Deb Boyd, underwriting counsel at First American, worked hard to assure that the rewrite of the power of attorney statute did not apply to corporate powers of attorney; and to craft an exception for most title transactions from the provisions mandating acceptance of a POA.
- The URPERA Glitch Bill passed, retroactively validating electronic recordings which were recorded before the rules and guidelines went in effect.
- Thanks to the hard work of CFO Jeff Atwater and his Director of Legislative Affairs, Ashley Mayer, we don't have to fear the immanent termination of title insurance policies issued by a failed insurer. That would have truly been a black eye for the title industry
- The adverse possession statute was amended in a way that makes it much easier for title examiners to identify the conflicting claims.
- The Condominium Act was amended to provide an insurable mechanism for partially terminating destroyed portions of a condominium.
- We worked with the RPPTL Section of the Bar to help head off a proposal which would have limited liability for malpractice or negligence by design professionals

(architects, engineers, surveyors, etc.) to only those incidents which resulted in personal injury or property damage.

- We helped head off some problematic and (probably) uninsurable foreclosure reforms; and
- We helped protect the licensure of land surveyors and maintain the minimum technical standards.

These successes are the result of a lot of hard work by political professionals representing underwriters, the FLTA's Agent Section, the RPPTL Section of the Bar and other trade associations. No one person, or one association does it alone – and this being my first Session in this role, I want to publicly thank all of them for their support, guidance and hard work.

Detailed bulletins on various 2011 bills can be found on our website. Use this link to access the bulletins <http://www.flta.org/Default.aspx?pageId=1005018> , or go to www.flta.org select the Governmental Affairs tab on the LEFT, and then the link on that page that says FLTA Gov't Affairs Bulletins & Legislative Updates.

2011 Upcoming Events

September 1, 2011 – Scholarship Application Deadline

FLTA is now accepting applications for this year's scholarship program. The criteria, instructions and application are available on the website.

November 2 – 4, 2011 – FLTA Annual Convention PGA National Resort & Spa, Palm Beach Gardens

The 2011 FLTA Annual Convention will be held at the Beautiful PGA National Resort. Bring your clubs. See your friends and catch up on everything happening in the wonderful world of title. We are in the planning stages and will have more info available soon. Visit our website OFTEN for upcoming convention details.

Rewriting the Rules – by Alan Fields, Executive Director

The title insurance industry is highly regulated, and FLTA is actively engaged in the legislative and regulatory process to protect the interests of our members. In fact, Government Advocacy is one of FLTA's primary missions.

We were quite pleased when the Office of Insurance Regulation ("OIR") agreed to a systematic review and updating of the title insurance rules. Those rules haven't been

updated in quite a few years, are inconsistent with Florida Statutes, are sometimes ambiguous and difficult to understand, and are generally in need of a good polishing.

Peter Rice, the Title Insurance Coordinator at the Office of Insurance Regulation, asked FLTA to help assemble an informal working group of some of the brightest minds in the Title Insurance industry to work with OIR and the Department of Financial Services on a complete review of the title insurance rules. In selecting the working group, great care was given to assure that large agents, small agents, attorney-agents, underwriters, and different business models were represented.

This kind of technical drafting becomes all but impossible when the group exceeds 15 or 20 people. Just watch Congress on C-Span and you'll see what I mean. So limiting the group to a manageable number was critical to our success, but a huge challenge. There are so many people whose insights and expertise would have added value to this project. But in order to achieve our goals, we had to limit the size of the working group – while maintaining a balance of the various business models and interests (agents, attorney-agents, underwriters, and regulators). I hope you will agree that we succeeded in striking a good balance.

The working group had its first meeting at the FLTA offices on June 3. It was a very productive meeting. We had wide ranging discussions of industry practices and problems, reviewed how the industry has evolved over the years and how we expect it to evolve in the future. The regulators were quite candid in sharing their views of some problem practices in the industry.

At the end of the day, sub-committees were appointed to actually begin drafting proposed language in four areas:

- 1. Rate Simplification.** The group recognized that the current structure of rates – promulgated, substitution loan rate, reissue rate, etc. is confusing and often difficult to apply.
- 2. Definitions of Search/Exam/Evaluation Services Subcommittee.** This group will be attempting to reconcile the 1996 RESPA interpretations regarding Core Title Services with Florida Statutes requirements and how those definitions flow through the rate setting process.
- 3. Forms Sub-Committee.** This subcommittee will be working on a more efficient mechanism for approving new policy and endorsement forms and their related rates. It will also be looking at updating the Florida CPL form.
- 4. Data Call Subcommittee.** This subcommittee's task will be to design a workable data-call structure which will provide the necessary information to continue promulgating title insurance rates in Florida

The Rules Review Committee

Joe M Campoamor Jr
Integrity First Title, LLC

Vince Cassidy
Majesty Title Services, LLC

Timothy M. Dwyer
CEO, Entitle Direct Group, Inc.

Howard Eagelfeld
Actuary, Office of Insurance Regulation

Alan B. Fields
Executive Director - FLTA

Norwood Gay
Counsel, Attorneys' Title Fund Services

Sue Geigle
Professional Title Solutions,

Jeffrey Joseph
Counsel, Office of Insurance Regulation

John LaJoie
Counsel, First American Title Insurance

Roy Lassiter
Chairman, Westcor Land Title Insurance

Beverly McReynolds
Regional President, North American Title

Melissa Murphy
Attorney-Agent, Gainesville

Peter Rice
Title Ins. Coordinator, Office of Insurance Regulation

Jim Russick
Counsel, Old Republic

Barry Scholnik
Counsel, Stewart Title

Shelley Stewart, CLC
Southern Title Holding Company

Ray Wenger
Agent & Agency Services, DFS

While we hope our regulators will find our recommendations helpful, they are NOT bound to accept those recommendations. At the end of the day, it is their responsibility to adopt the rules and regulations that they feel are appropriate to balance consumer protection against maintaining a solvent title insurance system. After gathering the input from the industry, our regulators will produce their own proposed rule changes, schedule public workshops and begin the formal rule adoption process.

Now the “Bad” News!

In the “sausage making” process that is Tallahassee, we rarely get everything we want. There will always be compromises and trade-offs. Each of these subcommittees is tasked with addressing issues in which every choice has pros and cons for the industry.

The most obvious is the Data Call. Florida law has long required regular data gathering from agents and insurers in order to set appropriate rates. We haven't had a data call in many years and the promulgated rates have been unchanged -- up or down -- for many years. Those rates may be too high, they may be too low – but no one knows! We simply don't have the necessary information.

What everyone agrees is that the premium rates should ideally be set taking into account an entire cycle of the real estate market; and that we should be capturing the information coming out of the current bad years. The down-side to a data call – even assuming our software is updated to automatically tabulate the data from individual transactions – is that compiling the required information will be a pain in the neck.

But it is a trade off that we should happily make for the certainty of promulgated rates in Florida and capturing the “Bad” years' information.

Other subcommittees will face similar difficult issues and trade-offs. I predict now, that no-one will be completely happy with the end product. But we should

all take comfort that the working group (see sidebar) includes some of the smartest, most dedicated, professionals in the Title Industry.

FTLA will keep you posted as this process progresses.

What's the Next New Thing? – by Deborah Boyd, Esq

NEW POA STATUTE (arriving Fall 2011)

Effective October 1, 2011, a new Power of Attorney statute will become law. The new Power of Attorney statute is a complete rewrite of F.S. 709. A committee of the Real Property, Probate and Trust Law Section of the Florida Bar has been working on the rewrite of this statute for the past several years. I was fortunate to be selected to be the real property representative on that committee and have been working with them on this rewrite. Although the changes to the statute, from a title agent's point of view, are not extensive and will not be earth-shattering, there are some changes which you will like. In the next FLTA newsletter, I will provide you with a detailed article on the provisions of the new statute, and what you need to do differently when dealing with Powers of Attorney after October 1, 2011. Relax and enjoy your summer, but be ready for the fall - Don't miss your next FLTA newsletter!!!

(a preliminary report on portions of the POA bill is available [here](#) or can be accessed using this link: <http://www.flta.org/Default.aspx?pagelid=1036251> - ed)



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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.

All Florida Land Title Company

Jeffrey Raynor
Juno Beach, FL

Clear Title Solutions, Inc

Tammy Chiriani
Longwood, FL

Extreme Title Group, LLC

Michael Sexton
Miramar, FL

First International Title, Inc

Jim Moran
Fort Lauderdale, FL

First Service Title of Florida, LLC

Ryan Coleman
Winter Park, FL

JobTracks

Matt Johnston
Culver City, CA

Koogler Group, LLC

Karen Koogler
Pinellas Park, FL

Sergio A Pagliery, P.A.

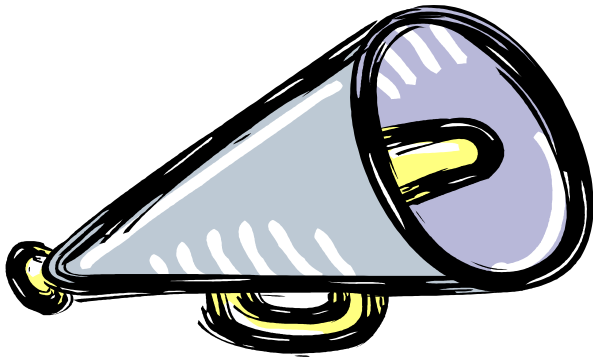
Sergio Pagliery, Esq
Miami, FL

Title 365, Inc

Scott Ludwig
Maitland, FL

Did you Know.....

By 1937, there were over \$97 million (a big number in 1937 dollars) in unpaid property taxes in Florida, and local governments were unable to sell enough tax certificates to fund necessary operations. Since they couldn't sell tax certificates, they passed the Murphy Act and "took back" millions of acres of Florida land without any deed, without any conveyance or other record indicating state ownership being filed in the land records. The first conveyance after that was a deed from the Trustees of the Internal Improvement Trust Fund. So today, a title examiner will often find a "break in the chain" of title.



ANNOUNCING.....

**FLTA's NEW
FRAUD PREVENTION
COMMITTEE**

You asked for a way to learn about and discuss the most current fraud schemes. You asked for a way you can help prevent fraud. FLTA listened to you and is pleased to announce the creation of its new FRAUD PREVENTION COMMITTEE. This committee will focus on ways for agents to learn about and prevent fraud. Any member of FLTA is welcome to become a member of this committee. The Fraud Prevention Committee will hold its inaugural meeting at the FLTA Annual Convention to be held Nov. 2-4, 2011. If you are interested in joining the new Fraud Prevention committee, please contact Deb Boyd (DeborBoyd@firstam.com, 772.286.0850).

Note: The Caveat Sharing committee, which because of Florida law is only open to insurers, will now be a sub-committee of the newly created Fraud Prevention Committee. If you would like information on the Caveat Sharing sub-committee, please contact Deb Boyd (DeborBoyd@firstam.com, 772.286.0850).

DON'T FORGET TO SUPPORT OUR ASSOCIATE MEMBERS

Many of us are associate members of our local Board of Realtors or of builder trade associations. And rightly get upset when other agents - who are NOT members and not supporting the local programs - seem to get a LOT of the title orders from those groups!

Well, OUR associate members do more than “just pay association dues”, too. They show up at our meetings and conventions, PAY for the privilege of displaying their products, often contribute additional funds to help pay for our luncheons, receptions, banquets, AND pay to advertise in our programs, brochures, and YES!! Even this Newsletter!!

DON'T FORGET OUR ASSOCIATE MEMBERS! When you need a new product or service. Be sure to check the Associate member list in our new website – FLTA.org - and give our Partners the FIRST opportunity to earn your business.

Your CLS or CLC designation has REAL Value

For years, earning a CLC or CLS designation was a way to show the world that you were one of the best in the title profession. It requires a minimum of five years of working experience as either a Closer or a Searcher, followed by a very rigorous examination for either designation.

Through the hard work of some of our Associate Members, several E&O carriers have recognized the CLC and CLS designations as a basis for actually lowering your premium. Others are expected to follow in that practice.

When it is time to renew your E&O insurance, check with our Associate Members and make certain that the E&O carrier is aware of all of the hard work and the professional expertise it took to earn your CLC and/or CLS designation – and are giving you the credit you deserve!

For a complete list of FLTA's Associate Members, visit www.flta.org select Member Directories and then Affiliates and Vendors or just click [here](#)



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We would like to extend a special THANK YOU to our members who have taken the time to update their ad formats (including working with a novice in the publishing arena) and particularly for their patience and cooperation with making the necessary changes to your ad copy so they would WORK with our new Newsletter format. We so appreciate your continued support of our Association.

Many thanks to:

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

Notary Duties

I Wanna Be a Robo-Signer!

Since bad behavior by Notaries has made the press so much in the last year, perhaps it is time to review the rules that we, as notaries, are expected to follow. Although not everyone treats it that way, being a notary is a serious responsibility (a lesson we suspect some are about to learn rather painfully).

1. Witness vs. Notary Acknowledgement

A Witness must actually see the person signing the instrument. That is the “act” that they are “witnessing.” A Notary can come into the room after signing -- but the person whose signature is being acknowledged must physically be in the presence of the notary and “acknowledge” that they signed the instrument. And even if they are still sitting at the signing table when you walk in, it is important that you ask the question – “Did you sign these documents?”

The law treats this seriously. Notarizing without the Person being physically present is an automatic civil violation with a penalty of up to \$5,000 and constitutes malfeasance and misfeasance in the conduct of official duties. §117.107(9). If it is done with the intent to defraud, it is a criminal violation and a third degree felony. §117.105. The penalty for that can be up to 5 Years in prison and a \$5,000 fine AND it may count toward “Three Strikes and You’re Out.”

2. Fixing an Error.

We all make mistakes, and occasionally a document slips through without all of the blanks filled in, with an erroneous legal description, or missing a witness or two. So how do you fix it?

We all know that under Fla. Stat. §117.107(10), we are not supposed to notarize a document that is incomplete or blank (except an endorsement or assignment in blank of a note – because that is not deemed an incomplete instrument). And we certainly shouldn't complete anything after the party has signed the document, because that can change the legal effect and is expressly prohibited under §117.107(7). You can't even amend the notary certificate after notarization is complete. §117.107(8)

The right answer is to reconvene the parties and have the defective instruments re-executed, witnessed properly and notarized anew and include an explanation of the error. The foolish (and perhaps criminal) answer is to take the document that was returned from recording and add missing information and omitted witnesses and re-record. Since it has already been recorded, that very nicely preserves the fraud for everyone to see. And since a deed without two witnesses is generally ineffective -- until curative statutes like §95.231(1) kick in, adding witnesses and re-recording leaves your customer -- and your underwriter at risk of intervening claims for the entire five year curative period.

3. Acknowledgement vs. Jurat.

The standard when notarizing an affidavit is different. There you are asserting that the person signed the document under oath. And the right way to do it is to have the person raise their right hand and swear or affirm that the statements in the affidavit are true and correct.

This is a favorite trick of trial lawyers when they depose a notary. They will ask have you ever had someone sign an affidavit without giving a formal oath? How often do you give an oath in connection with the execution of an affidavit? Do you expressly remember giving Mr. X an oath? If not, why would he believe he was under oath when he gave the affidavit?

4. Identification.

A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual who is described in and who is executing the instrument. §117.005(5). The question then becomes what kinds of identification are acceptable?

Florida Statutes lists the following as acceptable types of identification:

- a. A Florida identification card or driver's license issued by the public agency authorized to issue driver's licenses;
- b. A passport issued by the Department of State of the United States;
- c. A passport issued by a foreign government if the document is stamped by the United States Bureau of Citizenship and Immigration Services;
- d. A driver's license or an identification card issued by a public agency authorized to issue driver's licenses in a state other than Florida, a territory of the United States, or Canada or Mexico;

- e. An identification card issued by any branch of the armed forces of the United States;
- f. An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;
- g. An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department;
- h. A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- i. An identification card issued by the United States Bureau of Citizenship and Immigration Services.

Other types of ID are not acceptable for a notary, even if issued by a state or local governmental agency other than the DMV. So University ID, Concealed Weapons Permits, Law Enforcement officer ID, and State employee IDs don't satisfy the requirement. Nor will Foreign IDs other than passports or Canadian or Mexican Drivers licenses. Matricula Consular, issued by the consulate of some foreign countries are NOT acceptable IDs for notarization in Florida.

Florida law does provide a mechanism for notarizing a signature of someone with absolutely no ID – but those rare situations often trigger other underwriting concerns, so we urge you to discuss it with your underwriter before relying on the statutory mechanisms.

5. **Certified Copies.**

Under Florida Law, a notary public may supervise the making of a photocopy of an original document and attest to the trueness of the copy, provided the document is neither a vital record in this state, another state, a territory of the United States, or another country, nor a public record, if a copy can be made by the custodian of the public record. §117.05(12)(a)

So you are not authorized to make a certified copy of anything that has been recorded in the Official Records, Birth Certificates, Death Certificates or anything else where the government will provide a certified copy. But you can prepare a certified copy of the same original document before it has been sent to recording – and this is a normal practice for notes and mortgages.

Tax returns are tricky – you can prepare a certified copy of the original before it is submitted to the IRS, but after it has been submitted, you won't have an original to certify – and the IRS will provide copies.

6. **Sometimes You Just Gotta Say NO!**

As a Notary, you are a public official and are expected to make yourself reasonably available to serve the public. But you are also “Protector of the Transaction” -- but you may ethically refuse to notarize something if you suspect:

- Coercion, Duress, Lack of Understanding
- Inaccurate Translation of the Document, or that the translator is interested in the transaction.
- that the Transaction is Illegal, False, or Deceptive.
- the signer appears to be drunk, sedated, or disoriented; or lacking mental competency.
- The signer is a minor; or
- You are just not comfortable with the request!

As is so often the case, if your gut is telling you something is wrong, it probably is. Reach out to your manager and your underwriter for guidance.

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.