



# *FLTA Tallahassee*

## *Report*

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Lee Huszagh, Executive Secretary-Treasurer

### **PRESIDENT'S MESSAGE**

**- by Alan K. McCall**

## Inconvenient Facts

*“Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passion, they cannot alter the state of facts and evidence.” – John Adams*

In December of 2008, LandAmerica Financial Group, Inc., the parent company of Lawyers Title Insurance Corporation and Commonwealth Land Title Insurance Company, filed bankruptcy. Though neither Lawyers Title nor Commonwealth filed for bankruptcy protection, they were acquired by, and became part of, the Fidelity National family of title insurance companies. Though Lawyers Title and Commonwealth are operational and still actively issue their own policies they withdrew as underwriter members of the Association.

In 2009, United General Title Insurance Company ceased being an independent underwriter and member of the Association and National Title, another underwriter member, has ceased doing business altogether. Accordingly, these four underwriters, Lawyers Title, Commonwealth Land Title, United General Title and National Title, are no longer active dues paying members of The Florida Land Title Association as of the date of this publication.

As of July 1, 2009, the oldest bar related title insurer in the country, The Attorney's Title Insurance Fund, Inc. ceased issuing title insurance policies in Florida. Instead, a new company was created in a joint venture with Old Republic National Title whose policies will be issued by many of the former Fund agents. The Fund also was a prominent underwriter member of the Florida Land Title Association.

While FLTA membership has always been dominated by a larger number of committed and dedicated agents, the handful of member underwriters, like the ones mentioned above, collectively paid the largest percentage of the dues. In 2008, for instance, the number of underwriters made up just 14 % of the members but paid 74 % of the dues.

The loss of underwriter dues this year may have a significant impact on the ability of the FLTA to represent the interests of its members and the title industry at a time when the need for strong representation has never been greater.

In terms of protecting the Industry's interests in Tallahassee, 2010 is expected to be a busy year.

"The Study Council" created by the Florida legislature in 2008 continues its work and will hold its next meeting in early October. Under its enabling legislation, it is supposed to wrap up its 18 month inquiry and prepare a report and recommended legislative changes by the end of this year. While FLTA members participate as members of the Study Council and the FLTA attends and monitors every meeting, the early stage suggestions are expected to result in major changes to the way in which we are regulated and do business.

Through the efforts of FLTA and its lobbying partners, Senate Bill 444 did not come up for a vote in the Florida legislature last session. This bill was designed by the Office of Insurance Regulation to radically change the premium structure and the agent's ability to share in any of it. We expect it will be introduced again in the next legislative session. If we are to again successfully oppose this bill, the work must begin now.

So, the loss of Association dues, and actively participating members, could not have come at a more inopportune time.

Now, more than ever, the Florida Land Title Association needs to expand its membership and for all agents to get actively involved in the important work to come.

So, why should an agent become a member of the Association?

First, the same principles that apply to investing in one's business apply to investing in your industry association. A business owner should invest time, energy, talent and, yes, especially money to make a successful go of the venture. The same holds true for the Association. A successful association will enhance and reflect positively on your business.

There are certain functions and services that the Association can perform, but to be most successful in its efforts, the Association requires the physical, as well as the fiscal, support and involvement of its members. It needs the collective thinking of all concerned to formulate plans; and it requires the physical effort of its members to put those plans into operation.

The problems facing our industry today affect every agency no matter how large or small. And, since no one could possibly begin to solve these problems alone, each should join in a collective effort to protect his or her business investment.

Theodore Roosevelt said, "Every man owes a part of his time and money to the business or the industry in which he is engaged. No man has a moral right to withhold his support from an organization that is striving to improve conditions within his sphere."

So, the dollars invested in the work of the Association, also represents an investment in the agents' business.

Reasons for not joining the FLTA usually run the gamut. Many times I hear that it is simply "too inconvenient." It's too inconvenient to travel to meetings; too inconvenient to take time away from running the agency; too inconvenient to let someone else in the office handle the closings or process work for a day or two while working on association business. I understand these concerns.

Without a strong and active FLTA membership at this crucial time, our opponents will succeed in passing legislation we probably will not like. If next year's OIR proposal is anything like last year's Senate Bill 444, and if OIR is successful in getting it passed by the legislature, it would eliminate the ability of every agent to share in any portion of the title insurance premium. Without sharing in the premium, every agent will be left to compete solely on the closing fees that are currently permitted to be charged under Florida law.

And at the end of the day, that could turn out to be the most inconvenient fact of all

### **The latest on the FLTA Scholarships:**

#### **THE TIME HAS RUN OUT FOR THIS YEAR. THE DEADLINE WAS 9/1/09**

We are happy to report that we have **OVER 30** applications so we won't be extending the time to apply this year. That's good news for the selection committee, as it will very hard to choose only three recipients.

To anyone that knew of a deserving student, encouraged them to apply or called to ask questions, THANK YOU!!! Three young people will be grateful for your help this year.

We have some very bright students out there. I don't envy the Scholarship Committee's responsibility. They all look impressive to me!

A big "thank you" goes to **Old Republic National Title** who continues to totally fund the John Starr Thornton, Jr. Scholarship. On behalf of the FLTA we want to express our thanks for your support in honoring one of our "legends" and furthering the education of another deserving student.

The honorable mention award goes to Beverly McReynolds crew at North American Title who has managed to sponsor SIX of the applicants. That's nearly 20% of all applications are being sponsored by one title agency! Now THAT'S the way to get the job done. Thank you Beverly and staff for reading the information and passing it on to others.



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## **Agent's Section Report**

**- By Shelley Stewart - FLTA Agent's Section Chair & President - Elect**

In my last column, I discussed the legislative threats to our industry as well as the importance of keeping informed of all of the changes in the settlement services industry.

Since then, I have made an effort to educate more agents, and convened a meeting with Realtors in my area to educate them on 444 and get their feedback on how they felt it would impact their business. Following some incredible input from that meeting, I coordinated a lunch meeting with Nancy Cardone, chair of the public policy committee for Florida Association of Realtors (FAR), and our Board of Directors at the summer board meeting in Jupiter. That meeting provided further insight and direction regarding how we can work with the Association of Realtors in our efforts to prevent 444 or similar legislation from moving forward.

Learning the perspective of others who rely on title agents to facilitate the process of transferring ownership of real property has been incredibly eye opening. I encourage you to not only talk to other agents in your area, but also your Realtor and Lender customers about how file and use would drastically impact the way they service customers. You might learn a few things about how you can improve YOUR business in the process.

What are you doing differently today than you were doing this time last year?

You are probably thinking, "The biggest threat to my business is the economy, Shelley. What suggestions do you have to help me overcome that threat?"

That's a tougher one – but here is what I am doing:

- Staying one step ahead of the curve – reading what others are doing, finding out what information my customers consider valuable and sharing it with them.
- Promote more than ever – Marketing at every opportunity and at every level.
- Concentrate on service as much as sales – This is a service-based industry so I am striving to anticipate needs and offer our services faster and friendlier.
- Maintaining communication with my core team – they are anxious and nervous and function better when they know what is going on. Plus they have the most insight into local market conditions.

The bottom line is, we can't "wait to see what happens." We have to MAKE something happen.

### **FLTA Convention**

This year's Convention theme is "It's Your Move . . . learn new strategies for success in the title industry." Our goal is to provide you with information that will help you get ahead of the game. We are working with Alex Sink's office to obtain approval for DFS to participate in the convention in an open forum "Question and Answer" interchange amongst agents and the DFS. If approved, the benefit to an Agent who attends this session will be immeasurable. Start to make your plans now to attend this year's convention. You will not want to be left out ~ Be there, or be square!

## **RESPA Reform**

Before the legislative session even starts, we have another enormous obstacle to face – implementation of the new 3 page HUD-1 before January 1, 2010. Now is the time to put your plan in place for how you are going to start using the new HUD and how you are going to work with your lenders on quoting the correct fees for their GFEs. It is my understanding that the title processing software companies are working on the new HUD-1 now so it is a good time to educate yourself and your associates on the changes to ensure that you are ready. As you are looking at the fiscal impact this might have on your agency operation, remember to take into consideration the potential software upgrades you may have to make as well as training time for your associates.

My next message to you will be at the Convention, when I am inducted as President of FLTA for 2010. I am humbled by the honor, look forward to the challenge, and appreciate the support of the Board of Directors and the FLTA membership as I take this next step.

See you in November!

## **2009 Upcoming Events**

### **The Convention is coming; the Convention is coming!!**

There's too much to tell you in this little "spot".. See below for MORE DETAILS.

#### ***Wednesday – Friday, November 4-7***

FLTA's 2009 Annual Convention at Renaissance Vinoy Resort, St Petersburg, FL. The Convention Info packet has been broadcast via email to everyone on our current broadcast list. If you didn't receive it, please contact [linda@flta.org](mailto:linda@flta.org). The information can also be found on our web site at [www.flta.org](http://www.flta.org). Choose the convention info link under Calendar of Events on the home page.

## **Food for thought!**

**- provided by Frank Tricomi of TICOR Title, our Zone III Vice President**

### **BUYER BEWARE**

#### **JP Morgan Chase v. New Millennial, LC<sup>1</sup>**

In a recent decision Florida's Second District Court of Appeal has given title professionals more cause for concern in searching records of mortgages where no assignments of such mortgages appear in the public records.

The facts in JP Morgan Chase case ("JP Morgan") are fairly straight forward. In 2000 a buyer obtained two mortgages from AmSouth Bank ("AmSouth") to purchase certain property. The mortgages were recorded in the public records of Pinellas County. AmSouth assigned the mortgages to JP Morgan in 2004 but the assignments were not

<sup>1</sup> 6 So.3d 681 (Fla. 2d.DCA 2009)

recorded in the public records. In 2006, the owner contracted to sell the property to New Millennial LC (“New Millennial”). The closing agent handling the transaction performed a title search and discovered the two unsatisfied AmSouth mortgages. The mortgages were reflected on the commitment prepared for the transaction and the commitment indicated that title insurance would be issued upon receipt of cancelled notes and satisfaction or release of the two mortgages. The closing agent contacted AmSouth and was told by an unidentified representative that the loans were paid off and that written confirmation of that fact would be provided. Subsequently, the closing agent received two computer screen printouts which reflected that the loans had a close date of June 30, 2004 and a current balance of zero. The documents also stated “PD OFF”. The closing proceeded, the property was sold and the AmSouth mortgages were not satisfied. Subsequently, JP Morgan began foreclosure proceedings. In the Circuit Court, New Millennial argued that the mortgages were ineffective and unenforceable against it because JP Morgan had not recorded the assignments, which it received from AmSouth, as required by statute. The trial court granted summary judgment for New Millennial, finding that New Millennial was a subsequent purchaser for valuable consideration who had no knowledge or notice of the prior mortgages assigned to JP Morgan.

On appeal, the Second District Court of Appeal reversed the trial court’s grant of summary judgment motion, holding that the provisions of the statute requiring that an assignment of mortgage must be recorded to be effective were applicable only to and enforceable by competing creditors or subsequent bona fide purchasers from the mortgagee, not the mortgagor. Further, the court held that New Millennial did not assume the status of bona fide purchaser without notice, noting that the original mortgages on the property were duly recorded and that no satisfactions were entered in the public records, concluding that New Millennial had knowledge of the existence of the two recorded mortgages and also had knowledge that the public records reflected that those mortgages had not been satisfied. New Millennial, according to the Court, should have assumed that the mortgages were still in full force and effect and in someone’s hands.

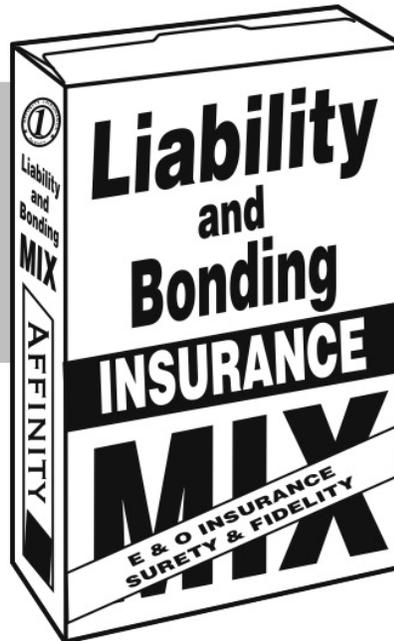
New Millennial did not rely on Florida Statute 701.04 which provides, in part, that within 14 days after receipt of written request to the mortgagee, “the holder of the mortgage shall deliver to the mortgagor . . . an estoppel letter setting forth the unpaid principal balance, interest due and per diem rate.” New Millennial failed to follow the statutory procedures but rather relied upon the information contained in the computer printouts provided by the unidentified representative of AmSouth.<sup>2</sup> The court found that New Millennial, having knowledge from the public record that the mortgages existed and were not satisfied, was not in a position to ignore the lack of satisfactions and assume based on the information provided that the mortgages had been paid off.

Given the current state of the banking industry, where assignments between lenders of outstanding mortgages are recorded less frequently than they should be, the search/exam process will have to focus more on the fact that such mortgages remain unsatisfied of record; further inquiry as to the status of the mortgage will be required to avoid the result in this case.

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<sup>2</sup> In the Circuit Court, JP Morgan filed the affidavit of an officer of the successor to AmSouth stating that the type of screen printout obtained by New Millennial’s closing agent would show a zero balance on a loan either when a loan is legitimately paid off in full or when the loan was transferred, assigned or sold.

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## **We're SO HAPPY to have you with us!**

In these tough economic times it can be difficult to find something to cheer about. FLTA membership has taken a beating like everything else in our world these days, but we do have something positive to report. The following is a list of very smart companies who have taken that first big step and joined our Association.

### **Action Title Services, LLC**

Gordon Decker  
Naples, FL

### **Affinity Insurance Agency, Inc**

Larry Galpern  
Coral Springs, FL

### **First Boston Title**

Dean Corsones  
Naples, FL

### **Integrity First Title, LLC**

Joe Campoamor, Jr  
Riverview, FL

### **Platinum Land Title Agency, Inc**

Peggy Burt  
Cape Coral, FL

### **Require Release Tracking**

Courtney Berry  
Virginia Beach, VA

We hope we see you at the convention in November so we can say a personal "hello" to each of you!

## **Congratulations to our new CLC's!**

The Certified Land Title Institute is pleased to announce that we have THREE new Certified Land-Title Closers. Congratulations are in order for:

**Kelly L Ashton** of Title Resources Guaranty Co., **Liane H Apel**

and David **H Roberts**, an independent who is already a CLS and now joins a select few who have BOTH designations.

These tests are grueling 8-hour essay exams and the success rate is generally less than 50% each year. While we would like to see the pass percentage improve, you must answer at least 80% of the material correctly to receive either designation. It is meant to be a test of your overall knowledge in either the search or closing arena so successful completion of either test and the awarding of either designation is quite an accomplishment. We hope to see all of you at this year's convention so that we can congratulate you in person and present you with your plaque.

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## **DON'T FORGET TO SUPPORT OUR ASSOCIATE MEMBERS**

If you are not a title insurance underwriter or title insurance agent, then you are an associate member. Many of us on the agency side have been classified as associate members when we join our local Realtor or builder trade associations. AGENTS - Remember how upset you were as a member of that local trade association when you find out other agents who are NOT members and not supporting the local programs seem to get a LOT of the title orders? Well, OUR associate members do more than "just pay associate dues", too. They show up at our meetings and conventions, PAY for the privilege of having a spot to display their products, often contribute additional funds to our luncheons, receptions, banquets, etc AND pay to advertise in our programs, brochures, and YES!! the Newsletters!! **DON'T FORGET OUR ASSOCIATE MEMBERS!** When you need a new product or service, be sure to check the member list and give our Associates the FIRST opportunity to earn your business.

## **Back to the Basics**

**- provided by Curtis McClung, CLS of First American Title , our Zone II Vice President**

The title insurance business, like life in general, has been on a roller-coaster ride for a few years now. First we all are going crazy trying to keep up with the rising demand for our services and then things started heading down. We are experiencing decreased order counts, rising claims, declining property values, and increased pressure to just “do the deal”. If that was not enough, now the regulators, legislators and others want to attack the way we do business. It makes a title person long for the “Good ole Days”.

I was discussing this with Lee Huszagh, our Executive Secretary, a few days ago in Tallahassee. Back in the old days, when I owned my own title agency (and gas was less than 50 cents a gallon), I could not imagine operating a title agency and not being a member of FLTA. FLTA was our conduit to the marketplace. This was in the days before the personal computer, internet, faxes, scanners, voice mail, instant messages, cell phones, webinars, etc.

Now there is nothing wrong with all this technology, but it has led to something the experts refer to as “social isolation” or “social disconnect”. Because of this isolation, many business people do not have confidants, trusted friends and associates. They have all this information at hand, but they process it alone and in the context of the world as they see it. This has proven to be very unhealthy for individuals and businesses.

The opposite of “social isolation” is “social support”. This is very healthy for individuals and business. Social support can be in the form of friends, co-workers, and trusted individuals in the same business or industry. The FLTA provides this support. There is no other single organization that provides this support for agents, attorneys, underwriters and associates.

The FLTA promotes discussion between competitors, provides a unified voice for or against legislation that affects the industry and recognizes those in the industry that maintain high standards. My question would be this: “Why would someone in the industry even be in the business if they are not a member of FLTA”?

We need to get back to the basics of providing a good product at a fair price while giving good customer service. We need to get back to the basics of increasing our membership and having our association truly represent the industry. Membership is money well spent and membership is a necessity.

## **Attention ALL Agents:**

You may have recently been made aware of the link in the following message:

“The Florida Department of Financial Services, Division of Agent and Agency Services, has important information regarding insurance agency license renewals. Please go to our website at <http://www.myfloridacfo.com/Agents/Licensure/Agencies/AgencyRenewalNotice.htm> to access this information.”

If you accessed the link it would have led you to believe your Agency license expired after THREE years.

After some superior investigation skills performed by Nichole Hempel of Southern Title Holding Company, she was able to obtain a response from DFS that clarified and confirmed that the alert did not apply to title agents, which the first posting did NOT disclose. If you access the above link NOW, it does have a clarification posted in the first paragraph of the bulletin.

FLTA wanted you to be aware the correction has been posted and to THANK Nichole for helping get the information corrected.

## **A special “thanks” to our advertisers**

We would like to extend a special thank you to our Associate Members that have taken the time to update their ad formats (including working with a novice in the publishing arena) and paid for the privilege of having a black and white ad included in this edition of our quarterly newsletter. We so appreciate your continued support of our Association.

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## **2009 Dues became PAST DUE on April 1<sup>st</sup>!**

The new dues format was completed and invoices were mailed to all current members in December. Every effort was made to make sure a notice was prepared and mailed to all companies that were members in 2008. If we missed you, or you are NOT a current member and would like to become one, PLEASE contact Linda Martin at the FLTA office or by email at [Linda@flta.org](mailto:Linda@flta.org).

Currently, all the active members listed on our website have been “deactivated” until the 09 dues are paid. Once we receive your payment, your company will once again appear on the website. You will also receive confirmation by mail that your membership is active as we do have a “goodie” packet that is sent to all renewing members. If you haven’t paid your dues YET.... PLEASE do so soon! You will SAVE MONEY on your convention expenses if you are an FLTA member!

## **We still have FUBA’s if you need them**

What’s a FUBA? It’s the annual guide to our Florida legislative members and a very useful tool if you need to contact someone (like your local representative, senator, etc.) and speak your mind about pending legislation that may affect your livelihood.

Even though the session is now over, the book is a wealth of information. If you need more copies, let us know. If you paid your 2009 dues, you should have received a FUBA book. If you haven’t received it yet, contact [linda@flta.org](mailto:linda@flta.org).

## **We changed our format**

Everyone is being affected by our current economic times and that includes your Association. In an effort to save money, we are once again processing this report “in house”. That means we may not look as pretty, or be as fancy as past issues, BUT the value of the content will be the same. We will be a “work in progress” for awhile and the view of the product may change from issue to issue, but every effort will be made to keep the content relative, informative and up to date!

## **Zone 4 Report**

**- provided by James C Russick, Esq, of Old Republic Title, our Zone IV Vice President**

FLTA has become an exciting and dynamic organization, of which I am proud to be a part. Zone VPs are also directors, and as such, charged with looking forward for ways to improve the Association. This is not a one person job, and in the fulfillment of my obligations, I have been blessed to be associated with individuals whose vision and commitment to representing the interests of independent title agents is phenomenal. While there are many, I want to focus on two in particular, Sue Geigle and Shelley Stewart. Together they have achieved many things. In this column I will focus exclusively on Zone 4.

That's right. The immediate past president, and the current Agent's Section Chair and incoming president, have been paying attention to membership interests and concerns in Zone 4 among all their other obligations. They have done so because we need greater participation from the many independent title agents in Hillsborough, Pinellas, Polk, Pasco, Manatee, and Sarasota Counties. That's a big area that contains a significant number of agents. You need to be better organized. We need greater participation in the Association. And we are determined to better serve the needs of independent agents.

So there has been a focus on organization. That begins with communications. Shelley has recently completed a compilation of every agent in Zone 4. That's the start. But while we have phone numbers, we lack email addresses. Sue will be contacting the identified agents on Shelley's list to get those email addresses in the coming weeks. She will be doing that with the goal of resurrecting local meetings of title insurance professionals.

Those of us with a little grey in our hair remember some of the local organizations that have existed in Florida over the years. They have disappeared from the landscape, but not their need. While we compete on the street every day, it is essential that we recognize our common interests, whether it be the monumental regulatory issues we currently face or merely the need to facilitate a closing by getting a copy of that prior policy from your competitor down the street. We need to associate more. We need to work together for the common good of the industry. And to do so we need to be able to communicate better.

Each of you have a few industry friends in town. Talk to them. Let them know Sue will be contacting them. Sue's ultimate goal is quarterly industry meetings within Zone 4 that are meaningful to every busy title agent professional. Zone 4 will be the experiment. We may not get it completely right at first. But with your help, we believe we can improve the Association.

Please show your appreciation to Sue and to Shelley by participating and promoting the Florida Land Title Association.

## **The Convention is HERE!**

### ***Wednesday – Friday, November 4-7***

FLTA's 2009 Annual Convention at Renaissance Vinoy Resort,  
501 Fifth Avenue NE,  
St Petersburg, FL 33701

Call 800-468-3571 for reservations and mention the FLTA to receive the convention rate of \$169 per night. HURRY! The room block we reserved for Wednesday, 11/4 is GONE and only a few are left for Thursday and Friday.

If you are one of the lucky ones that's already made your room reservations don't forget to register for the convention, too. There's a LOT to discuss at the committee meetings, the speakers will be top notch (of course!) and Shelley Stewart of Southern Title (our President-elect) has done her best to shake things up, turn us around and add some interesting things to our event, so what are you waiting for! If you've lost your registration information, it can be found on the website or contact the FLTA office and we will email it to you. No more excuses – retrieve that form, fill it out and send it to the FLTA office soon please.

Forms can be mailed to FLTA, 249 E Virginia St., Tallahassee, FL 32301

or faxed to 850-681-6271 or emailed (my personal favorite) to [linda@flta.org](mailto:linda@flta.org)

So what are you waiting for – Christmas?? (well that will be too late!)

### **WHAT shall I wear!!**

For the meetings during the day – resort casual is the ticket

For the banquet – It's a black and white ball. Enjoy the festivities in your best black and white attire. That doesn't mean "formal" or "black tie" but your "little black dress" will work fine for the ladies, and if the gentlemen would add a tie (although it's not required) your banquet planners would be so pleased. Hope to see you there!

## **WEB site changes are brewing!**

Nothing in life is free (or at least very little). The FLTA website has always been open to the public in the hopes of attracting the attention of others in the industry and inspiring them to join our ranks. While many areas will continue to be accessible whether you are a member or not, certain areas will require membership for the data to be retrieved.

When the changes are ready, you will have plenty of notice and we will tell you what you need to do to obtain your "access code". In the mean time, encourage your industry neighbors to join the FLTA so they too will benefit from all the information we have to share.

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Stuart, Florida 34994

## **Firewalls and Spam Filters Block FLTA E-mails**

It has come to our attention that many of our electronic mailings are being blocked by spam filters and firewalls installed on members computers. If you are not having this problem and are getting our newsletter via e mail and wish to continue to receive it electronically you don't need to do anything! If you would prefer to receive the newsletter by mail, please contact our office, so you can begin receiving it via mail. Our most important goal is providing our members with timely information and we strive to accomplish that. You can also check the FLTA's web site ([www.flta.org](http://www.flta.org)) at your convenience to obtain news and information on upcoming programs.

## **Keeping Up to DATE**

Keeping our members informed of matters that impact the title insurance industry, is a primary focus of our Association. The quarterly newsletter will continue to keep you abreast of developments, but the term quarterly alerts you to the fact that the news stories that have a short shelf life may be stale when you read them. To stay on top of things on a daily basis consult the FLTA web site, [www.flta.org](http://www.flta.org).

## **Summer is HERE!**

This is our official Summer issue of the FLTA newsletter. If you missed all the exciting Spring issues that were distributed, be sure to visit our website, as all past issues (including the THREE versions of "spring" that were issued) can be found there.

The next "official" issue is scheduled to publish in November, after the convention. Until then, check the website for updated convention info, or make sure we have your correct email address as many things are now delivered via email by broadcasting to our membership list.