



State Regulatory Update

■ James C. Russick, Florida State Counsel

In the last issue of *In the Title Corner*, we headlined the pending threat of rate regulation based on a grossly inadequate “Final Data Call.” The Florida Office of Insurance Regulation had demanded from only the title insurance underwriters five years worth of data from all states in which we do business. No title agency data was solicited, notwithstanding the statutory mandate within *Section 627.782, F.S.* to set a rate sufficient “(b) . . . to allow title insurers, agents, and agencies to earn a rate of return on their capital that will attract and retain adequate capital investment in the title insurance business and maintain an efficient title insurance delivery system.”

Old Republic National Title Insurance Company responded to the data call by the December 31, 2005 deadline; however we did so with numerous specific objections and caveats. Shortly thereafter, the Fund filed suit against OIR. The Florida Land Title Association intervened in that litigation on behalf of the

plaintiff shortly thereafter.

In addition to the litigation, Old Republic National Title Insurance Company received copies of many letters that our agents sent to OIR pointedly setting forth our objections to the data call, particularly the failure of OIR to solicit title agency data. We thank each and every one of you who participated in the process for your critically important input.

We are pleased to report that the litigation has been withdrawn without prejudice. In other words, it may be refiled should there be a necessity to do so. But while the immediate threat has passed, we must remain vigilant. Rate review is not over. It is only beginning, and we know, based on recent discussions with officials with the regulator, that there remains a significant process before us, one that may take as long as three years. During this time, we have been encouraged to communicate with OIR, and we have been told that the data call to which we responded was not



“final.” Accordingly, each agent can anticipate the likelihood of a data call within the reasonably near future.

Old Republic National Title Insurance Company is currently working legislatively to put the necessary funding in the budget to fund a proper, professional data call. It is our belief that the title insurance industry will be better served in this way.

We will continue to be vigilant in our efforts to promote and maintain the title insurance industry, and particularly the role of the independent title agent. We thank you for your continued support of Old Republic National Title Insurance Company.

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As such, Toll is working on rather stringent regulation in Colorado that she believes may be looked at by the NAIC as a model for the rest of the industry. Toll said that the perception from the regulators and the public is that title insurance offers no real value, is overpriced and is not a competitive industry. The “lack of value” perception stems from our loss ratios, which average

around 5%, where other industries such as homeowners insurance are 75%, auto insurance 60% and HMO’s pay out 86%. She acknowledged that most of our expense goes to minimizing losses through search and examination and closing the transaction, hence the low ratio; however, most regulators and consumers do not understand our industry. She cited an interesting statistic that

over a lifetime, an average consumer will spend over \$100,000 on health insurance, \$40,000 on auto insurance and only \$6,000 on title insurance, closing on only 6 homes, not including refinances.

All agreed that there is certainly a publicity and knowledge gap to be filled. We will keep you updated as this develops.