



January 15, 2019

Michael G. Lawrence, Jr.
Assistant General Counsel
Florida Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399-4206

RE: Agents' Data Call Workshop Written Response

Mr. Lawrence:

On behalf of the members of the Florida Land Title Association (FLTA) and the land title industry we are grateful for the opportunity to respond to the call for public input in written format. As noted this feedback stems from the Title Data Call Workshop scheduled on November 28, 2018, by the Florida Office of Insurance Regulation.

The redline work enclosed in the Excel Workbook and attached outline is the combined work of Title Agents (small and large), Title Insurance Underwriters, and direct FLTA consultants specializing in Data Call and rate making procedures.

Throughout this process we have attempted to simplify, clarify and eliminate areas that may be confusing or believed to not be useful to the rate making process. We are hopeful this will prove helpful in the revision process for the 2019 Data Call collection process.

Should you have questions or would like to discuss in person, please do not hesitate to call. We look forward to your feedback and further communications.

Respectfully,

A handwritten signature in blue ink that appears to read "Kevin Thomas".

Kevin Thomas
2019 FLTA President

A handwritten signature in blue ink that appears to read "J. Scott Merritt".

Scott Merritt
Executive Director

cc: Jeffrey Joseph, Assistant General Counsel

Attachments: 1. Outline of Redline Recommendations
2. Data Call Workbook Redlined

Florida Land Title Association
Agents Data Call Outline of Redline Revisions
January 15, 2019

Review of Report Lines:

- Line 19
 - Recommend the following language or wording in second parenthesis to be included in Line Description to identify where the business names come from if the answer is yes
 - **Affiliated Business Arrangement** (Agency is affiliated with any real estate industry company or person who is in a position to refer title insurance business to an agency (a referrer), such as a real estate brokerage, a bank, a developer, or a mortgage company). *(If Yes, List affiliated business names on Schedule A, Column B)*
- Line 22
 - Recommend the following language or wording in parenthesis to be added to Line Description:
 - **Number of states in which Reporting Entity operates** *(list all states on Schedule A, Column E)*
- Line 25
 - Recommend removing language or wording in parenthesis in Line Description:
 - **Remove:** (List underwriters in Schedule A, Column F)
 - **Column F in Schedule A is recommended to remove. The information in the column is collected through Underwriters Data Call as of 1/1 and 12/31.**
- Line 26, A-E
 - **Is it necessary to report number of employees on a quarterly basis for rate making or can this be simplified to annual? Recommend annual.**
- Line 27, A-D
 - **Is it necessary to report number of employees on a quarterly basis for rate making or can this be simplified to annual? Recommend annual as of 1/1 and 12/31.**
- Line 29
 - Why is the name and license number for every employee needed?
 - **Recommend omitting parenthesis**
- Line 30
 - Recommend the following language or wording in Line Description:
 - **Total Orders Opened During for title commitments/policies Reporting Period**
- Line 31
 - **Is this line necessary for rate making or can it be omitted?**
 - **Is the line looking to obtain number of cancelled files?**
 - If yes, recommend the following language or wording in Line Description:
 - **Total Orders Cancelled During Reporting Period?**

- Line 32
 - **Recommend omitting Line 32 as the information is collected from Underwriters Data Call**
 - Following recommendation, calculation in Line 32 should be removed
 - Omit this text in yellow box: (Auto-Calculated) Sum of 32(A) and 32(B)
 - If not able to omit 32, recommend the following in Line Description:
 - Omit 32 B
 - In 32 A, omit “A” and omit the word “RESIDENTIAL”
 - Recommend including the language “undeveloped lots intended for single 1-4 family improvement” within Instruction Specific to Agency Type
- Line 33
 - **Is Line 33 (A&B) necessary for rate making or can it be simplified?**
 - If necessary, recommend the following working in Line Description:
 - (A) Number of searches your agency performs and billed to underwriters, other title entities and third parties
 - (B) Number of searches acquired from an underwriter or third party which did NOT include suggested or draft exceptions and/or requirements.
 - (Include the names of third parties on Schedule A, Column J)
- Line 34
 - Line 34 B
 - **Is Line 34 B necessary?**
 - If necessary, recommend Line Description:
 - (B) Number of searches acquired from an underwriter or third party which did NOT include suggested or draft exceptions and/or requirements.
 - Line 34 C
 - Recommend Line Description for 34 C:
 - (C) Number of searches acquired from a third-party vendor that is not working primarily for the agency which included suggested or draft exceptions and /or requirements to be considered for inclusion in the commitment
 - Recommend General Instructions edit for Single State Agent:
 - Remove “67%” and include a “3rd party vendor financially connected as a subsidiary or as an owner”
 - Line 34 D
 - **Should this be included in Line 33?**
 - Separate independent contractor from this line and recommend the Line Description wording to be:
 - (D) Number of searches conducted by an employee working primarily for the agency.
 - Recommend General Instructions edit for Single State Agent:
 - Remove “67%” and include a “3rd party vendor financially connected as a subsidiary or as an owner”

- Line 34 E
 - **Create 34 E**
 - Line Description
 - (E) Number of searches conducted by an independent contractor working primarily for the agency.
 - General Instruction for Single State Agent
 - Keeping consistent with 34 C-D
 - Remove “67%” and include a “3rd party vendor financially connected as a subsidiary or as an owner”
- Line 35
 - Recommend the following language or wording in Line Description:
 - Number of non-insurance title products produced by the Agency
 - Recommend the following language or wording in General Instructions:
 - A "non-insurance title product" is any product produced by the reporting entity which is intended for some use other than a title insurance commitment, policy or holding money in escrow. Examples of a non-insurance product are Ownership and Encumbrance reports (O&Es), property profiles, abstracts, opinions, guarantees, holding money in escrow, etc. Do not include any items counted on Lines 32(A) or 32(B).
- Line 36
 - **With line 36, does this make lines 30 and 31 unnecessary?**
 - Important to note, this line will include pending files
 - Recommend the following language or wording in Line Description:
 - Total number transactions in which a policy was intended to be issued but was not issued for any reason other than cancellation.
- Line 37
 - Make 37 A the new Line 37 Master Line and reformat 37 A-E
 - Remove original Line 37 C
 - A Junior Loan is a refinance.
- Line 42
 - With relation to line 61, make this 42(A) and 42(B).
 - 42(A) Title Search Income Treated as Escrow File Pass Through
 - 42(B) Title Search Income Treated as Operating Revenue
 - General Instructions - Add this language in instructions
 - “Choose one or the other depending on how company operates”
- Lines 50-51 & 53-55
 - Employee Compensation, Contracted Labor, Employee Leasing, Payroll Taxes, Employee Benefits
 - **For consideration**
 - If title agents keep track of these expenses in any more detail than this? For example, are they able to separate these costs by function (search, examination, determination of insurability, curative work, and closing), either in whole or in part (for example, are contracted labor costs available by function)? If so, this may be a more accurate way to determine title and non-title expenses.

- Line 60
 - Recommend including examples in General Instructions and changing language to:
 - This category applies to non-labor costs of maintaining a title plant or to fees paid to access a title plant belonging to another. i.e. Black Knight, the Fund, Courthouse, etc.
- Line 61
 - Line 61 A
 - Recommend the following language or wording in Line Description:
 - (A) Abstract/search expenditures with third parties (Including Underwriters without Examination)
 - Recommend inserting subcategories 1 and 2 in Line 61 A
 - Insert subcategory 1:
 - Title Search Expense Treated as Escrow Pass Through
 - Insert Subcategory 2:
 - Title Search Expense Treated as Operating Revenue
 - Recommend General Instructions to tie back to the *new* 42(A) and 42 B with the following language:
 - This category applies when the agency is buying a search from any third party or underwriter, but only when the search does not include suggested or draft exceptions and/or requirements to be considered for inclusion in the commitment. This category is to reflect the cost of those searches identified in *new* lines 42(A) and 42(B)
 - Line 61 B
 - Recommend the following language or wording in Line Description:
 - (B) Abstract/search expenditures with third parties (Including Underwriters with examination)
 - Recommend inserting subcategories 1 and 2 in Line 61 B
 - Insert subcategory 1:
 - Title Search Expense Treated as Escrow Pass Through
 - Insert Subcategory 2:
 - Title Search Expense Treated as Operating Revenue
 - Recommend General Instructions to tie back to 42(A) and 42 B with the following language:
 - This category applies when the agency is buying a search from any third party or underwriter, but only when the search does include suggested or draft exceptions and/or requirements to be considered for inclusion in the commitment. This category is to reflect the cost of those searches identified in line 42(A) and 42(B).
- Line 62
 - It is not common for Exams to be purchased as a stand alone
 - **Remove line all together.**

- Line 64
 - Recommend the following language in Line Description to clear up closing software costs lumped into Line 81
 - Aggregate Computer/ closing software / software expenses
 - (Include the names of closing software vendors on Schedule A, Column L. Include portal fees, e-recording fees, escrow software, digital closing software, etc.)
 - Recommend the following language in General Instructions:
 - Include the names of closing software vendors used in Schedule A.
 - To better clarify, costs should be reported separately
 - 64A - Non-Title Software (i.e. operational accounting, Microsoft programs/suite, Microsoft 365, Marketing software)
 - 64B - Title related closing software (i.e. closing software fees, portal fees, title production)
- Line 69
 - Include additional language to include “operating and escrow” in Line Description to clarify
 - Recommended Language
 - Accounting, external expenses (operating and escrow)
 - **If separate escrow and title expenses are available, the data should be reported separately.**
 - **69A – Operating**
 - **69B – Escrow**
- Line 70
 - Suggest further clarification
 - **Are all of these costs associated with Title insurance operations or are some of them associated with Search and Closing?**
 - In General Instruction include language to include “(ALTA License and Agent License Continued Education)”
- Line 73
 - Recommend for consideration of separating title vs. non-title education
 - 73A – Title
 - 73B – Non-Title
- Line 74
 - Include additional language to include “operating and escrow” in Line Description to clarify
 - **If separate escrow and title expenses are available, the data should be reported separately.**
 - **74A – Operating**
 - **74B – Escrow**

- Line 75
 - Include examples in Line Description like:
 - Charge offs and expenses incurred for cancelled orders (Such as Estoppel fees, postal, wire, etc.)
 - Include examples in General Instructions like:
 - This category includes charge-offs for accounts receivable and expenses not recovered for canceled orders (Such fees as estoppel, postal, wire, etc.)
- Line 76
 - To include 1099 reporting error penalties, recommend this Line Description
 - Governmental Fines and Penalties (Federal, State and Local; include 1099 reporting fines)
- Line 77
 - PAC contributions in trade associations are often collected as a part of dues. Recommend including description to better clarify in General Instructions such as:
 - Include PAC donations in this line (Include PAC contributions deducted from related industry association dues.)
- Line 78
 - Recommend including examples in Line Description to clarify:
 - Title Related Professional Association fees and contributions (i.e. Dues and non-educational events that are not included in Line 73)
- Line 79
 - Recommend including examples in Line Description to clarify:
 - Lobbying Expense (Independent lobbying expenses paid)
 - Recommend General Instructions to be edited to say:
 - This category is for the hiring or direct expense of lobbying efforts. Industry related lobbying contributions to associations is direct to line 78.
- Line 80
 - Recommend including the words “Statutorily Mandated” and areas of “physical and digital storage”
 - As the industry continues to evolve and become more digital it is important to acknowledge both physical and digital
 - Recommend Line Description to say:
 - Mandated File Storage Expenses (Physical and digital storage)
- Line 81
 - Miscellaneous (the largest single expense item after Compensation) should be expanded into categories that can be allocated to title and non-title services in a fashion superior to revenue.
 - For example:
 - A. Estoppel
 - B. E-Recording Fees (which are title services)
 - C. Office Expense (including Supplies, Postage and Delivery, Telephone and Equipment) which should be allocated based on ‘payroll’ as defined by Schedule B
 - D. Any others with unique characteristics.
 - E. Miscellaneous (anything else)

- Line 83
 - Recommend expanding Line Description to include examples like:
 - Amounts paid directly by agent for title error losses not reimbursed by underwriter or any other party, and not included in underwriter loss reserves (Such as rerecordings and related eRecording fees, paying of taxes, expenses related to obtaining corrective documents, etc.)
- Line 84
 - Line 84 A
 - Recommend changing Line Description to say:
 - (A) Number of Title Error Claim notifications received from underwriters or direct insureds
 - Line 84 C –
 - Line Description add the word “including”:
 - (C) Reimbursements Paid to Underwriter including CPL Losses
 - General Instructions
 - Note that it should not include E & O and reference Line 88 instead of 85-87 like:
 - Some title error losses can be title error losses and CPL losses, depending on how the underwriter wishes to classify them. Include here only actual reimbursements for CPL losses designated as such by your underwriters, excepting contract deductibles (not E & O). Report contract deductibles on Lines 88 below.
- Line 85
 - Line 85 A
 - Recommend changing Line Description to include fees and say:
 - (A) Dollar amount of Closing Error Losses Including Fees (Non-Title)
- Line 89
 - Recommend changing Line Description to read:
 - Estimate total cost of transactions including labor in which a policy was intended to be issued but was not issued for any reason
- Line 91
 - Recommend Line Description to include cyber insurance and read as:
 - E&O insurance premiums including cyber insurance

REVIEW OF SCHEDULES

- **Schedule A**
 - Columns F and G
 - Recommend removing these columns as the information is collected in Underwriters submission and is redundant in Agents’ Data Call
 - With the removal of F and G, recommend formatting change in row 6 of Excel worksheet to reflect appropriate Column Names (Column A, Column B, etc.)
 - NOTE: If F and G are not removed, Column headers still need to be edited

- **Schedule B**
 - Instructions
 - Instruction Line # 1
 - Additionally, make this text within line 1 more prominent with larger font or otherwise, “(Alternatively: Estimate percentage of time spent on each item.)”
 - Instruction Line # 3
 - Add this text in the beginning:
 - Include compensation, other personnel costs such as benefits and payroll taxes.
 - Formatting Recommendation
 - To minimize user confusion, recommend greying columns D, E, and G where information is not to be submitted
 - Create *New* Section VI for Consumer Protection
 - Consumer Protection
 - Include examples through subcategories
 - A. Escrow accounting functions such as reconciliations, wires, etc.
 - B. Escheating
 - C. ALTA Best Practices Compliance
 - Create *New* Section VII for Government Requirements
 - Include examples through subcategories
 - A. 1099 Submission to IRS
 - B. Financial Crimes Enforcement Network (FinCEN)
 - C. Patriot Act
 - D. Foreign Investment Real Property Tax Act (FIRPTA)
 - For consideration, with respect to 627.7711(1)(B) Title Search should be used in consideration for rate setting
 - Losses due to title search errors should also be included in the rate making process
- **Schedule C (Residential and Commercial)**
 - **Schedule C in both Residential and Commercial should also be eliminated.**
 - **This information is reported in the Underwriter’s Data Call.**
 - Schedule C asks for separate Residential and Commercial data to be reported, including premiums, number of transactions, rebate amount, direct agency losses paid, and fraud (non-CPL) losses paid. The following points should be noted:
 - Schedule C is not asking for expenses to be reported separately for Residential and Commercial because they are not available in this level of detail. Therefore, this information has limited usefulness for ratemaking purposes.
 - In Report Lines 32 and 33, FLTA is proposing to eliminate separate reporting of Residential and Commercial transactions. This is inconsistent with separate reporting of Residential and Commercial data in Schedule C.