

Tallahassee Report

2018
Issue #4

Serving Title Professionals throughout Florida

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REGISTER NOW FOR FLTA'S ANNUAL CONVENTION

A Message from the President Timothy Steele | North American Title Company



As I write my last newsletter article as FLTA President for 2018, I think back on the significant achievements made during the year. All the hard work that it took: toiling behind the scenes, drafting legislative language, walking the halls in Tallahassee, planning conferences, lining up speakers and even attacking the wire fraud that plagued our industry, it was all worth it. I am proud of the results. I am especially proud of the FLTA Board and other members that made these achievements a reality.

There are too many achievements to write about for this article, but I would like to highlight a story of what it took for FLTA to achieve a fix to a seemingly simple issue.

Although spouses transferring real property and waiving homestead rights is nothing new, there has never been clear and unambiguous language in Florida Statute section 732.7025 to provide evidence of this intent. Agents and underwriters were left in a bind on how to know when this intent was evident and when it was appropriate to issue title insurance in regards to such.

Most importantly, Floridians were left in a bind.

At FLTA, we knew this was a problem. We also knew we had to two hurdles to overcome fix it. The first was the obvious, providing language to amend the statute. The second was a bit more evasive. We had to convince a senator and representative in the Florida legislature that this was a problem, and furthermore, that FLTA had a fix for it.

Numerous meetings between FLTA agents and underwriters (all with fulltime jobs of their own) started taking place to produce language to amend Section 732.7025. This language was revised and discussed again, backwards and forwards, looking for both intended and unintended consequences. Then we would adjourn our meeting, have further thoughts at night while having dinner or driving to work in the morning, and call each other with new language tweaks.

Finally, after several weeks, we agreed on our language and worked with our lobbyist in Tallahassee to present it to potential sponsors in the house and senate. After more meetings with our lobbyist, we had buy in from a senator and representative that the omission of statutory language in Florida to evidence waiver of homestead rights while transferring property between spouses was a problem.

Now we were in talks with the legislative aides of each of our sponsors, fine-tuning the language to fix this. This was a repeat of above. Another set of eyes was looking at the problem and the language. We revised and analyzed yet again.

After fine-tuning by legislative aides, the language was ready for committee hearings in each chamber. At each committee the basic concept and language fix, packaged up in a bill, Senate Bill 512 and House Bill 412 of the 2017 legislative session, would be looked upon anew by a panel. Three different committees in each chamber had to pass the bill by majority for the bill to make it to the next committee in that chamber.

Our lobbyist guided us as to whether FLTA members should to fly to Tallahassee, attend a committee hearing and voice support of the bill.

Finally, the bill passed all three committees in each chamber, and passed the senate and house vote at large. Ultimately, after countless visits to the bill tracker website and calls to our lobbyist looking for status, the bill was signed into law by Governor Scott.

Florida Statute section 732.7025 (1) now provides specific language: *“By executing or joining this deed, I intend to waive homestead rights that would otherwise prevent my spouse from devising the homestead property described in this deed to someone other than me”*. This language is to be included in a deed to a spouse when intending the same. The bill amended the statute to provide clear and unambiguous language of intent to waive homestead. Agents and underwriters could rely on this language and issue title insurance appropriately. Floridians had statutory language to follow to make their intent clear.

This story was more than a year in the making. Discussions on the fix to this problem started back in early 2017 amongst FLTA committees. The bill was filed in October of 2017 and signed off by the governor March of 2018.

Toiling, meeting, drafting, revising and walking the halls in Tallahassee was a lot of work, but it was worth it. We made a difference in Florida. I am proud of the team from FLTA that helped to make this a reality.

Just as important, I made a special bond with my fellow FLTA members on this journey. That is something I am also very proud of because those bonds will last long beyond my FLTA presidency.



Presented By:



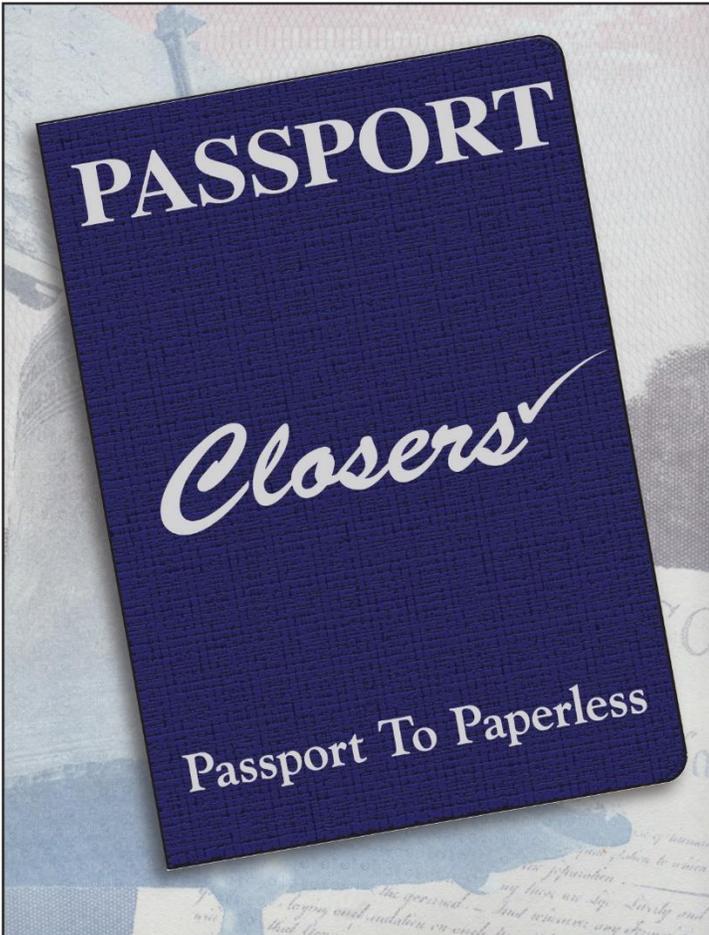
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The FLTA is an organization dedicated to you, the members of the title insurance industry. Our Agents' Section is even more tightly focused on the concerns and goals of title insurance agents. In particular our Section's emphasis is on educating agents, maintaining ethical and professional standards of title agents and advocating on your behalf on issues of concern to title agents.

One tool we use in our drive to keep up with what concerns you and to keep you informed about what the association is doing, is our monthly Agents' Section calls. Those calls are your chance to learn about issues that our association is promoting on your behalf or opposing on your behalf. Current issues include Remote Online Notary (RON) services, Flat Fee Recording Pace Loans and the ever-present Data Call issues. Please feel free to join in those calls, even if you just choose to listen in. You can join us on our next call. The calls are held at 10:00 am on the second Tuesday of each month. Just send an email to jena@flta.org and request a call reminder. Jena will send you a timely reminder with call-in instructions.

Also, please join your fellow FLTA members in person at the 2018 Convention at the Hawks Cay Resort at Duck Key in the Florida Keys. The meeting is November 12-14. The theme for the meeting, set by incoming President Kevin Thomas, is CHANNELING THE WAVES OF CHANGE. Topics that will be addressed at the Convention include information on the latest technology advancements applicable to our business. In addition to the education, you will not want to miss this opportunity to make and maintain your connections to other title industry leaders and other title professionals. It is a great opportunity to spend quality time with underwriters and your industry friends, too. Plus, it will be FUN, especially Tuesday's Havana Nights cocktail reception.

So, do not stand on the outside wondering what FLTA is doing for you. Be on the inside: Join our Agents' Calls and come to the Convention and find out for yourself. We hope to hear you on our next call and see you at the Convention.

Vamos de Fiesta!

Agent Section Lobby Fund

Donations to the lobby fund are always needed. See below to donate today!

The Florida Land Title Association is unique in retaining a political consulting firm in Tallahassee specifically to advise and represent the Agents Section. The cost of these professionals is paid from voluntary contributions to the Agent Section Lobby Fund. Please contribute to support your industry by mailing a check to:

**FLTA
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CLT Institute Council Chair Cherie Blalock, CLC | Westcor Land Title Insurance Company



The Certified Land Title Institute is pleased to announce that we have 6 new members that will be honored this year at the FLTA 2018 Convention in Duck Key, November 12-14. A BIG SHOUT OUT to Jamie Andring, Sandy M. Thompson, Suzann Dennis, Ronda E. Alley and Patricia A. Chorpene, they will be awarded the designation of Certified Land-Title Closers and Edwin Torres, will be awarded the designation of Certified Land-Title Searcher. Please join me in congratulating each of them for their outstanding achievement! If you run into any of these comrades at the Convention, please be sure to personally congratulate them.

I am very impressed with all the applicant's we had this year for the CLC/CLS test. Whether you passed the test or not, taking the step to enhance yourself is a significant accomplishment. I want to encourage you to keep moving forward and keep striving!

If you are interested in becoming involved with the CLT Institute and you hold the designation of CLC or CLS, I would like to hear from you. Please contact me at cblalock@wltic.com or I will see you at the Convention!

Click [HERE](#) to order The Basic Title Insurance Handbook with the Booth Supplement Chapters.



It is common for many Florida real estate investors to make repairs, updates, and improvements to enhance a relinquished property in preparation for listing with a real estate agent or broker. A commonly asked question by investors in the Southeast is, “Can I be reimbursed from the 1031 exchange for the costs associated with improving or repairing the property immediately before the sale?” The answer is “no, not without generating a tax consequence”. The reason for this is that any exchange proceeds received from a 1031 exchange are considered “boot” and are generally taxable to the extent the investor has a capital gain tax consequence.



However, improvements an investor makes to improve a relinquished property can be added to the “cost basis” of the property. In the most simplistic terms, cost basis is the amount a property is worth for tax purposes. The cost basis changes over time and becomes known as the “adjusted basis.” The adjusted basis can be increased by capital improvements made to the property and is reduced by depreciation deductions taken during the ownership period and other factors.

Generally, the cost of adding capital improvements having a useful life of more than one year is added to the adjusted cost basis and are referred to as a “capital expense” and must be capitalized and depreciated over multiple years. An improvement includes enhancements that add value to the property, increases its useful life or adapts the property to a new use. Capital improvements can include room additions, new bathrooms, new roofs, decks, fencing, wiring upgrades, driveways, walkways, plumbing upgrades, and kitchen upgrades. The IRS uses the categories below to define a capital expense which must be depreciated:

- **Improvements:** A taxpayer must capitalize any expense made to improve an investment property. An expense is for an improvement if it results in a betterment to the property, restores the property or adapts the property to a new or different use.
- **Betterments:** Expenses that may result in a betterment to a property include expenses for fixing a pre-existing defect or condition, enlarging or expanding the property or increasing the capacity, strength or quality of the property.
- **Restoration:** Expenses that may be for restoration include expenses for replacing a substantial structural part of a property, repairing damage to a property as a result of a casualty loss or rebuilding the property to a



Florida 1031 Exchange Experts

Asset Preservation, Inc. (API), is a leader, both in Florida and nationally, in the 1031 exchange qualified intermediary industry. API is committed to providing investors the highest levels of experience, expertise and security of funds in the industry. API is relied upon by all levels of investors and Corporate America.

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- **Adaptation:** Expenses that may be for adaptation include expenses for altering the property to a use that is not consistent with the intended ordinary use of the property when initially purchased or held for investment.

Costs that can be deducted as current expenses are amounts paid for incidental repairs and routine maintenance which are not added to the cost basis. Repairs are usually one-off fixes that help keep the property in good working condition and habitable. A real estate investor can deduct the cost of minor repairs from the current year's tax liability, but not from their capital gain tax liability. The IRS clarifies in the 1040 Schedule E Instructions that "repairs in most cases do not add significant value to the property or extend its life."

For more information on basis and adjusted cost basis, read IRS Publication 551, Basis of Assets. For more information about 1031 exchanges and how they can help Southeast investors acquiring better performing real estate investment properties without paying any capital gain taxes, contact the co-authors.

Robert Biggs is the N. Florida Division Manager and Tom Russell is the S. Florida Division Manager at Asset Preservation, Inc. Contact them at 833-577-1031, robert@apiexchange.com or 833-576-1031, thomas@apiexchange.com

Membership Corner

JoAnne Quarles | Treasure Title Insurance Agency, Inc.



THIS IS A HUGE savings opportunity for new members.

Membership for prospective members that have not been a member since at least 2016 the opportunity to join for \$600 and not have to renew until January 2020. Keep in mind under normal terms if they were to join right now, they would have to renew this coming January (totaling \$1,000). This is a huge incentive and opportunity. It is also great timing as registration is open for the convention.

In other news, we are all gearing up for the convention in November and hope to see you there. Our membership is growing, and the chart shows that we now have a total of 477 Members. Our DRIVE to 5 is working and we just need a little more help to get over that hill, can you help????

Who do you know or who are you working with that needs to be a member of FLTA?????

Sign them up today! It's not too late!

FLTA IS THE VOICE OF TITLE INSURANCE IN FLORIDA, AND YOU ARE FLTA.

THANK YOU FOR BEING A MEMBER!!!

NOT A MEMBER OF FLTA, JOIN TODAY!!!



Ask Me About Joining The FLTA In 2018!



PACE Liens: A Summary of What Every Title Agent Should Know

Florida's Property Assessed Clean Energy Act, Florida Statute 163.08, was enacted in 2010 and authorizes local governments to create PACE programs to encourage homeowners to improve their properties with energy efficient and wind resistant improvements. The "PACE" programs provide loans for those authorized improvements which are repaid through non-ad valorem assessments included on the annual property tax bill. PACE assessments have "super priority" status giving them priority over existing or future mortgages. Existing PACE liens will in most cases have to be paid off and released to close new refinance or sales transactions. Mortgage lenders following Fannie Mae, Freddie Mac and most other governmental lender guidelines will decline to lend on properties where a PACE lien is present.

When a property owner has entered into a PACE loan agreement a memorandum of the agreement and an addendum to the financing agreement evidencing the secured loan will be placed of record. Once a PACE lien has been discovered in the title search it should almost always be reflected as a requirement to be satisfied to comply with mortgage lenders closing instructions or terms of the sales contract. In cash transactions if the PACE lien will remain in place per the terms of the sales contract an exception will need to appear on Schedule B of the policy. Caution needs to be exercised to assure that any payoff letter includes the amount of the current annual assessment which may not be included if it has already been included in the annual property tax bill. As always, please refer to your title insurer's specific underwriting guidelines regarding PACE liens and contact their underwriting department with any detailed questions.

FLTA Executive Director

Scott Merritt | Florida Land Title Association



Over the course of the past few months I have had the opportunity to meet with many legislative candidates and much like you, I am anxious to see what November 6th holds for Florida. Most recently I had the opportunity to meet with Florida's incoming Speaker of the House of Representatives, José Oliva. We discussed many aspects of the industry with emphasis on technology and how the industry continues to evolve. As you can imagine, Business Email Compromise (BEC) was much of the conversation as we wrapped up Cyber Fraud Awareness month. His openness to discuss the issue in great detail, leads me to believe our formation of the Cyber Security Committee is very timely with its first meeting being held during FLTA's Annual Convention on Monday, November 12th.



Speaking of FLTA's Annual Convention, *Channeling the Waves of Change* is finally here! It seems like we talk about it for so long and then all the sudden, splash! – here it is. I'm very excited for this year's event as we bring special guest and motivational speaker, Sam Glenn, to lead us through his *Attitude Changes Everything* seminar. Sam will bring a message through art that attendees won't want to miss. In addition to Sam's presentation, we have 7 continued education credits available with two for ethics all engaging on topics either currently affecting the industry or soon to be. Needless to say, it will be a very full and exciting agenda over three short days.

It goes without saying, but thank you to the many presenters, sponsors and exhibitors to make this event possible. Without your participation it would not be the event it is.



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In Memory of Senator Dorothy Hukill

FLTA mourns the loss of Senator Dorothy Hukill. She was actively engaged with the title industry and very much a friend of the association. Senator Hukill, a former FLTA Legislator of the Year recipient has served in public office since 1992 including in the Florida House from 2004-2012 and has been serving in the Senate since 2012.

Dorothy was many things. Before everything else, she put her family first. She was a faithful daughter, a loving wife, and a caring mother. She also took great pride in her work, the work of improving the lives of people she cared about. Whether as a schoolteacher helping young children, a legal advocate for those who needed help, or a public servant fighting on behalf of her constituents' causes, she threw herself completely into serving others. She was actively engaged with the title industry and very much a friend of the association. Senator Hukill, a former FLTA Legislator of the Year recipient has served in public office since 1992 including in the Florida House from 2004-2012 and has been serving in the Senate since 2012.

But beyond the work itself, she treasured the personal relationships and friendships made along the way. She loved staying in touch with people in her community, hearing about their lives, sharing their joys and sorrows. Every trip to the grocery store or the post office was a new opportunity to connect with her neighbors and friends.

We are terribly sad that she's no longer with us, and we know that everyone who was fortunate enough to know her will feel pain when reading these words. But we also remember one of Dorothy's great gifts, the ability to comfort others in times of need. One of her favorite sayings was "this too shall pass." She would want us to remember her for the life she lived rather than the pain that her passing has caused.

In lieu of flowers the family has asked that donations be made in Dorothy Lehman Hukill's name to [Halifax Health Hospice](#).



In Memory of Past President Bill Randol

FLTA mourns the loss of William B. Randol, Jr. Bill served as FLTA's 56th President from 1988-1989, was named the 1993 Raymond O. Denham Award Recipient and an Honorary Life Member. Bill was a true supporter and advocate of the association and industry.

Bill Randol passed away at home surrounded by his wife, two daughters, and niece on October 22, after a short battle with lung cancer which had spread to his bone. He was pre-deceased by his parents William Randol Sr. and Mary Elizabeth Randol as well as his eldest sister Peggy Behrens. A Miami native, Bill grew up on the water, water skiing the Mahi Waterway and sailing Biscayne Bay. The Orange Bowl and the Miami Hurricanes were a love of his which he passed on to his daughters and grandchildren. His wife Brenda and daughters Meg and Annie will forever be grateful for the time spent together sailing in the Exumas, going to Section Q of the OB to cheer on the Canes, and taking countless "booze cruises" with family and friends along the Mahi Waterway and later in the waterways off the South Fork of the St. Lucie River in their new home town of Palm City, where they moved four years ago. During his illness and since his passing, so many of those who knew him expressed what a kind, intelligent and compassionate man he was. And in the end, that's what those of us who loved him will remember him for. Bill is survived by his wife of 48 years Brenda, his sister Elizabeth Marcus, his eldest daughter Meg Enos, youngest daughter Annie Morehead, sons in law Greg Enos and David Morehead, and grandchildren Cameron & Lanie Enos, Abi, Will, Hal, Emma and Ainsley Morehead, as well as several nieces and nephews. It was Bill's wish that the immediate family gather at a later date to celebrate his life. The family will be eternally grateful to the kind and loving Hospice nurses. Donations may be made in his memory to Treasure Coast Hospice ([treasurehealth.org](#)).