


TITLE TALK | A publication of Old Republic Title Florida

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Office Closing Dates

MAY 29
MEMORIAL DAY

JULY 4
INDEPENDENCE DAY

The New Florida Commitment

By: James C.
Russick, Esq.

By now, you have all seen our April 19, 2017 Bulletin announcing the new Commitment Jacket, and setting out the specific changes that were adopted. The new Commitment is now uploaded and available in StarsLink and RamQuest. The question that may have crossed your minds is, *WHY?* Although there were minor alterations to the current commitment at the time the 2006 ALTA forms were implemented, there have been no substantive changes since 1970.

The new commitment is primarily a clarification of the contractual nature of the business relationship between the Insurer and the proposed insured. Specifically, the commitment underscores the fact that it is not an abstract of title or related information product. These types of products are not only in direct violation of the regulations governing Title Insurance, but may also expose the Insurer to non-contractual or tort-type liability. Title insurance is not meant to be casualty insurance for which annual premiums are collected, and which have a limited claims tail. Therefore, the industry is prohibited by statute from undertaking risks that are considered "casualty" in nature.

A Commitment is simply an offer to insure. The added Notice provision makes this clear. The Notice provision also sets out

what a commitment is not: it is not an opinion of title, does not provide for the status of title, nor is it an offer of a legal opinion. It would seem, then, that the changes also serve to protect the consumer by eliminating common misperceptions at the outset of the transactions. It also clearly defines the roles of Insurer and Agent with respect to escrow functions.

Information beyond that which is defined as Property Identification Data, and which does not relate to a Covered Risk, is discouraged. Informational notes showing recorded evidence of a sink hole claim having been previously filed on a property, for instance, should not be shown as an informational item in a commitment. The "new" commitment is intended to focus on title, and not matters outside the scope of insuring title.

Schedules A and B, and the way they are produced, remain substantially the same. We anticipate that there will be some overlap between the two forms of commitment in the marketplace for a brief period however, commitments published prior to April 17, 2017 do not need to be converted to the new form. Agents may proceed to closing and may issue a policy under these commitments, provided all requirements are timely met.

In February of 2017, the Financial Crimes Enforcement Network (FinCEN) announced the extension of the Geographic Targeting Order (GTO) for our area through August 22, 2017. The order requires title insurance companies to identify the natural persons behind shell companies used to pay **"all cash"** for high-end residential real estate in Miami-Dade, Broward and Palm Beach Counties. Five other major metropolitan areas are also included. This mandatory reporting has revealed that about 30% of the transactions covered by the GTO involve a beneficial owner or purchaser representative that is also subject to a previous activity report. What does this mean? It means that there is a good likelihood that money is being laundered through the real estate sector by suspicious individuals or groups in our state. Title companies, agents and underwriters are therefore providing the FinCEN with valuable information.



ORT is committed to compliance with the GTO, and committed to assisting our agents in the reporting process. We have previously sent out Bulletins outlining how the **8300 Form** is to be completed. ORT's goal in this article is to clarify some of the finer points of filling out the **8300 Form** and to provide definitions as they pertain to the GTO.

Definitions for purposes of the GTO:

Covered Transaction: A transaction in which a **Legal Entity** purchases **residential real property in Miami-Dade,**



Broward or Palm Beach County, without a bank loan or other form of external financing, and where the purchase price is \$1 million or more and any portion of the purchase price is paid using currency, a cashier's check, a certified check, a traveler's check, a personal check, a business check, or a money order.

Purchaser: The Legal Entity that is purchasing residential real property as part of a Covered Transaction.

Legal Entity: A corporation, limited liability company, partnership or other similar business entity, whether formed under the laws of a state or of the United States or a foreign jurisdiction. In February of 2017, FinCEN clarified that trusts of any kind are not included in the definition of legal entities for purposes of the GTO; therefore, reporting of a purchase by a trust is not required.

Beneficial Owner: Each individual who, directly or indirectly, owns 25% or more of the equity interests of the Purchaser.

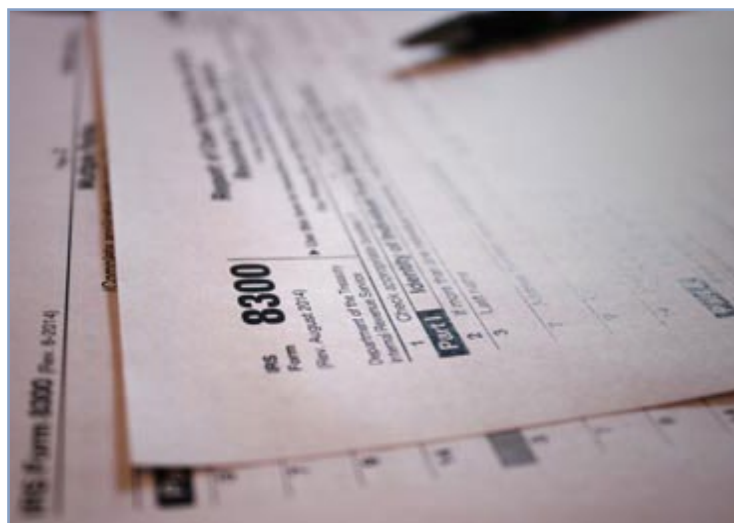
Covered Business: Title insurance company underwriter and any of its subsidiaries and agents.

If you close a transaction meeting the criteria of the GTO you, as the Covered Business, must submit a completed FinCEN Form 8300 with Old Republic Title within one (1) business day of the closing. ORT will electronically file the Form 8300 with FinCEN.

The 8300 Form

Part I of the form shall contain information about **the identity of the individual primarily responsible for representing the Purchaser**. If more than one individual is involved check the box on Line 2 and complete Part I on Page 2 of Form 8300. The title agent must obtain a copy of the individual's driver's license, passport, or other similar identifying documentation to complete the necessary information on the form.

Part II of the form shall contain information about the identity of the Purchaser (legal entity). If the transaction was conducted on behalf of more than one person, check the box on Line 15 and complete Part II on Page 2 of the form 8300. The title agent must obtain a copy of the individual's driver's license, passport, or other similar identifying documentation to complete the necessary information on the form. If more than three (3) persons are involved fill in additional information in the Comments Section. Person is defined as an individual, corporation, partnership, trust, estate, association or company. (Definition from Form 8300 Instructions)



Part II shall also contain information about the identity of the Beneficial Owner(s) (individual who directly or indirectly owns 25% or more of the business) of the Purchaser. The title agent must obtain a copy of the Beneficial Owner's driver's license, passport, or other similar identifying documentation and complete the information in Field 27 of the form.

Part III of the form shall contain general information about the Covered Transaction and must be completed.

Part IV shall contain information about the Covered Business (title agent).

The Comments section to the Form 8300 shall contain the following information:

1. The term **"REGTO"** must go on the first line in all caps as it is an identifier for the GTO.
2. If the purchaser involved in the Covered Transaction is a limited liability company, then the Covered Business must provide the name, address, and taxpayer identification number of all its members which can be listed in the Comments section, if necessary.
3. Use this section to clarify any information entered pertaining to the transaction, for example: information on a personal check such as bank name, account number, check number.

GTO reporting is made to the government using Form 8300 and must be reported within thirty (30) days of the closing. GTO reports are sent directly to FinCEN through their **e-filing system**. GTO records must be retained for a period of five (5) years from the last day of the GTO; however, if the GTO is renewed, all records related to compliance with the GTO must be retained for five (5) years from the last day the GTO is effective pursuant to all renewals of the GTO.

Old Republic Title appreciates our agents' efforts in getting this information to us in a timely manner.

Simple Tips to Avoid Cyber Hacking



One of the many problems we face in the modern workplace is network security. We often deal with sensitive information in our field and your clients count on you to safe guard and protect their personal information. Cyber-attacks are much more common than many people know. As of last year, a Norton Survey reported 689 million people in 21 countries have experienced cyber-crime and a related study by the Identity Theft Resource Center reported that nearly a fifth of surveyed respondents reported significant repercussions when their online accounts were taken over, including job loss and reputational damage.

While attacks are often hard to detect, knowing what you need to do in the event of an attack and how to prevent it is a big part of the solution. "Consumers vastly underestimate cyber security threats and don't know how to identify, respond or protect themselves from future attacks," said David Blumberg, Founder and managing partner of Blumberg Capital. "The Cyber Security Landscape is complex and ever-evolving. Bad actors are constantly finding new ways to bypass security measures to infiltrate confidential systems and steal information or sabotage infrastructure."

In the survey by Norton, they found that many computer users know they are taking risks connecting to public Wi-Fi in places like coffee shops or airports but still do it because of how convenient it is. If a hacker can access the same Wi-Fi network as you are when you are checking your email, they can see the information you are sending and receiving from your device including usernames, passwords, and other personal information, which can result in hackers stealing your identity completely. Free tools such as HTTPS Everywhere, Privoxy, or Cyberghost VPN allow you to encrypt your browsers without much effort, and private VPNs (virtual private networks), can be used to add an additional level of security. Leaving your Wi-Fi and Bluetooth adapters on when you are not connected to a network allows for hackers to mimic your home networks and steal

information off your devices, thus you should only leave your internet adapters enabled when you are using them to eliminate an additional failure point.

That said, the first failure point is often passwords, with many passwords being very simple numerical strings, names of pets or favorite books. Regarding sensitive information, you should focus on making concrete passwords that cannot be guessed and that have at least 12 characters, one uppercase letter, one lower case letter, and one special symbol and do not use any dictionary words. Use different passwords for each of your devices and secure websites. By employing an abbreviated phrase or sentence you can create complex passwords that are difficult to break but easier to remember. In the event of an attack, changing your password is an important first step, but do not regard it as the last step in this process.

For the title industry, cyber-attacks have been reported immediately before, or after closings with hackers sending fraudulent wiring instructions or changes to disbursement instructions to real estate agents, consumers and title agencies. If you think you may be the victim of an attack, immediately ask to verify receipt of funds. If you cannot confirm receipt of funds, call the financial institutions involved in the transaction immediately; contact your local authorities and file a complaint with the FBI's internet Crime Complaint Center.

Old Republic Title is committed to helping you protect yourself and your agency from any type of cyber-attacks. Cyber criminals target all industries and the title industry is no different. If you are an Old Republic Title Agent, you can log into StarsLink.com, click on education and marketing-cybersecurity information where you will find an email signature alert about changes in wiring instructions, tips to avoid cybercrime losses, and an infographic you can share on your social media channels. For more information and training on our cybercrime awareness materials, contact your agency representative today.

By Peter Croizat



A New Product is Being Offered – The ALTA Limited Coverage Mortgage Modification Policy

By: Stephanie A. Reinicke, Esq.

Effective June 9, 2016, the Florida Office of Insurance Regulation approved the ALTA Limited Coverage Mortgage Modification Policy (with Florida modifications) and its Schedule A (“LMMP”). These forms can be found in Starslink and are ORT 4646FL and ORT 4646FL A, respectively.

The American Land Title Association created the LMMP so that the industry would have a standard product regarding loan modifications assuring that a mortgage modification will not affect the validity, enforceability or priority of an underlying mortgage. The coverage provided under the LMMP is preferred over the Mortgage Priority Guarantee Policy in 1-4 family residential mortgage modifications. It is not available for commercial properties. In modifications regarding commercial property the Mortgage Priority Guarantee Policy (“MPG”) must continue to be used.

The LMMP should be used in the future when dealing with a modification of mortgage secured by one to four family residences and condominium units that does not trigger substitution rate. The coverage provided is substantially similar to the MPG. It may be issued under the following circumstances:

1. Land is one-to-four family residence or condominium unit. It does not need to be owner occupied, however.
2. Modification is a non-novation and non-premium triggered modification, so that substitution rate is not triggered.
3. As with the MPG, it may be issued regardless of which Underwriter insured the underlying Mortgage.

The premium for the LMMP is \$125.00. Neither a commitment, nor a Closing Protection Letter should be issued in a transaction using the LMMP. The Date of the Policy in Schedule A is the date

of the recordation of the modification. However, the effective date of the prior loan policy is not brought forward because the coverage under the LMMP is of a very limited nature. The LMMP only insures that the validity, enforceability or priority of the mortgage is not adversely affected due to the current modification. It does not insure the validity, enforceability or priority of the mortgage itself.

The following matters are expressly excluded from coverage:

1. Any invalidity, unenforceability, or lack of priority of the Insured’s Mortgage or the Modification.
2. Defects, liens, encumbrances, adverse claims, or other matters:
 - a) created, suffered assumed or agreed to by the Insured Claimant;
 - b) known to the Insured Claimant whether or not disclosed in the Public records;
 - c) resulting in no loss or damage to the Insured Claimant;
 - d) not known to the Company, not recorded or filed in the Public Records at Date of Policy;
 - e) attaching or created subsequent to the Date of the Policy.
3. Any usury, consumer credit protection, or truth-in-lending law
4. The status or ownership of the title
5. Any claim that arises out of the transaction creating the Modification by reason of the operation of federal bankruptcy, state insolvency or similar creditors’ rights laws that is based on:
 - a) the Modification being deemed a fraudulent conveyance or fraudulent transfer; or
 - b) the Modification being deemed a preferential transfer.

Should you have any questions regarding the use of the LMMP, do not hesitate to contact our Underwriting Department.

Computer software makes the job of preparing three-way escrow account reconciliation much easier. The one key thing to remember when using computer software to maintain your escrow account records is that the data entered into the computer must be accurate and every entry into the software must contain a file number. Failing to include the correct file number with each entry into the computer will result in reports that don't accurately reflect the status of the account.

What makes an escrow account unique is that each transaction is FDIC insured up to \$250,000.00. It's not like my or your account, where the whole account is FDIC insured up to \$250,000.00. So, when the attorney sets up the escrow account he/she should make sure that it is a true escrow account, FDIC insurance for each transaction (such language in the contract). The words "Escrow Account" must appear on the bank statements, checks, and deposit tickets.

Positive pay or reverse positive pay should be utilized for any escrow or trust account holding dollars insured by Old Republic. Positive pay is an automated fraud detection tool offered by most banks which matches the account number, check number and dollar amount for each check presented for payment against a list of checks provided to the bank issued by the agent. Reverse positive pay provides the agent more control because the bank provides a list to the agent and the agent decides whether a check should be paid or not based on their accounting records.

E-recording reduces the chance for fraud. The originals never leave your hands on the way to being recorded and you don't have to put a recording check in the mail or in the hands of a courier. The original documents are secured at all times in your office and the funds stay securely in your account until they are paid out to the Clerk through an auto debit. This reduces the chance that your check will be altered and cashed in an unintended way.

For agents that are burdened with checks that have not been cashed and remain on their outstanding checklist, here is a tip for escheating the funds with the state of Florida. Checks must be 5 years old as of December 31st in order to escheat them as the State of Florida has a 5-year dormancy period. Check out the website: www.fltreasurehunt.org

EDUCATION NEWS FROM THE FLORIDA LEARNING CENTER

Look for upcoming emails to register for our seminar/webinars for CE/CLE credits!

Friday, June 9, 2017

Continuing Education Seminar
Hyatt Regency – Bonita Springs, FL
4.0 Ethics Hours for CE/CLE Credit

Tuesday, July 11, 2017

Powers of Attorney &
Guardianship Webinar
1.0 Hour of CE/CLE Credit

Thursday, June 15, 2017

FIRPTA Webinar
Hours of CE/CLE Credit

Tuesday, August 8, 2017

Liens & Judgments Webinar
1.0 Hours of CE/CLE Credit





e-Report



Compliments of:

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YOUR SOURCE FOR UP-TO-DATE 1031 EXCHANGE NEWS

Considering an IRC § 1031 Tax Deferred Exchange?

SEVEN GREAT REASONS TO EXCHANGE

While avoiding those steep capital gains taxes are, for most, the primary consideration for engaging in a 1031 tax deferred exchange, there are many other significant advantages to a tax deferred exchange:

1. Replace non-income producing property with income producing property;
2. Diversify property interests for estate planning purposes;
3. Replace time consuming management properties with more easily managed properties;
4. Exchange into property that can accommodate the taxpayer's trade or business (e.g. taxpayer who owns apartment complex can trade into manufacturing plant);
5. Exchange fully depreciated property to obtain the benefit of a new depreciation schedule;
6. Relocation of taxpayer's business;
7. Relocation of investment property to accomplish ease of management.



TURN TO THE EXPERTS

Old Republic Exchange is a qualified intermediary, which has facilitated over 100,000 exchanges. Old Republic Exchange is part of the Old Republic Title Insurance Group, which is a wholly owned subsidiary of Old Republic International (NYSE:ORI), a multi-billion dollar corporation, which ranks among the nation's 50 largest publicly held insurance organizations.

ADDED SECURITY FOR YOUR EXCHANGE

- \$80 million fidelity bond
- \$50 million errors & omissions insurance
- Letter of Guaranty from corporate parent

To discuss how §1031 might be beneficial to you, please call one of Old Republic Exchange's dedicated professionals.

Visit us at www.orexco1031.com for more information.



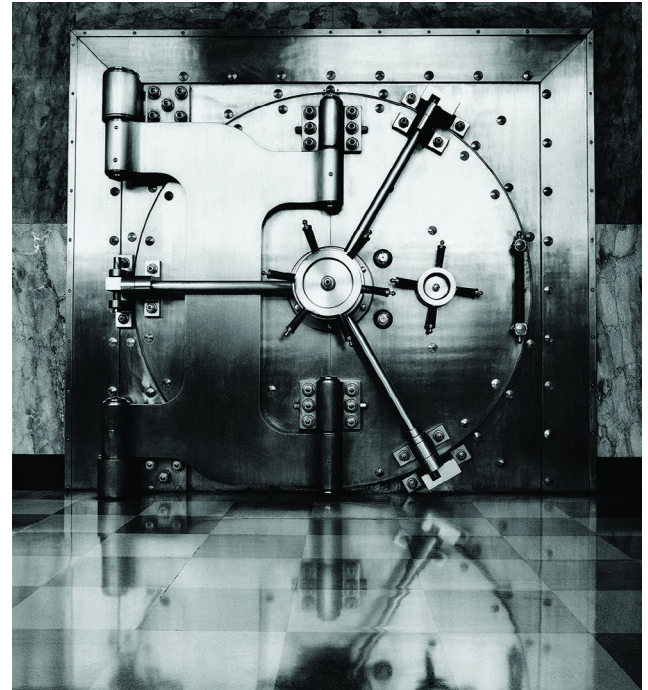
OR EscrowPro® is a centralized funding service that provides title agents with a complete solution for escrow management and disbursement. Title agents maintain control over the consumer relationship and closing process while reducing risk. These benefits and more are provided using only your internet browser, without the need for new technology or any upfront costs!

It affords agents additional security, and transparency, and advances ALTA Best Practices compliance.

- Separates responsibilities and escrow account management.
- Ensures escrow funds are separately maintained from operating accounts.
- Provides ongoing reconciliation of escrow accounts.
- Removes responsibility of funds disbursement from the agent, giving Lenders confidence in reduced risk of escrow misappropriation.
- Assures confidence in knowing that funds and loan proceeds are wired and deposited directly from the lender into an Old Republic Title owned and managed escrow account.
- Incorporates independent reviews by a second party for quality assurance.
- Offers protection through Treasury-based controls that are continually audited.

Key benefits to your business

- Escheat management and non-negotiated check resolution, while eliminating banking fees, wire fees and the need for outside reconciliation services.
- Reduced labor expenses and cost savings through E&O and bond premiums.
- Workflow is designed to complement your current practices, allowing you to control the release of funds and print checks from anywhere, at any time, even at the closing table.
- Improved office productivity and more time to promote services and increase revenue-generating relationships.



Old Republic Title is committed to meeting the evolving needs of all of our title agents and approved attorneys, no matter the size of your operations, so you are able to focus on addressing your customers' needs, running a successful business and staying in the game!

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