



**OLD REPUBLIC**  
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# **BULLETIN**

## **FLORIDA BULLETIN 07-14**

To: All Old Republic National Title Agents and Offices

From: Underwriting Department

Re: Insuring New Construction

Date: December 10, 2007

The current status of the real estate market is making its impact felt in the construction sector. Many developers/contractors/builders are experiencing difficulties in selling inventories and completing construction projects in a timely manner. As a result, many are not meeting payment obligations to subcontractors and suppliers.

This trend renews the need for all of us to be careful and thorough when analyzing construction projects on which the Company is asked to write title insurance policies without an exception for mechanics liens. The need for caution is enhanced when a lender is unable to obtain actual statutory priority over unfiled liens, either because: 1) construction has already started on the property at the time the interest we are insuring is filed; 2) a Notice of Commencement has been executed by the owner of the property; or 3) a combination of those two factors.

The surest way to guard against construction lien claims is to know the risks. Whenever possible, obtain statutory priority for the property on which construction is contemplated. We recommend in all instances that a title search update be performed as close to closing as possible and that you obtain an affidavit from the seller/borrower specifically stating that construction has not yet commenced and that no Notice of Commencement has been executed prior to closing. In the event that construction has commenced or seller/borrower has executed a Notice of Commencement, the insurance risk should not be accepted without Underwriting approval.

Should you have any questions, please contact your Old Republic Underwriting Department.