

# *A L E R T*

To: All Old Republic National Title Agents and Offices  
From: Underwriting Department  
Re: Florida Department of Financial Services  
Date: December 5, 2006

An extremely important issue was discussed at the recent annual convention of the Florida Land Title Association that directly impacts all Florida title insurance agents. This issue specifically focuses on new interpretations of Florida law by the Florida Department of Financial Services (DFS).

At the outset, we want you to understand that DFS has elected to institute enforcement actions against individual title agencies and title agents as their chosen method of communicating their current interpretations of Chapter 690-186 of the Florida Administrative Code, which is more commonly referred to as the "Promulgated Rule." Several agents have recently received thousands of dollars in fines and had their licenses placed on probation because of the matters addressed in this Alert.

This new DFS interpretation involves the simultaneous issue rate. Rule 690-186.003, F.A.C. states that the premium for a mortgagee policy issued simultaneously with and owner's policy of equal or greater value shall be "at least 25.00."

Traditionally, the former Florida Department of Insurance instructed repeatedly that if an agent charged more than \$25 for a simultaneous issue but disclosed the risk rate at \$25, then the agent needed to remit to the insurer only \$7.50, which is 30% of \$25. DFS has dramatically altered this position. According to several recent enforcement actions, DFS now states that the title agent must remit to the insurer 30% of whatever is actually charged for the simultaneously issued policy. Accordingly, if the agent charged \$350, they would have to remit 30% of that figure, or \$105 to their underwriter. Failure to do so will expose the issuing agent to thousands of dollars in fines, probation of their license, and possibly other sanctions as well.

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DFS's new position would appear to be applicable to those endorsements that are also set out in the Promulgated Rule as minimum charges as well.

Based on this new interpretation, agents should immediately cease the traditional practice discussed above that tracked the previous regulatory guidance. Henceforth, agents must remit 30% of the amount actually charged for the simultaneous issue. This may still be \$7.50, but only if the premium is set by the agent at \$25. If a greater amount is charged, please remit 30% of that amount.

We hasten to note that attorney agents are subject to these same interpretations, notwithstanding the fact that they face a separate authority. Their actions will be reported to the Florida Bar by DFS as the appropriate regulator of an attorney's license.

This Alert is likely to generate many questions. Please feel free to discuss them with our Underwriting Counsel.