

## **FLORIDA BULLETIN 99-9**

TO: ALL AGENTS AND TITLE PLANT OPERATIONS  
FROM: UNDERWRITING DEPARTMENT  
DATE: NOVEMBER 10 , 1999  
RE: MIAMI-DADE COUNTY LAKE BELT PLAN

---

We have recently received several inquiries regarding Old Republic's position on the new Miami-Dade County Lake Belt Plan legislation (Sec 373.4149, F. S.) that took effect October 1, 1999. This legislation purports to make any conveyance of real property within the designated district voidable at the purchaser's option for seven years after acquiring title, provided the seller fails to comply with the affidavit and notice provisions of the statute. The legislation is silent with regard to any third party liens on the property should the purchaser exercise his right to avoid the conveyance.

The specific statutory requirement placed on the seller is the execution of an affidavit of disclosure that there is a possibility of mining and explosives activity within the "Lake Belt" as defined in the statute. A copy of the specifically affected property description, which encompasses approximately 89 square miles, is set forth in the attached statute in paragraph 3 (see Exhibit A). A copy of the required affidavit is attached as Exhibit B to this memo.

Old Republic National Title Insurance Company takes the position that it has no liability to any insured in the event the provisions of *Sec. 373.4149, F.S.* are not met by the seller. The policy jacket makes a specific exception for damages arising from governmental regulations such as zoning or land use limitations. The Miami-Dade Lake Belt legislation is just another form of governmental regulation for which this exception was expressly crafted. Old Republic acknowledges, however, that in this litigious society, it may be called upon to defend this position. Therefore, in an abundance of caution, it is recommended that any agent proposing to insure the title to any real property within the designated Lake District take steps to either verify compliance by the seller or take exception as follows, to wit: "Failure of the seller to comply with the notice and affidavit requirements of *Sec. 373.4149, F.S.*" Any agent that elects to include this exception in a commitment should only remove it with proof of compliance recorded contemporaneously with the deed.

It is likely that you will encounter questions regarding this new legislation and compliance with its provisions. Please do not hesitate to contact the underwriting department if we may assist in any way.

## **EXHIBIT A**

The Miami-Dade County Lake Belt Area is that area bounded by the Florida Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south, together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17 and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East less those portions of section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal, sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

## EXHIBIT B

Miami-Dade County Lake Belt Area  
AFFIDAVIT OF DISCLOSURE  
Required by Chapter 373.4149, F.S.

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

FOLIO #: \_\_\_\_\_

Before me, the undersigned authority, personally appeared \_\_\_\_\_, Affiant(s), who being by me duly sworn, on oath, depose(s) and say(s):

As required by Chapter 373.4149(5), Florida Statutes (F.S.), Affiant(s) hereby acknowledge(s) that the subject real property identified above by folio and further described on Exhibit X attached, is located inside, or within two miles of, the Miami-Dade County Lake Belt Area established by the Florida Legislature in Chapter 373.4149(3), F.S., and further acknowledge(s) the following:

Affiant(s) hold(s) title to the subject real property proposed to be sold, leased, used, or developed.

Limestone mining activities involving the use of explosives exist within close proximity of the subject real property.

Affiant(s) is/are required to submit this affidavit of disclosure to Miami-Dade County at the time of first application for a development approval of any type on or after October 1, 1999.

Affiant(s) shall provide copies of this affidavit of disclosure to all subsequent parties to whom whole or part interest in the real property is transferred, by sale, lease or any other means.

Failure to provide this affidavit of disclosure to all subsequent parties could result in potential civil liability, as well as fines and penalties pursuant to Section 373.4149, F.S.

Failure to provide this affidavit of disclosure makes the sale of the real property or interest therein voidable at the purchaser's option for a period of seven (7) years from the date of the affidavit of disclosure.

\_\_\_\_\_  
AFFIANT(S) SIGNATURE(S)

\_\_\_\_\_  
PRINT NAME(S)

\_\_\_\_\_  
ADDRESS

Sworn to and subscribed before me on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Affiant(s) is/are personally known to me or has/have produced \_\_\_\_\_ as identification.

(STAMP/SEAL)

\_\_\_\_\_  
Notary  
My Commission Expires: