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FLORIDA'S BUTLER DECISION, NOT THE IOWA MODEL,  
PROVIDES THE BETTER SOLUTION TO THE TITLE INSURANCE MESS

***Many in National Media Call for Government Takeover of Title Industry  
While a Better Solution Already Exists***

(WINTER HAVEN, FL, May 9, 2007) – A growing debate is taking place about the necessity and pricing of title insurance. Short of writing a state by state history of the title industry, it is safe to say title insurance in some form is necessary. Just ask anyone who had a claim. MyClosingSPACE.com, an online title company, asks – what price should that insurance be?

Premium rates are set and then regulated by the individual state's insurance department. Depending upon the state, the agent is allowed to remit as much as 40 percent or as little as 15 percent of a policy back to the underwriter, who ultimately pays a claim. For example, if an agent sells someone a policy for \$1000, at a 40 percent remit back to the underwriter, the state is guaranteeing the agent a profit of \$600. It does this, in the words of the Florida Supreme Court in *Chicago vs. Butler*, by "prohibit[ing] an agent from rebating any portion of his or her commission." The agent can use that guaranteed profit for payroll, marketing, expenses, etc. Unfortunately, the government imposed regulations give the agent no motivation to modernize, become more cost

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effective, or provide a better level of customer service. Everyone is guaranteed the same profit. That does not benefit the consumer.

Government protectionism within an industry is certainly anathema to the concept of a free market, but the problem is aggravated by the lack of consumer awareness about title insurance. Most consumers do not know they can choose their own title company or shop for title insurance. Because of this, the industry has not seen the necessity of giving the consumer the best deal on ancillary services or offered state required reduced rates the consumer may be entitled to if they meet certain requirements. Industry scrutiny by the press is slowly starting to change this.

Once the public becomes aware they can shop for title insurance and closing services, there will be a natural downward price pressure on the services that may be necessary to facilitate a particular transaction. In addition, home buyers will begin to demand proper calculation and disclosure of premium re-issue rates. This will inexorably lead to competition among agents that in the end will benefit the consumer. An industry that strictly regulates price and profits makes that industry fat and lazy, and it does not breed the forces necessary to create efficient cost delivery of services to the consumer.

A number of publications have begun the clamor for reform and price roll backs. Some have even trumpeted a state sponsored insurance program, such as the Iowa model. It is hard enough to get a private company to pay your claim in a reasonable amount of time without the bureaucracy. Imagine processing a claim through a government-run system? That should frighten everyone. Despite the call for change, not a single reporter has taken a look at the state of Florida. Thanks to a ruling by the Supreme Court of Florida, Sunshine State consumers win big when it comes to buying title insurance, especially with a company like myClosingSPACE.com.

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Several years ago an individual, S. Clark Butler, sued the Florida state insurance department and a large underwriter (the brief, *Chicago Title vs. Butler*, is available upon request). The Florida Supreme Court found that guaranteeing the agent profit was unconstitutional. As a result of the case, Florida title insurance law was amended for the benefit of the consumer. Ruling that, "the agent's profit is no longer guaranteed" a title agent can give home buyers a quote for title insurance in the state of Florida and discount the published retail price of that premium -- up to 100% of an agent's profit, if they choose.

As an example -- the price of the insurance is \$1000.00. In Florida, the cost of the policy that a title company would have to remit back to the underwriter is \$300 (The Florida Supreme Court cited 30 percent as the figure the underwriter needed to keep in order to remain solvent). Now, a title company can conceivably give the home owner a \$700 discount or basically all of its profit. Imagine the power a consumer has price shopping with a quote from [myClosingSPACE.com](http://myClosingSPACE.com) that offers home buyers a 50% discount. Other title companies will have to drop their prices to compete for the purchaser's business. In the end the consumer wins. The agents will not only have to sell price, they will also have to improve the quality and quantity of their services and offerings if they want to stay in business. This will discourage the practice of kickback that has been exposed in the industry. The laws in other states do not allow title companies to rebate fees directly to the consumer.

Are title agents going to go out of business with the Florida model? Some will. Agents that do not do sufficient volume, invest in technology, or provide a higher level of customer service will not survive. Will this hurt the solvency of the underwriter? No. The

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major concern for the government and the public is the solvency of the insurer. This Florida model protects that solvency.

The bottom line is, the Florida model creates a competitive environment for the agents and forces them to provide quality service at discount prices without undermining the financial stability of the underwriter. The consumer now has choice and wins financially in the end because companies such as myClosingSPACE.com are aggressively telling the consumer they can shop around for title insurance.

Ignorance, legal protection. Guaranteed profits. Is it any wonder the title industry is so sorely in need of reform?

MyClosingSPACE.com is the first company to market title insurance and closing services directly online. It is committed to educating consumers about the title industry, ultimately empowering them to purchase their own policies and closing services. Currently, its services are available to New Jersey and Florida consumers. The company expects to be national within two years.

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