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BULLETIN

To: All Old Republic Title Agents and Offices

From: Underwriting Department

Date: May 29, 2013

Re: **Florida Supreme Court Ruling – Municipal Code Enforcement Liens**

The Florida Supreme Court has issued its ruling in the case of City of Palm Bay v. Wells Fargo Bank. In its opinion, the court ruled that it is a conflict with Florida law for municipal ordinances to grant municipal code enforcement liens super priority on par with real property taxes. Accordingly, municipalities may no longer assert that their code violation liens have priority over previously recorded mortgages. While this decision is significant, it does not completely resolve the municipal code violation issue for title agents. On the positive side, due to this case, title agents will no longer need to obtain a release if the municipal lien is subordinate to the mortgage being foreclosed and the municipality is properly named and served in the foreclosure action. That said, the title agent must still obtain written confirmation from the municipality that the violation is no longer continuing on the property to be insured or include an exception for the continuing violation. If the violation is continuing, municipalities may still try to collect fees, penalties, etc. It is too early to tell how municipalities are going to respond to the decision. If the municipality claims money is due, either the amount must be paid or the municipality must agree, in writing, no money is due based on the Supreme Court ruling.

Please make note that the Supreme Court ruling has no bearing on the following local government liens, which have priority by Florida Statute:

- Liens for taxes pursuant to §197.122(1), F.S.;
- Special Assessment liens under §170.09, F.S.;
- Liens for gas, water and sewer under §159.17, F.S.;
- Liens for special assessments for water system improvements and sanitary sewers under §153.05(10), F.S.;
- Bonds issued by a drainage district under §157.12, F.S.; and
- Liens for non-ad valorem assessments for independent fire districts under §191.01(7), F.S.

If you have any questions concerning the information contained in this bulletin, please contact the Underwriting Department.

** This Bulletin should become a permanent part of your records to assist in your compliance with the requirements contained herein. **
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