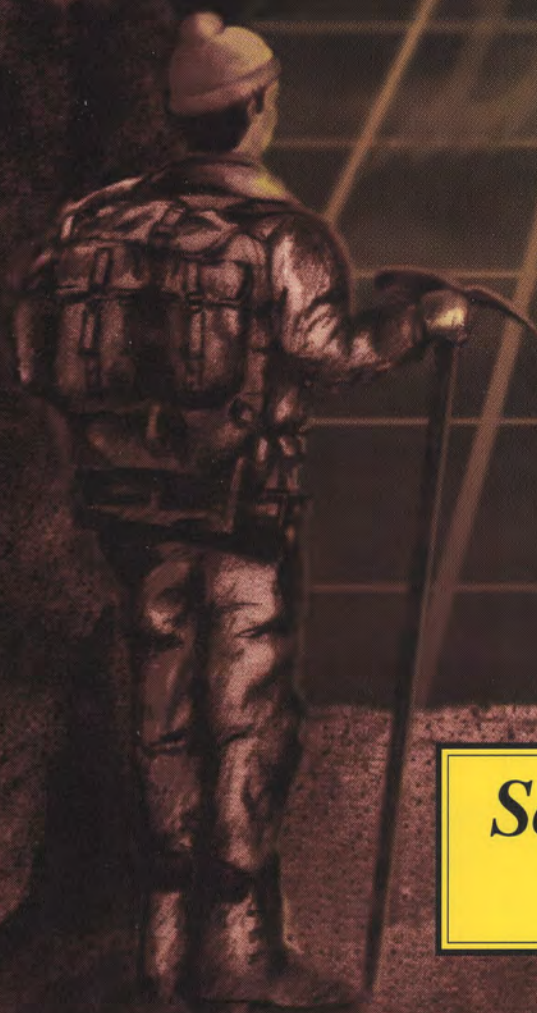


TITLE *News*

MAY - JUNE 1993

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Volume 72, Number 3

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FEATURES

On the Cover: What can be expected next in settlement regulation following HUD's issuance of the troubling and ambiguous RESPA regs late last year? Sheldon Hochberg, long-time Washington counsel on the title industry side of RESPA matters, presents an analysis beginning on page 17. Regardless of what may be ahead, many in the title business presently can identify with a mountain climber about to embark on an uncertain and challenging adventure. (Cover illustration by Oliver)

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A Message from the Underwriter Chairman



In preparing this, my first "message" for *Title News*, I wanted to address one of the many serious issues affecting the title insurance industry today. Unfortunately, choosing from among the possibilities, even if I were not bound by space limitations, quickly becomes an impossible task.

A variety of outside factors affects our profitability, defines our markets and restricts our ability to act.

Our business is beset more with regulators than regulations. Legislators and governmental agencies, often with little knowledge of our problems and less interest, want to make us responsible for market pressures which we cannot control and for closing costs from which we do not benefit. Rules that are ultimately established often ignore or accommodate unjust practices while requiring title entities to comply with complex standards of validity.

It seems to me that the topic most worthy of addressing in these circumstances relates not so much to our difficulties but to the way in which we cope with them. Despite the efforts, and achievements, of the ALTA staff and the hard work of many of our members, the task of educating and persuading public officials continues to be very difficult.

What is needed is a local outpouring of interest (or perhaps outrage) on the part of the million or so people whose livelihood and personal success are directly dependent on the future of our industry. A grassroots expression of our concerns and positions, in addition to the strong support of the Title Industry Political Action Committee necessary to sustain our organized lobbying program, would improve significantly the effectiveness of our Washington activities.

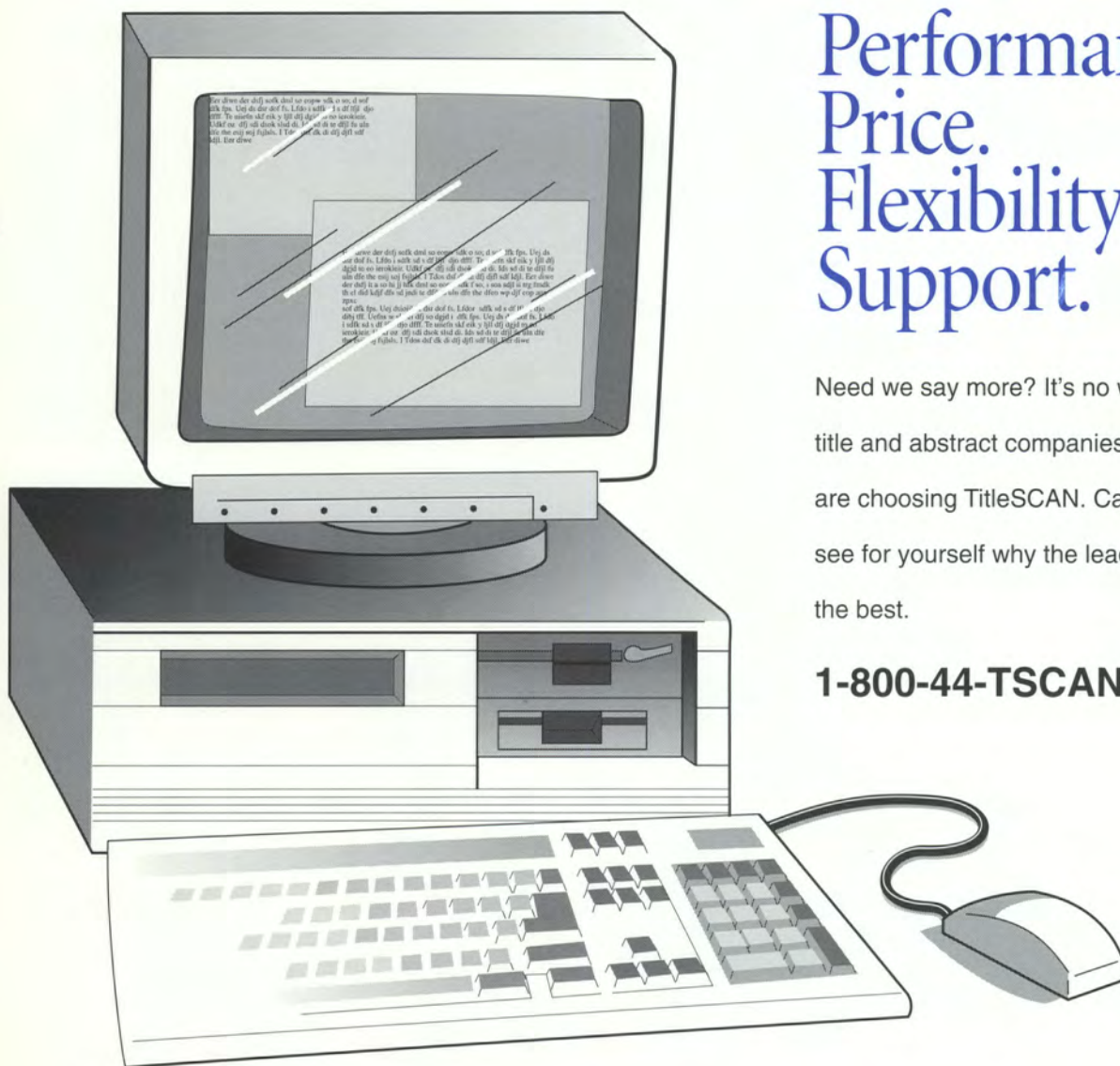
It is unfortunate that only a small number of ALTA members participate in its activities, and that fewer still contribute financially to TIPAC or participate in our government affairs agenda. But, if any of you are encouraged to become more active members because of my comments, I would prefer that you establish a priority for this most vital part of our work rather than devote your precious time to another industry resort-area convention or cocktail party. What is involved here is our fight for survival, and every one of us is needed for that fight.

Certainly, there are larger and wealthier trade organizations capable of mustering greater political power, but a united, vocal and persistent group of citizens will be hard to ignore. And, sometimes, the message comes through.

Aren't you tired of being a target? Don't you think it's time to begin your own one-on-one dialogue with your elected representatives? I urge you to call Ann vom Eigen, ALTA legislative counsel, and find out how you can get started.

Herbert Wender

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LETTERS

Title News welcomes letters from readers that include commentary on articles or other material published in the magazine, as well as thoughts on other issues and topics of national concern to the title industry. Letters should be kept brief in the interest of space limitations. The editors reserve the right to determine which letters will be published, and to edit what is submitted as deemed appropriate. Address correspondence to Letters Editor, *Title News*, American Land Title Association, Suite 705, 1828 L Street, N. W., Washington, DC 20036.

Will NAIC Fashion New Underwriting Competition From Title Agencies?

Sirs:

Rich McCarthy's article, "NAIC: Sharpening the Focus on the Title Industry" (March-April *Title News*), provided an excellent background description of those forces and issues responsible for the NAIC's current efforts at enhanced regulatory scrutiny of the title insurance industry. As both a title agent and an underwriter (through our joint ownership of a "captured" title insurer with a national title insurance company), I am concerned about NAIC activity on both halves of the plate.

Having said that, however, I am most concerned about the NAIC's efforts to develop a Model Title Agents Act and the effect of that on Western Title agents, particularly if the Model Act includes regulation of commission splits.

My perspective on this issue is driven by the belief that regulation by any state or federal authority is never preferable to free market competition. ALTA should be challenging every effort by regulators or any other special interest groups or persons who would use temporary industry imbalances to force bureaucratic controls on our business which would likely work to the benefit of one side of our industry against the other.

Rich's article masks what I believe is an industry predisposition to use NAIC solvency concerns to achieve through regulation what the underwriting side of the industry hasn't been able to obtain through competition. Frankly, almost all Western Title agents I have talked with were stunned to learn that a Nelson Lipshutz study, sponsored by ALTA and designed to acquaint the NAIC Title Insurance Working Group with key industry issues, contained language which clearly inferred that additional regulation of title agents, including commission splits, was one of the solutions to industry solvency concerns.

Quoting from the study, Nelson states, "Agency commissions in title insurance are more than a mere marketing expense; they are the most important cost of doing business. Title insurance rate analysis is only possible when the level of agency commissions is analyzed in terms of the revenue needs of the agent to defray its costs and provide it with a reasonable profit.

When viewed in this way, agency commission rates move from the sphere of unregulated private negotiation to the center of the rate-making stage."

Later on in the study, Nelson comments, "thus, changes in title insurance commission rates bear strongly on the issue of insurer solvency."

In light of Nelson's comments, I was later disappointed to learn that the NAIC Working Group had established two industry subcommittees to provide input on key issues: a Market Issues Subgroup and a Solvency Subgroup, and that Nelson was appointed subcommittee chairman for both groups. In my opinion, that does not bode well for the agency side.

In any event, there are three points that are worth mentioning again for all title agents listening: there's a train coming down the track and it's not bringing next year's Christmas gifts; you have a little time left to organize to protect your business, but not much; those of you who have always relied on the underwriting side of the business to protect you with respect to macro industry issues are due for a rude awakening.

Finally, I think it's important to recognize that, if a model title agents code with regulated commission splits is enacted in key western states, both sides of the industry and the consumer will ultimately suffer. Clearly, agent profitability will be impacted and some agents will exit the business. Prices will rise and underwriting will become more restrictive, both inevitable results of lessened competition.

The good news, however, is there are probably four to six agents in California alone who have enough "critical mass" to solve the problem by developing their own underwriting alternatives, either separately or through joint ventures.

It would really be ironic if a new regulatory tool, favoring the existing underwriting group and designed to eliminate agency competition, spawned a new group of underwriting competitors who ultimately were more effective competitors than those on the underwriting scene today.

Dan R. Wentzel
Chairman and Chief Executive Officer
North American Title Company
Walnut Creek, CA

ALTA Makes A Difference—Again

Sirs:

David Smith's article on the *Buena Vista* foreclosure case (March-April *Title News*) instructed me on two important points:

The United States Supreme Court ruling in the *Buena Vista* case is a landmark decision

Once again we see the importance of an activist American Land Title Association

As David Smith noted, the Supreme Court decision in the case is indeed significant. It recognizes that subsequent owners acquiring an interest in property after illegal activity can qualify as innocent owners under the civil forfeiture statute. This had long been a source of debate. The Justice Department had asserted that the "relation-back doctrine" could cut off the rights of subsequent innocent owners. In essence, according to the Justice Department, a subsequent owner who was not an owner at the time of the illegal activity could not qualify for protection because the forfeiture related back to the time of the activity.

Fortunately for purchasers and lenders in real estate transactions, the Supreme Court limits the effect of the "relation-back doctrine": it applies only after a judicial determination. Even the dissenting view also would have been equitable; the dissent would protect an innocent owner who was a bona fide purchaser for value after the illegal act.

Even though forfeitures are excluded by the title policy exclusion to police power matters, this decision will reduce inappropriate claims by the government against insureds.

The Smith article also reflects the significance of the American Land Title Association. ALTA filed an amicus brief in the *Buena Vista* case and helped forge a welcome outcome. Prior to that time, ALTA has followed the history of this case and prior forfeiture cases dealing with this important issue. Involvement of the Association has been a source of education for both its membership and the judiciary.

Once again, ALTA has made a difference. This is simply another reason to be a member of the organization.

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Will You Help Meet The Challenge?

By Parker S. Kennedy
ALTA President-Elect

Almost 33 years ago, the members of the American Land Title Association experienced a major event—the moving of our headquarters office from Detroit to Washington, DC. Those holding ALTA leadership positions at the time envisioned the growing involvement of the federal government in the title industry, and wisely saw the strategic advantages of having our national operations based where much of the battle originates.

Fortunately, our national association leaders enjoyed the support of individual ALTA members throughout the country when they reached the decision to relocate. This kind of unity has been a major strength throughout the history of ALTA.

As I plan my year as your ALTA president that begins in October, this traditional support of our individual association members will be more essential than ever if we are to successfully influence the future of our business. Interwoven with this involvement is the willingness of title men and women across the country to serve on the various ALTA committees.

If you are interested in continuing or beginning service on an ALTA committee (committees and their responsibilities are listed below), I invite your response to my recent letter on the subject. Please list the committees on which you would like to serve during 1993-94 and be sure to send in your letter promptly. I will give your request full consideration.

There has never been a time when we were in greater need of a strong national association. Besides the ongoing possibility of Congressional initiatives that would drastically change the title business as we know it, there are new actions of major concern in the regulatory sector—notably HUD with the revised RESPA regulations and the work of the NAIC Title Insurance

Working Group.

An effective response to these and numerous other challenges to our industry depends on a strong network of ALTA committees. If you would like to be part of our committee structure through the coming year, please let me hear from you. This type of voluntary participation truly is where the strength of our association is centered.

The **Bylaws Committee** considers proposals to amend the ALTA Bylaws and revise the ALTA Code of Ethics.

The **Directory Rules Committee** receives suggestions, complaints, problems, reports of disputes and protests arising from any *Directory* listing and reports recommended changes in *Directory* listing rules and regulations to the Board of Governors.

The **Education Committee** evaluates the education needs of the Association, affiliated regional and state title associations, and individual ALTA members and plans activities that will best meet these needs.

The **Government Affairs Committee** recommends to the Board of Governors positions and involvement in federal and state governmental activities affecting the land title industry and develops and implements strategy and tactics in accordance with the Bylaws to facilitate reaching legislative/regulatory objectives.

The **Grievance Committee** considers and investigates complaints involving alleged misconduct by ALTA members in relations with the general public, ALTA, or other members of the Association.

The **Improvement Of Land Title Records Committee** reviews significant legislative, administrative and technological developments in the land records area that may affect the title industry—and maintains communication with county recorders/clerks on matters of mutual interest.

The **Committee On Internal Auditing** monitors the American Institute of Certified Public Accountants and reports on any recommended changes in internal auditing practices and procedures, monitors the title industry with respect to changes in business practices, and develops internal auditing procedures for any new practices. This is a specialized committee consisting of corporate underwriter audit directors and chief financial officers.

The **Judiciary Committee** reports important decisions rendered in federal and state courts relating to the duties, liabilities and responsibilities of the abstractors and insurers of title to real property or liens and obligations thereon and other decisions relative to land titles, and publishes its findings for the ALTA membership.

The **Land Title Systems Committee** studies automation of local title office operations and title plants and provides the ALTA membership with timely information and advice in this field. The committee monitors developments in electronic information transfer, and is responsible for the ALTA Annual Convention Automation Exposition.

The **Liaison Committee With The Commission On Uniform Laws** observes, with the approval of the National Conference of the Commissioners on Uniform Laws, drafting sessions of that body on proposed model acts of concern to the title industry that are being developed by



President-Elect Kennedy is president, First American Title Insurance Company, Santa Ana, CA.

the National Conference.

The **Liaison Committee With The National Association Of Insurance Commissioners** monitors and reports on matters of interest to the title industry that arise through the NAIC, and works with that body in the promotion of sound legislation and regulation.

The **Membership And Organization Committee** promotes membership in or affiliation with ALTA and develops programs designed to retain the existing ALTA membership.

The **Public Relations Committee** develops and executes a program of communication in order to improve favorable national understanding and acceptance of the land title industry and its services among priority audiences.

The **Research Committee, Underwriter Subcommittee**, assists the ALTA officers and staff in performing economic analyses on matters of interest to the title insurance industry. The committee collects, compiles and reports title industry financial information to the ALTA membership, members of Congress, state insurance departments, and the general public.

The **Research Committee, Abstractor-Agent Subcommittee**, collects data pertaining to, and reports on, the organizational and financial characteristics of ALTA member abstractors and agents.

The **State Legislative And Regulatory Action Committee** obtains information on state legislative and regulatory proposals affecting the land title industry, and recommends action regarding such proposals.

The **Title Insurance Accounting Committee** assists the Association officers and staff in analyzing any accounting matters that might affect the title insurance industry and works with the American Institute of Certified Public Accountants and the National Association of Insurance Commissioners toward developing uniform accounting practices and procedures. This is a specialized committee consisting of financial personnel.

The **Title Insurance Forms Committee** reviews the approved ALTA title insurance forms and recommends new forms or revisions of existing forms to keep title insurance coverage responsive to the needs of insureds and the title industry, and consistent with requirements of supervisory authorities. This is a specialized committee consisting of title underwriting counsel.

The **Title Underwriter Counsel Committee** promotes the exchange of information within the ALTA membership about current developments in the law af-

fecting title insurance and conveyancing generally. This is a specialized committee consisting of title underwriter counsel.

The **Claims Administration Committee** promotes greater efficiency and effectiveness in the internal management of title insurance claims through the sharing of ideas and information about individual company problems and solutions. The committee also disseminates information regarding automation of claims records, claims categorization, alternative dispute resolution mechanisms, procedures for the establishment of claims reserves, management of outside counsel resources, litigation risk analysis and assessment and other claims administration issues. This is a specialized committee consisting of title underwriter claims counsel.

The **Closing Committee** provides inter-disciplinary consultation on matters involving residential and commercial real estate closing in order to assist ALTA staff in liaison efforts with federal and state legislatures and regulators or related industry groups. The committee also recommends industry guidelines or positions on closing issues, including but not limited to uniform closing instructions; tax reporting concerns; regulatory sanctions involving closing agents; and additional federal regulatory burdens to be placed upon closing agents.


The **Committee On Indian Land Claims** keeps ALTA and its members apprised of new developments in the Indian land claims area and monitors ongoing Indian claims litigation to determine its general impact on title insurance and conveyancing. This is a specialized committee consisting of title underwriter counsel.

The **Liaison Committee With The American Congress On Surveying And Mapping** develops joint educational and informational materials to explain the importance to the consumer and real estate professional of owners title insurance and an accurate land title survey.

The **Recruitment and Retention Subcommittee** recruits new ALTA members and works to retain the present membership of the Association.

The **Reinsurance Committee** promotes the exchange of information within the ALTA membership about current developments in the law affecting the reinsurance and coinsurance of title insurance risks. This is a specialized committee consisting of title underwriter counsel and reinsurance specialists.

The **Risk Management Committee** assists the title industry in developing ap-

propriate responses to fraud and dishonesty in the current operating environment and reviews the possibility of securing catastrophic insurance coverages from Lloyds' of London. 

Computer Plant Group Holds Event

Members of The Title Plant Users Group (TUG) held their Ninth Annual Conference in New Orleans during May, where the agenda included an imaging workshop, prism overview, digital mapping and various other discussions and demonstrations.

TUG membership is open to all entities which own or manage a computerized title plant, according to James P. Silbey, president, Title Data, Inc., Houston. Those who may apply for non-voting associate membership include software and/or hardware vendors, consultants, and others. Objective of the organization is to provide a forum in which users of computerized title plants may exchange information on automated systems, technical developments, concerns and other topics of mutual interest.

Information on making application for TUG membership is available from Glen Finley, Land Records Corporation, 609 Gold Avenue, S. W., Albuquerque, NM 87102 (telephone 505-243-0608).

Monroe Opens Office in Auburn

Monroe Title Insurance Corporation, Rochester, NY, has opened a new office in Auburn, NY, which serves the Cayuga County area. The facility is located in the county clerk's office building and offers a full line of title insurance and abstract services.

Heading the Auburn operation is David F. Kelly, who previously served as abstract supervisor in Monroe's Syracuse office.

NJLTA Designates Donohugh as CTP

Harold Donohugh, president, County Abstract Co., Moorestown, NJ, has received the Certified Title Professional (CTP) designation of the New Jersey Land Title Association, according to Joseph A. Grabas, CTP, chairman of the organization's designation committee.

Donohugh is an honorary member of NJLTA.

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So You're Thinking About Rate Regulation...

By Nelson R. Lipshutz, Ph.D.

While the recent Supreme Court decision on the Federal Trade Commission's action against various title insurance rating organizations offered less of a blueprint for ratemaking than had been anticipated, pent-up demand for national rate regulation has led title insurers and agents in more and more jurisdictions to consider proposals to establish new rate-making environments.

The purpose of this article is not to recommend one particular system as a panacea, since local conditions have a profound influence on what type of rate regulatory approach will best serve title insurers, their agents, and the consuming public. Rather, what I hope to accomplish is to provide a *framework for analysis* that can help those considering a proposed program of rate regulation (including no regulation at all) to determine the likely consequences of the proposal's adoption.

The framework for analysis I recommend is summarized in Table 1. My approach is to consider a rate proposal as being created by making a series of *decisions* as to how various *areas* of the rate regulation process will be designed. Within each decision area, there are a series of *options* which can be selected. The choices made among these options will have certain *implications* for the way the rate regulatory system will work.

Rating Procedure

The various procedural options that are available include use and file, file and use immediately, file and use with a delay, file and use and justify, and prior approval. These different methods, which we have listed in order of increasing intensity of regulatory agency involvement, have dif-

ferent consequences in three major areas: rate stability, rate adequacy, and cost of compliance.

Depending on the jurisdiction, a low intensity of regulatory involvement can either contribute to or militate against rate stability. In some jurisdictions, a low level of regulatory involvement in title insurance rate review has been accompanied by

In particular, it is essential to address...whether agency retention ratios, or the pricing of title evidence transferred between insurer and agent, will be brought within the regulatory ambit.

rates that have remained unchanged for many years. In other jurisdictions, a low level of regulatory involvement has been accompanied by a blizzard of filings. The same variety of outcomes also has characterized states with a high level of regulatory rate review activity. It is important to assess the attitude of the particular regulatory authority in the jurisdiction which is considering a new form of rate review to predict how this factor is likely to play out.

There is a similar ambiguity in the effects of rating procedure on rate adequacy. It is often believed that rate adequacy is best assured by open market forces, and that regulation serves only to constrain profitability to unrealistically low levels.

This conventional wisdom, however, is often belied by experience. Situations have arisen in which unregulated rates have been held to unrealistically low levels by excessive competition, with negative consequences for policyholders, for insurers, and for agents. Conversely, jurisdictions exist in which thoughtful regulation has assured rate adequacy over the peaks and valleys of the real estate cycle. Much of this variability in performance can be attributed to the degree of attention paid in the initial drafting of the statutes and regulations under which the rate regulatory system operates to the economic principles which guide regulatory rate review.

In terms of the cost of compliance, there is (unfortunately) little ambiguity in the trend: more intense levels of regulatory involvement produce materially higher costs of compliance. These increased costs include both external costs (primarily fees for attorneys, accountants, actuaries,



The author is the founder and president of Regulatory Research Corporation, Waban, MA, and has developed methods of economic analysis that have been adopted as the basis of title insurance regulation throughout the country. His activity has included presenting testimony before state insurance departments, and working with the ALTA Research and Accounting Committees to develop one of the first uniform statistical and financial reporting systems implemented by the title insurance industry. He earned his doctoral degree at the University of Chicago. The accompanying commentary is based on remarks presented at the Rate Regulation Symposium of the Illinois Land Title Association in Naperville, IL, February 9, 1993.



dures which have a high level of active regulatory involvement, which indirectly produces a countervailing upward pressure on compliance costs. Similarly, the promulgation of rates by the state places no direct ratemaking cost on the individual company. However, this direct cost avoided is more than offset by the typically high cost of providing the extensive data required by the state to perform its own ratemaking calculations, and by the costs of presenting evidence at rate promulgation hearings.

The speed of regulatory response is affected by the nature of the filing entity primarily through the indirect effect on the level of regulatory involvement. In theory, the lower the amount of analysis that the regulator is called on to perform, the quicker can be its response. However, this theoretical trend can be modified by many factors. For example, the existence of a statutory clock which forces the pace of regulatory decision-making can render decisions faster in a promulgated rate state than those made in a file and use state in which individual company filings cannot be processed expeditiously because of budgetary strictures on available clerical resources.

Finally, it is important to consider the effect of the choice of filing entity on the locus of power for setting the rate regulatory agenda. Individual company filing, of course, allows the individual insurer to focus proposed rate changes in the areas most important for its own business. The individual company loses some of this autonomy by participating in a joint ratemaking system. However, this loss of autonomy is offset in large part by the increased strength of the organizational voice, which still maintains a title insurer perspective.

In contrast, when the state makes the rate, the focus of change will be determined from a government perspective, and insurer considerations often can be presented only reactively rather than proactively. This potential difficulty can often be ameliorated, however, by the maintenance of good ongoing liaison with the regulatory authority.

Scope of Regulation

There are two areas in which the scope of regulation needs clear definition: the nature of the charges under regulation; and the nature of the players under regulation. In terms of charges, the questions that arise include the issue of risk rates vs. all-inclusive rates, and the questions of establishing rates for "ancillary charges" such as closing and escrow services. These choices can have a profound impact on the effective-

economists, and other experts) and internal costs (including expenses for additional data collection and analysis, hiring of additional regulatory compliance staff, and substantial demands on top management time). It is important to determine whether the prospective benefits of a new rate regulatory framework outweigh these costs.

Ratemaking Entity

There are three common entities that make title insurance rate filings: the individual company, the rating organization, and the state. The choice of which of these

entities will be used affects three primary areas: the cost of compliance, the speed of regulatory response, and control of the rate review agenda. The effects are both direct and indirect.

On a direct level, the use of a rating organization has the effect of spreading the cost of preparing a rate filing among all the organization members, which tends to reduce individual company cost. However, because of the importance of conforming to both the letter and the spirit of the law in terms of antitrust compliance in the joint rate filing area, this form of filing demands the simultaneous adoption of rating proce-

Table 1
Choosing A Framework for Rate Regulation
The Options and Their Consequences

Decision Area	Options	Implications for
Rating Procedure	Use & File File & Use immediately File & Use with delay File & Use & Justify Prior Approval	Rate stability Rate adequacy Cost of compliance
Filing Environment	Individual Company Rating Organization State promulgation	Cost of compliance Speed of response Control of agenda
Scope of Regulation	"Risk Rate" only "All-Inclusive Rate" Mix & Match Risk Rate Search Fee Examination Fee Closing Charge Related Charges - Searches & Abstracts Agent's Commission Split Pricing of Title Evidence Sold to Agents by Underwriters	Effectiveness of regulation (loopholes) "State action" scope Bar issues Probability of ANY rate relief
Data Reporters	Underwriters only Underwriters and Agents	Justifying commission as expense or income
Scope of Data Collection	Underwriter Data Overall Profitability (UFRP) Policy Statistics Broad Categories By Manual Paragraph Endorsements Non-Policy Statistics Loss Statistics Policy Year Reason for Loss Defalcations Agent Data Audited vs. unaudited Tax basis vs. GAAP basis Cash vs. accrual	Justifying ANY rate change other than an across-the-board increase or decrease Meeting usual insurance regulator expectations Data credibility
Forum for Rate Review	Informal Administrative Meeting Public Hearing Informational Adversarial	Cost of compliance Role of media Role of politics "State action"
Criteria for Rate Approval	Profitability of Underwriter Percentage of Revenue Return on Investment GAAP vs. Statutory Profitability of Agent Equity of Public Impact Refinance Reissue Bulk Rates	Distinction from property-casualty line standards Preventing unsupported split caps & cuts Public acceptance of product and title industry
Techniques of Rate Review	Rating formulas Experience Periods Mathematical forms Economic Assumptions Practical judgement	Smoothing the profit cycle and bolstering solvency in the long run
Enforcing Compliance with Filed Rates	Complaints to regulator Rate compliance field audits By underwriter By regulator	Preserving effective and fair competition

ness of regulation. In some areas, unregulated portions of the total charge may rise to excessive levels because of the absence of countervailing market forces. In other areas, unregulated charges may drop to nothing due to ferocious, perhaps excessive, competition. The idiosyncracies of the specific venue must be considered carefully to be sure that the objectives of rate regulation, particularly the promotion of industry solvency, will be met by the form of regulation adopted.

Another area that requires careful consideration is the interaction of the rate regulatory environment with other regulatory spheres. For example, exclusion of particular types of charges from regulation may open up the issue of antitrust exposure. Conversely, inclusion of other particular types of charges under regulation may cause conflicts with definitions of legal practice or other professional activities.

Analogous considerations arise in determining which players to draw under the regulatory tent. In particular, it is essential to address the question of whether agency retention ratios, or the pricing of title evidence transferred between insurer and agent, will be brought within the regulatory ambit. The balance to be struck here is a particularly delicate one. On the one hand, these items traditionally have been set entirely by the marketplace. On the other, regulatory attention nationwide is focused on these questions. In many cases, regulatory overview of these charges may be essential if needed rate relief is to be obtained by the insurers, or unwarranted caps on and cutbacks in the amounts retained by agents are to be avoided.

Data Reporters

The mutuality of interest of insurers and agents in an effective rate regulatory regime also affects the issue of data collection. Rate regulation in any form imposes a burden on the regulator to examine both prices and costs of production of the title insurance product. Except in a few jurisdictions, it has been regulatory practice to treat agency retention as just one more insurer cost, and to treat it as almost a "black box" not subject to further analysis. As long as this approach is in place, data for rate review can be provided entirely by insurers. However, where a closer examination of agency retention rates has become a regulatory imperative, the problem of justifying agency retention as a cost to insurers is transmuted into the problem of justifying agency retention as revenue to the agent. In such an environment, data on agent op-

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1993—Banner Year for TIPAC?

By Dan R. Wentzel
TIPAC Chairman

1993 is a banner year for the title insurance industry. Continuing low mortgage interest rates are resulting in another productive year for underwriters, and abstracters/agents. An improving national real estate market and another round of refinance activity is again generating an incredible workload for title companies. For 1993, the coinciding goal of the Title Industry Political Action Committee (TIPAC) is to translate that record volume in the industry into a record for TIPAC.

We have targeted three new approaches for achieving that aim: accountability, awards, and an auction.

Accountability

Historically, the TIPAC Board of Trustees has not been able to identify how much of the PAC funds has been raised through the good work of members from the major companies who serve on the Board, and how much has been raised through the efforts of individual state trustees who solicit funds from title industry associates in their respective states.

This year, many of these contributions are being identified with the TIPAC trustee who has helped raise the funds. Dramatic increases in early giving are attributable to Board members Larry White of First American Title and Jan Alpert of Lawyers Title.

As company campaigns get off to a good start, we look forward to seeing more contributions from the various state trustees. Most state trustees traditionally begin their fund-raising with a statewide mailing. Many use their state title conventions as an opportunity to educate ALTA members about the benefits of TIPAC as their industry voice in Washington. In conjunction with ALTA Governors who update convention attendees about ALTA developments in Washington, the ALTA board member

concerned often shares time with the TIPAC state trustee, who personally brings the PAC to life for the audience.

Awards

Because the hard work of trustees often has gone unnoticed and unrewarded, the TIPAC Board decided to honor outstanding trustee efforts this year. Based on results that have been achieved by

Last year, we helped 87 members of the House . . . and nine members of the Senate achieve election.

September 15, the Board will attempt to ascertain, with our new accountability information, fund levels generated by the trustees. Because some large states and companies obviously have an advantage, we have identified awards which in part attempt to allow for differences in size and relative state economies. Since we truly believe that TIPAC is an effective voice for the entire title industry, we encourage even those who can only afford a limited contribution to participate. The title industry employs nearly 100,000 individuals in the United States. Many of our individual contributions are small amounts which come from less populous states. For example, Joe Jenkins, II of Kansas and Mike Reisetter of South Dakota historically have raised significant funds from states where the number of title industry participants is comparatively low—but the relative number of PAC contributors has been very high.

Consequently, we plan to present an award to the TIPAC trustee who has generated the greatest participation per title industry participants in a state.

In addition, we appreciate the fact that there are several TIPAC trustees who have worked for many years, with little or no acknowledgment beyond their name on the TIPAC letterhead. Thus, we determined that we would also provide a sustained service award (to be awarded to both a company and state trustee) for those who have raised substantial funds over a successive period of several years.

Finally, because we believe that fresh enthusiasm is a desirable feature in any program, we intend to make an award to the state trustee who has improved his or her state's performance the most during the past year. We hope all state trustees decide that they will try to win this award. We look forward to being able to recognize the trustee who brought new enthusiasm to PAC responsibilities this year and earned the title, most improved over the prior year.

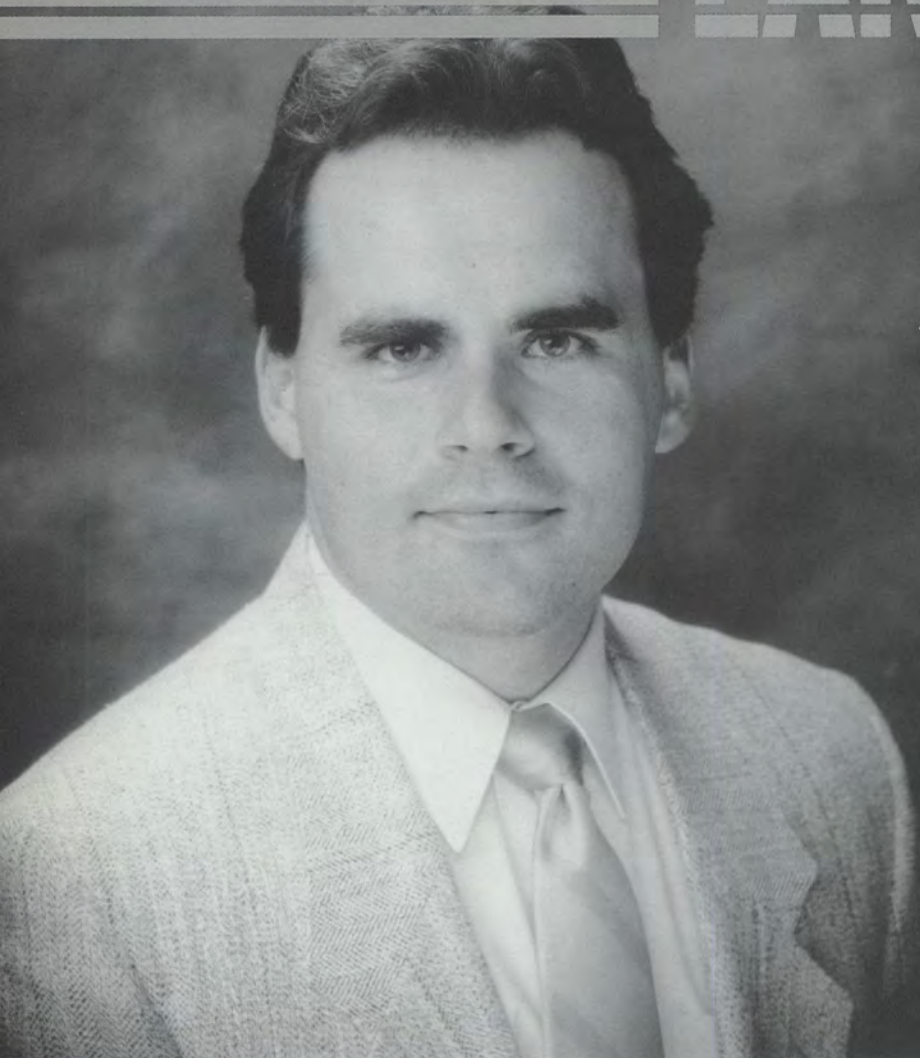
Auction

The Federal Election Commission specifically allows federal PACs to raise funds through special events, such as a raffle,

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Dan R. Wentzel is chairman and chief executive officer of North American Title Company, Walnut Creek, CA, and co-chairman of its affiliated title insurer, North American Title Insurance Company. He is a member of the ALTA Abstracters and Title Agents Section Executive Committee.



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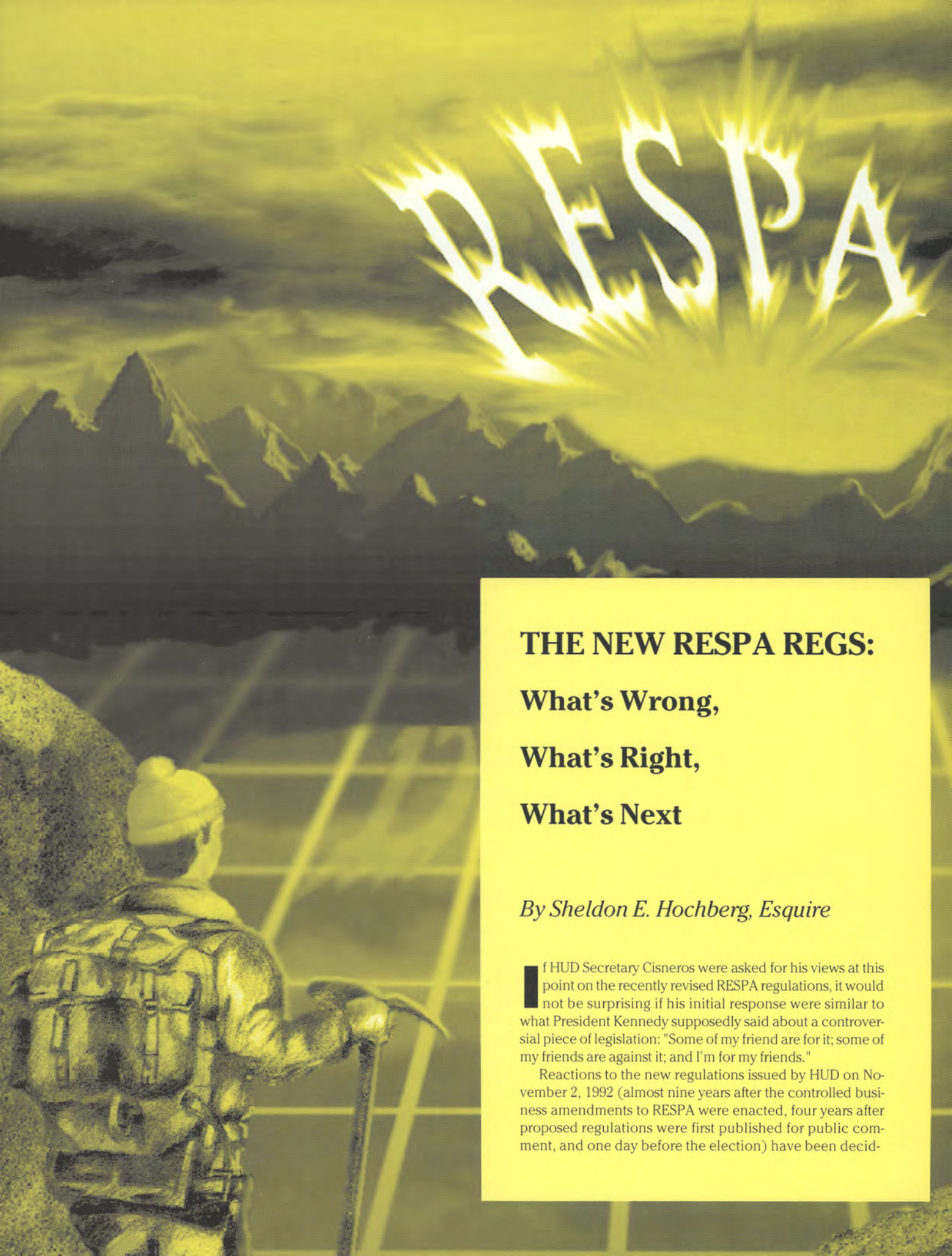


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THE NEW RESPA REGS: What's Wrong, What's Right, What's Next

By Sheldon E. Hochberg, Esquire

If HUD Secretary Cisneros were asked for his views at this point on the recently revised RESPA regulations, it would not be surprising if his initial response were similar to what President Kennedy supposedly said about a controversial piece of legislation: "Some of my friend are for it; some of my friends are against it; and I'm for my friends."

Reactions to the new regulations issued by HUD on November 2, 1992 (almost nine years after the controlled business amendments to RESPA were enacted, four years after proposed regulations were first published for public comment, and one day before the election) have been decid-

edly mixed. Reactions from the title insurance industry and from mortgage bankers have generally been highly negative. Real estate brokers and lenders, on the other hand, have generally been pleased. In fact, from the title insurance industry's perspective, the regulations are really not all bad; and from the brokers' and lenders' perspective, much of what appeared to be so good may not survive a re-examination of the policy decisions by the new folks at HUD, by the Congress, and by the courts.

The purpose of this article is not to summarize what the new regulations say -- since much information in that regard has been provided to ALTA members by the Washington staff. (See the November, 1992, *Capital Comment* newsletter and the ALTA position statement published in this edition of *Title News*.) Rather, it is intended to highlight (a) the significant elements that deserve criticism and should be changed, (b) the ways in which the regulations constitute a useful step in addressing some of the competitive and consumer problems posed by controlled business arrangements, and (c) the key issue that needs to be addressed by HUD and the industry in the near future. In particular, the article will focus on those aspects of the regulations that relate to the implementation of RESPA section 8 (the prohibition on kickbacks and referral fees) and the 1983 controlled business amendments.

What's Wrong

Some of the criticism that has been leveled against HUD is probably better directed against the Congress. Much of the new regulations simply implements the determination Congress made in 1983 not to prohibit controlled business arrangements, but to permit such arrangements provided four conditions are met. On the other hand, in several important regards, HUD has gone beyond what Congress intended -- and, indeed, has departed from its own prior interpretations -- in what appears to have been a concerted effort to tilt certain aspects of the regulations in favor of controlled business arrangements. The clearest examples of this are:

- Suggesting in Section 3500.13(b)(2) that only *if the Secretary* determines that state controlled business provisions "give more protection to consumers and competition" would those provisions *not* be pre-empted by RESPA;
- Allowing brokers and other controllers of business to pay bonuses or give

other things of value to employees for referrals of business to their affiliated settlement service providers (Section 3500.14(g)(2)(ii)); and

- Providing an exemption from RESPA Section 8 for fees paid by consumers to real estate brokers for so-called "computer loan origination" (or "CLO") services, even where the broker is using the CLO system as a means of referring consumers to a particular lender without having to allow other lenders access to its system (Section 3500.14(g)(2)(iii)).

Despite the success of the past Administration in pushing these changes through HUD on the eve of the election (in some cases over the legal opinion of the HUD General Counsel), there is a significant prospect that these determinations may be

D*espite the success of the past Administration in pushing these changes through HUD, there is a significant prospect that these determinations may be changed by the new Administration, by the courts, or by the Congress.*

changed by the new Administration, by the courts, or by the Congress. All three determinations were made without public notice, are in derogation of the statute or HUD's own prior interpretations, and cannot withstand scrutiny as sound public policy.

The "attempted" pre-emption of state controlled business laws or regulations is so clearly contrary to the language of RESPA and congressional intent that it is impossible to imagine that any Secretary of HUD would ever actually use this provision of the regulations to declare a state controlled business statute pre-empted by RESPA. Section 8(d)(6) of RESPA unequivocally states that

"No provision of state law or regulation that imposes more stringent limitations on controlled business arrangements shall be construed as being inconsistent with this section."

Congress did not say, as the regulations imply, that the Secretary of HUD has the power -- when he thinks that state law does not give greater protection to consumers/and or competition -- to declare that state law pre-empted. Rather, the House Banking Committee report, in explaining Section 8(d)(6) of RESPA, made absolutely clear that "the controlled business amendments to Section 8 of RESPA should in no way inhibit the individual states in which controlled business may be a significant problem from adopting those additional measures that they [the states] believe will protect consumers and competition."

Permitting controllers of business to pay bonuses or other referral fees to their employees for referring business to affiliated settlement service providers has been one of the most controversial aspects of the new regulations.

The Coalition to Retain Independent Services In Settlements ("CRISIS"), a group of independent settlement service providers formed in the wake of the final regulations, is challenging this aspect of the regulations in litigation in federal court in the District of Columbia.

Many independent title companies are realizing the enormous competitive problems posed when a real estate brokerage company can provide a financial inducement to an office supervisor to refer business to the broker's captive title company -- but if the independent title company tried to make a similar payment to that supervisor in order to obtain business the company could be subject to criminal and civil prosecution for violating RESPA section 8!

Apart from the legal basis that would justify the court's overturning HUD's determination that controllers of business can pay referral fees to employees, the determination flies in the face of sound, consumer-oriented policy. If controlled business arrangements offer consumers a better, more convenient and less expensive means of obtaining title services (as the Bush Administration maintained), then why is there a need to allow controllers of business to pay referral fees to their employees who are in a position to influence the consumer's selection? Is it just possible that these persons might otherwise recommend to the consumer that he or she use an independent provider of the service?

These and other policy concerns have gotten the attention of a number of influential members of Congress. For example, in early March, the chairmen of the Senate and House Banking Committees (Senator Riegle (D-MI) and Representative Gonzalez (D-TX)) wrote to HUD Secretary Cis-

neros expressing their concern about the significant changes in the final regulations from positions taken by the Department in congressional testimony, reiterating their concern over the "competitive and consumer protection implications of that rule," and urging him to "undertake a thorough review of the final RESPA rule." Without question, the payment of referral fees to employees will be getting a fresh look by the new HUD officials, with much oversight from the Congress.

Finally, the failure of HUD to place any significant restrictions or conditions on CLO arrangements has also been challenged in litigation brought by the Mortgage Bankers Association of America. (This suit has been consolidated with the CRISIS suit.) The approach adopted in the final regulations encourages referral affiliations between major lenders and major brokers without ensuring that other lenders have a fair and equal opportunity to have their loan terms brought to the attention of the consumer through the broker's CLO system -- and without any limitation on what the broker can charge the consumer for the referral. This aspect of the regulations also will be receiving close review by the new Administration and attention from the relevant congressional committees.

In short, the last word has yet to be written on the three aspects of the new regulations that most people in the title industry believe are "wrong."

What's Right

While many in the industry may see only negatives in the new regulations, there are in fact positive aspects that need to be encouraged and clarified. Chief among these is HUD's initial -- and, at this stage, far from perfect -- attempt to address the problems posed by agency arrangements with controllers of business or controlled business agencies that do not provide the range of services that independent agents typically provide and that heretofore has justified the significant portion of the title insurance premium that is retained by the agent.

To many people, compliance with the disclosure and other "safe harbor" conditions for controlled business arrangements has justified disregarding the requirement that controlled business agencies must still provide bona fide, real services to justify the commissions they receive from title insurance companies. Compliance with the "safe harbor" conditions only means that dividends or other returns received by the controller of business from his ownership interest in a captive agency are not per se

referral fees in violation of RESPA. This assumes, however, that the captive agency is providing real and valuable services that would justify the level of commissions that agency is receiving from the underwriter.

The primary objective of Section 8 was to eliminate referral fees, such as those that might have been paid by a title insurance company to a broker for the referral of business. Such payments were viewed by Congress as not being for services actually rendered. Where the captive agency provides agency services of the kind that would be provided by an independent agency and receives the kind of compensation that an independent title agency would receive, Congress has determined that the broker can realize dividends or other returns on his ownership interest in the agency without violating RESPA (provided the four conditions are met).

However, where the controlled business agency is really a device for the broker to realize financial benefits from the referral of business -- that is, where the captive agency provides little or no real services, or does not provide traditional agency services but nevertheless receives the same level of commission that a full service agency receives -- then the "commission" payment from the title insurer "through" the captive agency "to" the broker would appear to involve a significant element of compensation for the referral of business.

The "core title agent services" requirement of the new regulations was directed at this fundamental problem. Although not cast in terms of controlled business, the only justification under RESPA for applying the requirement is that commissions to agencies owned by controllers of business that do not provide real services in effect constitute a referral fee from the title in-

M*any independent title companies are realizing the enormous competitive problems posed when a real estate brokerage company can provide a financial inducement to an office supervisor to refer business to the broker's captive title company. . .*



The author is a partner in the Washington, DC, law firm of Steptoe & Johnson. For over 20 years he has represented and counseled ALTA, state land title associations, and individual title insurers and agents on a wide variety of regulatory, litigation and legislative matters. He represented the title insurance industry in connection with enactment of RESPA and the 1983 controlled business amendments, and has counseled ALTA in connection with HUD's implementation of RESPA.

surer to the controller of business who referred the transaction to the insurer "through" the captive agency. In the absence of that kind of kickback/referral fee concern, there is no basis for RESPA Section 8 to be used as a vehicle to regulate generally agency arrangements between insurers and their agents -- a matter traditionally left to state regulation and that would require a far different statutory regime if Congress had intended that Section 8 be used for that purpose.

There are many ambiguities and problems in how HUD tried to spell out and implement the "core services" requirement. These matters are addressed in the position statement submitted by ALTA to HUD (presented in the accompanying text). Hopefully, these matters will be clarified in the near future.

But the critical point is that this aspect of the regulations reveals an intent on the part of some at HUD (clearly not those who were responsible for the "wrong" things in the regulations) to provide needed rules that would clarify the relationship between the level of services performed by certain agents and the compensation they can receive without the parties running afoul of kickback/referral fee problems.

In this regard, there may be some differences of views between the agent community and the insurer community. Independent agents will almost invariably be providing "core services" as HUD has now defined them or as the "core services" requirement may be clarified in the future. Application of the core services requirement is far more likely to "pinch" those controlled business agencies that have been established not because their broker or lender owner really wants to be in the title insurance agency business, but because that controller of business is looking for a way to benefit from the control of title insurance business without having to do all of the work or bear all of the liability that independent title insurance agents typically must bear.

From the insurer's standpoint, the "core

title agent services" requirement is much more of a mixed blessing (and some would say it's no blessing at all). On the one hand, any rules or standards HUD establishes under RESPA Section 8 for the work that must be done by an agent or the compensation that can be paid to an agent places additional regulatory and compliance burdens on insurers. (This burden may appear to be particularly onerous since RESPA is also a criminal statute, raising the specter that failure to comply with complicated and ambiguous HUD regulations may give rise to criminal liability. In fact, it is highly unlikely that criminal penalties would be sought as a means of enforcing these kinds of regulatory measures.)

Moreover, such rules may clash with existing business practices in particular markets or may inhibit a company's efforts to obtain new business through new kinds of agency arrangements with controllers of business. In short, any new RESPA rules in this area inevitably make life more complicated for an industry that already faces enough complexities.

I do not minimize the validity of these concerns. Nevertheless, I believe it is also important for senior title insurance company executives to focus as well on the long-term health of the industry and to consider that, what HUD is trying to achieve in this regard in an effort to protect consumers, may also promote the long-term health of the title insurance industry.

The competitive imperatives of operating in a world where controlled business is permitted are for underwriters to provide ever larger commissions to controlled business agencies -- or to take on an ever greater share of the agency's work load as an alternative means of maximizing the ultimate financial return to the owner of the agency for the referral of business. This basic problem of "reverse competition" was discussed at length in the 1977 report of the Department of Justice Task Group on Antitrust Immunities entitled, "The Pricing and Marketing of Insurance."

Moreover, as more and more controlled business agencies are established, many of which lack the expertise to search and examine titles, or to make the kinds of underwriting judgments independent agents have traditionally made, insurers feel compelled to assume more and more of the agency's work load because of the concern that allowing these agencies to take responsibility for the issuance of policies will inevitably produce greater claims and losses.

If left unregulated, and in view of the competitive realities of the industry, one

can readily foresee a continuing downward cycle of insurers paying ever greater commissions or assuming an ever greater share of their agent's responsibilities as insurers in a market are forced to "meet the competition" in bidding up commissions for controlled business agencies or in assuming an ever greater share of their work load. The inevitable consequences on the deterioration of the financial strength of the industry and the need for rate increases are obvious.

Accordingly, I believe that all title insurers have an interest in encouraging the development of reasonable regulations that might avoid this scenario for the industry. Whether such regulations can be developed by HUD through RESPA Section 8--or

Hopefully, the new policy-level officials at HUD and the RESPA staff will appreciate the problems and ambiguities in the current regulations and some form of clarification, interpretation or revised regulations will be forthcoming in the not too distant future.

whether such regulations can only be developed at the state level -- remains to be seen. But the fact is that HUD has taken a first step down this road, and its attempt to address this problem under RESPA offers potential benefits to the industry.

What's Next

With the change in administrations and with several key positions at HUD still unfilled at this writing, it is difficult to predict what action HUD or the Congress will take in the coming year. The new RESPA regulations have clearly created a political issue that is causing Secretary Cisneros and his staff to re-examine the decisions of the Bush Administration. Similarly, there appears to be strong interest in Congress on some of these issues (such as the CLO issue and the payment of referral fees to employees). It is highly likely that some oversight hearings will be held by one or both of the

Banking Committees.

From the title industry's perspective, particularly in the area of the "core title agent services," there are two fundamental and equally important objectives: (1) HUD must develop clear, fair, and understandable regulations so that companies (and their counsel) can know what the "rules of the game" are; and (2) there must be fair and meaningful enforcement of those rules so as to ensure that companies who play by the rules are not placed at a competitive disadvantage to those companies who do not.

The first objective -- clarifying the "core title agent services" provision -- has received a lot of attention within the industry and from ALTA. Hopefully, the new policy-level officials at HUD and the RESPA staff will appreciate the problems and ambiguities in the current regulations and some form of clarification, interpretation or revised regulations will be forthcoming in the not too distant future. The second objective -- ensuring that all parties play by the rules -- has received less attention, but is clearly an issue that will become increasingly important at HUD and within the industry as the substance of the regulations becomes clarified.

No company wants to be the object of any RESPA action -- whether it be a HUD investigation, civil enforcement action, criminal proceeding, or consumer suit under Section 8(d)(2). On the other hand, in the absence of any meaningful enforcement, it is those companies that seek to comply with the regulatory standards that are penalized as they quickly find themselves losing business or facing great pressure from controllers of business who say, "ABC Company is doing it, why aren't you." Accordingly, any company that complies with the rules has a strong interest in ensuring that all companies in its market are required to comply with the rules. How to achieve such compliance will be one of the most important issues that HUD and the industry will have to face in the future.

There are only so many enforcement actions or investigations that the RESPA enforcement staff can institute. While it can maximize the use of its limited human resources by joining forces with U.S. attorneys, state attorneys general, and state insurance departments -- something it is already doing -- other approaches to maximizing industry compliance with the RESPA rules need to be considered. Among the approaches that might be considered are:

continued on page 28

ALTA Position Regarding Revised RESPA Regulations

The following ALTA position is a narrative restatement of a clarification document sent to the Department of Housing and Urban Development to provide guidance for consideration in redrafting of the revised RESPA regulations.

★ ★ ★ ★

The revised RESPA regulations issued by the Bush Administration on November 2, 1992, have been the source of tremendous controversy within the title insurance industry and the real estate finance community because they

- Attempt to shift the competitive balance among settlement service providers toward controlled business arrangements,
- Promote the packaging of settlement services, and
- Provide new opportunities for lenders and real estate brokers to pay referral fees.

As an industry that is significantly affected by RESPA and the new regulations, it is important that ALTA communicate the title insurance industry's views not only to its members, but to HUD and Congress as well. Although the revised RESPA regulations were nearly a decade in the making, they were hurriedly published and reversed many public positions that had been taken both in the proposed regulations and by HUD officials testifying before Congress. As a result, they are at best ambiguous, and at worst do not reflect the views of the Clinton Administration, Congress or even many at HUD.

In an attempt to better understand the regulations and communicate to HUD the title insurance industry's concerns, ALTA held an educational seminar for its membership in December. In response to the numerous concerns raised at the seminar, the Board of Governors appointed an advisory committee comprised of underwriters and agents to provide ALTA staff with "real world" input in developing the title indus-

try's position. Following a February committee meeting in Washington, DC, ALTA staff and outside counsel prepared a draft position paper which has been extensively discussed by the Board of Governors.

As a result of these deliberations, on February 17, 1993, ALTA's President forwarded a letter to HUD Secretary Cisneros which addressed the broad industry concerns relating to controlled business and its relationship to state laws; the compensation of employees for referrals of settlement business to related companies; and, computer loan origination systems. The more thorny, technical issues focusing primarily on core title agent services were not discussed in this letter but were deferred subject to further discussion.

At their March meeting in Atlanta, the Board of Governors discussed further and adopted recommendations regarding the "core title agent services" requirements in the RESPA regulations which have been forwarded to HUD. In agreeing to forward its recommendations to HUD, the Board of Governors made it clear that the positions that it adopted represent an interpretation of, and a reaction to, the RESPA regulations as adopted on November 2, 1992. The Board has advised HUD that its position does not necessarily represent how title people feel about the appropriateness of the federal government regulating the title insurer-agent relationship. The Board will urge that HUD's enforcement policy be sufficiently flexible to allow for legitimate differences in local/regional business practices.

Further, ALTA will attempt to preserve the ability to argue that the whole issue of federal regulation of the title insurer-agent relationship may need to be reconsidered in the future. ALTA staff will work with HUD in the coming months to implement the Board's recommendations.

The following summary includes ALTA's positions as stated both in its February 17, 1993, letter and the subsequent submission to HUD on core title agent services.

Summary

Controlled Business Arrangements

ALTA supports RESPA's pro-consumer and pro-competitive objectives of eliminating kickbacks and referral fees in the real estate settlement process, and ensuring that all companies have a fair opportunity to compete for settlement service business on the basis of the quality and price of their services, and not on the size or nature of the financial inducements that may be offered to those real estate professionals who are in a position to influence the consumer's selection of a settlement service provider.

ALTA is philosophically opposed to controlled business arrangements. In particular, ALTA has been a long-standing advocate of the need for limitations on controlled business arrangements and continues to support efforts at the state level to ensure that all title companies have an equal ability to obtain business on the competitive merits of their products and services. ALTA has urged HUD to continue its expansion of RESPA enforcement activities, with a particular emphasis on ensuring that controlled business agencies provide real and necessary services and are not a "sham" or mere conduit for their owners to receive indirect referral fees.

Further, ALTA supports the repeal of Section 3500.13(b)(2), which states that the only state controlled business laws or regulations that are not inconsistent with—and therefore presumably preempted by—RESPA are those that the Secretary has determined would give more protection to consumers and/or competition. This regulation and the relevant language in the Regulatory Impact Analysis have been given widespread publicity in a number of states to frighten state legislators or insurance regulators from enacting or enforcing state laws on controlled business.

ALTA has advised HUD that this regulatory provision is clearly inconsistent with the literal wording of the statute and the statute's legislative history.

Employer-Employee Referrals To Related Companies

ALTA supports the repeal of Section 3500.14(g)(ii) of the new regulations, which permits payments by an employer to its employees for referral activities. Such payments impede competition by allowing lenders and real estate brokerages to pay referral fees to employees for every transaction that the employee is able to refer to a captive title company owned by the lender or broker. At a minimum, potential abuses can be minimized if HUD clarifies that real estate agents are not "employees" of the brokerage firm and thus cannot be paid referral fees.

Computer Loan Origination Systems ("CLOS")

Although the provisions of the new regulations regarding Computer Loan Origination Systems (CLOS) do not directly apply to the title insurance industry, ALTA supports any approach to the CLOS issue that minimizes the prospects that particular brokers will steer loan business to particular lenders on the basis of the size of the CLOS fee the broker can obtain, rather than on the basis of which lender can provide the best loan for the consumer. ALTA does not favor specific fee limitations.

Title Companies as "Controllers Of Business" (Section 3500.15(c)(9))

HUD has created a problem for title insurers that own (or have a 20 percent or greater ownership interest in, or affiliation with) title insurance agencies. Since title agencies are included in the definition of a "person who is in a position to refer settlement business" (Section 3500.15(c)(9)) when these agencies write policies on behalf of an affiliated title insurance company, this might be viewed as a controlled business arrangement. Since the controlled business provisions were clearly not intended to apply to these situations, ALTA has requested that HUD clarify that affiliated companies that provide the same type of settlement service are not engaged in a referral or controlled business arrangement.

"Core Title Agent Services"

The "core title agent services" provisions in the RESPA regulations are of critical importance to the title insurance industry because for the first time HUD is attempting to define what services a title insurance agent must perform in order for the agent's commission or retention from the

title insurance premium to fall within the Section 8(c)(1)(B) exemption for "payments by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance." ALTA supports the concept of the "full service" agent who must perform certain basic services in order to receive a commission or retention from the title insurance commission. However, the RESPA regulations must be clarified to accommodate actual industry business practices which create management efficiencies or vary because of local or regional differences. ALTA has recommended that HUD clarify the "core title agent services" provisions in three general areas: (1) who is covered by these requirements; (2) what are proper definitions of "core title agent services" and "contracting out"; and, (3) can there be permissible compensation paid to persons who do not perform all "core title agent services?"

Who is covered. ALTA has recommended that HUD make clear that the "core title agent services" requirement is intended to identify those basic services that *any* title insurance agent must perform in order for the agent's commission or retention from the title insurance premium to fall within the Section 8(c)(1)(B) title agent exemption.

Defining "core title agent services." ALTA believes that "commissions" paid to an agent who (a) performs, and (b) assumes responsibility for, all "core title agent services" fall within the Section 8(c)(1)(B) exemption. Accordingly, the level of such commissions should not be subject to Section 8 scrutiny. Further, ALTA has recommended that HUD adopt several technical recommendations regarding the definition of "core title agent services" to accommodate local and regional differences regarding the search, examination, and policy issuance functions. ALTA has recommended that HUD *not* include the function of preparing the title search as a "core title agent service."

In addition, ALTA made several technical suggestions regarding what should be included in the search and examination functions. ALTA has also recommended to HUD that an agent, under certain conditions, should be considered to have performed the title examination function in the following circumstances:

- Where the agent uses a prior title insurance policy, title commitment or

binder issued in a previous transaction;

- Where the insurer provides underwriting advice and assistance of a kind that is typically provided to all agents;
- Where the title evidence used by the agent to perform the examination was acquired from a third party; and
- Where the agent uses an opinion of title provided by an approved attorney to prepare the title insurance commitment or policy, or where the services of an attorney are otherwise required by state law in connection with the issuance of the policy.

ALTA has also recommended to HUD that an agent should be considered to have performed the function of issuing the title insurance policy even though the actual typing of the policy is done by a third party, including the agent's insurer.

"Contracting Out." ALTA agrees with HUD's basic position that "core title agent services" should not be "contracted out" to a third party, including the agent's underwriter, and that the agent should perform the work through the services of its own *bona fide* officers or employees. ALTA, however, has recommended to HUD that it give agents the flexibility to supplement, on occasion, its in-house staff with the *temporary* services of independent contractors or individuals employed by other settlement service providers, including the agent's insurer.

Compensation to agents and other persons who do not perform all "core title agent services." ALTA has recommended to HUD that the net amount of commissions or compensation paid to persons who perform less than all "core title agent services" must reflect a meaningful reduction from the compensation or commissions generally paid to agents in the area who do perform all core title agent services. Further, the level of such reduction in compensation should be reasonably commensurate with the reduced level of responsibilities assumed by the service provider. ALTA also recommended a number of factors that HUD should consider in determining whether a particular level of commission is commensurate with the services performed.

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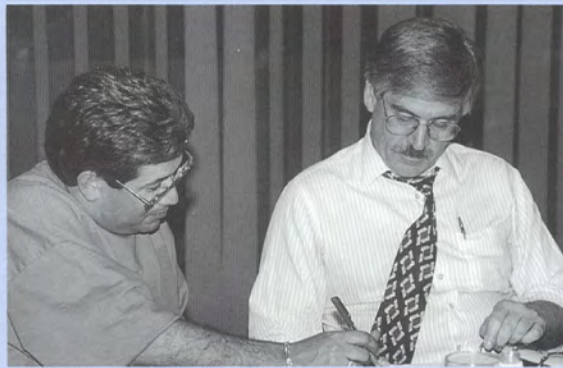
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Mid-Year Convention Retrospective

Photographs by Ken Abbinante

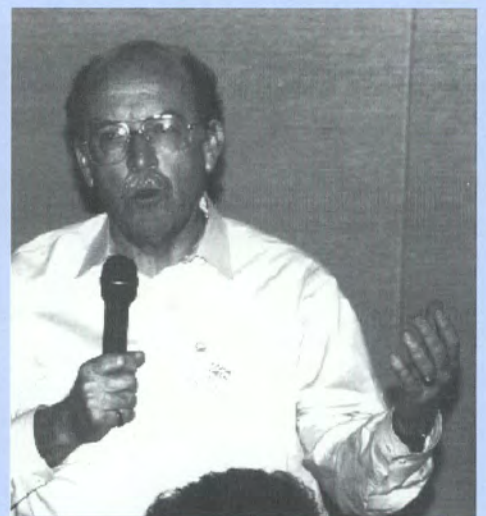
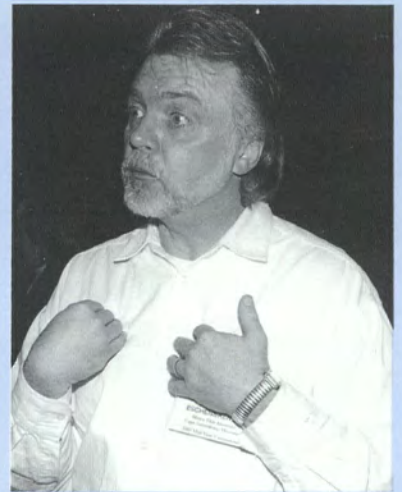
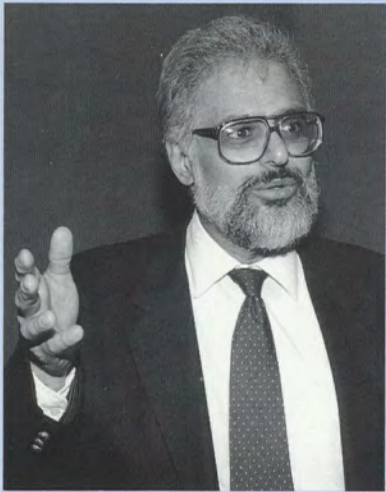
In these scenes from the 1993 ALTA Mid-Year Convention in Atlanta, Sheldon Hochberg (left) and Phillip Schulman, Washington counsel on RESPA matters, discuss issues centering on the latest HUD settlement regulations (top, right). ABC News 20/20 Correspondent Catherine Crier, right, waits for her cue with Association President Dick Oliver and wife Kitty (top, left). Association President-Elect Parker Kennedy (left) and Governor Charlie Foster visit in the photograph immediately to the right. Below, the video camera picks up the Education Committee session on employee training, for later editing and offering to ALTA members. From left are Betty Sagatelian; Jack Rattikin, III; Cara Detring and LaNette Zimmerman.





President Oliver congratulates Linda Carpenter on winning the exhibitor attendance prize drawing, top, right. ALTA Underwriter Section Chairman Herb Wender, left, and Abstractor-Agent Section Executive Committee Member Dan Wentzel talk at top, left. Immediately below are Association Finance Committee Chairman Paul Ransford and Education Committee Member Cara Detring; in bottom, left, photograph are two other members of that committee--Peter Norden (left) and Stanley Friedlander, hard at work on a draft of Land Title Institute Course 2. Enjoying the Ice-Breaker Reception at right, center, are ALTA Treasurer Dick Pollay (left) and Abstractor-Agent Section Chairman Mike Currier. In the center photographs, Theodore Caris is decidedly pleased over winning an early bird attendance prize (top), and Roy King offers a comment during the RESPA briefing session (immediately below). In the photograph at bottom, right, ALTA Governor Chuck Juhl, left, chats with Connie Wimer and State Legislative and Regulatory Action Committee Member Bill Gowen.





EXCUSES, EXCUSES

Here's a great excuse to get out there and recruit new members! Last year's top recruiter* received a beautiful signed framed print for his efforts. You could be next!

Due to the tremendous enthusiasm over last year's Recruiter of the Year Prize, the Membership and Organization Committee once again will be awarding a prize to the ALTA member recruiting the most new members in 1993. For this year, the Committee has selected a signed art-poster commemorating the site of this year's ALTA Annual Convention which will be held in Desert Springs, CA, October 13 - 16. The art-poster was chosen not only for its striking portrayal of the desert's unique beauty, but also for its subtle shades, sure to complement any office decor. As was the case last year, the prize will be presented during the Annual Convention.

This year's would be winners are competing vigorously, not only for the prize, but also for the title of "1993 Recruiter of the Year." To join the race, contact Kathleen Robinson toll free at the ALTA office today, 1-800-787-ALTA.

** A recruiter is defined as an ALTA member designated by the applicant as having recommended membership and becomes effective at the applicant's time of acceptance into the Association.*

Common Stock Offered by Fidelity

Fidelity National Financial, Inc., has announced that the registration statement covering 1,750,000 shares of its common stock has been declared effective by the Securities and Exchange Commission.

Fidelity National Financial provides title insurance and other title-related services through its principal underwriting subsidiaries that include Fidelity National Title Insurance Company.

Of the aforementioned shares being offered, 850,000 are by the company and the balance by selling shareholders. Among the selling shareholders is Meridian Bancorp, Inc., which is offering 750,000 shares acquired in connection with Fidelity's purchase of Meridian Title Insurance Company and its subsidiaries.



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NEW MEMBERS

WELCOME!

ALTA proudly welcomes its newest members and sincerely thanks those members responsible for their recruitment. The recruiters noted in parentheses have now qualified for membership in the ALTA Eagle's Club and are eligible for the "Recruiter of the Year" prize.

ACTIVE

Florida

Armistead Commercial Title Group, Inc., Tampa, FL. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Performance Title Co., Aventura, FL. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Idaho

Land Title Co. of Benewah County, Inc., St. Maries, ID.

Illinois

Palmer & Murrie Abstract Co., Marion, IL. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Indiana

Security Title Co., Inc., Indianapolis, IN.

Louisiana

Stan Branton and Associates, Baton Rouge, LA. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Maryland

Dunn Title Co., Crofton, MD.

John Paul Rogers, Catonsville, MD. (Recruited by Rich Curd and Doug Dolan, Capital Professional Insurance Managers, Chevy Chase, MD.)

Michigan

American Title Co. of Livingston, Howell, MI. (Recruited by Paul Ransford, Tuscola Abstract & Title Co. Inc., Caro, MI.)

Minnesota

Walsh Title and Real Estate Services, Inc., Edina, MN. (Recruited by A.L. Winczewski, Jr., Chicago Title Insurance Co., Bloomington, MN.)

Montana

Security Title Co. of Gallatin County, Bozeman, MT.

New Mexico

Sterling Title Co. of Sandoval County, A New Mexico Corp., Rio Rancho, NM.

North Carolina

Chapel Hill Title & Abstract Co., Chapel Hill, NC.

Ohio

American Title Associates Agency, Inc., Canton, OH.

Tennessee

First Financial Title Agency of Tennessee, Inc., Memphis, TN.

Virginia

Judicial Title & Closing Co., Vienna, VA. (Recruited by Bayard H. Waterbury, III, Montgomery Abstract Associates, Inc., Rockville, MD.)

Wisconsin

Sawyer County Abstract & Land Title Co., Winter, WI. (Recruited by Howard Severson, Stewart Title Guaranty Co., Madison, WI.)

Wyoming

Powder River Title Service Co., Gillette, WY. (Recruited by Tony Faust, Old Republic Title, Minneapolis, MN.)

ASSOCIATE

Louisiana

Sue Nations, Onebane, Donohoe et al., Lafayette, LA. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

Maryland

Sally Presler McCash, Nysten & Gilmore, P.A., Calverton, MD. (Recruited by Bayard H. Waterbury, III, Montgomery Abstract Associates, Inc., Rockville, MD.)

Massachusetts

Thomas D. Gill, Jr., Day, Berry & Howard, Boston, MA. (Recruited by Marvin R. Pilo, Hartford Insurance Group, Hartford, CT.)

Mississippi

Don Cannada, Butler, Snow et al., Jackson, MS. (Recruited by John Casbon, First American Title Insurance Co., New Orleans, LA.)

New York

Robert F. Wilson, Eastman Savings and Loan Assn., Rochester, NY.

North Carolina

SoftPro Corp., Raleigh, NC.

Oregon

Randall B. Bateman, Preston Thorgrimson et al., Portland, OR. (Recruited by Kristine A. Chrey, Gordon, Thomas et al., Seattle, WA.)

NEW RESPA REGS

continued from page 20

- An amendment to RESPA providing for a competitor's right of action for injunctive relief and attorney's fees;
- Utilizing alternative dispute resolution mechanisms so as to be able to obtain an independent determination (through a low cost procedure) as to whether a particular practice may violate the RESPA rules; and
- Development of agreements between HUD and the companies operating in particular markets that would, in essence, provide a more tailored set of rules to address the problems in that market.

There are, of course, other ideas that might be considered. I encourage those readers who have taken the time to get to this point in the article to give some thought to other alternatives. As counsel to ALTA on RESPA issues, I would appreciate the benefit of your views since I firmly believe that not all valuable or original insights originate in Washington, DC. ✉

Six Ohio Agencies Named TitleQuest

Six Ohio title agencies operated by Gregory F. Singer have been renamed TitleQuest. Operating from Columbus, Dayton and Cincinnati, they serve most Ohio counties as well as eastern Indiana and northern Kentucky.

Affected by the name change are former Investor's Title offices in Dayton and Cincinnati, as well as three former ARTA offices and an Investor's Guarantee office in Columbus.

As part of the move, Paul S. Lehman has been appointed vice president and director of operations. He is charged with operations oversight and quality control.

NAMES IN THE NEWS



D. P. Kennedy



P. Kennedy



Lovit



Wangberg



Caspersen



Mitchell



Jewett



Zuk

D. P. Kennedy has moved from president to chairman of First American Financial Corporation, Santa Ana, CA, while his son, **Parker S. Kennedy**, has been promoted from executive vice president to president of the company. In 1989, the same position changes were announced for the organization's principal subsidiary, First American Title Insurance Company.

D. P. Kennedy served as ALTA president in 1983-84; besides holding various offices in the Association, he has been chairman of the Government Affairs Committee. In addition, he is a past president of the California Land Title Association.

Parker Kennedy is the current president-elect of ALTA, and is scheduled to become president during the Association's 1993 Annual Convention in October. He is the great-grandson of C. E. Parker, the

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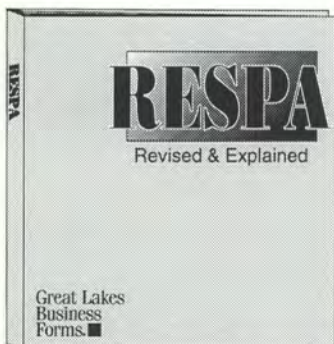


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Abiassi



Thesing



Davis



Alderman



MacKimm



Staino

founder of First American.

All of First American Financial's directors were re-elected by a majority of shareholders during the annual meeting of the company. They are **George L. Argyros; J. David Chatham; William G. Davis; James L. Doti; Lewis W. Douglas, Jr.; Paul B. Fay, Jr.; Frank C. Harrington; Harold C. Kean; D. P. Kennedy; Parker S. Kennedy; Robert B. McLain; Anthony R. Moiso; R. J. Munzer; Roslyn B. Payne**, and **Virginia M. Ueberroth**.

In California, First American Title has named **Louis J. Lovit** senior vice president and regional sales manager, First American Title Company of Los Angeles; **Gary A. Wangberg** vice president-county manager, Santa Cruz County; **Curt A. Caspersen** vice president-San Francisco County manager, and **Craig C. Mitchell** national title officer, National Accounts Division, Santa Ana.

The company also has named **Steven R. Jewett** vice president-state manager and president, First American Title Company of Alaska, and **Peter M. Zuk** vice president-state manager, Vermont.

David B. Housefield is the new president of Houston Title Company, a subsidiary of Old Republic National Title Insurance Company. In addition, he has been elected a vice president of the parent firm.

Recent promotions announced by Ohio Bar Title Insurance Company, Columbus, include **William J. Zabkar**, general underwriting counsel, and **Thomas R. Jacklitch**, director of regional operations, both to senior vice president; **W. F. (Tom) Burch** and **James M. Nussbaum**, both regional managers, to vice president; **Nicholas J. Cipiti**, comptroller, to vice president-finance/administration, and **Mark Creamer**, assistant regional manager, to assistant vice president.

Jacklitch is the current president of the Ohio Land Title Association.

In addition, **Cipiti** has been promoted to executive vice president of ACS Title and Closing Services, a wholly owned subsidiary of Ohio Bar Title, and **Judy A. Hoskinson** has been named an assistant vice president of ACS.

Ginny Hays Abiassi has been named senior vice president and senior underwriting counsel and **Patrick R. Thesing** senior vice president-chief claims counsel, Stewart Title Guaranty Company, Houston, TX.

Daniel David has joined L & H Abstract Corporation, White Plains, NY, as vice president and title officer.

Holly H. Alderman has joined the staff of title attorneys at Investors Title Insurance Company, Chapel Hill, NC.

Jim Griest has joined First Land Title Company, Fort Wayne, IN, as marketing



Ianace-Parelskin



Gray



Garstensen



Mackler



Rishel



Stanfield



Benton



Pfeifer-DeSalme

coordinator and is primarily responsible for real estate broker business.

Margaret P. MacKimm has been elected to the combined board of directors of Chicago Title and Trust Company and Chicago Title Insurance Company. She retired as a senior vice president after serving with Kraft, Inc., and Kraft General Foods, Inc., and is an active community leader in the Chicago area.

Also in Chicago, Chicago Title Insurance has announced the appointment of **Ann Zimmerman** to resident vice president, metro area sales (large projects); **Cheryl Piderit** to resident vice president and manager, metro residential sales and marketing; **Leanne Klein** to assistant vice president south/southwest metro area sales manager; **Tyson E. Kouros** to title officer and examiner/underwriter, and **Gloria Vanek** to payroll manager.

Michael Troutt has been appointed the Chicago Title Insurance resident vice president and manager, downstate agency operations, Mt. Vernon, IL.

Michael Berey has been appointed Chicago Title Insurance resident vice president and remains NBU/NTS manager and counsel, New York City. In Texas, **Michael Rooney** is the new Dallas area manager, and **Dona J. Kilmer** has been named assistant vice president and remains branch manager, El Paso.

Steve Schneier has been appointed Chicago Title Insurance vice president and Los Angeles County manager. **Erika Meinhardt** and **Scott Mundt** have been named assistant vice president, agency coordinator and officer manager, respectively, Atlanta and McLean, VA. **John R. Riggins** is the new company branch manager, Hackensack, NJ. **Phillip Sholar** has been appointed agency operations offi-

cer, Louisville, KY, and **Jean M. Maggio** escrow manager, Daytona, FL.

New vice presidents announced by Commonwealth Land Title Insurance Company in the national title services division are **Nancy K. Staino** (Philadelphia), **Selina Ianace-Parelskin** (Washington, DC), and **Thomas M. Gray** (Chicago). New assistant vice presidents are **P. Eric Carstensen** (also named branch manager), Indianapolis; **Alfred W. Mackler**, Cherry Hill, NJ, and **Rose M. Rishel**, Mi-

ami, FL.

David B. Stanfield, Jr., has been appointed senior vice president and title plant manager, Commonwealth Land Title Company El Paso; **R. Bruce Benton** has been named commercial accounts officer, Commonwealth Land Title Company of Fort Worth, and **Syndie Pfeifer-DeSalme** has been appointed marketing director, Commonwealth Land Title Company of San Antonio. All are Texas subsidiaries.

Commonwealth Land Title Company of North Carolina, a state agency operation, has announced the following promotions: Raleigh-**Larry Johnson** to senior vice president and general counsel; **Paula Wright** to vice president and branch manager; **Hilary Riedy** and **Alicia Batchelor** to assistant branch managers; **Leslie Massey** to controller. Cary-**Cathy Lamm** and **Sara Boshart**, both to vice president and to branch manager and assistant branch manager, respectively; Winston-Salem-**Bob Rascoe** to president; Charlotte-**Hunter Meacham** to executive vice president; Asheville-**Sherri McCoy** to vice president and branch manager; Fayetteville-**Kaye Baggett** to vice president.



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RATE REGULATION

continued from page 14

erations becomes central to rate review, and an effective rate regulatory regime must provide the regulator with sufficient authority to obtain it.

Scope of Data Collected

Because data are expensive to collect, both insurers and agents are rightly inclined to collect as little as possible, *consistent with efficient running of their businesses*. It is important to recognize that the management of the rate review process is an integral part of running a title business efficiently. Nothing drops to the bottom line faster than a needed rate increase.

At a minimum, some reporting is needed of overall profitability of insurers. The most widely used mechanisms for such information are the Annual Statement (Form 9) and the ALTA Uniform Financial Reporting Plan. However, this information, useful as it is, can only be applied to justify across-the-board changes in the overall level of charges. If rate regulation is being considered in a jurisdiction in which it is likely that more complex changes in the structure of rates may be needed, it is necessary to consider more extensive forms of data collection. In particular, it becomes crucial to collect information on the number of policies of different types written, as well as the dollar amounts received.

In jurisdictions in which individual insurer ratemaking predominates, it is theoretically possible for each company to determine for itself which data it needs. However, an alternative approach often used by regulators is the development of a uniform "statistical plan" adopted and collected by the regulator from all insurers. The development of such uniform data can be beneficial even in the individual company filing context because it makes it easier and quicker for regulators to analyze submitted filings.

Agent data collection systems have only been used in a few jurisdictions, so the development of appropriate systems to support a particular form of rate regulation requires considerable work. One of the most important issues that needs to be addressed is data credibility. In achieving this objective, it is necessary to make choices as to whether to require that agency statements be audited; whether books need to be maintained on a GAAP (Generally Accepted Accounting Principles) basis or whether another basis, such as an income tax basis, is accept-

able; and whether cash basis accounting or full accrual accounting will be required.

Forum for Rate Review

There are several choices as to the forum in which rate review will take place. At the simplest level, the primary forum can be informal administrative meetings, augmented by correspondence. At the other end of the spectrum is the full-blown administrative hearing, replete with calendars, agendas, jousting adversarial counsel, and television cameras. Surprisingly, either mechanism can lead to good or to bad results. In determining where in the spectrum to position the review mechanism, it is necessary to consider the effect of the choice on three areas: the cost of compliance; the importance of media and political factors; and the effect on antitrust exposure.

In terms of compliance cost, the effect is unambiguous: small, informal meetings are cheaper than big, contested hearings. However, this direct cost advantage can be

In determining where in the spectrum to position the review mechanism, it is necessary to consider...the cost of compliance, the importance of media and political factors, and the effect on antitrust exposure.

more than offset by delays and arbitrary denials which cannot be effectively appealed.

In terms of media and political factors, the general effect is also unambiguous: the more formal, and hence public, the review forum, the greater the role played by the media and by political considerations. Again, however, this is a two-edged sword. In some jurisdictions, the political climate may be so polarized that a public forum cannot calmly weigh the relevant issues; in others, bureaucratic barriers ranged against rate rationalization may best be overcome through public debate.

Finally, in the event that a joint ratemaking system is under consideration, much weight must be placed on preservation of the "state action" exemption from antitrust liability. Early consultation with antitrust

counsel is essential to ensure that the choice of forum dovetails appropriately with the rest of the ratemaking structure.

Criteria for Rate Approval

Almost all rate regulatory statutes incorporate the language that "rates shall be neither excessive, inadequate, nor unfairly discriminatory." Thus, any rate regulatory system must address two aspects of the rate structure: *profitability* and *equity*. These two aspects require different perspectives.

In developing a rate regulatory system for title insurance, it is helpful to incorporate as much specificity as possible into the enabling statute with respect to criteria for determining what constitutes excessiveness or inadequacy in a rate. This specificity is important in order to prevent title rates from being judged by inappropriate property-casualty benchmarks. For example, vague language invites the mechanical application of the small profit loadings used in property-casualty lines that generate huge volumes of investment income—to title insurance rates that generate only modest amounts of investment income. In contrast, language requiring that rates generate profit sufficient to attract capital investment to the title insurance industry do not lead to this unfortunate result. In a similar vein, language restricted solely to the need for a rate to protect insurer solvency ignores the need to preserve the viability of the agency sector in title insurance, where it is essential to effective distribution of the product. In contrast, language which explicitly recognizes the need to preserve the viability of both insurer and agency sectors does not produce such a risk.

In terms of equity, a title insurance regulatory system must be able to respond to public perceptions of inequity in a balanced manner, which neither alienates the public nor impairs insurer solvency or agent viability. Thus, for example, it must provide a coherent framework for trading off discounts for refinance transactions against more realistic minimum charges so that industry revenues are not unreasonably reduced, while consumers are not unfairly burdened. Specific enabling language which recognizes the existence of such tradeoffs can be very useful.

Techniques of Rate Review

It is a popular truism that "the devil is in the details," and nowhere is this more true than in the implementation of a rate review process. The outcome of arcane arguments about whether a trend line should be straight or curved can have impacts amounting to hundreds of millions of dollars. Any system of rate review will be sub-

ject, in some measure, to these difficulties. In consequence, adoption of any system of rate regulation commits the industry to an ongoing investment in technical knowledge.

The choice of a regulatory system should recognize these practical realities. Thus, for example, a rate review system which incorporates a fixed annual (or bi-annual, or triennial, or any other fixed period) cycle can limit the frequency with which rates will be changed, and can allow some prediction of likely regulatory actions. Enabling language that recognizes the existence of the real estate cycle can minimize the likelihood that occasional periods of prosperity will be used to reduce rates so abruptly that the following trough has catastrophic effects.

Enforcing Compliance

A regulated rate system without adequate enforcement is worse than no regulation at all. It rewards the violator in the short run by allowing it to obtain business it might not have obtained by adhering to required rates, and punishes the policyholder in the long run by degrading the insurer's solvency. Accordingly, any rate regulatory system that is to confer beneficial economic effects must incorporate effective compliance enforcement mechanisms.

Enforcement programs can have two prongs: a complaint review mechanism, and an auditing mechanism. In both cases, running the enforcement program costs significant amounts. It can be helpful to include an enforcement funding mechanism in the legislation establishing the ratemaking system, with a proviso setting aside funds raised through any special fees or taxes for this specific purpose.


Complaint review mechanisms generally require regulatory employees to respond to complaints by a process of investigation and sanctions. This formal process is much preferable to the use of informal mechanisms, such as complaint re-

view committees of rating organizations, because of the antitrust issues that any non-governmental mechanism would raise.

Auditing programs to check for rate compliance can also be carried out by regulatory employees, but there are viable alternatives here. It is worthwhile examining whether rate auditing can be more cost effectively performed by the field audit staff of the insurer itself, or by a public accounting firm, given the nature of the pre-

vailing rate structure and available public resources.

Conclusion

Rate regulation is neither inherently good nor inherently evil. Rather, rate regulation will achieve reasonable and positive economic objectives precisely to the degree that it is carried out through a system which embodies careful thought about what is to be achieved and how to achieve it. 

1993 AFFILIATED ASSOCIATION CONVENTIONS

May

- 13-15 **New Mexico**, The Legends, Angel Fire, NM
- 13-16 **Palmetto** (SC), Radisson at Kingston Plantation, Myrtle Beach, SC
- 18-21 **California**, Silverado, Napa, CA

June

- 3-4 **South Dakota**, Aberdeen Holiday Inn, Aberdeen, SD
- 3-5 **Colorado**, Hyatt Regency at Beaver Creek, Avon, CO
- 5-8 **New Jersey**, Mystic Hilton, Mystic, CT
- 13-15 **Pennsylvania**, Inner Harbor, Hyatt Hotel, Baltimore, MD
- 18-20 **New England**, Sea Crest, Falmouth, MA
- 20-22 **Oregon**, Sunriver Lodge Resort, Bend, OR

July

- 8-10 **Utah**, Sun Valley, Sun Valley, ID
- 9-11 **Illinois**, Eagle Ridge Resort, Galena, IL
- 15-17 **Michigan**, Grand Hotel, Mackinac Island, MI

August

- 5-7 **Indiana**, University Place Hotel, Indianapolis, IN
- 12-14 **Minnesota**, Holiday Inn, Fairmont, MN
- 12-14 **Montana**, Rock Creek Resort, Red Lodge, MT
- 12-15 **Idaho**, The Shore Lodge,

McCall, ID

12-15 **North Carolina**, Williamsburg Lodge, Williamsburg, VA

19-21 **Kansas**, Overland Park Marriott, Overland Park, KS

22-25 **New York**, The Sagamore Bolton Landing, Lake George, NY

25-27 **Wyoming**, (To be determined)

September

- 8-10 **Nebraska**, Ramada Inn (Downtown), Lincoln, NE
- 9-11 **Dixie**, Perdido Beach Resort, Orange Beach, AL
- 9-12 **Maryland/DC/Virginia**, Kingsmill, Williamsburg, VA
- 16-18 **Missouri**, Holiday Inn, St. Joseph, MO
- 16-18 **Nevada**, (To be determined)
- 16-18 **North Dakota**, Holiday Inn, Bismarck, ND
- 19-21 **Ohio**, The Lafayette, Marietta, OH
- 23-24 **Wisconsin**, Wyndam, Milwaukee, WI
- 29-Oct. 2 **Washington**, Skamania Lodge, Stevenson, WA

October

31-Nov. 3 **Florida**, Saddlebrook Resort, Westley Chapel, FL

November

10-12 **Arizona**, The Mirage, Las Vegas, NV

Security Adds Two Offices for Closing

Security Abstract & Title Co., Wichita, KS, has announced the expansion of its residential real estate closing services through the addition of two new offices, one on the east and one on the west sides of that community.

Closing officers in the new locations are Sandi Addis and Leslie Massopust, east side, and Alice Berry Lassley and Robbi McGuffey, west side.

Title News Offering Classified Ads

Title News now offers "Marketplace," a classified advertising section for reaching the nationwide land title industry audience. The new department will feature placements on situations wanted, help wanted, for sale and wanted to buy.

Basic format for the section is single column, text advertising placements. A box may be placed around an ad for an extra charge, and there is a discounted rate for three or more consecutive placements in the magazine. **Made-up** examples are shown below to provide an idea of style.

Rates for situations wanted or help wanted ads are \$80 for first 50 words, \$1 for each additional word, 130 words maximum (per insertion rate drops to \$70 for first 50 words plus \$1 for each additional word, for 3 or more consecutive placements). For sale or wanted to buy ads have a rate of \$250 for 50 words, 130 words maximum (per insertion rate drops to \$225 for 50 words, \$1 for each additional word for 3 or more consecutive placements).

Placing a box around an ad costs an extra \$20 per insertion for help wanted or situations wanted, \$50 per insertion for sale or wanted to buy.

Those desiring to place classified advertising in the new "Marketplace" department should send ad copy and check made payable to American Land Title Association to "Marketplace-Title News" care of the Association at Suite 705, 1828 L Street, N. W., Washington, DC 20036.

Sample: Help Wanted

LEAD ABTRACTER wanted for three-county Kansas operation. Must be certified or comparably qualified. Send resume to *Title News* Box H-326

Sample: Situations Wanted

COUNTY MANAGER for northwestern title underwriter branch seeks competitive opportunity with improved growth potential. Excellent fast track record, references. Write *Title News* Box E-418.

Sample: Sale

TITLE PLANT for sale, Florida location. Microfilm, documents and tract books cover county for over 50 years. Computerized posting. *Title News* Box S-135

Sample: Wanted to Buy

WANTED TO BUY: Used SOUNDEX system, needed by Indiana title agency. Particulars in first letter. *Title News* Box B-247.

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 Title Data, Incpage 4
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TIPAC

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auction, or other promotion. We are presently in the process of arranging donations of items to be auctioned at a special TIPAC event at the ALTA Annual Convention in Palm Desert, CA, October 13-16. All Board members and some state trustees already have agreed to solicit or donate a prize for the auction. We are just starting and have already received commitments for a Roger Staubach autographed football, a weekend in Breckenridge, CO, and two round trip tickets and two-night ocean view accommodations at the Westin Resort Hotel, Hilton Head Island, SC. Corporate contributions of administrative funds and/or gifts or prizes, while not tax deductible, are allowed under FEC rules.

The auction should be fun and will add a new dimension to our PAC as well as the Annual Convention. In order to allow non-Convention attendees to participate, we will accept write-in bids. Please note that only title insurance professionals who are authorized to contribute to TIPAC are allowed to participate in the auction.

These three new elements should help us break all prior year records for TIPAC. The PAC is a successful operation. Last year, we helped 87 members of the House of Representatives and nine members of the Senate achieve election. TIPAC is a key element of our industry's Washington legislative program, improving access to and providing support for people who in the process become better educated and become friends of the title industry.

President Clinton is proposing elimination of PACs and Campaign Finance Reform. However, the first 100 Days of the Clinton administration have come and gone and disputes among Democrats in both chambers have pushed back any PAC reform legislation. The latest estimate is that campaign finance reform, if considered, would not be effective until 1996. That's two campaigns away, at a minimum. There still is plenty of time to continue raising money, and help elect our friends.

And, we especially appreciate your support. 🐾

CALENDAR OF MEETINGS

1993

May 17-19 **ALTA Federal Conference**, Hyatt Regency Washington, Washington, DC

June 10-12 **Title Insurance Executives Conference**, Marriott at Sawgrass Resort, Ponte Vedra Beach, FL

October 13-16 **ALTA Annual Convention**, Marriott's Desert Springs Resort and Spa, Palm Desert, CA

1994

April 11-13 **ALTA Mid-Year Convention**, Scottsdale Princess, Scottsdale, AZ

September 21-24 **ALTA Annual Convention**, Walt Disney World Dolphin, Orlando, FL

1995

April 5 - 7 **ALTA Mid-Year Convention**, The Westin Resort, Hilton Head, SC

October 18-21 **ALTA Annual Con-**

vention, Loews Anatole Hotel, Dallas, TX

1996

October 16-19 **ALTA Annual Convention**, Westin Century Plaza Hotel, Century City, CA

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