

Bulletin

FLORIDA BULLETIN 06-01

TO: ALL AGENTS AND TITLE PLANT OPERATIONS
FROM: UNDERWRITING DEPARTMENT
DATE: FEBRUARY 1, 2006
RE: REGULATORY ALERT

From a title insurance perspective, 2005 was the “Year of the Regulator,” and it appears that 2006 will be no different. Old Republic National Title Insurance Company has observed some recently increased regulatory activity from the Florida Office of Insurance Regulation (OIR) that coincides with their overall review of the title industry. Accordingly, we feel it is appropriate to revisit certain statutory and regulatory agent obligations relating to premiums and escrows.

The OIR has changed their approach to agent audits, so any sense of historic comfort would be misplaced. When there is a consumer complaint against an agent, OIR is now typically opening a full review of that agent’s activities. Escrow account reconciliations and policy logs are acquired. So are remittance dates relative to policy effective dates. The focus of these two inquiries are agency compliance and are typically not related to the underlying consumer complaint that brought the agency to the regulator’s attention.

Premiums:

The OIR takes the position that the underwriter percentage of the premium must be maintained in the agent’s escrow or trust account until remitted. Because these are escrowed funds, any failure to follow this procedure is interpreted by OIR as a defalcation under 626.8473, F.S. OIR further takes the position that these funds must be remitted “promptly” to the underwriter with the final policy. This rationale is imported from 627.780(2), F.S. There is a presumption by OIR that the agent has converted the premium if there is not prompt delivery of the final policy.

The message here is that agents need to be current with their remittances or face the possible suspension or revocation of their license under 626.844, F.S. It is difficult to pinpoint “prompt” or “current.” We believe that if you produce the final policy and remit to Old Republic within two months after closing that the agent is in compliance.

We understand that meeting these timeframes can be a challenge. In an effort to assist agents, Old Republic Title hereby authorizes you to modify the effective date for either an owners or lenders policy to read “(date of closing) or date of recording of the insured document, whichever is later” so long as you are the disburser of the funds. This authorization is predicated upon 627.7841, F.S.

**This Bulletin is to become a permanent part of your Bulletin Manual,
and you are to comply with the requirements contained herein.**

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Escrows:

Rule 69O-186.009(1), F.A.C. states, "Every licensed title insurance agent shall maintain a monthly reconciliation of every escrow account required to be maintained pursuant to Section 626.8473, F.S., and shall, on a monthly basis, report such reconciliation together with appropriate supporting documentation to each title insurer which licensed the agent during the reconciliation period. The reconciliation shall be supported by appropriate documentation, including a monthly bank statement, a list of all outstanding checks as of the date of the reconciliation which are not shown on the monthly bank statement, and a trial balance of the escrow ledger records required to be maintained (by this rule)."

Most of you have been very diligent in meeting these requirements and we appreciate your efforts. Should any agent not be currently in compliance, please speak to your agency representative about options available to assist with this requirement. We appreciate your business and do not wish to see your license compromised.

Continuing Education Hours:

Continuing education hours are being carefully monitored by the Florida Department of Financial Services. Failure to comply has resulted in proposed Consent Orders and monetary fines for those who have not paid attention. Please remember that it is the responsibility of the individual licensee to make sure that they are in compliance.

Please feel free to contact either our underwriting or our audit staff should you have any questions regarding these matters.