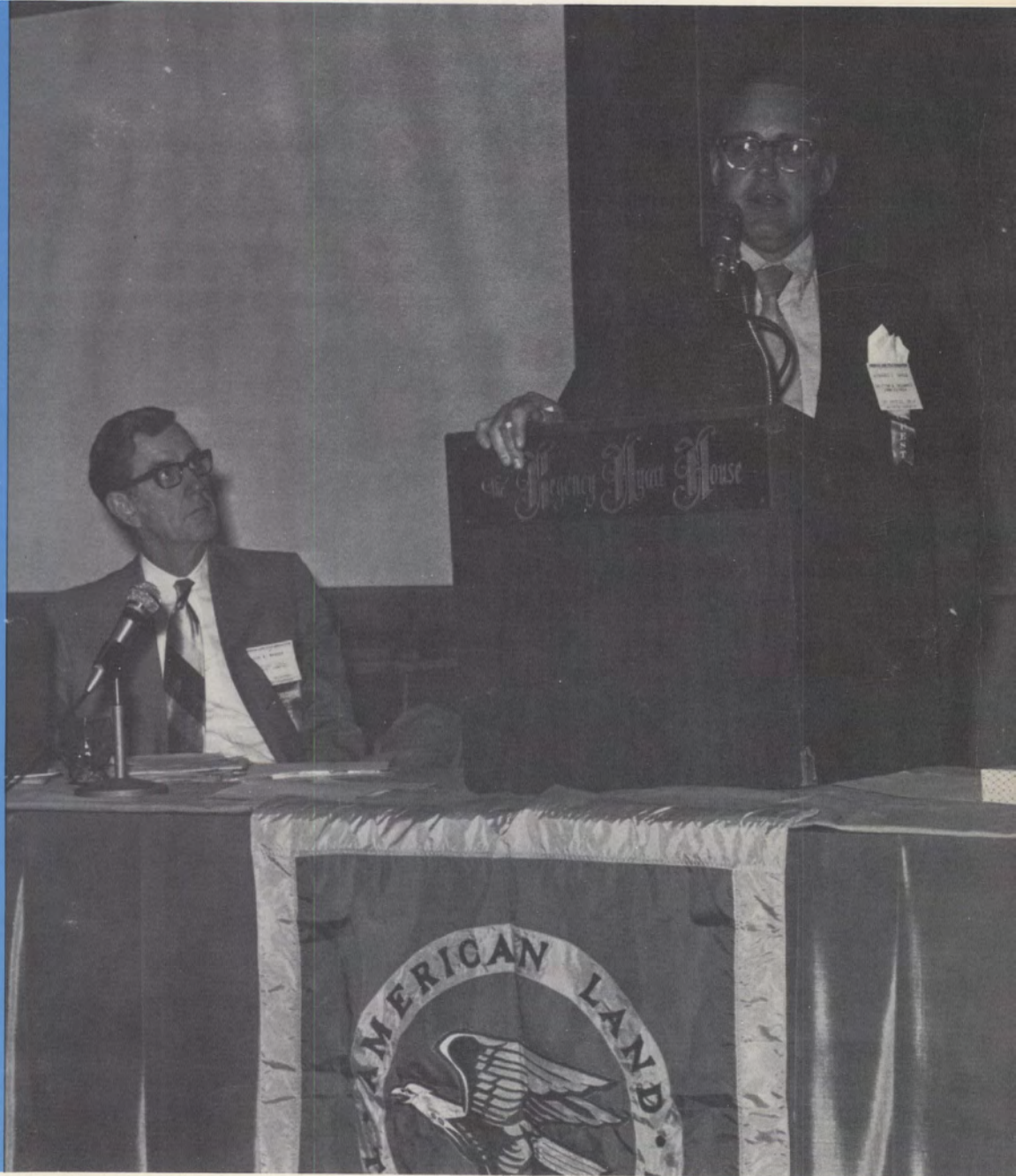


Title News

the official publication of the American Land Title Association

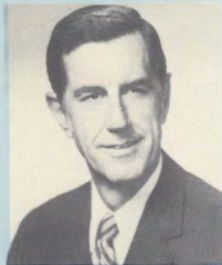


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NAIC President
Barger Speaks
At Mid-Winter

May, 1972



President's Message

MAY, 1972

We have often observed that a product or a company's future is closely tied to its public acceptance. If effort to favorably bring the product or company to public attention is too self-serving, the result can be criticism from public officials, media personnel, and others.

The land title industry certainly cannot be accused of excessively extolling its own virtues, and it is now evident that our efforts here have been far too infrequent and limited. Recent appearances by ALTA members and staff at Congressional hearings and meetings with federal agency personnel were largely prompted by the need for better governmental understanding of our business and the nature of the services we provide.

We can no longer depend on only the efforts of a few companies and the work of our Association Public Relations Committee to supply industry needs. We must each become involved. I urge every member of this Association to assume a personal responsibility to tell the industry story in his or her community, in a manner that serves the public interest. Local civic clubs, trade groups, and the like want to know more about our business and will welcome your appearance. Related speech material, films, brochures, and numerous other industry information aids are available through our Washington office.

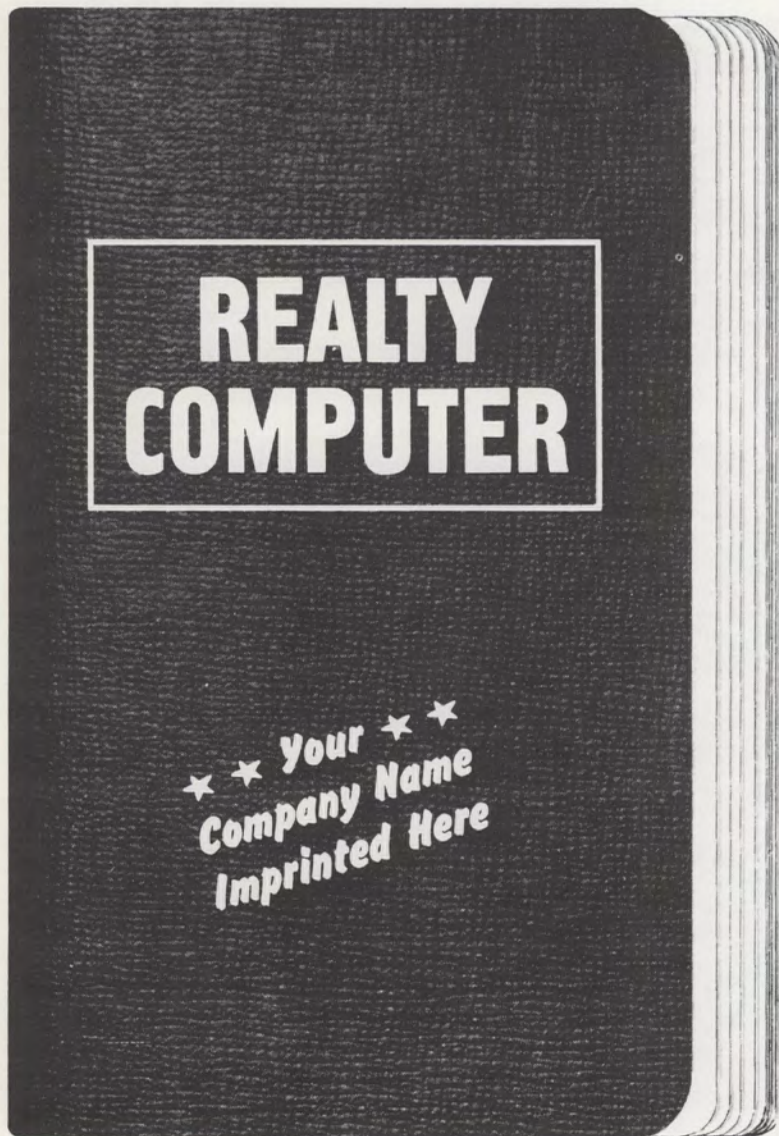
Personal involvement and the furnishing of accurate and complete information about our business will do much to aid in developing a climate of opinion conducive to legislation and regulation that are fair and equitable both to the public and to our industry. Failing to fulfill this responsibility to the public, to ourselves as individuals, and to this Association, may well contribute to a radical and undesirable change in the title business as we know it today.

Sincerely,

John W. Warren

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meeting timetable



May 4-6, 1972
Texas Land Title Association
Fairmont Hotel
Dallas, Texas

May 11-14, 1972
Washington Land Title Association
The Hanford House
Richland, Washington

May 18-20, 1972
New Mexico Land Title Association
Kachina Lodge and Motel
Taos, New Mexico

May 19-20, 1972
Tennessee Land Title Association
Nashville, Tennessee

June 4-6, 1972
Pennsylvania Land Title Association
Pocono Manor Inn
Pocono Manor, Pennsylvania

June 9-10, 1972
South Dakota Title Association
Rapid City, South Dakota

June 15-17, 1972
Land Title Association of Colorado
Stanley Hotel
Estes Park, Colorado

June 16-17, 1972
Wyoming Land Title Association
Saratoga Inn
Saratoga, Wyoming

June 18-20, 1972
Michigan Land Title Association
Grand Hotel
Mackinac Island, Michigan

June 22-25, 1972
Idaho Land Title Association
Sun Valley, Idaho

June 22-24, 1972
Oregon Land Title Association
Village Green
Cottage Grove, Oregon

June 23-25, 1972
Illinois Land Title Association
Chase Park Plaza Hotel
St. Louis, Missouri

June 29-30, 1972
Utah Land Title Association
Ramada Inn
Ogden, Utah

July 6-8, 1972
New Jersey Land Title Insurance Association
Seaview Country Club
Absecon, New Jersey

August 9-12, 1972
New York State Land Title Association
The Greenbrier
White Sulphur Springs, West Virginia

August 10-12, 1972
Montana Land Title Association
Holiday Inn
Bozeman, Montana

August 24-26, 1972
Minnesota Land Title Association
Winona, Minnesota

September 8-9, 1972
Kansas Land Title Association
Ramada Inn
Topeka, Kansas

September 15-16, 1972
North Dakota Title Association
Townhouse Motel
Fargo, North Dakota

September 15-17, 1972
Missouri Land Title Association
Stouffer's Riverfront Inn
St. Louis, Missouri

September 20-22, 1972
Wisconsin Title Association
Lakelawn Lodge
Delavan, Wisconsin

September 21-23, 1972
Ohio Land Title Association
Cincinnati, Ohio

September 23, 1972
Nebraska Land Title Association
Holiday Inn
Kearney, Nebraska

October 1-4, 1972
ALTA Annual Convention
Astroworld Complex
Houston, Texas

October 25-29, 1972
Florida Land Title Association
King's Inn
Freeport, Grand Bahamas

October 29-31, 1972
Indiana Land Title Association
Indianapolis Hilton
Indianapolis, Indiana

November 3-4, 1972
Land Title Association of Arizona
Tucson, Arizona

December 6, 1972
Louisiana Land Title Association
Royal Orleans
New Orleans, Louisiana

1973

March 13-16, 1973
ALTA Mid-Winter Conference
Del Webb's TowneHouse
Phoenix, Arizona

September 30 - October 4, 1973
ALTA Annual Convention
Century Plaza
Los Angeles, California

Title News

the official publication of the American Land Title Association

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ON THE COVER: National Association of Insurance Commissioners President and California Insurance Commissioner Richards D. Barger addresses an ALTA Mid-Winter Conference General Session March 3 in Atlanta. Association President John W. Warren listens at left. A report on the conference begins on page 7.

VOLUME 51, NUMBER 5, 1972

TITLE NEWS is published by American Land Title Association, 1828 L Street, N.W., Washington, D.C., 20036; (phone) 202-296-3671

GARY L. GARRITY, Editor, ELLEN KAMPINSKY, Assistant Editor



*Preston Martin, Chairman
Federal Home Loan Bank Board*

Savings and Loans' New Role— THE Housing Specialist

(Editor's note: This article is adapted from a talk presented March 23, 1972, before the Real Estate Research Council of Northern California in San Francisco.)

* * *

If you take a long look at the next savings and loan you pass on the street—not just its outside appearance—you'll find quite a new operation in progress. It's become *THE* housing specialist in this country.

Many of the changes, which I will talk about later, are a result of a really superlative year for the savings and loan industry—1971. Records were set in nearly all phases of activity. I won't bore you with all the numbers, but let me cite a few. The 5,500 savings and loans reached \$206 billion in combined assets by the end of the year. Operations resulted in an all time high lending volume of \$39.5 billion, which included the financing for about 60 per cent of the increase in residential mortgage credit.

With credit much more readily available, there was also a new high in

housing production, with total starts reaching 2.08 million units in addition to shipments of 500,000 mobile home units. All of this provided an important stimulus to the country's economic growth last year.

The major role played by savings and loans during this boom was enhanced by the federal Home Loan Bank Board's actions designed to broaden and liberalize permissible housing loans. Throughout the year the Board acted to increase lending flexibility and portfolio diversification by modifying regulatory requirements and implementing new ones. These steps encouraged geographical and loan-type diversification, competition with banks and insurance companies for loans, lending for construction, and apartment financing. The investment powers of federal savings and loans were also modified to permit conventional loans on single-family dwellings up to 90 per cent of value. Subsequently, authority was given for such loans to be made to 95 per cent of value, provided the excess over 90 per cent is covered by private mort-

gage insurance or the association creates a loss reserve.

Along these lines of real estate lending, the Board in 1971 broadened authority with respect to loans up to 90 per cent of value on the security of single-family dwellings by increasing the maximum loan amount to \$36,000, increasing the percentage of assets which may be invested in these loans to 30 per cent, and removing a prohibition against the making of loans on condominiums in high rise structures. The maximum term of construction loans on the security of apartments and commercial property was increased from 24 to 36 months. The maximum loan-to-value ratio for loans on commercial property was increased from 70 to 75 per cent, and the maximum maturity on such loans was increased from 20 to 25 years. Also, savings and loans were permitted to combine a construction loan and a permanent loan into a single loan in order to avoid making separate loans to achieve the maximum loan term permissible for "other dwelling units" and "other improved real estate."

Early in 1972 we increased the maximum loan-to-value ratio for apartments from 75 to 80 per cent and the maximum loan term from 25 to 30 years.

In addition, in 1971 the required term of a leasehold as security for a loan was reduced to 10 years beyond the maturity of the loan and regulations were revised to authorize loans to individuals on improved lots on which the borrowers intend to construct permanent homes and to increase from 70 to 75 per cent the maximum loan-to-value ratio permissible for loans to builders on the security of improved lots.

Types of real estate security for mortgage loans that may be the subject of participation transactions were broadened, and the percentage of participation that must be retained by the institution servicing the loan was decreased to 10 per cent with respect to loans secured by "residential real estate."

We have continued changes in these areas in 1972. On March 10 the Board issued regulations to permit federal savings and loans to extend "flexible financing" on apartment and commercial properties. The regulations will authorize loans to developers and owners of multifamily and commercial real estate amortized like a 30-year loan term but with an actual loan payment of less than 30 years, but not less than 10 years, with a "balloon" payment due at the end of the term. Of the major real estate lenders, savings and loans were the only ones which were not authorized to make loans on such a partially amortized basis. National bankers, for example, can make a loan under the terms of which the installment payments are sufficient to amortize 40 per cent or more of the principal of the loan within a period of not more than 10 years. Insurance companies have used this type of loan successfully for a number of years.

In the comments on our proposed regulations, we considered the apprehension going back to problems in the 1920's and 1930's. We concluded that if the industry is to have some further

experience in regard to this type of lending it appropriately should be started in connection with income property loans, not homes. This new lending power is in recognition of the fact that savings and loans must be given the same flexibility in servicing the public that commercial banks and life insurance companies have. For the first time a lender will be able to make a loan on the same loan-to-value ratio for apartment and commercial properties on a partially amortized loan as on a fully amortized loan. This is 80 per cent for apartments and 75 per cent for commercial real estate.

In a related action the Board also authorized savings and loans to make mortgage loans to home buyers with a diminishing monthly payment. A person nearing retirement can now make larger payments at the outset of the loan and small payments when his income decreases at retirement. This is but one example of how this new diminishing monthly payment regulation can be applied. The Board does not rule out further regulatory changes which will affect home loans, but there are several problems to work out.

Before I go on to talk about our Mortgage Corporation, and while we are on the subject of lending flexibility, let me cite some figures from the San Francisco-Oakland SMSA which might be of interest to show what the 29 insured associations headquartered in this area did last year. Of course, there are southern California-based savings and loans which are active here, too. But these 29 alone had some impressive statistics last year.

They had total assets of \$7.1 billion at year's end, 19.3 per cent of California's total and 3.6 per cent of the national total. They had 1.5 million savers and total savings capital of \$5.7 billion, which is 19 per cent of the state total and 3.4 per cent nationwide. They made and acquired \$1.5 billion of loans, or 20 per cent of the state's total. Of their \$6.2 billion of total mortgages outstanding, \$5.9 billion were in conventionals, with \$183 million in FHA's and \$144 million in VA's. That \$6.2 billion is almost 20 per cent of the state total and 3.7

per cent of the nation's. They made \$249 million in construction loans last year.

For mortgage bankers, it might be of interest to know that these 29 associations, in addition to the loans they originated, purchased \$88 million last year and \$13 million in participations from others. At the same time they sold \$13 million of loans and \$73 million of participations in loans to other lenders.

Certainly one of the most important developments in 1972 will be the further progress of a nationwide secondary mortgage market. The creation of a nationwide secondary market for conventional mortgages has been the goal of mortgage lenders and builders for years. Indeed, attempts have been made at a secondary market as far back as the 1880's. The secondary market, where it has existed, generally has been haphazard and has consisted mostly of sales between two primary lenders. These sales were individual transactions with a negotiated price that had little impact on other transactions taking place at the same time throughout the country.

A year and a half ago, the newly founded Federal Home Loan Mortgage Corporation started to develop programs in the direction of a true national secondary (or resale) market in conventional mortgages.

FHLMC can look back on its short life with more than a degree of pride and feeling of accomplishment. FHLMC offered two programs during its first year of operation, an FHA/VA whole loan purchase program and a conventional participation program. Over \$1 billion worth of loans were purchased during 1971 through these two programs. California was by far the biggest source of business in the country.

You know that the participation program was a pioneering effort because it was the first nationwide offer to buy an interest in conventional real estate loans and to quote prices in the *Wall Street Journal*. FHLMC will buy up to an 85 per cent interest in conventional loan packages that contain: (1) all single-family loans; (2) a com-

bination of single-family and multi-family loans, but no more than 50 per cent multi-family loans; and (3) all multi-family loans. FHLMC prices these on the basis of interest yield to the Corporation. FHLMC also will underwrite and inspect all of the loans offered under this program and will reject those that it feels are not properly documented, are over-appraised, or that, for some other reason, involve more than a reasonable risk. We're risk takers, but only within limits. All of the loans offered under these programs must have been closed within one year from the date of the offer to sell to FHLMC. This is a statutory requirement. The Mortgage Corporation is virtually unique in offering this service. Beginning in November, 1971, participations were subsequently sold, bearing our guarantee. Over \$100 million was sold in January, 1972, our biggest month.

The most important program offered by FHLMC is the conventional whole loan program. This, too, is a pioneering effort and one that took over a year to develop. The most talked-about part of this program is the requirement that the originating lender use a uniform note, mortgage, loan application, and appraisal form if he intends to sell whole loans to the Mortgage Corporation. This requirement has understandably been much discussed in the industry. We took most seriously the comments and objections of the California savings and loan industry as to particular forms, and to the use of any single form. There are, we concluded, compelling reasons for the "uniform" document. Many investors have avoided the mortgage market because of the difficulty and cost of evaluating each loan. This, of course, was necessary because each mortgage lender has security instruments that are in a multiplicity of shapes and sizes and contain innumerable different conditions and recitals, all in different sequences. There are just too many other investments that are less involved. More uniform documents will help in overcoming this problem and will make mortgage loans a more competitive and attractive investment.

FHLMC also feels that more uniform documents will be beneficial within the savings and loan industry because these forms, in many instances, are more complete than those presently being used by many associations. The documents contain prepayment and acceleration provisions. Despite strong efforts and good cooperation with FNMA, we could not agree on a single document which would serve both our markets.

The whole loan program will initially be restricted to over-the-counter purchases of single-family and multi-family loans, and a 24-month forward commitment for multi-family loans only. The latter commitments contain some new and somewhat unique stipulations. FHLMC will make a commitment of a specific dollar amount and a maximum fixed constant (the constant is 12 monthly payments divided by the principal amount of the loan). The constant will be based on the present over-the-counter interest rate and a 22-year term. When the lender utilizes this commitment, he is assured of two things that are of prime importance to an apartment house builder. The builder knows the exact amount of the loan and he knows that his monthly payment cannot be increased.

If, at the time the loan is presented to FHLMC, interest rates are higher than the level when the commitment was obtained, FHLMC has the right to increase the amortization period to 30 years and to increase the rate accordingly, but FHLMC cannot increase the monthly payment.

If, on the other hand, interest rates are the same or lower when the loan is offered to FHLMC then the borrower can, if he wishes, extend the amortization to 30 years and his payments will be reduced. The interest rate will remain the same as when originally quoted. A fee of 1½ points will be charged for this commitment. I think this arrangement could have substantial effects in increasing savings and loans' share of the multi-family market.

FHLMC is trying very hard to stay out of the seat of the primary lender, to be a "secondary," or resale market

facility only. So the entire responsibility of originating a good loan will remain with the savings and loan. FHLMC does not want to be involved with the initial approvals of plans, location, credit, etc. It feels that these are properly the functions and responsibility of the primary lender. FHLMC, however, will try in every way possible to make its requirement clear so that there will not be any misunderstanding or problem when the loan is offered to the Mortgage Corporation 24 months hence. It will supply the seller with a set of guidelines that will clarify the specifications and conditions necessary to deliver an acceptable loan at the end of the commitment period. Broadly speaking, there will be standards set respecting the quality of improvements, appropriateness of location, percentage of occupancy, gross rentals, new income, and other considerations that are involved. In other words, what FHLMC asks is that the loan makes sense and is sound. I think you will agree with me that some exciting things are happening in the mortgage markets. We accept the management principle of "managing to create change," where change is in the public interest.

It appears that the momentum of 1971 has carried over into the present year as indicated by the 2.5 million seasonally adjusted annual rate of housing starts for January. This represents almost a 5 per cent increase over the month of December, the previous all-time high. Let me add the caveat, however, that the Board is keenly aware that housing remains a cyclical industry and we are monitoring specific SMSA housing markets so as not to encourage overbuilding.

The downward trend in mortgage interest rates was well established during the past year although there was only a little change in January of this year. During 1971 the average, conventional mortgage contract interest rates for new home loans made by major lenders decreased from 8.20 per cent to 7.62 per cent.

In February, conventional home loans (one- to four-family) experienced

Continued on page 15

Government Regulation Key Topic,



Georgia State University President Noah Langdale's speech draws a chuckle from ALTA President John Warren, Albright Title & Trust Company, during a Mid-Winter Conference General Session.

Mid-Winter Attendance Sets Record

Important discussion and commentary on government regulation of the land title industry were instrumental in attracting a record attendance of nearly 550 to the 1972 ALTA Mid-Winter Conference in Atlanta March 1-3.

During two Conference General Sessions, the federal and state regulatory climate concerning the land title industry was a topic of major interest, both in addresses by distinguished guest speakers and in presentations by ALTA officers, committee spokesmen and staff.

Richards D. Barger, California insurance commissioner and National Association of Insurance Commissioners president, told a General Session audience that the land title industry has been in what he described as a "regulatory vacuum." The federal government is trying to fill this vacuum, he said, because the industry generally has made an insufficient attempt to obtain state regulation for itself.

Commissioner Barger said that "although you have been insurers . . . you don't view yourselves as insurers in terms of how you are regulated . . . There is an almost nonexistent area of regulation as it relates to forms, rates and business practices, kickbacks, and how the public is treated by people who sell your product."

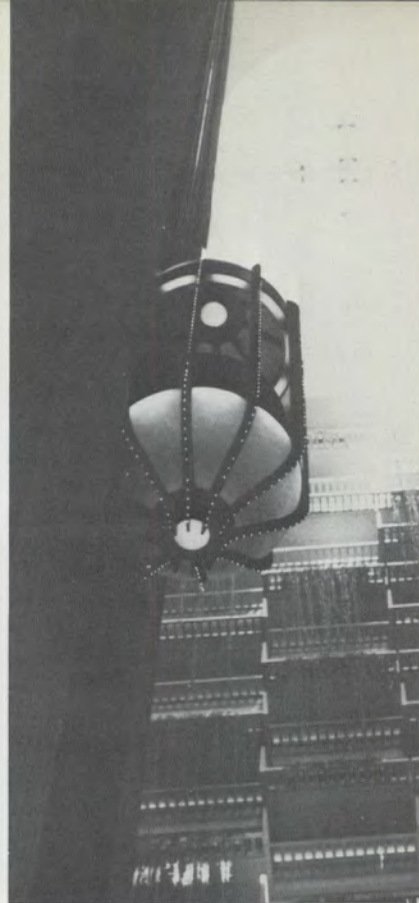
While the federal government could oversee title insurance, just as it does other types of insurance, under the McCarren-Ferguson Act, Commissioner Barger said he thinks the land title industry might prefer state regulation to federal control. "The realities of economics and politics are perhaps going to compel you to treat the evidence of title as an insurance policy the way an insurance policy is treated for property and casualty and life in regard to who sells it, who issues it and how it is issued, and under what circumstances," he commented. "This may sound like a little strong medicine

. . . but the alternatives are a far more bitter pill to swallow."

To achieve effective state regulation, Commissioner Barger suggested that ALTA members go to their state insurance commissioners and ask for regulation that insures protection of the public and is reasonable so that title companies can live with it. "I can assure you," the commissioner added, "that he will be more than receptive to solving the problem."

Those in attendance at Atlanta were advised that federal regulation of settlement costs—including land title services—now is being implemented by HUD and VA. In a General Session address, Robert Horn, HUD program analyst, said the most immediate actions—affecting HUD and VA guaranteed home loans—include publication of maximum settlement cost standards in the *Federal Register* beginning in June for locales where settlement costs are deemed too high, and

Continued on page 10





prohibition of kickbacks. The item by item, area by area standards will be published for public comment and review, reconsidered, and revised before being republished and taking effect, Horn said. Other HUD actions include development of a single uniform settlement statement, requiring advance estimates of settlement costs, and plans to regulate escrow deposits.

These actions are based on a nationwide 1971 HUD-VA settlement cost study that found "high settlement costs as well as other problems of settlement stem in no small part from basic inefficiencies in existing systems of conveying, recording and assuring the validity of title to parcels of real estate." Horn cited such inefficiencies as decentralization of records, variation in quality of administration of public records, and the complicated and technical nature of searching.

Horn recalled that the HUD-VA study concludes that settlement costs are high in many geographic areas, and within certain areas, due to fragmented services, kickbacks and referral fees, charges based on property price rather than service cost, inefficient public records, and ineffective

state regulation. He said HUD is urging states to improve records, enact legislation to quiet old title defects, establish effective regulation of title insurance, and prohibit kickbacks. (For the full text of Horn's remarks, please see the April, 1972, *Title News*.)

Members were brought up to date on the Congressional legislative situation in the House by Federal Legislative Action Committee chairman James G. Schmidt in a report March 2. On February 24, ALTA Immediate Past President Alvin W. Long presented ALTA testimony at hearings on settlement costs and practices before the House Subcommittee on Housing. While these House hearings were in progress, Congressman Wright Patman of Texas introduced H.R. 13337, a bill which Schmidt explained at the Mid-Winter. This proposed legislation, as introduced, would prohibit kickbacks, require lenders to pay for their mortgagee title insurance; direct HUD to establish settlement cost standards and prepare and distribute booklets explaining settlement costs to buyers; require lenders to disclose the previous five years' selling prices of the property concerned; and prohibit interlocks between title companies and financial institutions.

In another Mid-Winter highlight March 2, ALTA members from vari-

ous states and the District of Columbia reported on settlement cost and practice legislative and regulatory developments in those states.

While members gathered for the March 2 Conference General Session in Atlanta, Long and other ALTA representatives were in Washington, D.C., to present testimony at Senate Subcommittee on Housing and Urban Affairs hearings on settlement costs and practices. The ALTA representatives returned to Atlanta late that day and Association Executive Vice President William J. McAuliffe, Jr., reported on the latest Senate developments at the Conference's final General Session the next morning.

In his Senate testimony, as in his House statement, Long called for giving states an opportunity to meet federal settlement cost standards before they are implemented. (The full text

Abstracters, Agents Discuss Bureaus

State rating bureaus, internal improvements, and joint plant operations were key topics at the meeting of the Abstracters and Title Insurance Agents Section during the Mid-Winter Conference.

Panelists Louis G. Dutel, Jr., Dutel Title Agency, Inc., New Orleans; Harry H. St. John, Jr., The Columbian Title & Trust Co., Topeka, Kans.; and Jack Rattikin, Jr., Rattikin Title Company, Fort Worth, discussed rating bureau activity in their respective states, and—in the case of Kansas—lack thereof.

The pros and cons of joint plant operation were discussed by Jerold G. Hauptman, Security Title Guaranty Co., Lakewood, Col.

Section Chairman James A. Gray spoke on public misunderstanding of the land title industry. Other committee chairmen, Otto Zerwick, plants and photography, and James Vance, errors and omissions liability insurance, presented their reports.



Jack Rattikin, Jr., Rattikin Title Company, Fort Worth, enlivens a panel discussion on rating bureau activity at the meeting of the Abstracters and Title Insurance Agents Section. Fellow panelists, from left, are Harry H. St. John, Jr., The Columbian Title & Trust Co., Topeka, Kans.; Louis Dutel, Jr., Dutel Title Agency, Inc., New Orleans; and section chairman James Gray, Fidelity Abstract & Guaranty Company, Benton, Ark.

of the ALTA Senate testimony can be found in the March, 1972, *Title News*.) Long added that ALTA supports most of the HUD-VA recommendations voiced by HUD Secretary George Romney at the recent Congressional settlement cost and practice hearings. The same day that Long testified, the Senate passed its version of a 1972 housing and urban development bill, including Senator Proxmire's amendment to the Emergency Home Finance Act of 1970, which would prohibit kickbacks and require HUD and VA to regulate settlement costs for FHA and VA loans, and in connection with mortgages purchased by Federal National Mortgage Association and Federal Home Loan Mortgage Corporation.

ALTA testimony also opposes provisions of Congressman Patman's H.R. 13337, which calls for HUD to establish a federal title insurance program, would require similar charges for mortgagee and mortgagor title insurance, and would prohibit interlocks between title companies and other financial institutions.

Along with the concentration on regulation, the Conference also covered significant internal developments. Standard Title Insurance Forms Committee Chairman Marvin Bowling reported that a zoning endorsement being developed by that Committee is expected to be ready for presentation at the Annual Convention in Houston this October. (Please see his report elsewhere in this issue.)

Continued on page 14

Underwriters Hear Customer Critiques

Three customer panelists presented critiques of title insurance to highlight the Title Insurance and Underwriters Section meeting at the Mid-Winter Conference.

While all panelists generally expressed satisfaction with their title service, they also had suggestions. Stanton W. Felt, II, of Frederick W. Berens, Inc., mortgage bankers, Washington, D.C., in commenting as an interim investor, said he would like closer adherence to lender customer instructions. Robert D. Londergan, associate counsel, John Hancock Mutual Life Insurance Company, com-

menting as a permanent investor using mortgagee land title services, cited the need for specifically pointing out exceptions in title insurance policies. Robert M. Wood, of Sears Roebuck and Co., Atlanta, provided a helpful commentary as a user of mortgagor land title services in larger volume.

Other meeting highlights, also arranged by Section Chairman Robert C. Dawson, included an updating commentary on the Interstate Land Sales Full Disclosure Act by Richard H. Heidermann, director of administrative proceedings division, Office of Interstate Land Sales, and a report by Standard Title Insurance Forms Committee Chairman Marvin Bowling on Committee activity regarding a leasehold policy and zoning endorsement.



Standard Title Insurance Forms Committee Chairman Marvin Bowling reports on committee activity at the meeting of the Title Insurance and Underwriters Section, as Section Chairman Bob Dawson (center), and Richard H. Heidermann, Office of Interstate Land Sales, listen. Both Bowling and Dawson are with Lawyers Title Insurance Corporation.



Gerald Ippel, The Title Guarantee Company, New York City, moderates a General Session panel discussion on settlement cost and practice legislation and regulatory developments in various states and the District of Columbia.

Part IV: ALTA Judiciary

Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 400 cases to Chairman John S. Osborn, Jr., executive vice president and general counsel, Louisville Title Insurance Company, for consideration in the preparation of the annual Committee report. Chairman Osborn reports that 82 cases have been chosen for the report. Other installments may be found in the February, March, and April, 1972 issues of *Title News*

* * *

PARTNERSHIPS

Madison National Bank v. Newrath, 275 Atl. 2d 495, 261 Md. 321 (1971)

Where land was leased on a long-term basis to three persons, including the defendant, trading as Pike Associates, a joint venture, all of whom agreed to contribute, as their respective shares of capital of the joint venture, all their title to the leasehold estate, and who also agreed to manage and operate a shopping center for 25 years, during which all of the parties would share equally in the profits and losses, the organiza-

tion was a partnership and, consequently, the defendant's interest in the leasehold property was partnership property which he could not convey by deed of trust as individually owned property. (This case contains a list of previous authority holding that a joint venture and a partnership may be indistinguishable.)

PLANNING AND ZONING

State et rel. Stoyanoff v. Berkeley, 458 S. W. 2d 305 (Mo. 1970)

Mandamus to compel issuance of a building permit was denied because an architectural board had determined that the proposed ultra-modern design was not in conformity with any other house in the entire neighborhood. The city was composed principally of residences of the general types of colonial, French provincial and English tudor. Evidence indicated that this was a fashionable neighborhood where average market values ranged from \$60,000 to \$85,000 each. The enabling zoning statutes provided that: "Such regulations shall be . . . designed . . . to promote . . . the general welfare; . . . Such regulations shall be made with reasonable consideration, among other things, to the character of the district

and its peculiar suitability for particular uses, and with a view to conserving values of buildings and encouraging the most appropriate use of land throughout such municipality."

Held: The denial of the building permit does not appear to be arbitrary and unreasonable when the basic purpose to be served is that of the general welfare of persons in the entire community.

RECORDING

Valley National Bank of Ariz. v. Avco Develop. Co., 480 P. 2d 671 (Ariz. 1971)

The right to unaccrued rent on a lease of real property is an incorporeal hereditament which is an interest in land and is incident to the reversion held by the landlord and an assignment of said rents is an instrument transferring an interest in realty under the Arizona recording act.

Stewart v. Fahey, 481 P. 2d 519 (Ariz. 1971)

The recording of a lis pendens is specifically authorized by statute in

Continued on page 16

names
names in the news
names

All TI Operations Combined into Unit

TI Corporation has reorganized, combining all of the company's title insurance operations into a single nationwide unit.

The nationwide group of title insurance companies now is administered through eastern, central and western regions with regional offices located in New York, Chicago and San Francisco. The company's four primary underwriting subsidiaries offer title insurance and related services in all of the states, Puerto Rico, the District of Columbia, Guam and the Virgin Islands. Corporate identities required by individual state laws will be maintained.

TI Corporation (NYSE) reported revenues of \$117 million from operations for the year ended December 31, 1971, up almost 30 per cent from the previous year.

Three longtime officers of TI Corporation subsidiaries now head the title insurance operations. **Hale Warn** has been named chairman and chief executive officer. **George B. Garber** is president and chief operating officer. **James D. Macneil** is chairman of the executive committee.

Warn, formerly president of Title Insurance and Trust Co., has become chairman of the board of that company and its subsidiary, Pioneer National Title Insurance Co., replacing **Ernest J. Loebbecke**, who remains chairman and chief executive officer of the parent company. Garber, president of Pioneer National Title Insurance Co., has also been elected president of Title Insurance and Trust Company. Macneil, executive vice



SPROULS



BRODEUR



DOWD



VERSEN



LEWIS

president of Title Insurance and Trust Co., has been elected to a similar position with PNTI. Warn has moved to San Francisco from Los Angeles and maintains his principal office at the title insurance western region headquarters in that city.

Three senior vice presidents have been named to head the regional operations. The western region, consisting of five divisions, is managed by **David R. Porter** in San Francisco. The central region, managed by **James O. Hickman** in Chicago, has three main

operating divisions. The eastern region includes four divisions managed by **Gerald L. Ippel** in New York. Ippel also continues as president of The Title Guarantee Company, a subsidiary of Pioneer National Title Insurance Co.

TI Corporation wholly owns or has a majority interest in four underwriting subsidiaries which conduct the bulk of its title insurance operations. These are Title Insurance and Trust Company, which operates throughout California, Nevada and Hawaii; The Title Guarantee Company, operating wholly within the state of New York; Alaska Title Guaranty Company, which operates throughout Alaska; and Pioneer National Title Insurance Company, which is licensed nationwide (except Iowa) and in the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

* * *

New Jersey Realty Title Insurance Company has elected **Walter A. Sprouls**, former executive vice president, president.

* * *

Bruce L. Nelson has been elected vice president of Louisville Title Insurance Company.

* * *

Charles E. Brodeur, vice president, Lawyers Title Insurance Corporation, Detroit, succeeds **Lawrence J. Dowd** (who retired in March) as Michigan state manager.

* * *

Gerry Verssen, chairman of the board of First American Title Guaranty Company, has been appointed vice president in charge of northern California escrow operations for First American Title Insurance Company, with headquarters in San Jose. He will implement standard systems, administer a comprehensive escrow training program, and be available for technical consultation for branches and affiliates.

* * *

Robert K. Lewis, assistant secretary, has been appointed manager of Peninsular Title Insurance Company's new office in Davie, Fla. The office is a branch of Peninsular's Fidelity Title & Abstract Division.

Other developments reported at the Conference Board of Governors meeting:

—Board approval of a proposal to update the ALTA Model Title Insurance Code and revise its preamble; announcement that ALTA has employed Burson-Marsteller, a leading public relations firm, to assist in improving public understanding of the land title industry; a report that ALTA is financially supporting the American Bar Foundation's Conference on Compatible Land Identifiers; and the naming of sites for the 1976 and 1977 ALTA Annual Conventions—the Olympic Hotel in Seattle, and the Washington, D.C., Hilton, respectively.

—Public Relations Committee Chairman Francis E. O'Connor reported on continuing Committee efforts to improve public understanding of the importance of land title services through activity including public service radio and television announcements and television films, and news releases and meetings with major media personnel. The Committee also is working on a new ALTA film to be used by members in emphasizing the importance of land title services, and is developing ideas for observing the centennial of title insurance in 1976.

—Ivan Peters, chairman of the ALTA Committee on Improvement of Land Title Records, reported on the American Bar Foundation's recent Conference on Compatible Land Identifiers in Atlanta. No conclusions about a common land identifier system were reached, he said, but there was agreement that no single national system of land records could be practically achieved. A regional system was deemed more feasible, he reported.

—In a Research Committee report, it was noted that ALTA guidelines have been developed for use by title insurance companies in compiling rates of return that will conform to the title insurance annual statement blank and be in close compliance with those guidelines adopted by the NAIC for the property and liability insurance

industry. The Board approved these guidelines for submission to NAIC for consideration and possible adoption.

Those in attendance benefited from excellent programs at Conference meetings of the Abstracters and Title Insurance Agents Section and the Title Insurance and Underwriters Section, which are reported on elsewhere in this issue.

President Noah Langdale of Georgia State University brightened the Conference agenda with an inspirational speech. The Public Relations Committee provided a sample of the 1972 ALTA public service radio spots, coupled with a visual presentation that included recent ALTA television film clips. The radio spots feature the

prominent actor, Vincent Price, and television stars of CBS Television's "All in the Family," Sally Struthers and Rob Reiner. These presentations provided lighter moments in a Conference that included some of the most vital subject matter ever considered by ALTA members.

As the proceedings concluded in Atlanta, title men and women left for home with the feeling that they—through their national association—are directly involved in developments that will exert a lasting influence on their industry and their future. It was good to know that their hard work and support have helped make ALTA an effective institution in the nation's capital and across the nation.

Report of the ALTA Standard Title Insurance Forms Committee

(Editor's note: This report was presented by ALTA Standard Title Insurance Form Committee Chairman Marvin Bowling during the Association's 1972 Mid-Winter Conference.)

* * *

In his report during the annual meeting in Detroit, the former chairman of our committee, Dick Howlett, stated that a leasehold policy, zoning endorsement and other endorsement forms would be submitted to the membership "shortly". With all his experience on the committee, Dick should have known that we would not be able to come up with forms "shortly".

However, the committee has met three times since the annual meeting and is working diligently on a proposed zoning endorsement. It is my feeling that after one more meeting, we will have a draft of a zoning endorsement. It is our intent to circulate this draft among the membership of the ALTA and the association liaison committees to our committee which were appointed by various customer groups.

We will invite comments from members of the ALTA and the liaison committees and give them an oppor-

tunity, if they so desire, to appear at a meeting of the committee for personal discussion. It is our hope that we will have a final draft of a zoning endorsement ready for adoption at the annual convention in Houston.

I thought it might be helpful to briefly outline to you some of the matters which the Standard Title Insurance Forms Committee has been considering in drafting a zoning endorsement. This might be of aid to you in understanding the coverage which will appear in the draft that will be sent to you shortly.

As you know, our policy forms have contained a complete exclusion regarding zoning matters. However, beginning with a savings and loan in Massachusetts and a life insurance company in New York, some of our customers have received zoning coverage from time to time. Customer groups have complained that the zoning coverage they have gotten on occasion has been furnished in many different forms and the Board of Governors requested the Standard Title Insurance Forms Committee to draft a recommended zoning endorsement form.

The committee has been considering the following questions, among others:

1. Should the endorsement insure that the insured premises is within a certain specified zone, such as "Zone C-5"?

2. Should the endorsement insure that the zoning ordinance and its amendments have been validly enacted by the governing body? This would mean insuring that all the statutory requirements for adopting zoning ordinances have been complied with, such as the furnishing of proper notices, procedures for holding meetings, etc. Such insurance might entail the risk of "spot zoning" (zoning insured premises differently from surrounding properties), "contractual zoning" (zoning of property provided the owner does something for the municipality, such as dedicate a street), "consent zoning" (zoning conditioned upon the consent of a certain number of neighbors) and any amendment to zoning ordinances. Also, there is always the question of "variances" (permission to deviate from zoning requirements).

3. Should the endorsement insure the uses permitted by the zoning classification? For example, the ordinance may list a number of uses in Zone C-5. Should the endorsement insure only listed uses or show uses requiring an interpretation? How about showing uses which may be made only under certain conditions or upon the obtaining of a special permit from the Zoning Board?

4. Should we insure that the land and structures are in compliance as to use? This may require architectural and engineering investigation since use may be conditioned upon structures having the required density, height, depth or set back.

5. Should we insure compliance with requirements other than use? This might include lot size, set back and building size.

6. Should we insure against unmarketability of title on account of possible violations of zoning ordinances?

7. Should the endorsement make it clear that we do not insure compliance with building codes, licensing requirements and departmental regulations?

8. Should the coverage be furnished in both owner's and mortgagee policies?

I hope the foregoing summary will give you some idea of the problems that the committee has been facing and that it will help you in examining the zoning endorsement forms we will be sending you.

S & L's—Continued from page 6

their sharpest decline since their August, 1971, highs. Loans closed in February dropped 18 basis points for new homes, to 7.60 per cent, amortizing loan fees over a 10-year period. Effective rates on existing homes fell to 7.49 per cent. At the February level, the average effective interest rate on such loans was 24 basis points below last year's high, and only 13

basis points above the low reached in May, 1971. Last month's decline in effective interest rate resulted from a 19-basis-point drop in the average contract interest rate on new home loans—to 7.43 per cent. The direction of change is good news, in helping continued loan volume, but the levels are getting awfully close to the minimum spread savings and loan associations require above their cost of money.

I believe that this drop in mortgage interest rates in the past nine months is in the public interest in many respects. First, it shows that the market mechanism is working. Savings and loans particularly, and other institutions generally, are suffused with funds. Nationally, both January and February were record months for savings and loans. Not counting interest credits, savings and loans probably had net savings gains of \$2.3 billion to \$2.6 billion in February, 12 or 13 per cent above the previous record February set last year. This is down from the preliminary estimate of \$3.1 billion, and it is a more than seasonal decline, but it is still so much money that it looks like a deluge. Nationally, savings and loans may have closed as much as \$3 billion last month, and that just runs off the chart, be it seasonally adjusted or whatever. There is another reason that a decline in mortgage interest rate is salutary. As long as the market mechanism works, we may be able to avoid fixing the rates by government. You know that this works to cut off the flows of capital to housing when some arbitrary number is fixed by law or executive order. We have seen it happen again and again in governmentally insured and guaranteed loans.

The FHLBB does not now plan to use its statutory power to bring down passbook or certificate interest rates. We recognize that the rates I have quoted are getting close to savings and loans' cost. Then how could further decreases in interest rates be encouraged? Well, what about reviving serious attention to the variable interest rate mortgage? It is just possible that some lending institutions could be induced to use interest-adjustment clauses in their new loans, offering the

borrower a choice between a fixed and a variable rate. To market this new approach, it also might be necessary to offer the loan at a somewhat lower rate. This might be a pretty good time to try this approach. If rates continue to go down because of an oversupply of savings, borrowers would enjoy a lower rate without having to pay the cost of refinancing. If rates rise sometime in the future, lenders would be protected against the whiplash of borrowing short and lending long. You are aware that the Federal Reserve Board, the Hunt Commission, and the Realtors all have come out in favor of this device. When talking with FHA, FNMA and our own Mortgage Corporation people to see if there isn't a way to make a market for variable interest rate paper to spur its use, we have found that a great deal of interest exists in making such a market.

Finally, let me share with you my satisfaction as to the progress our Mortgage Corporation is making in disseminating mortgage price and yield information, including the March 15 quotations on secondary or resale market. You may have noticed FHLMC's yields on cash sales of single-family mortgages 2 weeks ago. Last week, conventional loans were estimated at 7.397 per cent, down about 8 basis points from the week before.¹ I'm sure you are aware of the Mortgage Corporation's purchase price quotations in the Thursday, March 9, *Wall Street Journal* for FHA, VA, conventionals and conventional participations.² Obviously, you can't have a market without housing quotations. I think these figures along with Fannie Mae's auction figures are going to have a lot of impact in the future. You are going to find that the young portfolio managers in institutions will become increasingly aware of the investment quality of mortgages and participations, not to mention the Ginnie Mae mortgage-backed securities. Gentlemen, these are revolutionary changes, and many of us are so close to them that we can't see the impact they are having. I commend you for your progress in this area in housing and in mortgage

affairs, and I am honored to be a participant with you in this most dynamic of financial processes.

So, in summary, the savings and loan industry lately has been moving about as fast as that cable car I mentioned earlier. In a different direction, of course. But it certainly has been a "turn-around."

And with all these new tools at their—and your—disposal, that's why I ask you to take a new look at these savings and loans.

Before I close I want to remind you of all those housing starts coming on stream this year from 1971. There has never been such a proliferation of housing types to choose from. There have never been so many new towns and planned unit developments.

So if 1971 was "housing's year," perhaps we could call 1972 the "housing consumer's year." He is going to have a wide variety of choice. He is going to have a pretty good way to borrow. During 1971 the housing producer was able to get all that money and go out and build, and all those efforts are going to be running out the other end of the horn this year.

¹ WALL STREET JOURNAL, Wednesday, March 15, 1972

Weekly yield compilations gathered by FHLMC:

	Last Week	Previous Week	4-week Average
FHA-VA loans	7.195%	7.241%	7.817%
Conventional loans	7.397%	7.484%	7.450%

² WALL STREET JOURNAL, Thursday, March 9, 1972
Purchase Price Quotations—Federal Home Loan Mortgage Corporation

FHA/VA	Conventional Mortgages	Conventional Participations
Rate: 7.00%	1 to 4: 7.250%	Class A: 8 %
6 Month: 95.50	Multi: 8.250%	Class B: 7¼%
Immed.: 97.00		

JUDICIARY REPORT—Continued from page 12

the state of Arizona and has no existence separate and apart from the litigation of which it gives notice and thus is a part of judicial proceeding. Therefore the filing of a lis pendens is absolutely privileged and will not sustain an action for slander of title. *Hanson v. Zoller*, 187 N. W. 2d 47 (N. D. 1971)

The supreme court held it was the duty of the mortgagee to protect his interest against subsequent purchasers or encumbrancers by making certain the said instrument was properly recorded; that the recordation did not constitute substantial compliance to the recording statutes where such an instrument was not properly indexed in the tract index, and that subsequent purchasers and encumbrancers could be only charged with notice of instruments that were correctly indexed in the tract index.

That instruments deposited with the register of deeds for recording gives only temporary constructive notice from the time of such deposit until recording has been completed, and after recording the actual record constitutes constructive notice.

That since the tract index maintained by the register of deeds is the only practical index by which instruments on record can be located, an instrument recorded but not indexed under the correct tract description in the index does not constitute substantial compliance with the recording statutes; and further that a purchaser or encumbrancer has the right to presume the register of deeds has correctly performed his duties, and has indexed the instrument correctly in the tract index.

First State Bank of Nora Springs v. Waychus, 183 N. W. 2d 728 (Iowa 1971)

The supreme court held that erroneous description of real property in bank's financing statement covering location of seller's hogs did not impair the efficacy of financing statement insofar as it imparted constructive notice to buyer as to bank's security interest in hogs as it was sufficient to direct inquiry.

RESTRICTIONS

Albino, et al, vs Pacific First Federal Savings and Loan Association, et al, 479 P. 2d 760 (Oregon 1971)

A deed restriction providing that no building shall be erected except "a private dwelling house" prohibits the construction of "multiple family" or apartment housing, including "garden court" apartments.

Where the contention is made that such restrictive covenants are no longer binding and enforceable because of a "radical change" in the character of the neighborhood, and because enforcement would be oppressive, it is well established in Oregon that a court of equity will not refuse to enforce such restrictions unless the effect of the change upon the restricted area is such as to clearly neutralize the benefits of the restrictions to the point of defeating the object and purpose of the covenants. It is not sufficient that there have been changes outside the restricted area, unless there have also been changes in the area itself, nor is it sufficient that, as a result of the changes outside the area, the property within the restricted residential area may be more valuable for business purposes.

Dotson et al v. Hannaford, et al, 226 Ga. 732, 177 S. E. 2d 376 (1970)

Temporary injunction against maintenance of mobile home in violation of subdivision restrictive covenants is reversed where restriction prohibited "erection" of dwelling of less than specified square footage, as where mobile home had not been affixed to realty, it had not been "erected" so as to come within the prohibition of the restriction.

Note: The same ruling was applied in *White v. Watford, et al*, 226 Ga. 777, decided October 8, 1970

Restrictions Section To Be Continued

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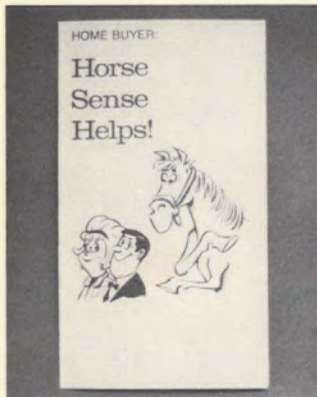
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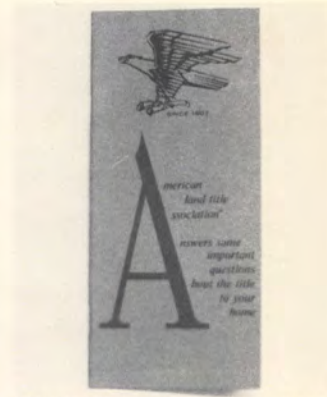
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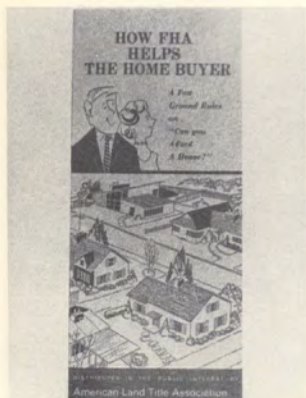
HOME BUYER: HORSE SENSE HELPS! A concisely-worded direct mail piece that quickly outlines title company services. 1-11 dozen, 65 cents per dozen; 12 or more dozen, 50 cents per dozen; designed to fit in a No. 10 envelope.



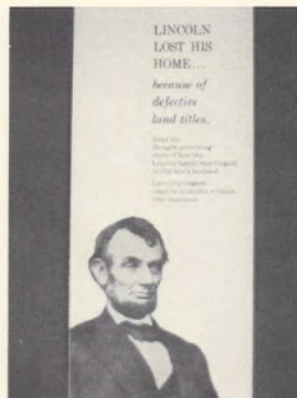
CLOSING COSTS AND YOUR PURCHASE OF A HOME. A guidebook for home buyer use in learning about local closing costs. Gives general pointers on purchasing a home and discusses typical settlement sheet items including land title services. 1-11 dozen, \$2.25 per dozen; 12 or more dozen, \$2.00 per dozen.



AMERICAN LAND TITLE ASSOCIATION ANSWERS SOME IMPORTANT QUESTIONS ABOUT THE TITLE TO YOUR HOME. Includes the story of the land title industry. \$11.00 per 100 copies of the booklet.



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THE IMPORTANCE OF THE ABSTRACT IN YOUR COMMUNITY. An effectively illustrated booklet that uses art work from the award-winning ALTA film, "A Place Under The Sun", to tell about land title defects and the role of the abstract in land title protection. Room for imprinting on back cover. \$12.00 per 100 copies.

(LEFT) **BLUEPRINT FOR HOME BUYING.** Illustrated booklet contains consumer guidelines on important aspects of home buying. Explains roles of various professionals including broker, attorney and titleman. \$18.00 per hundred copies, 20 cents each on 99 or fewer copies. (RIGHT) **ALTA FULL-LENGTH FILMS:** "BLUEPRINT FOR HOME BUYING." Colorful animated 16 mm. sound film, 14 minutes long, with guidance on home selection, financing, settlement. Basis for popular booklet mentioned above. \$95 per print. "A PLACE UNDER THE SUN." Award winning 21 minute animated 16 mm. color sound film tells the story of the land title industry and its services. \$135 per print.



American Land Title Association

