

Regulatory Highlights

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- **Report: Losses Due to Business Email Compromise Schemes Spike to \$301M per Month**
According to FinCEN, real estate was the third highest targeted sector for BEC in 2018, accounting for 16 percent of all reported incidents. While real estate firms represented 9 percent of all targeted firms in 2017, they accounted for over 20 percent of fraudulent transaction amounts. Real estate firms have the highest average fraudulent transaction amount of \$179,001.
- **The VA Home Loan Cap** which restricted the amount of the VA home loan guaranty to loans which did not exceed the Federal Home Loan Mortgage Corporation (Freddie Mac) conforming loan limit was recently removed by passage of H.R.299 – Blue Water Navy Vietnam Veterans Act of 2017. The limit in 2019 for most counties is \$484,350.
- **DFS Title Agent Guidance** was recently provided on the subject of permissible activities by title agents in connection with Realtor® and Developer **Open Houses:**
“A title agent/agency may market its services to anyone, including real estate agents/brokers and lenders who will be a significant source of new business. The key is that the title agent/agency must market itself and not the broker, lender, or anyone else.

There are multiple types of open houses:

REALTOR:

Brokers Open/Brokers Open House: When a real estate broker shows homes they have listed to their realtors or other realtors. Realtor caravans would be an example. (non-public)

Open House: When a Realtor holds an open house for a home which they have listed to promote the home for sale to consumers. (public)

BUILDER:

Builders Model Homes: Open House/Parade of Homes Event: When a builder hosts an event in a model home to promote the home to Realtors and/or consumers.

A Brokers Open, Brokers Open House, and certain Builders events are times when a title agency should be extra cautious of violating the Florida Insurance Code and RESPA. No members of the general public, no sellers, and no buyers are in attendance. A byproduct of this meeting will be the discussions the brokers have with each other where they let each other know about the inventory each one has available for sale. The thinking is that one of the other brokers may have a buyer that will be more receptive to paying the full asking price.

An Open House to the public is different than those detailed above because this is an opportunity for the title agent/agency to take full advantage of their audience to explain what they do and why they are better at doing it than any other title agent/agency.

Regardless of the event type, the title agency may only advertise its own services and not perform any of the duties or functions of the broker selling the home. The title agency may have food and beverages, but that must be accompanied by materials showing what the title agency does and can do for the consumer. A title agency may NOT just drop off food or solely provide food/beverages for these events. A title agency MUST attend the event and promote its agency during the event. The title agency cannot describe the home, give tours to people visiting the home, distribute flyers about the home, "man the event" without a Realtor or builder sales associate present, promote any broker listings, etc., as these are duties and functions of the real estate broker, Realtor or builder sales associate.

Marketing these open houses and others' events by the title agent/agency are prohibited. Licensees and persons subject to the Florida Insurance Code should refamiliarize themselves with it for compliance. Specifically, Rule [69B-186.010](#), F.A.C., regarding guidance in this area should be reviewed prior to any title agent/agency considering promoting open houses on their Facebook or other social media or other types of solicitation at the title agency's own time, resources and expenses, no matter how quick and inexpensive.

Any licensee of the Department of Financial Services found to have conducted these acts is subject to discipline for violation of the Florida Insurance Code. Any other person will be referred to the appropriate state or federal agency/board, etc.”

- **ALTA alerted its members of a Title Company Data Exposure** which came to its attention. The alert stressed that ALTA's systems had not been compromised and that an outside source had provided sufficient information to cause ALTA to reach out to inform and protect industry professionals. According to ALTA less than 200 unique email addresses and less than 200 unique domains corresponded to information in the ALTA database and that ALTA was reaching out to those domains to inform them of the occurrence.
- **The FinCEN Improvement Act of 2019 (H.R. 1414)** passed in the House and was referred to the Senate on March 12th. Despite the lofty title the measure will simply add Tribal authorities to the list of enforcement authorities with whom FinCEN will work; broaden the scope of its efforts to terrorism and not just international terrorism; and specifically include virtual currency to the list of anti-money laundering activities being monitored.
- **The Corporate Transparency Act of 2019 (H.R.2513)** was recently introduced in the House. Similar, if not identical, to the version introduced in the previous session, the bill would amend the **Bank Secrecy Act** (BSA) to require applicants forming corporations or limited liability companies under applicable state laws to file reports to **FinCEN** disclosing the beneficial ownership of those entities. Annual reports would be required and entities previously formed would begin filing reports two years after the effective date of the Act.
- **The Federal Trade Commission (FTC)** is seeking comment on proposed changes to the **Safeguards Rule** and the **Privacy Rule** under the Gramm-Leach-Bliley Act (GLBA). The Safeguards Rule, which went into effect in 2003, requires a financial institution to develop, implement, and

maintain a comprehensive information security program. The changes would add more detailed requirements for what must be included in the comprehensive information security program required by the Safeguards Rule. The Privacy Rule, which went into effect in 2000, requires a financial institution to inform customers about its information-sharing practices and allow customers to opt out of having their information shared with certain third parties. The changes to this rule are of limited importance to the title industry as Dodd-Frank reduced the role of the FTC in this regard to motor vehicle dealers. The privacy notice provided with each Old Republic title policy issued is based upon the CFPB's assumption of responsibility for financial institutions as reflected in 12 CFR Part 1016 (Regulation P).