

2012 Florida Legislature at a Glance: Legislation Affecting Title Insurers and Title Agents

May 25, 2012

Committee Substitute for Committee Substitute for House Bill 643

Title Insurance

- CS/CS/HB 643 is the main industry supported regulatory bill.
- The bill was signed into law by the Governor on May 4, 2012.
- The bill contains important provisions pertaining to the approval of policy forms, rates, continuing education requirements for agents, and escrow account requirements for attorneys.

Continuing education requirements for title agents:

- The bill requires title agents to earn at least 10 hours of continuing education credit every two years in courses pertaining to title insurance and escrow management specific to Florida.
- Additionally, three of the 10 hours must pertain to ethics, rules or compliance with state and federal regulations pertaining to title insurance and closing services.

Escrow account requirements for attorneys:

- Attorneys serving as title agents must now deposit and maintain all funds received for title and real estate closing in a separate escrow account.
- Such escrow account must be permitted to be audited by the title insurers for which the attorney is serving as an agent.

Approval of policy forms:

- Historically, Florida has lagged behind the rest of the country in the approval and use of updated ALTA policy forms. As a result, title insurers writing business in Florida use older policy forms in Florida than in the rest of the country.
- As a result of the lengthy delays in getting updated ALTA policy forms approved for use in Florida, this bill now requires that the regulator approve or disapprove a filed policy form within 180 days.
- Additionally, insurers cannot gain a competitive advantage by obtaining approval of their policy forms before their competitors.

Adoption of rates:

- New title insurance rates have not been promulgated in Florida for many years.
- Some allege that the title insurance rates in Florida are too high in comparison to the rates in other states.
- In Florida, the regulator sets the rates based upon industry-wide data.
- In the past, the regulator has attempted to collect data from the industry to promulgate new rates, but the regulator had no authority to require agents to submit data.
- As a result, this bill now requires title agencies and insurers to submit revenue, loss and other data to the regulator by March 31st of each year, so that the regulator can promulgate new rates.
- The regulator must also promulgate rules pertaining to the collection and analysis of such data.
- A title agent who fails to timely submit this data to the regulator is subject to suspension, revocation or non-renewal of his/her license or appointment.

CS/CS/HB 643 takes effect on July 1, 2012. **Committee Substitute for Committee Substitute for House Bill 645 Public Records/Title Insurance Data/Office of Insurance Regulation**

- CS/CS/HB 645 is the companion public records exemption bill to CS/CS/HB 643.
- In Florida, public records exemptions must be filed as stand-alone bills.
- The bill was signed into law by the Governor on May 4, 2012.
- This bill enables the regulator to maintain the data submitted by agencies and insurers as part of the rate-making data call as confidential and exempt from public records since it is considered to be proprietary information.

CS/CS/HB 645 takes effect on July 1, 2012. **Committee Substitute for Committee Substitute for**

House Bill 725 Insurance Agents and Adjusters

- CS/CS/CS/HB 725 is the omnibus agents and adjusters regulatory bill that was supported by the Department of Financial Services.
- This bill was signed into law by the Governor on May 4, 2012.
- This bill contains many regulatory provisions relating to streamlining the agent and adjuster licensing and continuing education process for all types of insurance agents, not just title agents.
- Very few parts of this bill pertain to title agents.
- The bill clarifies that a person cannot solicit title insurance unless licensed as a title agent or exempt from licensure pursuant to the Florida Insurance Code.
- The bill requires other types of insurance agents to take a "5 hour update" continuing education course every two years, but exempts title agents from this requirement.
- The bill maintains the requirement that title agents must take 10 hours of continuing education credits every two years specifically pertaining to title insurance and escrow management in this state.
- The bill also requires that three of the 10 continuing education hours must be related to ethics, rules or compliance with state and federal regulations specifically pertaining to title insurance and closing services.
- The Department of Financial Services will continue to approve all continuing education courses and vendors.
- The bill eliminates the provisions of Section 626.175 (temporary agent licenses) and Section 626.172 (agent in full-time charge) from applying to title agents.
- However, the bill adds Section 626.749 (place of business in residence) to the list of sections of law that title agents must comply with.
- The bill eliminates the requirement that "printed" forms must be filed with the Department of Financial Services to appoint a title agency. The appointment process is handled electronically now so there is no longer a need to file printed forms.
- The bill changes the process for a title agency to post a surety bond when appointed by a title insurer.
- In the past, the Department of Financial Services was the "holder" and administrator of all surety bonds for title agencies.

- Now, the bill removes the Department of Financial Services from this process and instead requires the title agency to provide written proof on an annual basis to each title insurer that they have obtained a surety bond in an amount of at least \$35,000 for the benefit of all title insurers.
- Each insurer is responsible for enforcing this requirement before an agency can be appointed or renewed as a title agency by the title insurer.

The bill takes effect on Oct. 1, 2012, unless otherwise specified in the bill. **Resources:** This report was compiled in substantial part using public records data from the [Florida Senate](#) and the [Florida House of Representatives](#).

Chapter Law citations of bills also are available on the Florida Legislature's website provided the bill has received gubernatorial review and approval. For more information, contact [Nancy Linnan](#) or [Kelly Cruz-Brown](#).

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