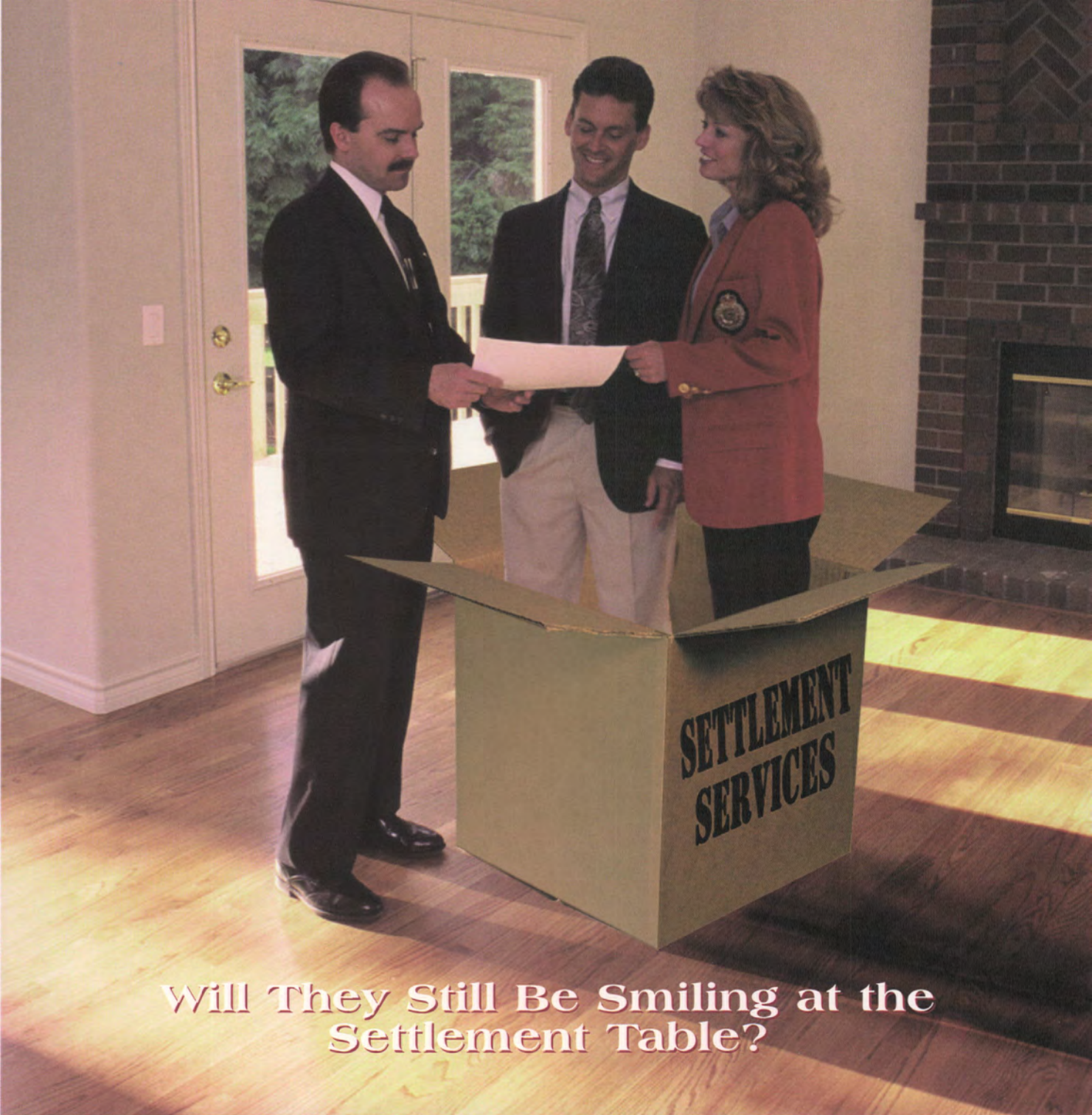


TITLE *News*

★ ALL BOXED IN WITH ★
REGULATORY PACKAGING



Will They Still Be Smiling at the
Settlement Table?

TITLEQUEST™ 2000. IT'S YOUR TICKET TO THE FUTURE.



Microsoft Certified
Solution Provider

SUDDENLY THE YEAR 2000 DOESN'T SEEM VERY FAR AWAY.
IS YOUR BUSINESS READY FOR THE NEXT MILLENNIUM?

Soon, Elliptus Technologies will offer TitleQuest™ 2000 to a limited number of qualified agents. Don't be left behind, call today to see how your office can qualify to become one of the first users of TQ2K. For more information, contact us today at 1.888.ELLIPTUS, or visit us online at www.elliptus.com.

elliptus
Technologies

A LandAmerica Company

TITLE *News*

MARCH•APRIL 1999

Volume 78, Number 2

\$5 per issue (member rate) \$8 per issue (non-member rate)

**AMERICAN
LAND TITLE
ASSOCIATION**



Members Call Toll Free:
800-787-ALTA

Members Fax Toll Free:
888-FAX-ALTA

Visit ALTA Home Page:
<http://www.alta.org>

E-Mail Feedback to:
service@alta.org

On The Cover: While some players in the real estate industry are claiming that regulatory packaging will benefit consumers, there has been little quantitative and/or economic analysis performed to support these claims. Turn to page 12 to learn just what a prominent economist says about how this important regulatory proposal could affect consumers, the settlement industry, and the real estate delivery system that currently exists.

FEATURES

7 Leasehold Policies: Title Insurance's Neglected Child

By Matthew J. Cholewa

If you aren't sure what kind of coverage a leasehold policy provides, Matthew Cholewa's analysis will lead you through the pros and cons of this somewhat unique form of title insurance. Included in this step-by-step primer on leasehold policies is a case study that provides a real-life look at how such policies can be configured.

12 All Boxed in with Regulatory Packaging

By Richard McCarthy

While many of the suggestions listed in the 1998 Fed/HUD report would help consumers, regulatory packaging is not one of them. In his article on the subject, ALTA's Director of Research Richard McCarthy introduces the economic analysis of Dr. Robert Feinberg, Chairman of the American University Department of Economics, in a discussion of how this concept might actually play out.

16 Abstracter-Agent Characteristics Survey

*By Mark Bilbrey
and Richard McCarthy*

Here's where you can find out just what your peers and competitors are doing in terms of employee benefits. As recruitment and retention become more crucial issues for title companies, this information could be very helpful in addressing the challenges of a tight labor market.

38 The Psychology of Change: Tips to Help You Keep Your Cool When the Heat's Turned Up

By C. Stephen Byrum, Ph.D.

We keep hearing that we should "embrace" change. But how? Join Dr. Stephen Byrum as he gives the practical advice we've all been looking for. As he points out, the key is often not in the external circumstances, but in how we interpret and react to them.

DEPARTMENTS/AND MORE

32 Become an Industry Leader

36 Congressional Outlook

42 Names in the News

©1999 American Land Title Association. *Title News* was produced by ALTA and may not be distributed to non-ALTA members without permission of the American Land Title Association.

Title News is published bi-monthly by the American Land Title Association, 1828 L Street, N.W., Suite 705, Washington, DC 20036.

U.S. and Canadian subscription rates are \$30 a year (member rate); \$48 a year (non-member rate). For subscription information, call 1-800-787-ALTA. Send address changes to: *Title News*, circulation manager, at the above stated address.

Anyone is invited to contribute articles, reports and photographs concerning issues of the title industry. The Association, however, reserves the right to edit all material submitted. Editorials and articles are not statements of Association policy, and do not necessarily reflect the opinions of the editor or the Association.

Reprints: Apply to the editor for permission to reprint any part of the magazine. Articles reprinted with permission must carry the following credit line: "Reprinted from *Title News*, the bi-monthly magazine published by the American Land Title Association."



ALTA COMING EVENTS



March

1999

- 3-4 Internal Auditors**
San Diego, CA
- 29-31 Mid-Year Convention**
Hotel InterContinental, New Orleans, LA

May

- 1-5 Internal Auditors Meeting**
Key West, FL
- 2-4 Title Counsel**
San Francisco, CA

June

- 3-5 Title Insurance Executive Conference**
Chateau Elan, GA
- 5-8 Systems Committee Meeting**
Denver, CO
- 9-10 ALTA Board Meeting**
Washington, D.C.

August

- 15-17 Reinsurance Committee Meeting**
Woodstock, VT

October

- 6-9 ALTA Annual Convention**
Colorado Springs, CO

AMERICAN
LAND TITLE
ASSOCIATION



ASSOCIATION OFFICERS

President

Joseph M. Parker, Jr., Parker Title Insurance Agency, Inc., Winston-Salem, NC
(E-mail: jmpws@aol.com)

President-Elect

Charles H. Foster, Jr., LandAmerica Financial Group, Inc., Richmond, VA

Treasurer

Charles G. Gregory, Old Republic National Title Ins. Co., Minneapolis, MN

Chair, Finance Committee

Stanley B. Friedlander, Continental Title Agency Corporation, Cleveland, OH

Chair, Title Insurance Underwriters Section

Patrick F. Stone, Fidelity National Title Insurance Co., Santa Barbara, CA

Board Representatives, Title Insurance Underwriters Section

John N. Casbon, First American Title Insurance Company, New Orleans, LA

Alan N. Prince, Chicago Title Insurance Company, Chicago, IL

Chair, Abstracters and Title Insurance Agents Section

Cara L. Detring, Preferred Land Title Company, Farmington, MO

Board Representatives, Abstracters and Title Insurance Agents Section

Mark A. Bilbrey, Warranty Title and Abstract, Inc., El Reno, OK

Tony Winczewski, Commercial Partners Title, LLC, Minneapolis, MN

Immediate Past President

Malcolm S. Morris, Stewart Title Guaranty Co., Houston, TX

ASSOCIATION STAFF

Executive Vice President

James R. Maher

Director of Research

Richard W. McCarthy

Vice President - Administration

David R. McLaughlin

Legislative Counsel

Ann vom Eigen

Director of Education

Patricia L. Berman

Director of Communications

Lisa M. Cole

Director of Meetings and Conferences

Liza Trey

Director of Membership/Marketing

M. Kathleen Hendrix

Director of Information Systems and Technology

Kelly Throckmorton

Production Editor

Susan M. Cicirelli

A MESSAGE FROM THE UNDERWRITER CHAIR



The essence of our value to our customers is trust. Trust that clients' directions will be followed, trust that their assets will be safeguarded, trust that we are independent, reliable facilitators of real estate transactions. Without the existence of such trust, our mission fails, our customers disappear, and we become irrelevant. The preservation of such trust, therefore, is critical to the survival of any title insurer.

Unfortunately, despite our obligation to honor the trust that is reposed in us, violations of that trust do occur and often are highlighted by governmental investigations, which may lead to serious consequences at both the criminal and civil level. We must be determined to keep corporate misconduct from occurring and to guard against unethical sales and marketing practices, employee defalcations, and fraud in the performance of real estate closing services. Our failure to be vigilant may lead to the loss of the trust - the ultimate penalty for a title company. One way to safeguard such trust is through an effective compliance program.

An effective, structured, compliance program promotes a law-abiding corporate environment and deters criminal conduct. It sends a message to employees at all levels that ethical behavior is expected, and wrongdoing is not tolerated. It recognizes that after-the-fact policing of business misconduct may not be adequate.

To implement such a program the following steps should be taken:

1. The organization should establish clearly articulated standards and procedures that are easily understood and geared toward reducing the prospect of wrongful conduct;
2. The organization must take steps to communicate these standards and procedures to as many employees as feasible through written materials, seminars, and company publications;
3. Overall responsibility to oversee the program must be assigned to a high level employee;
4. The organization must take reasonable steps to achieve compliance with its standards by utilizing monitoring and auditing systems, and by implementing means of reporting questionable conduct without fear of retribution;
5. The standards must be enforced through appropriate disciplinary mechanisms; and
6. After an offense has been detected, the organization must take reasonable steps to respond appropriately to the offense and supplement its procedures with the goal of preventing similar occurrences.

Implementation of a compliance program can have many positive effects. Many of them are found in the legal arena. An effective program can diminish the chances of criminal prosecutions and civil fines, for example. The most important benefits, however, will be felt within the company, as employees will be positively motivated to stress corporate integrity, and as our customers will know that trust is not a buzzword but a mission critical statement with which our industry is identified.

Patrick F. Stone

The background of the advertisement features a close-up of the American flag's stars and stripes in the upper half, and the granite faces of the presidents at Mount Rushmore in the lower half. A white rectangular box with a thin black border is centered over the image, containing the text.

The best title plant systems are built on rock-solid leadership.

TDI was founded by America's major title insurance companies over 32 years ago. Combining their experience with our expertise, we've revolutionized title plant technology. Our TIMS® title plant management software is now the stand-alone system of choice among this nation's metro counties, serving a combined population exceeding 35 million. That's a mountain of data to manage day in and day out, but that's what TIMS® does best. And, building upon our knowledge, we're bringing new insights and innovations to tomorrow's title plant automation. We'll be happy to share our thinking. Face to face.

OWNERS: CHICAGO TITLE, COMMONWEALTH LAND TITLE, FIDELITY NATIONAL TITLE, FIRST AMERICAN TITLE, LAWYERS TITLE, OLD REPUBLIC, STEWART TITLE, TITLEAMERICA, TRANSNATION TITLE

TDI **TITLE DATA**
Excellence By Design

Houston, Texas
TEL: 713/880-2600 • FAX: 713/880-2660
© 1999 Title Data, Inc.

Leasehold Policies: Title Insurance's Neglected Child

By Matthew J. Cholewa

Introduction

While much has been written about title insurance coverage, one subject that has been virtually ignored in the literature is that of leasehold title insurance. Little has been written on the subject because demand for leasehold policies has not been high. Two reasons account for this lack of demand: 1) a small number of leasehold mortgages; and 2) a general misunderstanding of the value of leasehold insurance.

Some property owners would not purchase an owner's policy themselves if it were not purchased for them by the seller in furtherance of the seller's title warranty obligations. In non-"seller-pay" jurisdictions, owner's coverage wouldn't be purchased by a property owner if a loan policy wasn't first required by the lender; in these markets, the relatively modest additional premium for the owner's coverage makes the decision a "no-brainer." Because there are relatively few leasehold mortgages, there are few leasehold mortgage lenders requiring title insurance as a condition of making a mortgage loan. Thus, few leasehold policies are purchased.

This, however, does not completely explain the lack of demand. Even when a mortgage lender is not in the picture, purchasers of fee interests are more likely to purchase title insurance than are purchasers of leasehold interests. This is in part attributable to a lack of understanding regarding the coverage afforded by a leasehold policy. For example, many people believe that a leasehold policy has no value if the policyholder has a market value lease.

Managing Risks

Tenants will often sign a lease of sig-

nificant duration and make expensive leasehold improvements without purchasing title insurance or even examining title to the premises. Most would not think of making such an investment in a fee interest without the purchase of a title insurance policy.

A title search, and the subsequent issuance of a policy, offers answers to as well as insurance against questions that are important to someone contemplating a lease of real property:

- 1) Is the landlord named in the lease the true owner of the premises?
- 2) Is the consent of a mortgagee needed to lease the premises?
- 3) Are there any covenants or restrictions of record that prohibit or limit the tenant's intended use, such as might be found in prior leases?
- 4) Will the tenant's possession of the premises be at risk due to foreclosure of a mortgage?



Matthew J. Cholewa is Branch Counsel with Lawyers Title Insurance Corporation in its Cromwell, Connecticut office, having joined Lawyers Title in April, 1998. Mr. Cholewa was previously an attorney with Robinson & Cole LLP in Hartford, Connecticut. He received his Juris Doctor degree from the University of Virginia School of Law in 1992, where he was a member of the Virginia Law Review. Mr. Cholewa can be reached at 860-635-5566 or by Email at mcholewa@landam.com.

- 5) Who are necessary parties to non-disturbance agreements?
- 6) Are the leased premises subject to any easements or restrictions that may limit development or use of the leased premises?

The Policy Language

The only difference between a leasehold policy and an owner's or loan policy is the definition of "loss or damage." A leasehold policy defines the value of a leasehold estate and adds certain items of loss not found in an owner's or loan policy. Other than that, a leasehold policy contains all the protections, exclusions from coverage, and conditions and stipulations found in an owners or loan policy. The additional items contained in a leasehold policy are as follows (the leasehold policies discussed here are the 1992 American Land Title Association Leasehold Owner's and Leasehold Loan Policies:)

1. **Valuation of Insured Estate.** The value of a leasehold estate is defined as the difference between the fair market rental value (undiminished by claimed title defects) and the rent reserved in the lease, all brought to present value.
2. **Miscellaneous Items of Loss.** In addition to the lost value of the leasehold estate, the following items are included as part of "loss or damage:"
 - a. The cost of removing, relocating, and repairing the insured's personal property within a 25-mile radius.
 - b. Rent or use-and-occupancy

payments the insured may be obligated to pay a party having paramount title to that of the landlord.

- c. Post- eviction rent that the insured is obligated to continue to pay the landlord for the land from which the insured has been evicted.
- d. The fair market value of the insured's interest in any subleases.
- e. Any damages that the insured is obligated to pay a sublessee on account of a corresponding breach of a sublease.

A sample endorsement that converts an owner's policy into a leasehold owner's policy is set forth on page nine. A similar endorsement converts a loan policy into a leasehold loan policy. Note that the additional coverage is not included in a policy unless this endorsement or a leasehold policy jacket is used.

A Hypothetical Claim

The value of a leasehold title insurance policy, and some of its shortcomings, can be seen through the following hypothetical example. A telecommunications company leases a parcel of land to build a communications tower and purchases a leasehold policy. A residential area borders the property. The lease term is five years with three five-year options. The lease requires removal of the improvements following the lease term. The company obtains a special permit for the use. The company paves an access drive to the tower site, brings in utilities, constructs the tower, installs its antennas and a modular equipment building, and makes landscaping improvements required as a condition of the permit. The company subleases tower space to two rival carriers and a paging company.

A week after the site is operational, the telecommunications company is sued by neighboring property owners, who rightfully claim that the property is subject to a restrictive covenant prohibiting commercial use of the property. The company is also sued by two of its sublessees for breach of lease. The company makes a claim on its title insurance policy and tenders defense of the suits to the title insurance company. The telecommunications company loses on all

fronts and is forced to cease its operations and dismantle the tower. What is it entitled to recover under its policy?

Recoverable Damages

As noted above, many people believe that a title insurance policy offers no value when a tenant has a market-value lease. Indeed, the value of a leasehold estate can be equal to zero if the fair market rental value at the time of the loss is equal to or less than the rent reserved in the lease. That is because, unlike the purchase of a fee, a lessee's right of possession is usually not paid for up front. Rather, it is purchased in a series of installments of rent, and payment of rent will usually terminate upon dispossession.

This summary dismissal of leasehold coverage ignores three important issues. First, often the most important feature of a title insurance policy is the duty to defend. Title insurance companies spend approximately the same amount of money on defense costs as they do on the payment of claims. Second, the items listed above under "Miscellaneous Items of Loss" can often be quite significant. Finally, there is a general misunderstanding of how a leasehold interest would be valued in the context of a title insurance claim.

Costs of Defense

Three different parties have sued our hypothetical policyholder. Significantly, although title insurance policies (including leasehold policies) limit the amount of damages paid to a policyholder according to the amount of insurance purchased, there is no corresponding limit on defense costs. If the telecommunications company had not purchased title insurance, it would have had to shoulder these defense costs on its own.

Miscellaneous Items of Loss

Dispossessed tenants can incur significant expenses in relocating personal property. Also, it is reasonable to conclude that "removing, relocating, and repairing" includes *reinstalling* personal property. In our example, the leasehold policy compensates the telecommunications company for its expenses in removing the tower (because it is to be removed following the lease term, it is fair to characterize the tower

as personal property), its telecommunications equipment and modular building, and reinstalling them in a new lease location.

Also, the policy compensates the telecommunications company for damages it is obligated to pay its sublessees for breach of lease. Note that the leasehold policy does not limit the type of compensable damages: The policyholder is compensated (up to policy limits) for *any* damages it is obligated to pay its subtenants.

Finally, the company will be compensated for the loss of the benefit of its bargain with its sublessees.

Valuation of the Leasehold Estate

There is no case law valuing leasehold estates under title insurance policies. One can, however, make an analogy to the valuation of leaseholds for purposes of eminent domain. Cases valuing leaseholds in eminent domain proceedings have generally employed the same formula as is found in the ALTA leasehold policy, namely, the fair market value of the leasehold minus the rent reserved in the lease. (See NICHOLS ON EMINENT DOMAIN §13.05[1].) The fair market value of the leasehold would likely be the rent the property would bring if placed on the market.

A fundamental mistake many make is to ignore the fact that the leasehold estate is *valued at the time of loss*, not at the time of entering into the lease. Listed below are a number of factors that could influence the fair market rental value of a leasehold estate and fairly be considered by a court valuing a lease:

a. Changes in Market Rents

Since the value of the leasehold is determined at the time of loss, the leasehold becomes more valuable if market rents have risen in the interim.

b. Leasehold Improvements

Leasehold improvements should be taken into account. Simply put, the rental value of improved property is greater than that of unimproved property. In our example, the policyholder would be compensated for the value that the road, utilities and landscaping contribute to the rental value of the premises. The value of the tower is ignored because it is personal property, and the

Leasehold Conversion Endorsement

This policy is hereby amended as follows:

1. The following sub-paragraph is added to paragraph numbered 1 of the policy's Conditions and Stipulations:
(h) "leasehold estate:" the right of possession for the term or terms described in Schedule A hereof subject to any provisions contained in the Lease which limit the right of possession.

2. The following numbered paragraphs are added to the Conditions and Stipulations:

18. Valuation of Estate or Interest Insured

If, in computing loss or damage incurred by the insured, it becomes necessary to determine the value of the estate or interest insured by this policy, the value shall consist of the then present worth of the excess, if any, of the fair market rental value of the estate or interest, undiminished by any matters for which claim is made, for that part of the term stated in Schedule A then remaining plus any renewal or extended term for which a valid option to renew or extend is contained in the Lease, over the value of the rent and other consideration required to be paid under the Lease for the same period.

This paragraph applies only to any leasehold estate or interest described in Schedule A.

19. Miscellaneous Items of Loss

In the event the insured is evicted from possession of all or a part of the land by reason of any matters insured against by this policy, the following, if applicable, shall be included in computing loss or damage incurred by the insured, but not to the extent that the same are included in the valuation of the estate or interest insured by this policy.

- (a) The reasonable cost of removing and relocating any personal property which the insured has the right to remove and relocate, situated on the land at the time of eviction, the cost of transportation of that personal property for the initial twenty-five miles incurred in connection with the relocation, and the reasonable cost of repairing the personal property damaged by reason of the removal and relocation. The costs referred to above shall not exceed in the aggregate the value of the personal property prior to its removal and relocation. "Personal property," above referred to, shall mean chattels and property which because of its character and manner of affixation to the land, can be severed therefrom without causing appreciable damage to the property severed or to the land to which the property is affixed.
- (b) Rent or damages for use and occupancy of the land prior to the eviction which the insured as owner of the leasehold estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- (c) The amount of rent which, by the terms of the Lease, the insured must continue to pay to the lessor after eviction for the land, or part thereof, from which the insured has been evicted.
- (d) The fair market-value, at the time of the eviction, of the estate or interest of the insured in any sublease of all or part of the land existing at the date of the eviction.
- (e) Damages which the insured may be obligated to pay to any sublessee on account of the breach of any sublease of all or part of the land caused by the eviction.

This paragraph applies only to any leasehold estate or interest described in Schedule A.

company has already been compensated for its relocation and reinstallation.

Where a tenant holds title to its lease hold improvements and loses them upon dispossession, the analysis is simpler. Consider, for example, a ground lessee that holds title to a building it has constructed on leased property. In such a case, the title insurance policy should be written to expressly insure the tenant's title to the building, and the tenant would be compensated for the value of the building separate from the value of its ground lease.

c. Increased Value Due to Land Use Approvals

The obtaining of land use approvals can substantially increase the value of real property, including leasehold interests. In our example, the securing of a special permit significantly increases the value of the leased property. It not only enables the communications carrier to install and operate the tower and its own equipment, it also allows the company to sublease to three other carriers.

d. Intrinsic Value to Lessee: The Right to Remain in Undisturbed Possession

One commentator has suggested that because leases fall into a class of property not commonly bought and sold, in some circumstances the best and only test of market value is the intrinsic value to the owner. With a market value lease, that is the value of the right to remain in undisturbed possession for the lease term. That value may depend upon the use made and the nature of the insured's business, but expected profits cannot be considered. (See NICHOLS at §12D.04[4].)

Continued on page 46

Now you can search over **80 million** public records with the touch of a key.

Now from DatatrAce, a leader in title plant management, comes ATSS™, our new technologically advanced Automated Title Search Service. Utilizing the highly acclaimed TIMS® title plant software, our new ATSS has many exciting new features available exclusively through DatatrAce.

With the touch of a key, you can access any information you need on deeds, mortgages, liens, judgments, bankruptcies, and other pertinent data in a matter of seconds. Because our data is put through a rigorous 10-point quality control check, you have the assurance of its integrity.

The DatatrAce Advantage

- Increased productivity and work flow efficiency.
- Reliable, timely information indexed geographically.
- Tax, prior policy information and public record document images.*
- Ability to generate national O&E reports in 48 hours or less in most cases.
- Customer service second to none – local support and a national toll-free help line.
- The strength and stability of being a LandAmerica company allows us to provide unrivaled products and service.
- Over 15 years experience and thousands of satisfied customers in the title and information industries.

For your public record needs with the touch of a key, call DatatrAce toll free at:

1-800-368-3380, or e-mail us at Info@DatatrAceInfo.com.

*May not be available in all parts of the US.
TIMS® is a registered trademark of Title Data, Inc., Houston, TX.



DatatrAce

Information Services

A LANDAMERICA COMPANY

National Headquarters

101 Gateway Centre Parkway • Gateway One • Richmond, VA 23235
Tel: 800-368-3380 • Fax: 804-267-8832
Web site: www.DatatrAceInfo.com
E-mail: Info@DatatrAceInfo.com

Local Offices

Cleveland, OH • Detroit, MI • Fort Lauderdale, FL • Tampa, FL

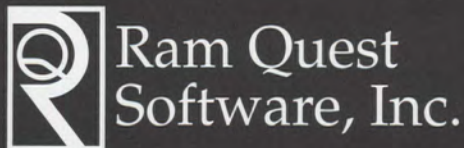


TAKING YOU TO THE TOP

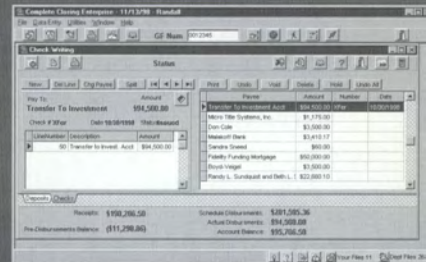
Sure-footed. Rock-Solid. Ram Quest is built on an industrial strength foundation. Built from the ground up with Windows NT. Designed for today's fast-moving and demanding office. Engineered for speed so you can work. And help you lead the way.

- **Complete Closing** - Title and Closing system, fully integrated with File tracking, HUD prep, Document integration.
- **Complete Closing Enterprise** - Large office system with high-speed remote branch support.
- **Complete File Scan** - access supporting documents with integrated image retrieval.
- **WebCloser** - prepare files & documents over the Internet.

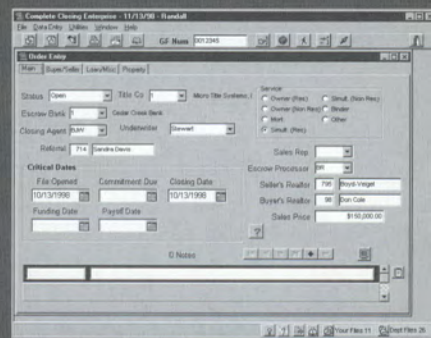
1-800-542-5503



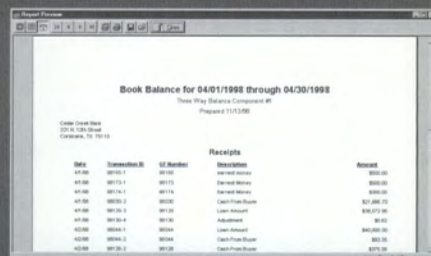
Ram Quest is a wholly owned subsidiary of Tyler Corp. NYSE:TYI



Find files, track and direct them automatically. Easy to use.



Enter data once, easily with intuitive help always available.



Comprehensive management reports at your fingertips.

All Boxed In With Regulatory Packaging

By Richard W. McCarthy, ALTA Director of Research

During the summer of 1998, the Department of Housing Development (HUD) and the Federal Reserve Bank (FED) issued their *Joint Report to Congress Concerning Reform to the Truth (in) Lending Act and the Real Estate Settlement Procedures Act*. While there are many recommendations in the report that would improve the lending/settlement process and would benefit consumers, at least one major recommendation is troubling and may not serve consumers well at all.

To improve RESPA, the Report requires a good faith estimate of all costs that the creditor anticipates that the borrower will have to pay in connection with closing a loan. According to the Report, "HUD has interpreted RESPA to require that the good faith estimate cost disclosures must bear a reasonable relationship to the actual charges. RESPA does not impose liability on a creditor for an inaccurate or incomplete estimate . . . The figures disclosed on the good

faith estimate need not be firm or guaranteed. Thus there are few incentives for creditors to incur costs to increase accuracy . . . actual charges may be higher because the estimates may not have been prepared with sufficient regard for their accuracy."

To improve the accuracy of the good faith estimates, the Report recommends either:

- 1) guaranteed costs for the settlement services with an exemption from Section 8 of RESPA; or
- 2) imposition of an accuracy standard on the good faith estimate.

An exemption to Section 8 prohibition of referral fees would be granted to the firm that offers packaged settlement services if a guaranteed price for the comprehensive package of services needed to close the loan is offered, and the interest rate and points for the loan are disclosed. The lender is not required to either indicate what is in the package or what the prices are for the individual components of the package. We do not believe that creditors would choose the accuracy standard approach since they could be penalized for inaccuracies caused by settlement services providers that are beyond their control. Rather, creditors would prefer to take the necessary elements of the process under their control through guarantees and pass the guaranty on to the consumer.

Because the results of regulatory packaging will have far reaching implications for how all settlement service providers will do business in the future, ALTA asked Dr. Robert M. Feinberg, Professor and Chair, Department of Economics, American University, to comment on the HUD/FED Report.

In his Introduction, Dr. Feinberg states: "Packaging will produce minimal benefits **at best**, while imposing potentially **significant costs** on consumers and smaller settlement service providers, and **risk** to the real estate settlement industry....any benefits which might result from packaging would likely be distributed unevenly across regions and individuals.... possible costsinclude higher prices to certain groups of customers, elimination of settlement service providers that could have long-term competitive implications, conflicts of interest, and risk of harming small business and disrupting a system that generally works well at present." (emphasis added)

The following are direct excerpts selected from Dr. Feinberg's article, *Economic Implications of Real Estate Settlement Packaging*:

Quoted excerpts are from Dr. Robert M. Feinberg's analysis entitled, "Economic Implications of Real Estate Settlement Packaging." Dr. Feinberg is Chair, Department of Economics, American University, and has published numerous economic articles in both domestic and international academic journals. A Fulbright Scholar, Dr. Feinberg received his B.A. degree from the University of Pennsylvania, and his Ph.D. in economics from the University of Virginia. He specializes in industrial organization economics, applied microeconomics, and antitrust and international trade policy. Dr. Feinberg may be reached through ALTA.

“The settlement cost guarantee discussed in the report does nothing to help consumers in searching for the best financing package (and in fact may hinder this search), since it reduces the transparency of financing comparisons. It is difficult enough for consumers to evaluate the best financing deal (both on purchase and refinancing) when confronted by an array of fixed and variable rate products, each with alternative possibilities of points, amortization periods, and other features. Adding to the mix a lump sum for settlement costs, especially if not itemized and not complete, will make comparisons among lenders even more complicated.

To the extent that packaging is intended to achieve the second goal stated above (informing consumers of the full cost of a real estate transaction) the proposal is clearly inadequate, as there are too many exclusions from the package.

Consider the issue of reducing consumer search costs. Unless there is full disclosure of the particular services in the package (“itemization”) and the option to consumers of substituting provider of particular settlement services (“freedom of provider selection”) — the latter requiring information on prices (perhaps in terms of credits given consumers for substitution) of these elements — at a useful point in the transaction less information will be provided to the consumer than at present. The Fed/HUD recommendations state that “consumers want to know what services they are purchasing (report, p.33) and so they suggest that a list of services — but not individual service prices — might be provided **by the date of settlement**. This late and incomplete information is clearly inadequate to the goal of providing either full information or the enhancement of a consumer’s ability to shop around.

Unless itemization of expenses for services which are part of a package and freedom of provider selection are required, consumers who are well informed about the settlement process or are willing to take the time to shop will be prevented from getting the best deal, which will tend to raise prices on average. And unless service providers are identified by name early in the process, consumers are prevented from being able to judge the quality of these services provided in whole or in part for their benefit that are included in a given package.

The clear presumption of the Fed/HUD recommendations seems to be that lenders do operate in a highly competitive market; from this they draw the conclusion that packaging will push prices down by putting all closing costs in lenders hands. However, for certain classes of consumers (rural, poor credit, unusual size and type of loans, those in the inner city) there may be limited sources of credit, suggesting market power by lenders in those market sectors; for these consumers the effect of packaging may be to raise the total cost of closing.

Given oligopsony (buyer) power by large lenders over settlement service providers and at least pockets of market power possessed by lenders towards consumers, there is no guarantee that any discounts received on these settlement services will be passed on to consumers as opposed to being reflected in higher markups. In fact, without itemization and freedom of provider selection — the type of information required by a competitive market — this pass-through of discounts to consumers is quite unlikely.

The costs of packaging are of the following types: (1) raising prices on settlement services to selected groups of homebuyers; (2) the threat of long term availability problems, especially for smaller providers of certain settlement services, which may have implications for future levels of competition in the real estate settlement market; (3) reduced purchases of consumer-benefitting services associated with the home purchase; and (4) moral hazard issues which may reduce the quality of some settlement services that primarily benefit consumers but which are included in lender-provided packages.

If we consider which types of consumers are most likely

to lose out from packaging these include both savvy buyers (who would prefer to shop around for best deal on all services, and who will be disadvantaged without itemization and freedom of provider selection) and unsophisticated purchasers (who may be unable to

evaluate the choice between competing packages and who may ignore the non-packaged components of settlement services).

An additional information-related cost of packaging is that it may lead to reduced purchases of consumer-benefitting services. That is, if customers think that a package is complete (as it may be **from a lender’s perspective**) they may be unaware of the advantages they might receive from settlement services which could supplement the package. They may, for example, be unwilling to purchase an owner’s title insurance policy, or to retain their own attorney to represent their interests in the transaction, or to pay (extra perhaps) for an independent home and pest inspection, etc.

Related to the last point is that the potential for conflicts of interest associated with packaging is enormous. There is clearly an asymmetry in the nature of information held by a lender and a home buyer, both in terms of the types of settlement services which may be desirable for the buyer to obtain, and in the quality of services provided. For some of these services, quality has little effect on the lender but potentially major impacts on the buyer — examples are home inspection, appraisals, pest inspections. As long as the providers of these services are able to detect and prevent major problems which would reduce the value of the property below the loan value, the lender would be satisfied; buyers however, would like more assurance of likely future maintenance problems and the costs which these will require. Given both different needs and different ability to judge quality, we would expect a sub-optimal level of service (from consumer perspectives) to result from packaged provision.

While better information and greater certainty about rates and points would be desirable, the current system has generally served consumers well. Furthermore, a limited amount of packaging is occurring even without a regulatory mandate. Some vertical integration is occurring and leading to internal company packages; however, without mandate, changes occurring are market-driven and still leave room for non-integrated firms, small businesses, and consumer choice among settlement providers.”

“Packaging will produce minimal benefits, at best, while imposing significant costs on consumers and smaller settlement service providers...”

ALTA's Retirement Program: Offering You Top-Quality Benefits at Significant Cost Savings

Did you know that as a business owner you can maximize your personal benefits by sheltering up to \$30,000 per year, both pretax and tax-deferred?

Business owners at ALTA's National Convention in October learned all about this great benefit and more, thanks to a presentation by Bob Sheridan, Chairman of American Buying Retirement Services, Inc. (ABRS). ABRS is the designer and exclusive marketing agent for ALTA's retirement program.

Bob presented the highlights of ALTA's program, such as the importance of New Comparability in conjunction with a 401(k) plan. He also discussed how today's labor shortage makes our program much more than just a great plan for retirement. It's really a critical management tool for any business owner who competes nationwide for the same small pool of talented employees.

Many business owners who attended Bob's meeting concluded that even if they already had a retirement plan, they should take a look at ALTA's because it enables them to:

1. Save money. Our plan saves in set-up cost, administrative fees, and per-participant charges. Plus, savings are far above the cost of ALTA's annual dues.
2. Enjoy more features than in your existing plan, including a wide range of investment options and expert local service.

As evidence of our high-quality program, we have already had many ALTA members sign up within a short period of time. If you have not signed up yet, take a look at what ALTA's retirement program can offer you.

401(k) Plan

Gives members a wide range of choices and many ways to save:

- Turnkey programs have no set-up costs and save members up to 100 percent of per participant and annual administration fees*
- Products supported by name brand providers with a commitment to quality, educational programs and service
- Members can choose from more than 20 investment options from leading money managers and brand name mutual funds
- Reduced asset management fees

Executive Retirement Plan

Rewards business owners and key employees with long-term compensation that is attractive and economically efficient:

- Helps business owners retain, reward, and recruit key employees
- Offers business owners complete flexibility and unlimited contributions
- Lets business owners select who participates
- Enables business owners to set the vesting requirements and decide how to design and fund the plan

Qualified Profit Sharing Plan

Cross-tested plans designed to maximize benefits for the business owner:

- Maximizes contributions of 25 percent of pay, up to \$30,000 per person, per year (versus \$10,000 in 401(k) plans)
- Capitalizes on IRS regulations allowing the owner and key employees (depending on company demographics) to receive up to 90 percent of the profits
- Includes guaranteed issue life insurance with exclusive enhancements, where applicable
- Saves business owners up to 100 percent on plan design and documentation costs, annual administration fees, and per participant charges*

To learn more about our retirement program, call Member Benefits at 1 (800) 495-4050.

**Savings may vary depending upon which plan and which provider you choose and upon the applicability of certain offsets or charges. Please see your provider's plan documents for complete details.*

In 1988, title agents needed an answer,



and ALTA hit it dead on.

An E&O insurer governed by title professionals and solely-owned by its policyholders

In response to problems in the E&O marketplace characterized by unstable pricing and lack of available coverage, the American Land Title Association created a solution, **Title Industry Assurance Company (TIAC)**.

For a decade, **TIAC** has offered abstracters and title agents a reliable alternative for their professional liability/errors and omissions insurance. **TIAC**, an independent risk retention group which is wholly owned and governed by members of ALTA, exists exclusively to provide E&O insurance for ALTA's member title agents and abstracters.

As an active or associate member of ALTA, you can access E&O coverage on a

"claims made" basis including prior acts coverage for qualified insureds. **TIAC's** policy insures the following professional services: title agents, abstracters, searchers, escrow agents, closing agents, and notaries.

TIAC offers competitive premium rates with flexible policy limits from \$100,000 to \$1 million per claim and from \$100,000 to \$2 million annual aggregate. Add deductible options to this mix and you're sure to find

the right coverage for your business. Join other members who have discovered **TIAC's** quality service, reliability and proven stability in the marketplace.

Call (800) 628-5136 today for a free premium estimate.



Your company. Your choice.

Title Industry Assurance Company, A Risk Retention Group.
2 Wisconsin Circle, Suite 650 • Chevy Chase, MD 20815-7011
phone: (800) 628-5136 • fax: (800) TIAC FAX

Abstracter-Agent Characteristics Survey

By Mark A. Bilbrey and Richard W. McCarthy

Introduction

The Abstracter-Agent Section Research Committee of ALTA conducted its second annual *Survey of Abstracter and Title Agent Operations* during 1998, as directed by the ALTA Strategic Plan. The overall objective of the effort is to develop and contribute to an on-going database of information that will help members to compete both inside and outside the title insurance industry in terms of attracting qualified employees in a tight labor market. This information should not only help members initial recruitment efforts, but should also assist in retaining those employees, since turnover in the industry tends to be high.

All ALTA members who are title agents and/or abstracters were invited to participate. This year's survey focuses on employee benefits, a topic not included in the 1997 survey. However, the 1998 results may be compared with the 1997 results on numerous business characteristics, including levels of staffing, types of business activities, revenue, operating expense, and payroll cost.

445 ALTA members or almost 30 percent of eligible members responded to the 1998 survey.

Survey results were reported for four categories of annual revenue and four categories of numbers of employees. The distribution of responses between categories is similar to 1997 and is as follows:

\$150,000 or less revenue	77	21%
\$151,000-\$500,000	146	39%
\$501,000-\$999,999	48	13%
\$1 million or more	102	27%
1-2 employees		9%
3-5 employees		27%
6-20 employees		43%
20 or more		21%

A minority of respondents—16 percent

in 1998 compared with 12 percent in 1997—did not report annual revenue. Companies that did not report revenue are more or less evenly distributed across the four categories of employee size: 19 percent of those with one to two employees, 21 percent of those with three to five employees, 13 percent of those with 6-20 employees, and 15 percent of those with 21 or more employees. Number of employees may be as good a measure of size of company as revenue; both breakouts should be studied before concluding there is a significant difference in some practice or characteristic between larger and smaller companies.

Survey responses related to business characteristics are also reported by geographic region, based on U.S. census regions. The geographic distribution of responses in 1998, reported below, is similar to the distribution in the 1997 survey:

New England (ME, NH, VT, MA, RI, CT)	1.8%
Mid-Atlantic (NY, NJ, PA)	6.1%
South Atlantic (DE, MD, DC, VA, WV, NC, SC, GA, FL)	3.6%
East South Central (KY, TN, AL, MS)	1.8%
East North Central (OH, IN, IL, MI, WI)	26.1%
West North Central (MN, IA, MO, ND, SD, NE, KS)	28.5%
Mountain (MT, ID, WY, CO, NM, AZ, UT, NV)	12.6%

Author Bilbrey is vice president, Warranty Title and Abstract, Inc., Reno, OK, chair of the ALTA Alttracter-Agent Research Subcommittee, and a representative on the Board of Governors. Author McCarthy is ALTA director of research.

West South Central (AR, LA, OK, TX)	12.2%
Pacific (WA, OR, CA, AK, HI)	7.2%

Description of Responding Companies

The response includes 267 companies (60 percent of the total) whose business activities include both title insurance and abstracter activities. Another 30 percent report they are title agents only; ten percent report they are abstracters only. Among all 445 companies responding, more than 80 percent provide escrow and/or closing services while among the title agents, almost all provide escrow/closing services. (See Table 1a, page 19)

The response is divided between C corporations and subchapter S corporations. Companies with annual revenue of \$150,000 or less tend to be organized under subchapter S. Larger companies are almost equally sub-S and C corporations. Sole proprietors account for 8 percent of the response, including 22 percent of companies with revenue of \$150,000 or less. The newer form of incorporation—limited liability corporation—accounts for 3 percent of the response, and conventional partnerships account for another 2 percent.

Only 15 respondents, almost all in the smaller revenue and staff size categories, did not report type of company.

Survey Results

More than one-third of respondents wrote business for only one insurer in the past year. While the majority of companies wrote business for two or more insurers, most smaller companies wrote business for no more than two insurers. One-fourth of the largest agencies indicated they wrote business with four or more insurers in the past year.

Among companies writing business with two or more insurers, the majority placed at least one-half of their business

with their primary insurer. However, among larger agencies, those with more than \$500,000 annual revenue, approximately one-fourth of respondents placed less than 50 percent of their business with any one insurer.

Only 10 companies among the 445 survey participants reported that a title insurer had an ownership interest in their company. At least one of these 10 appeared to be a small office (with only two full-time employees) wholly owned and operated by an insurer. Among the other nine companies, insurers owned an average of 47 percent of the business. Only 5 percent of respondents reported that they are affiliated with another real estate service provider. Among agencies with \$1 million or more revenue, 10 percent are affiliated with another real estate service provider. These other service providers are primarily realty/brokerage firms and/or provide lending and financing.

Size of company closely corresponds to the combined population of the county or counties in which a company has offices. (See Table 3a, page 20) For example, among companies with \$150,000 or less in revenue, one-half of the relevant county populations are 12,000 or fewer people. At the other end of the scale, among companies with \$1 million or more revenue, one-half of the relevant populations are 300,000 or more people. Among all survey participants, one-half have offices in a county or counties whose total population is 47,000 or fewer people. Among the largest agencies, however, the average combined county population is more than 1 million people.

More than one-half of all survey respondents also conduct business in counties in which they do not have an office. Among companies that conduct business in these other counties, however, one-half derive 15 percent or less of their overall business from counties in which they do not have an office. Almost one in five companies conducting business in counties in which they do not have an office does more than a quarter of their business in these other counties.

Of the 7,585 employees reported to the survey (including those who work five days as well as those who work fewer days a week) 2,930 are in their 40's and 50's. The largest group, however, another 4,199, are in their 20's and 30's. More than one-fourth of the respondents, including more than one-half of the largest agencies, reported they have a full-time attorney on staff. Another 8 percent of respondents,

mostly smaller agencies, reported they have a part-time attorney on staff.

Employee Benefits

Two-thirds of respondents provide health care coverage for their employees. (See Table 5a, page 24) One-third provide a health care benefit for employees only; another one-third provides employee and dependent benefits. Although one-third of those with at least one type of health care plan have a traditional indemnity plan (typically fee for service), the predominant type of plan is a Preferred Provider

“Approximately 45 percent of the companies that provide a health care benefit also provide a dental benefit plan or coverage.”

Organization, a type of managed care where employees must obtain service from or through a network of providers in order to benefit from plan-specified rates. Both monthly premium costs and costs of services provided by a PPO are typically less than traditional fee-for-service plans under which employees are free to choose any service provider. One-fourth of respondents with health care benefits reported an HMO. In almost all cases, employers with a health care plan allow all employees with six months or more service to participate.

The great majority of employers pick up the entire cost of employee participation in the health care benefit plan. Not all companies that sponsor plans that cover dependents pay toward the cost of providing dependent benefits. Of these 152 companies, 111 reported that they pay some of the cost for covering dependents. However, among those that do pay toward the cost of including dependents in the plan, the average contribution is 72 percent of the monthly premium or HMO fee.

Annual deductibles, for plans other than HMOs, vary widely. Overall, the average annual deductible for an employee or other covered individual is \$472. This average is skewed by a relatively small number of higher deductibles. One-half of the deductibles reported are \$306 or less.

The “family” deductible (the combined annual deductible for employee and dependents) averages \$1,007. Again, this deductible is skewed by a relatively small number of higher amounts. One-half of the reported deductibles are \$650 or less.

Co-insurance, the employee's share of each covered medical expense, averages 19 percent. In HMO's, the co-payment for services averages \$12 per service.

In the insured health care benefit plans, the lifetime maximum benefit for an insured individual is typically \$1 million.

Approximately 45 percent of the companies that provide a health care benefit plan also provide a dental benefit plan or coverage. These dental plans typically include both employee and dependents, with the company paying all of the premium for employee coverage and either nothing (38 percent of those reporting) or an average of 73 percent of the premium for dependents' coverage.

Among the organizations that reported health care benefits, 18 percent provide vision care benefits. More than one-half of the vision care coverages are limited to employees only and do not include vision care benefits for dependents.

Group Life Insurance

More than one-half the responding companies, 249 of the 445, provide group life insurance to their employees. Most of these plans provide a flat amount of coverage, typically either \$10,000 or \$20,000. Among the larger companies reporting, more than 20 percent provide a life insurance benefit that is a multiple of salary, typically 1 x salary.

In almost all cases, the company pays 100 percent of the premium for the employee's group life insurance. Among all survey participants, 28 percent reported AD&D insurance benefits for employees, with most of these accidental death and dismemberment coverages matching the underlying life insurance benefit.

Income Protection While Sick or Injured

One-half of the companies responding to the survey provide paid sick leave to employees who are ill or injured. Another 16 percent provide paid-time-off, a program that typically combines paid-time-off for both sickness and vacation. Relatively few companies reported short-term disability (12 percent) or long-term dis-

ability (16 percent) plans.

Almost 30 percent of respondents, including slightly more than one-half of the agencies with \$150,000 or less revenue, reported any type of income protection benefit. Almost all of the agencies with revenue of \$1 million or more have at least one type of benefit plan.

Almost all companies reporting pay sick leave from the first day of absence.

Among the relatively few, mostly larger companies that reported a short-term disability plan, the waiting period for benefits varies from none to 6 days (typically STD plans in lieu of a sick leave plan) to 1 week to several weeks. Less than one-half of companies with an STD plan reported that employees are required to use all available sick leave before receiving STD benefits.

The maximum number of days the short-term disability benefit will be paid averages 131 days. The STD benefit is typically two-thirds or 60 percent of pay. Only a handful of respondents reported a maximum daily STD benefit, averaging \$120.

Among the 70 companies that reported a long-term disability plan, the typical waiting period for benefits is three months. The LTD benefit is typically two-thirds of pay or 60 percent of pay. Only two companies reported a maximum monthly LTD benefit; this common benefit parameter may not have been readily available or well-known to most respondents.

401(k) Plans

More than 40 percent of surveyed companies reported a 401(k) savings or retirement plan among their employee benefits. Among companies with \$1 million or more revenue, 81 percent reported a 401(k) plan.

Cash Awards and Bonuses

Cash awards and bonuses are common among the surveyed companies. At least three-fourths paid out some form of cash award in the last year. Typically, these cash bonuses or awards went to most full-time employees. All 445 respondents reported an average of 18 employees who work five days a week. Among the companies reporting that one or more employees received a cash bonus or award in the last year, an average of 17 employees received this cash.

The total amount of cash paid out in the form of bonuses and awards in the past year averaged \$3,381 among companies with \$150,000 or less revenue and \$78,644

amount companies with revenue of \$1 million or more. Among companies with three to five employees, the total amount paid out in the past year averaged \$5,500; among companies with 6-20 employees, the total amount averaged \$16,853.

Only a handful of companies, 5 percent of those surveyed, provide deferred compensation to top executives, including 3 percent who provide such compensation only to the chief executive officer. This deferred compensation is typically in the form of a tax-sheltered annuity or life insurance under Section 79 of the IRS code.

Paid Holidays and Vacations

With 372 of the 445 companies reporting, employees are enjoying an average of nine paid holidays in 1998. However, only two-thirds of companies with rev-

“Among all companies surveyed, at least 40 percent believe that their competitors are offering products that lenders accept in lieu of a title policy.”

enue of \$150,000 or less reported any paid holidays. Two-thirds of surveyed companies provide paid vacation for their employees. Another 21 percent provide a paid-time-off program, which typically combines paid time off for sickness and for vacation into one leave plan. Approximately 10 percent of all respondents, but including more than one-half of companies with one to two employees, do not provide paid vacation.

Tuition Assistance Programs

Approximately 20 percent of surveyed companies, but including 36 percent of the larger companies, provide tuition assistance to their employees. Most of these programs limit assistance to college courses related to the current job or to courses related to any job in the company.

Flexible Benefits

Forty percent of the larger companies and 16 percent of all surveyed companies provide some form of flexible benefits, including formal cafeteria plans. Most of

these flexible plans allow employees to opt out of the health care benefit plan. A relatively few programs, mostly among companies with \$1 million or more revenue, allow employees to maintain flexible spending accounts (FSAs) with which they can pay medical expenses with pre-tax dollars of pay. Only two companies reported that their programs allow flexible spending accounts for dependent care expenses.

Revenues and Expenses

Median revenue in 1997 among the 373 companies that reported their revenue was \$400,000. (See Table 6a, page 27) Average revenue, skewed toward the high end of the distribution by a relatively small number of the largest companies, was \$1,225,000. Among companies with one to two employees, average revenue was \$114,000; among companies with three to five employees, average revenue was \$194,000. Average revenue was \$591,000 among companies with 6-20 employees, and revenue averaged \$4,325,000 in the group of companies with 21 or more employees.

Operating Expenses

Among the 313 companies reporting, operating expenses in 1997 averaged \$1,069,000, approximately 80 percent of revenue. One-half of the 313 companies had operating expenses of \$339,000 or less. Payroll among 307 companies reporting averaged \$603,000 in 1997. One-half of these companies had a payroll of \$200,000 or less.

Title Policy Issues: Alternative Products

Although more than one-half the surveyed companies do not offer any products that lenders accept in lieu of a title policy, a significant minority, 42 percent of the 445 companies, reported that they do offer such products. (See Table 8a, page 28) These 186 companies offered such products in the past year primarily for homeowner refinancing although 20 percent offered them for home purchases and 41 percent offered them in connection with other transactions, such as second mortgages, equity lines of credit, and bridge loans.

Among the companies reporting, these

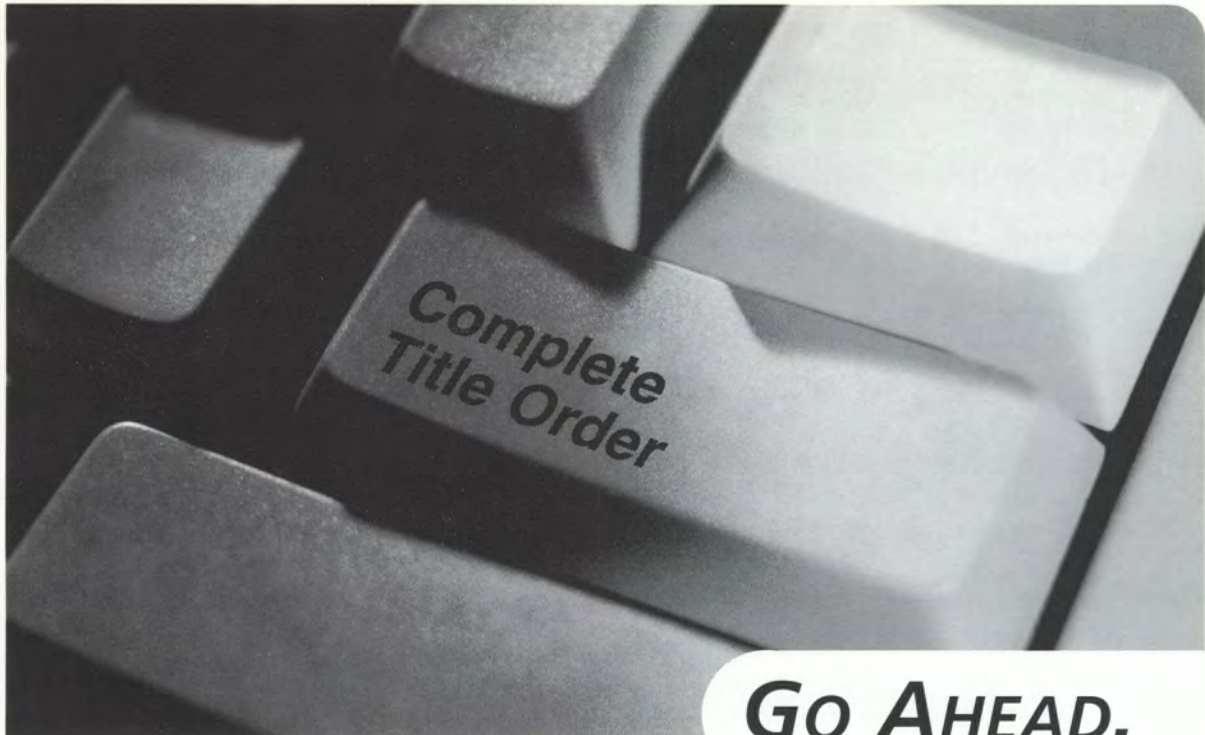
Continued on page 40

TABLE 1a.
Type of Company and Types of Business Activities

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
COMPANY TYPE									
Sole Proprietorship	34 8%	17 22%	13 9%	- -	1 1%	12 29%	15 13%	5 3%	- -
Subchapter S Corporation	191 43%	32 42%	52 36%	31 65%	48 47%	18 43%	47 39%	88 47%	38 41%
C Corporation	180 40%	21 27%	73 50%	15 31%	45 44%	5 12%	43 36%	86 46%	46 50%
Partnership	9 2%	1 1%	3 2%	- -	2 2%	1 2%	3 3%	3 2%	2 2%
Limited Liability Corporation (LLC)	15 3%	2 3%	3 2%	2 4%	4 4%	3 7%	3 3%	6 3%	3 3%
Limited Liability Partnership (LLP)	1 0%	- -	- -	- -	1 1%	- -	- -	- -	1 1%
Not reported	15 3%	4 5%	2 1%	- -	1 1%	3 7%	9 8%	1 1%	2 2%
BUSINESS ACTIVITIES									
Title Agent only	135 30%	8 10%	39 27%	16 33%	53 52%	6 14%	20 17%	63 33%	46 50%
<i>Percent who provide closing/escrow services</i>	124 92%	6 75%	36 92%	15 94%	50 94%	3 50%	19 95%	59 94%	43 93%
Title Agent/ Abstracter	267 60%	47 61%	100 68%	30 63%	45 44%	23 55%	82 68%	118 62%	42 46%
<i>Percent who provide closing/escrow services</i>	237 89%	34 72%	90 90%	30 100%	41 91%	18 78%	70 85%	109 92%	39 93%
Abstracter	43 10%	22 29%	7 5%	2 4%	4 4%	13 31%	18 15%	8 4%	4 4%
<i>Percent who provide closing/escrow services</i>	5 12%	1 5%	2 29%	1 50%	1 25%	1 8%	1 6%	2 25%	1 25%
PROVIDE CLOSING/ ESCROW SERVICES									
Provide closing/ escrow services	366 82%	41 53%	128 88%	46 96%	92 90%	22 52%	90 75%	170 90%	83 90%

TABLE 3a.
Characteristics of Offices and Counties

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
IS THIS LOCATION YOUR COMPANY'S PRIMARY OFFICE?									
Yes	434 98%	75 97%	145 99%	47 98%	100 98%	41 98%	118 98%	182 96%	91 99%
No	5 1%	- -	- -	1 2%	2 2%	- -	- -	4 2%	1 1%
Not reported	6 1%	2 3%	1 1%	- -	- -	1 2%	2 2%	3 2%	- -
HOW MANY OTHER OFFICES DOES YOUR COMPANY HAVE?									
One other office	61 14%	4 5%	17 12%	10 21%	17 17%	- -	7 6%	36 19%	18 20%
2-3 offices	31 7%	- -	4 3%	1 2%	21 21%	- -	- -	10 5%	21 23%
4 or more offices	29 7%	- -	- -	- -	25 25%	- -	- -	1 1%	28 30%
Average	3	1	1	1	5	-	1	2	5
Median	1	1	1	1	3	-	1	1	3
None reported	325 73%	73 95%	125 86%	37 77%	40 39%	42 100%	113 94%	142 75%	26 28%
HOW MANY OF THESE OTHER OFFICES ARE INCLUDED IN THIS SURVEY RESPONSE?									
Number Reporting	121	4	21	11	63	0	7	47	67
All offices	111 92%	3 75%	18 86%	9 82%	61 97%	- -	6 86%	40 85%	65 97%
Not all	9 7%	1 25%	2 10%	2 18%	2 3%	- -	1 14%	6 13%	2 3%
Not reported	1 1%	- -	1 5%	- -	- -	- -	- -	1 2%	- -



GO AHEAD. GET IT OUT OF YOUR SYSTEM.

Now, by entering information on a title order once — *just once* — you can get everything you need from your system automatically to complete that order. With *SMS Title Works*, it's that simple.

SMS Title Works was developed to share pertinent information between all of the departments and systems you use to complete title orders. It automatically orders the title search. It displays your chain of title on screen and lets you tag the documents you want to see. Its sophisticated imaging system creates electronic file folders and retrieves the documents, starters and maps requested. It lets you create customized documents in a flexible **Windows** environment, utilizing SQL, Client Server, and so much more.

Bottom line — it gives you more control, increases your productivity, and helps you realize increased profits. Contact us to see what *SMS Title Works* can get out of your system.



800-767-7832
<http://www.smscorp.com>



TABLE 3a.
Characteristics of Offices and Counties (continued)

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
NUMBER OF COUNTIES IN WHICH COMPANY HAS OFFICES									
1 county	301 68%	56 73%	109 75%	38 79%	53 52%	33 79%	88 73%	137 72%	42 46%
2-3	42 9%	2 3%	8 5%	5 10%	19 19%	- -	2 2%	19 10%	21 23%
4-6	10 2%	- -	- -	- -	10 10%	- -	- -	- -	10 11%
7 or more	9 2%	- -	- -	- -	7 7%	- -	- -	- -	9 10%
Average	2	1	1	1	3	1	1	1	3
Median	1	1	1	1	1	1	1	1	1
Not reported	83 19%	19 25%	29 20%	5 10%	13 13%	9 21%	30 25%	33 17%	10 11%
POPULATION IN ALL COUNTIES IN WHICH COMPANY HAS OFFICES									
20,000 or fewer people	109 24%	52 68%	36 25%	1 2%	3 3%	31 74%	54 45%	22 12%	- -
21,000-75,000	131 29%	14 18%	69 47%	23 48%	10 10%	3 7%	36 30%	83 44%	9 10%
76,000-250,000	62 14%	- -	14 10%	11 23%	31 30%	- -	3 3%	37 20%	22 24%
251,000-500,000	24 5%	2 3%	5 3%	- -	14 14%	2 5%	3 3%	6 3%	13 14%
501,000-750,000	10 2%	1 1%	2 1%	1 2%	4 4%	- -	- -	6 3%	4 4%
751,000-1 million	16 4%	1 1%	2 1%	4 8%	9 9%	- -	2 2%	5 3%	9 10%
More than 1 million	32 7%	1 1%	2 1%	- -	22 22%	- -	4 3%	4 2%	24 26%
Average (000's)	495	74	316	187	1,188	29	366	256	1,356
Median (000's)	47	12	33	70	300	10	20	50	400
Not reported	61 14%	6 8%	16 11%	8 17%	9 9%	6 14%	18 15%	26 14%	11 12%

TABLE 3a.
Characteristics of Offices and Counties (continued)

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
TOTAL INSTRUMENTS RECORDED DAILY IN COUNTIES IN WHICH COMPANY HAS OFFICES									
25 or fewer	68 15%	36 47%	23 16%	1 2%	2 2%	21 50%	33 28%	11 6%	1 1%
26-100	102 23%	8 10%	52 36%	21 44%	12 12%	2 5%	26 22%	68 36%	6 7%
101-1,000	66 15%	2 3%	15 10%	7 15%	37 36%	- -	3 3%	33 17%	30 33%
1,001 or more	12 3%	- -	- -	1 2%	9 9%	- -	- -	1 1%	11 12%
<i>Average</i>	550	42	94	474	1,774	10	57	214	2,261
<i>Median</i>	55	15	45	60	300	8	25	65	400
Not reported	197 44%	31 40%	56 38%	18 38%	42 41%	19 45%	58 48%	76 40%	44 48%
COMPANY CONDUCT BUSINESS IN COUNTIES IN WHICH IT DOES NOT HAVE AN OFFICE?									
No, none	173 39%	40 52%	56 38%	17 35%	37 36%	21 50%	57 48%	65 34%	29 32%
Yes, some	241 54%	30 39%	84 58%	27 56%	62 61%	19 45%	49 41%	113 60%	59 64%
Not reported	31 7%	7 9%	6 4%	4 8%	3 3%	2 5%	14 12%	11 6%	4 4%
If Some, What Percent of Business?									
Less than 25%	161 36%	16 21%	57 39%	19 40%	39 38%	12 29%	29 24%	79 42%	40 43%
26% or more	77 17%	14 18%	26 18%	8 17%	21 21%	7 17%	20 17%	33 17%	17 18%
<i>Average</i>	25%	27%	26%	29%	26%	26%	29%	26%	22%
<i>Median</i>	15%	18%	15%	20%	10%	15%	15%	15%	10%

TABLE 5a.
Employee Benefits—Health Care

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151– \$500	\$501– \$999	\$1 Million or More	1–2	3–5	6–20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
WHAT HEALTH CARE COVERAGE DOES THIS COMPANY PROVIDE FULL-TIME EMPLOYEES?									
Employee-only coverage	151 34%	12 16%	54 37%	21 44%	37 36%	4 10%	27 23%	84 44%	36 39%
Employee and dependent coverage	152 34%	10 13%	35 24%	24 50%	65 64%	5 12%	22 18%	70 37%	55 60%
None; no health care coverage	140 31%	53 69%	57 39%	3 6%	– –	33 79%	71 59%	35 19%	1 1%
Not reported	2 0%	2 3%	– –	– –	– –	– –	– –	– –	– –
WHAT IS THE PRIMARY TYPE OF HEALTH CARE PLAN?									
Number Reporting	303	22	89	45	102	9	49	154	91
HMO	74 24%	2 9%	14 16%	11 24%	31 30%	2 22%	6 12%	33 21%	33 36%
PPO	116 38%	6 27%	30 34%	12 27%	47 46%	3 33%	16 33%	52 34%	45 49%
Traditional Indemnity	104 34%	13 59%	43 48%	21 47%	19 19%	4 44%	25 51%	65 42%	10 11%
Combo (HMO/PPO)	3 1%	– –	– –	– –	3 3%	– –	– –	1 1%	2 2%
Other	1 0%	– –	– –	– –	1 1%	– –	– –	– –	1 1%
Not reported	5 2%	1 5%	2 2%	1 2%	1 1%	– –	2 4%	3 2%	– –

Protect Yourself!



Title Pac.® – E&O – Bonds

Title Pac.® Inc.

phone

800-331-9759

fax

918-683-6842

TABLE 5a.
Employee Benefits—Savings and Retirement (continued)

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151– \$500	\$501– \$999	\$1 Million or More	1–2	3–5	6–20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
DOES COMPANY PROVIDE 401(K) SAVINGS OR RETIREMENT PLAN?									
Yes	197 44%	12 16%	52 36%	22 46%	83 81%	6 14%	32 27%	81 43%	78 85%
No	221 50%	60 78%	83 57%	24 50%	17 17%	34 81%	82 68%	91 48%	14 15%
Not reported	27 6%	5 6%	11 8%	2 4%	2 2%	2 5%	6 5%	17 9%	– –
WHO CONTRIBUTES TO THE 401(K) PLAN?									
Number Reporting	197	12	52	22	83	6	32	81	78
Employee only	22 11%	– –	6 12%	3 14%	10 12%	– –	1 3%	10 12%	11 14%
Employer only	41 21%	5 42%	17 33%	4 18%	7 8%	3 50%	15 47%	16 20%	7 9%
Both employee and employer	128 65%	6 50%	26 50%	14 64%	66 80%	3 50%	13 41%	52 64%	60 77%
Not reported	6 3%	1 8%	3 6%	1 5%	– –	– –	3 9%	3 4%	– –
FOR EACH DOLLAR CONTRIBUTED BY EMPLOYEE, WHAT DOES EMPLOYER CONTRIBUTE?									
Number Reporting	128	6	26	14	66	3	13	52	60
\$0.25	23 18%	– –	3 12%	1 7%	16 24%	– –	2 15%	7 13%	14 23%
\$0.50	29 23%	3 50%	1 4%	4 29%	18 27%	1 33%	2 15%	7 13%	19 32%
\$1.00	21 16%	– –	5 19%	4 29%	9 14%	– –	2 15%	13 25%	6 10%
Other amount	3 2%	– –	– –	– –	3 5%	– –	– –	1 2%	2 3%
Not reported	52 41%	3 50%	17 65%	5 36%	20 30%	2 67%	7 54%	24 46%	19 32%

TABLE 6a.
Revenues and Expenses

	Total	Annual Revenue (\$000's)				Number Of Employees			
		\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
REVENUE IN 1997									
\$150,000 or less	77 17%	77 100%	- -	- -	- -	29 69%	43 36%	3 2%	- -
\$151,000-\$500,000	146 33%	- -	146 100%	- -	- -	4 10%	51 43%	91 48%	- -
\$501,000-\$999,999	48 11%	- -	- -	48 100%	- -	1 2%	1 1%	43 23%	3 3%
\$1,000,000 or more	102 23%	- -	- -	- -	102 100%	- -	- -	27 14%	75 82%
<i>Average (\$000's)</i>	\$1,225	\$95	\$316	\$717	\$3,617	\$114	\$194	\$591	\$4,325
<i>Median (\$000's)</i>	\$400	\$98	\$300	\$692	\$1,900	\$79	\$170	\$479	\$2,279
Not reported	72 16%	- -	- -	- -	- -	8 19%	25 21%	25 13%	14 15%
PERCENT OF REVENUE FROM EACH SOURCE									
<u>Abstracts</u>									
Number Reporting	260	65	93	30	46	32	84	105	37
<i>Average</i>	36%	51%	29%	26%	26%	58%	42%	28%	26%
<i>Median</i>	20%	50%	12%	13%	12%	50%	25%	10%	15%
<u>Title Insurance</u>									
Number Reporting	358	55	135	45	94	27	90	162	77
<i>Average</i>	65%	66%	66%	63%	66%	66%	64%	65%	64%
<i>Median</i>	70%	70%	70%	70%	70%	70%	70%	70%	70%
<u>Closing/Escrow Functions</u>									
Number Reporting	316	35	125	44	88	17	73	152	73
<i>Average</i>	19%	14%	17%	22%	22%	14%	15%	20%	22%
<i>Median</i>	19%	10%	15%	20%	20%	10%	10%	20%	20%
<u>Law Practice</u>									
Number Reporting	13	1	8	1	2	0	4	6	3
<i>Average</i>	29%	2%	28%	20%	29%	-	43%	21%	26%
<i>Median</i>	5%		5%			-	40%	5%	20%
<u>Other Major Activities</u>									
Number Reporting	84	10	35	10	26	6	19	35	24
<i>Average</i>	11%	14%	9%	12%	12%	17%	10%	9%	13%
<i>Median</i>	10%	12%	9%	12%	8%	17%	10%	9%	10%

TABLE 8a.
Title Policy Issues

	Annual Revenue (\$000's)					Number Of Employees			
	Total	\$150 or Less	\$151- \$500	\$501- \$999	\$1 Million or More	1-2	3-5	6-20	21 or More
Total Survey	445	77	146	48	102	42	120	189	92
THIS COMPANY OFFER ANY PRODUCTS THAT LENDERS ACCEPT IN LIEU OF A TITLE POLICY?									
Yes	186 42%	30 39%	57 39%	19 40%	51 50%	14 33%	53 44%	72 38%	47 51%
No	233 52%	42 55%	81 55%	28 58%	50 49%	21 50%	57 48%	109 58%	44 48%
Not reported	26 6%	5 6%	8 5%	1 2%	1 1%	7 17%	10 8%	8 4%	1 1%
<u>If Yes, for what type of transactions in the past year were these products offered?</u>									
Number Reporting	186	30	57	19	51	14	53	72	47
Homeowner refinancing	113 61%	20 67%	41 72%	10 53%	28 55%	12 86%	35 66%	42 58%	24 51%
Home purchase	38 20%	9 30%	13 23%	3 16%	6 12%	6 43%	12 23%	13 18%	7 15%
Others	77 41%	9 30%	19 33%	7 37%	29 57%	2 14%	18 34%	29 40%	28 60%
PERCENT OF RELEVANT TRANSACTIONS IN PAST YEAR COMPLETED WITH ALTERNATE PRODUCTS									
Number Reporting	186	30	57	19	51	14	53	72	47
Less than 5%	35 19%	6 20%	10 18%	1 5%	15 29%	1 7%	12 23%	9 13%	13 28%
5-10%	64 34%	10 33%	26 46%	9 47%	15 29%	4 29%	20 38%	28 39%	12 26%
11-25%	30 16%	3 10%	11 19%	4 21%	6 12%	3 21%	6 11%	13 18%	8 17%
26-49%	6 3%	1 3%	1 2%	1 5%	2 4%	- -	1 2%	2 3%	3 6%
Over 50%	19 10%	7 23%	3 5%	1 5%	4 8%	3 21%	8 15%	4 6%	4 9%
Average	19%	28%	14%	18%	15%	30%	22%	17%	16%
Median	10%	10%	10%	10%	8%	20%	10%	10%	10%
Not reported	32 17%	3 10%	6 11%	3 16%	9 18%	3 21%	6 11%	16 22%	7 15%

Windows 95/98

Novell/Client 32

Windows NT

•

Common Sense Pricing

Seamless Upgrade Path

Integrated with MS-Office

•

Automated Calculations

Once-n-Done Data Entry

Case Management

Closings

Disbursements

Document Imaging

Document Tracking

Escrow Accounting

Plant Indexing

G/L Accounting

Scheduling

IRS 1099



NOVELL

AVAILABLE FIRST QUARTER 1999



TITLEPRO™ FOR
WINDOWS®

DESIGNED

FOR

TITLE PEOPLE

BY

TITLE PEOPLE



TITLE OFFICE PRODUCTIVITY SYSTEMS

www.go-titlepro.com e-mail: sales@go-titlepro.com

800-786-8776

Titlepro is a trademark of Landmark Professional Systems, Inc.
All product names mentioned are the property of their respective holders.
Windows, Windows 95/98, Windows NT are registered trademarks of the Microsoft Corporation.



America's Mortgage Loan Registry

Volume 2, Issue 1

www.mersinc.org

January 1999, Periodic Newsletter

MERS Looks Forward to 1999

By R.K. Arnold

Hello again. 1998 was a pivotal year for MERS. We finished the year ahead of schedule in registration volume - 175,000 - and we changed virtually every aspect of MERS to be more responsive to you. Now MERS is simpler and less expensive to join, and it is easier and faster to integrate into your systems.

In this issue, you can read about a few of the latest things we have done to make MERS better. We added two new Business Integration Specialists to assist you during integration - Ron Crowe and Gary Vandeventer. We published the MERS Recommended Foreclosure Procedures which you can read about in Sharon Horstkamp's article. We modified our policy on street addresses in Policy Bulletin 98-3, and on co-borrower social security numbers in Policy Bulletin 98-2.

MERS as Original Mortgagee (MOM) is starting to ramp up as expected, and MOM registrations should become the predominant source of registration volume for MERS during 1999. We look forward to serving you during 1999. If you have suggestions or comments about MERS, please give me a call so we can respond.

This Month

MERS Looks Forward to 1999	1
December Sets Record!	1
Foreclosure Update	1
Policy Change	2
Integration Corner	2
Y2K Compliance Update ..	2
Meet the new BIS	2

December Sets Record!

By Carson Mullen

December ended 1998 as the best month for MERS to date. Registrations on the system increased more than 30%.

PNC Mortgage Corporation registered the largest bulk registration on the MERS® System in 1998.

Guaranty Bank, Brown Deer, WI, registered the first correspondent loan mini-bulk as a new loan package in December. These registrations were part of several thousand loans to meet a January delivery to NationsBanc Mortgage as part of its correspondent program.



MERS is America's Electronic Mortgage Loan Registry System

Ivy Mortgage of Branchburg, NJ, originated, registered and delivered the first MOM loan to Norwest Mortgage as part of the Norwest correspondent program.

As 1999 begins, Countrywide Home Loans, Chase Mortgage, Fleet Mortgage and Homeside have begun the MERS integration process to add additional secondary market outlets for correspondents during the coming year. Many other companies have included MERS in their plans for 1999 as well. All of us at MERS would like to thank PNC, Guaranty and Ivy for leading the way into the new year.

Foreclosure and Bankruptcy Update

By Sharon Horstkamp

The three members with the foresight to move ahead and begin foreclosing loans in the name of MERS continue to experience a successful trail that they started in 1998. Aurora Loan Services, First Nationwide Mortgage and Norwest Mortgage are paving the way for other members to follow.

Currently, there are 271 mortgage loans on the MERS System being foreclosed in the name of MERS. This covers about 35 states. Foreclosures have been completed in 10 non-judicial states without any problems. These states are Arizona, Arkansas, California, Georgia, Michigan, Minnesota, Missouri, Nevada, Tennessee and Texas.

There continue to be no problems reported in the judicial states either. Some of the foreclosures have already had foreclosure judgments entered with foreclosure sales scheduled in Iowa and Pennsylvania.

Of course, some of the loans in foreclosure have gone into bankruptcy. The MERS System does not track the bankruptcy status of a loan, but at this beginning stage, MERS, along with the default team, is monitoring the progress. We have not had any reports of problems with the filing of any proof of claim or motion for relief from the automatic stay. MERS, as the mortgagee of record, is the proper party to be listed on the proof as the creditor. This is because the mortgagee of record has an *in rem* interest in the property that gives the mortgagee a claim in bankruptcy court. There should be no problem if the servicer of the mortgage also lists themselves together with MERS as the creditor.

During 1999, there will be a lot of action to monitor in the areas of foreclosure and bankruptcy. We will keep everyone updated.

Over for Page Two...

Changes to Procedures Manual Announced

By Gary Vandeventer

In response to business needs expressed by our Members, two MERS policy changes were announced on December 30, 1998. Both changes were effective as of that date.

Policy Bulletin 98-2 states that Co-Borrower social security numbers or tax id numbers are no longer required for pre-registration or registration. Previously, for a transaction to process successfully, it was mandatory for a co-borrower number to be entered. Since many servicers do not retain the co-borrower social security number on their servicing system, the decision was made to make the entry of the co-borrower social security number or tax id number optional.

In **Policy Bulletin 98-3**, the requirement for the entry of the property street number has been changed. Prior to the December update of the MERS software, a pre-registration or registration transaction would not process successfully if the property street number was not entered into the system. Complications arose from non-standard property addresses, e.g. rural routes where no street number is available. System edits were changed to allow the processing of the street address without the number. However, property name, city, state, and zip code are still required fields.

Additional copies of both bulletins and previous release notes may be obtained by calling the MERS Help Desk at 1-888-680-MERS.

AMERICA'S MORTGAGE LOAN REGISTRY
PUBLISHED MONTHLY
EDITOR: CARSON MULLEN
CONTRIBUTING EDITORS:
MERS STAFF & GUESTS
ENTERED FIRST CLASS MAIL AND INTERNET MAIL
McLEAN, VIRGINIA 1998.
Corporate Offices:
8201 Greensboro Drive, Suite 350
McLean, VA 22102

Integration Corner: MERS Desktop Training

By Laura Sippel - EDS/MERS Trainer

Training is an essential part of the MERS integration process. After all, you need to understand the processes and know how to use the software to reap the rewards of MERS.

What types of training are available? MERS offers a number of different types of training to suit your needs. The most popular type of training is the FREE lecture-style training that is offered twice a month at the EDS campus in Plano, Texas. The only cost to you for these classes is the expense incurred travelling to Plano. Another FREE form of training available is the CD-ROM computer based training (CBT) that is sent to you with the MERS Starter Kit. On-site lecture-style training courses are also available at an additional cost to the requesting MERS member. Lecture-style training classes last one day and are packed full of information.

When should you attend training? The lecture-style training classes and the CBT primarily focus on the use of the MERS desktop application. Therefore, it is most beneficial to attend training shortly before you plan on using the application. This may be prior to testing the application during the integration process or shortly before you go "live" in the production environment. However, some members have found it beneficial to attend a training class at the beginning of the integration process to gain a better understanding of the MERS processes and to help them incorporate these new processes into their daily routines.

Who do you contact for additional information about training? Contact your MERS Business Integration Specialist (BIS) or the MERS Help Desk and request information about training. The BIS or the Help Desk Representative informs the MERS Trainer that you are interested in training. The MERS Trainer then contacts you to give you all of the details about upcoming training classes or to discuss possibilities for lecture-style training at your site.

Next in the Series: Technology (System Changes)

MERS Y2K Compliance Update

By Weyman Lew

In mid-November, six members successfully tested the MERS® System for Y2K compliance. No defects involving transactions in the year 2000 or beyond were found. The objective of the test was to allow participants to enter transactions with the year date 2000 or greater and prove the readiness of the system for Y2K compliance. The MERS Voice Response Unit (VRU) was also successfully tested for Y2K compliance during this period.

In addition, MERS, EDS and NationsBanc participated in a system disaster recovery test on the night of November 21. We created the production environment and tested at the Sungard disaster recovery back-up facility. Transactions were entered and successfully processed on the back-up facility.

Please call Weyman Lew at (703)761-1273 if you have any questions about these tests.

Meet the new BIS: Ron Crowe and Gary Vandeventer

By Dan McLaughlin

To ensure a smooth integration process for an increasing number of companies signing up to use MERS, we have added two Business Integration Specialists (BIS) to the integration team. Ron Crowe has an extensive business and technical background in the mortgage industry and brings to the team quality assurance and audit experience as well. Ron is concentrating his efforts on working with those companies that typically sell loans servicing-released. He is also tailoring the integration documentation and quality assurance program for MERS Lite members.

Gary Vandeventer is well known in the world of MERS from his days at Norwest. Gary ran the MERS Department at Norwest and participated extensively in user acceptance testing of MERS system releases. Gary is also very knowledgeable on the Alltel servicing system and served in a leadership role on the MERS/Alltel User Group. Gary is focusing on assisting companies that retain servicing and will continue to play a key role on working with the MERS/Alltel User Group. Gary is also responsible for refining and administering the overall quality assurance program for MERS.

Become An Industry Leader

ALTA is upgrading its Legislative Contact Program. This document explains the purpose of the program, the responsibilities of a Legislative Contact Program member, and how to sign up (next page).

Purpose:

In the title industry, success depends on a company's employees, financial ability, technology, and customer service. In politics, the same principles apply. A good politician depends on dedicated people, communication, technology, and adequate campaign funds to be successful.

In order to make everyday decisions in Congress, elected officials need advice on legislation from informed constituents. Thus, your position in the title industry makes you uniquely qualified to offer your expertise on a wide range of issues affecting title businesses and the communities in which they operate.

Responsibilities:

When you sign up as an ALTA Legislative Contact member, it is important that you understand how much you are giving back to your industry, and how large of a role you play in the legislative process. Here are the efforts that will make you a successful and effective Legislative Contact member:

- Contact your member of Congress in response to ALTA Red Alerts.
- Let everyone in your office know about the ALTA Red Alerts. Discuss the issue with your colleagues and ask them to immediately respond to the alert.
- Attend ALTA meetings with the member of Congress when the member is in the district.
- Attend fund raisers for the member of Congress. You **may be asked** by the Title

Industry PAC (TIPAC) Board to deliver a TIPAC check.

- Invite your member of Congress to speak at your company's events (i.e., luncheons, dinners, staff meetings) or during your state association's events when Congress is in recess.

- Make sure you are registered to vote.

Although not required, please consider the following ideas below when becoming an ALTA Legislative Contact member:

- Consider hosting a fund-raiser or coffee for the member of Congress in your home.

- Consider making a personal contribution to your lawmaker's re-election efforts.

- Consider making a contribution to TIPAC, to help fund ALTA's efforts of supporting candidates who are pro-business and pro-real estate.

Thank you for choosing to assist your industry's political efforts. We appreciate your assistance in helping ALTA make a difference on Capitol Hill and throughout the United States. Please complete the form on the next page as the first step in your journey toward political activism.

Eleventh Edition
CDS Performance of Title Insurance Companies
 Lawrence E. Kirwin, Editor

<u>Comprehensive Data</u>	<u>Detailed Analysis</u>
<ul style="list-style-type: none"> ✓ All U.S. Title Insurance Companies Compared ✓ Line Item by Line Item: Income Statements, Balance Sheets and Cash Flow with Percentages ✓ Compares: Direct with Affiliated Agencies & Non-Affiliated Agencies 	<ul style="list-style-type: none"> ✓ 44 Ratios Measure and Rank Each Company's Performance ✓ State by State Market Share of Premiums Written & Losses Paid by Direct, Affiliates and Agents ✓ Family Detail: Parent Companies with Subsidiaries and Affiliates

"The only source for complete information on title insurance companies."

Call today (800) 296-1540 or e-mail to LEKIRWIN@AOL.COM

Please send me ___ copies of the **1999 CDS Performance Of Title Insurance Companies**. First copy: \$275.00. Additional copies: \$225.00. (1988 - 1998 Editions available @ \$150.00). Shipping and Handling: \$10.00. MD residents add 5% Sales Tax. Make checks payable to:

Corporate Development Services, Inc.
 174 Thomas Johnson Drive, Suite 201
 Frederick, MD 21702



A prime example of the fruits of grassroots labor is the successful passage on March 11 of the Rick Hill Amendment to HR 10, the bank powers bill. ALTA Red Alerts to members asking for immediate response to the pending Amendment resulted in over 500 letters and phone calls to targeted decision-makers. One of the co-sponsors, **Rep. Melvin Watt (D-NC)**, is shown here with ALTA President **Joe Parker, Jr.** on Capitol Hill. Congratulations to all involved with this important milestone!



"CAPITOLIZE" YOUR VIEWS

The 1999 ALTA Legislative Contact Program is designed to maximize ALTA's legislative efforts. After completing this form and becoming a member of the Legislative Contact Program, you will be asked to contact your Senators and Representatives in the U.S. Congress concerning key industry issues.

ALTA Member Information (please neatly print or type the information below)

Name: _____ Title: _____

Company: _____

Address: _____

City, State & Zip: _____

Business Phone: _____ Fax: _____

E-mail: _____

Please list below those United States Senators and Representatives whom you can contact and your relationship with the listed Members of Congress. (If you need more space, please feel free to attach additional sheets of paper.)

U.S. Senators	State	Type of Relationship (i.e. former college roommate, worked on campaign, etc.)
---------------	-------	---

1. _____

2. _____

U.S. Representatives	State	Type of Relationship
----------------------	-------	----------------------

1. _____

2. _____

Please indicate by checking the appropriate box if you have participated in a political campaign in the last five years by donating **time** or **money** . If you checked either or both boxes, please indicate the campaign and the year.

As we often work closely with other real estate and insurance related associations, please specify if you are a member of: MBA NAHB NAR IIAA RESPRO

FAX THIS FORM TO: Michelle Covell, ALTA Director of Grassroots Advocacy, 888-FAX-ALTA

CUT HERE
CUT HERE
CUT HERE
CUT HERE
CUT HERE
CUT HERE
CUT HERE
CUT HERE



Comforce Information Technology

- *Back to School Night Reception*

Elliptus Technologies, Inc.

- *Internet Playground*
- *Computer Classroom*

SMS

- *Badgeholders*

Stewart Title Guaranty Company

- *Tote Bags*

ALTA values the contributions these companies made to enhance our educational experiences at the 1999 Technology Forum & Expo. See you next year in Las Vegas!



Audio Cassette Order Form

GENERAL SESSIONS

- __ 1 "Emerging Technologies: Shaping the Customer Relationship"
Dr. James Canton
- __ 2 "Technology Strategies for Today's Customers & Partners"
Rod Scott

CONCURRENT SESSIONS

- __ 3 Imaging 101: How and Why
- __ 4 Internet & E-mail: Business Tools for Success
- __ 5 Electronic Commerce 101: How & Why
- __ 6 Workflow
- __ 7 Strategic Technology Partnerships
- __ 8 Bring On the Bandwidth!
- __ 9 Case Studies: Conversion From Paper
- __ 10 When to Establish a Home Page
- __ 11 Electronic Commerce: If Not X12EDI, Then What?
- __ 12 Cross-Training Your Staff
- __ 13 Disaster Recovery
- __ 14 Choosing an Internet Service Provider
- __ 15 Coordinating With Your County Recorder
- __ 16 Closing Systems
- __ 17 The Paperless Office
- __ 18 Customer Service via Technology
- __ 19 Copiers & Multi-Function Products

- __ 20 Cellular Telephones & Pagers
- __ 21 Joint Image Repositories
- __ 22 Plant Systems In Your Operation & On the Internet
- __ 23 Secure Transactions
- __ 24 Sales & Marketing via Technology
- __ 25 Thin Client Technology
- __ 26 Telephones & Voice Mail
- __ 27 Imaging On-Line: LAN, WAN, TI
- __ 28 Buying a Home on the Internet
- __ 29 Digital Signatures & Certificates
- __ 30 Connecting Multiple Offices: LAN/WAN/VPN
- __ 31 Computer Hardware & Peripherals
- __ 32 Fax Machines & Desktop Faxing Software

EXPO SESSIONS

- __ 33 Infostream
- __ 34 ScreenScan Systems
- __ 35 Ultima Software
- __ 37A,B (*Two Tapes*) Stewart Information Services Corp.
- __ 37 Indus MIS, Inc.
- __ 38 SAFEChecks
- __ 39 Digital Delivery
- __ 40 halSystems
- __ 41 Softpro Corporation
- __ 42 Eureka Electronic Publishing

Total Tapes x \$9.00	\$ _____
Any eight tapes in FREE album	\$ 72.00
Any twelve tapes in FREE album	\$ 108.00
Any sixteen tapes in FREE album	\$ 144.00
Complete set 43 tapes in FREE Albums	\$ 379.00
Florida Sales Tax • 6% in Florida only	\$ _____
Postage & Handling: \$1.00/tape, \$10.00 Max.	\$ _____
Total	\$ _____

*Payment to Magnemedia, Inc. Must Accompany Order
Cash • Check • AMEX • MasterCard • Visa*

Magnemedia, Inc. Federal ID # 59-2879018

PLEASE PRINT OR ATTACH BUSINESS CARD • thank you!

Name _____
 Business _____
 Street _____
 City, State, Zip _____
 Phone (____) _____

For Mail or FAX orders only • FAX # 407-351-9556

Credit Card # _____ exp. _____

Congressional Outlook on Financial Services Legislation

By Ann vom Eigen, ALTA Legislative Counsel

Preoccupied with the impeachment proceedings in the early part of the year, Congress has now begun to make up for lost time and turned its attention to legislative business. As *Title News* goes to press, both the House and the Senate have begun action on legislation affecting the title insurance industry.

To date, Congress has begun action on Financial Services Modernization and Regulatory Burden Relief legislation. In the Banking Committees, which have jurisdiction over most of the statutes regulating the financial services industry, consideration of two bills is already underway. Now scheduled for quick action are the *Financial Regulatory Relief and Economic Efficiency Act of 1999*, and *Financial Services Modernization* legislation.

Affinity Group Exception to RESPA Proposed

The *Regulatory Burden Relief* bill has already been ordered reported in the Senate. This bill is actually fairly narrow in scope and has dropped most controversial provisions, such as loosening of the anti-tying provisions of bank holding companies.

However, questions have been raised concerning one RESPA provision, which permits payments by settlement service providers (other than lenders making loans to be used to purchase residential real estate) to "affinity groups" for the endorsement of their products or services to the members of the group. This new RESPA exception is seen by some as a provision which would potentially allow affinity groups to exert pressure on settlement service providers to pay referral fees for access to affinity group members, such as union members. On the other hand, some real estate industry groups see it

as an opportunity to obtain an endorsement of affinity groups, similar to the preferred provider endorsements that now exist. The companion House legislation to the Senate bill, Chairman Marge Roukema's (R-NJ) *Regulatory Relief* bill, was passed by the House late in the last Congress. This year, Chairwoman Roukema has indicated that she will reintroduce the bill and hold a hearing on this legislation in her Subcommittee later this spring. Such action will not occur until after Financial Services Modernization legislation is reported from the Committee.

Congress Proposes Expansions of National Bank Powers

At this time, both the House and Senate Banking Committees are scheduled to consider legislation broadening the powers of national banks. ALTA is evaluating a variety of options to support the value of the industry's product.

Historically, ALTA and the industry have devoted significant resources and energy to the Government Affairs effort in opposing bank involvement in title insurance. However, during the past several years the Office of the Comptroller of the Currency (OCC), the regulator of national banks, has issued a series of opinions expanding the insurance sales and underwriting powers of national banks. These opinions, which were challenged by the insurance industry but approved by the courts, have changed the legal landscape, and therefore changed the willingness of banking representatives to negotiate changes in legislation. Politicians are also reluctant to turn back the clock and take authority away from an entity that already has it.

In recognition of these legal changes, ALTA revised its policy and legislative

strategy on banks in insurance at the beginning of the last Congress. Much of the debate in the legislation centers on the choice of regulator. In general, the financial services modernization proposals would grant new authority to bank holding companies, which are regulated by the Board of Governors of the Federal Reserve System, to engage in insurance underwriting activities through a separate affiliate. Regulation through a holding company structure would facilitate maintenance of a separate entity and "functional"—in this case "state"—regulation of insurance. Some of the proposals would permit national banks and their subsidiaries to engage in sales and underwriting, thus giving the OCC authority over bank insurance sales and underwriting.

Current policy provides that ALTA would not oppose financial services affiliation legislation, provided that 1) state regulation of insurance is preserved through absolute "functional regulation," and 2) adequate consumer safeguards are adopted, either at the federal or state level, or at both levels. Thus, in the last Congress, ALTA sought separation of banking and title insurance agency activities through affiliation with the Federal Reserve as the regulator in order to facilitate state regulation of insurance.

As reported in the press, Secretary Robert E. Rubin of the Treasury Department, and Alan Greenspan, Chairman of the Federal Reserve Board, have been engaged in a dispute over jurisdiction. Secretary Rubin has jurisdiction over the OCC while Alan Greenspan, as head of the Federal Reserve System, has jurisdiction over bank holding companies. As noted above, ALTA has sought to have title insurance sold through a non-banking affiliate of the holding company for sev-

eral reasons. First, the OCC has historically granted the banks' every request. Consequently, ALTA has sought to minimize OCC authority over bank activity in the title insurance industry. The easiest way to do this has been to seek transfer of authority to another Federal regulator who has regulatory authority for the financial services industry. The Federal Reserve System, which regulates bank holding companies, has historically allowed bank securities affiliates to be regulated by the Securities and Exchange Commission. Further, the Federal Reserve has had a somewhat more consumer-oriented approach to sale of insurance. Consequently, ALTA has attempted to ensure that the Federal Reserve would have jurisdiction over title insurance activities by entities affiliated with the bank holding company.

In recent years, the OCC has been particularly generous in granting authority to national banks, while the Federal Reserve has been, relatively speaking, more reasoned. In addition, it was believed that maintenance of a separate entity within the holding company structure would facilitate so called "functional regulation" of an insurance entity. ALTA will continue this fight to preserve the regulation of insurance at the state level.

Cases and Opinions Broaden Bank Powers

The OCC, the regulator of national banks, issued an opinion to Citibank in 1987 allowing banks to underwrite their own mortgage loans as long as the underwriting was 100 percent reinsured. This opinion was issued under the statutory authority that underwriting title insurance was "incidental" to banking. We are unaware of any national banks that are presently underwriting title insurance and consequently have not had grounds to challenge the opinion. At this writing, Senator Phil Gramm (R-TX) has begun circulating legislation proposing that national banks be given authority to underwrite title insurance through an operating subsidiary, regulated by the OCC.

Through a series of interpretive letters (the legal mechanism through which the OCC approves a bank's authority to engage in new activities) the OCC has concluded that national banks have the authority to own minority interests in other business enterprises. In addition, through another, more heavily litigated series of opinions, the OCC has broadened the in-

surance powers sales of national banks.


Of most relevance to the title insurance industry is a preemption case, *Barnett Bank of Marion County, N.A. v. Gallagher* 116 S. Ct. 1103. In this case, the Supreme Court held in favor of the bank and the OCC. It stated that a Florida statute prohibiting a bank, an affiliate, or subsidiary of a bank from engaging in insurance agency activities, was preempted by §92 of the National Bank Act. The case effectively allows a national bank to sell insurance from a town with a population of less than 5,000. The Court held that the Florida statute "significantly interfered" with the bank's ability to sell insurance, under §92.

The OCC has subsequently issued a series of opinions broadening the scope of that small town provision to the point where sales of insurance can effectively be conducted through places of 5,000 under a U.S. Census Bureau designation (First Union National Bank, November, 1996), (Division of Legal Services, Florida Department of Insurance, February 27, 1998).

With respect to title insurance specifically, last year, the OCC issued a series of opinions (National Penn Bank, Letter #275, May, 1998; Mellon Bank, Letter Appro. #276, June 1998; Interp. Letter #842, November, 1998). These opinions do not break new legal ground, as they all allow the sale of title insurance through small towns. However, they are significant to the extent that they are in effect a roadmap for banks to enter the title insurance industry. The letters essentially approve joint venturing with banks on title insurance sales and other real estate closing services.

In addition to federal and state legislation, the banks are seeking expansion of their insurance powers through litigation. In *Association of Banks v. Duryee*, Huntington National Bank and two banking associations brought an action in the U.S. District for the Eastern District of Ohio, con-

tending that two Ohio statutes "significantly interfere" with national banks' federal rights to sell insurance in Ohio under §92 of the National Bank Act (small towns exception), which should result in their preemption under the *Barnett* standard. One such statute specifically prohibits banks (and other controllers of business) from selling title insurance. This statute would be subject to the Barnett "significant interference" test, and in all likelihood would be pre-empted under that case. The other statute prohibits insurance agent licensing of any entity if the "principal purpose" of the licensing is to place insurance on the applicant's own property. In addition, the "principal purpose" test applies to situations where the entity or an affiliate is, among other things, a payee.

Thus, the banks have taken a multi-pronged approach to increasing their involvement in our industry. As we continue the fight in Congress, what do we expect to see in the marketplace? Historically, many lenders, such as federal savings and loans, credit unions, mortgage banking companies, and state chartered banks, have had legal authority to engage in title insurance sales, and have, in many instances, actually engaged in title insurance sales. In many states, these lender-affiliated entities have operated under specific state statutes that, in some instances, have recognized the need for independence through requirements such as controlled business statutes. The marketplace question is one that you will have to determine independently, for your specific market area. Those states which have controlled business statutes may see less activity than those where bank entry is easier. Further, the RESPA joint venture requirements are still in place and will be followed. They may well remain the primary federal regulations affecting bank involvement in the industry. 



Mike Wille, president of The Title Company, Inc., Wisconsin, discusses bank powers and regulatory packaging with Senator Russ Feingold (D-WI) in the Senator's office. Senator Feingold's father was in the title insurance business, so the Senator has a good sense for the nature of the issues the industry faces today.

The Psychology of Change: Tips to Help You Keep Your Cool When the Heat's Turned Up

By C. Stephen Byrum, Ph. D.

The primary issue is *not* whether change will occur or when it will occur. Nor, is the primary issue the causative explanations for change or the ability to predict it. Without question, change as a reality that can be managed or controlled is usually made by the events which suddenly can surround our lives. Change is an inevitable reality of our existence and, if anything, the rate and intensity of change only increases with the passage of time and the complication of the world we have created. The only real, primary issue is how change can be survived; how we can triumph over change without becoming its victim. If we are able to do this, we may even find times when we can use change to our advantage, or find it as a vital part of a process of evolving growth and development. This article will focus on three ways in which change can be approached with decided advantage.

Change Must Be Depersonalized

We are gifted at taking events of life which are "value neutral"—events which simply are what they are—and adding tremendous emotional baggage to them. This added and ever-accumulating emotional baggage creates the reality that becomes so difficult to deal with. Often, the emotional baggage which we **bring** to a situation is what makes it intolerable and overwhelming, not the situation itself. We must always be conscious of making strategic attempts at diminishing subjectivity and allowing our egos to convince us that

life is always "about us."

Let me give a brief example of emotional baggage. The college where I taught for over twenty years is about twenty minutes from downtown Chattanooga. The four-line road which connects our campus with downtown is often referred to as "The Amnicola 500" because of the speeds on which it is traveled. To leave campus a few minutes before the hour for a speaking engagement or meeting on the hour was never unusual.

On one of the occasions, I was rushing toward town when my mental preparation for a speech was interrupted by the sound and shake of a tire going flat. What an awful time for a flat tire! I didn't have time to fix a flat tire!



C. Stephen Byrum is the Chief Executive Officer and Primary Consultant of the Byrum Consulting Group, an organization based in Chattanooga, Tennessee. His firm specializes in management development, employee assessment, team building, and organization enhancement. He has been active as a consultant in business and industry for almost thirty years, and has developed a reputation for helping organizations understand their managerial and employee interactions and create "better" work environments. Dr. Byrum may be reached at 423-886-5587.

(Notice the immediate movement to over-personalization.) With mounting disgust, I pulled the car over to the side of the road, got out, and walked around to the front, right side. What then transpired didn't need to be seen by my children. I reached back with my foot and kicked the flat tire, of course, only scuffing my shoe in the process. But I wasn't finished. I cursed the tire, and then — looking to heaven — gasped, "What me, Lord!?" As if God, or whatever divine forces that control tires, had nothing better to do with their day than to confound mine. I was in a total stew, fretting and ringing my hands, somewhere on the verge of a childish temper tantrum, a panic attack, or a full blown aneurysm.

Of course, in a few moments, I did what ultimately has to be done in a situation like this — I changed the tire and, now twenty minutes late for the speaking engagement, headed for town. My problems were not over, however. I knew exactly what was getting ready to happen in town. At the parking space which was arranged to be saved, the woman in charge of the meeting would be waiting, having her own panic attack with my name engraved all over it. My over-personalized thought: "God, you know I don't need this!" **Again, I was making it all about me.** In fact, the woman, almost on cue, was exactly where I had imagined her being, pacing nervously back and forth. As I got out of my car, she quickly approached, almost pleading: "Oh, Dr. Byrum, Dr. Byrum, I'm so sorry. Our meeting is running behind about half an hour. Can you still speak? Can you stay? Will every-

thing be all right?"

As with most circumstances, all had worked out just fine in the end. I could have kicked myself over and again for all of the emotional energy I had wasted. In fact, I drive probably 40,000 miles a year, and have done so over the past thirty years. In that time, I have had only two flat tires. All things being equal, I should have had maybe two dozen flat tires by now. Why is it so hard for us to bring something of a logical mind into play to balance our tendency to over-personalize and over-emotionalize? Why does an objective perspective get lost so quickly?

Those people who "out think" the events of change survive it much better. In a more formal sense, the basic idea behind Rational-Emotive Therapy is a concentrated focusing on the rational components of the events which surround our lives until the emotional overtones are crowded into the background. This process does not necessarily happen automatically, but it can become a practiced skill. For our own mental and physical well-being, we simply cannot allow events of change which are the **common lot** of all humanity to take on the character of singular events which happen only to us.

Being Careful About Role Identity

In part of my consulting work in business and industry, I use an extremely insightful, diagnostic instrument called "The Hartman Value Profile," (which will be used in the Land Title Institute's Management Development Program). The Profile gives a "snapshot" of what might be called the interior landscape of an individual – a sense of what motivates a person, what will drive a person's value judgments, and how a person will react to a variety of interpersonal relationships. One index of the Profile looks closely at the intensity of role identity that a person possesses. On one end of the spectrum of this particular index, a person may have very little role identity and see themselves more as a unique individual as compared to an extension of the roles and responsibilities involved in a job. On the other end of the spectrum, a person's role identity is very strong, and the job may become a powerfully strong part of self-esteem and self-definition.

I can personally identify with this index. I feel a strong sense of role identity—I see myself as a teacher. I may be

able to teach in many different environments—professor, counselor, consultant, seminar leader, etc.—but if my ability to teach in some context were taken away, my personal life would be tremendously impacted. My job would not simply be threatened or in some kind of jeopardy. My identity as a person would be compromised. The Profile is decisive in demonstrating that the stronger role identity that a person has, the less able a person is to deal with change. Change for this person is never simply a passing reality of life; change is a distinct threat to personal identity.

So, what is the implication of these findings? Should people be encouraged

"The (Hartman Value) Profile is decisive in demonstrating that the stronger role identity that a person has, the less able a person is to deal with change."

to diminish role identity, give less of themselves to their work, or resist ever letting a job take on the character of a "calling?" Such a diminishing of the place of fulfilling and meaningful work in our lives should never be encouraged. Often people who see their work on the level of "calling" make a difference in the workplace that is remarkable. Yet, it must be asserted—and is probably very logical—that the person with the high role identity is highly vulnerable to change.

However, we do need to take a great deal of care in understanding the variety of disadvantages we give ourselves when role identity becomes too overly pronounced. We may be more easily manipulated by others who realize or sense that we would do almost anything to "keep our jobs" or—by implication—keep our identities. We could even be victimized or be subjected to abusive unfairness if we convey that we would "take" almost anything to keep our jobs/keep our identities. At the very minimum, when the thought of change puts us into a near panic attack stage, we have a clear indication that too much personal identity is being given to a job.

The foundation and core of who we

are as individuals can flow from the internal self to the external world, or from the external world to the internal self. We can be "made in the image" of our work, or we can make our work in our own "image." When our internal self is more the result of the roles, responsibilities, and obligations we have in the external world, we are extremely susceptible to being hurt by the reality or possibility of change. I must first be "Steve Byrum," a unique person with potential that can be manifested in a multitude of ways. My strength of character must first come from **who I am**. Then, and only then, can **what I do** find its proper level of importance. In a similar manner, I must be more defined by the significant relationships that surround my life than by the significant job responsibilities. By following this approach, I have a much better chance of developing a **personal** identity—as opposed to a **role** identity—which will sustain me through all kinds of potential role changes. Change may even become an interesting stimulant and catalyst, rather than a dreaded enemy.

Create A "Change Inventory"

All of us need our own, personal "Change Inventory" or "Adaptation Inventory." This highly personal inventory is a conscious and specific record of the major changes that we have had to deal with in our lives and the way we have specifically dealt with these changes. Once we have a concrete "Change Inventory" that we can study and be reminded by, we are usually able to convince ourselves that – in fact – we are pretty good at change, fairly creative and resilient people in the face of change, and perhaps more tenacious and even triumphant than we tend to give ourselves credit for being.

Again, let me share an example. I played baseball with a young man in high school that became one of my closest friends. A segment of his life story is intriguing. By the time we were in our senior year, our life goals were well formed; I wanted to go to college and play football, and he wanted to be a soldier. He wanted to carry a rifle and fight in battles. If you were graduating from high school in the mid-1960s with the kind of ambition my friend had, our friendly U. S. Army would have been happy to help in ambition fulfillment. Follow my friend's story for a moment.

He left our small hometown, where

almost everyone knew everyone else, for Fort Knox in Kentucky and the initial buildup for Vietnam. In this new environment, he knew one other person whom he saw one time at a movie on a Saturday afternoon during basic training. He was a stranger in a strange land, but he adapted to all this. My friend was also something of a "free spirit," who had been able to live most of life on his own terms since he was a young teenager. At Fort Knox, people were lined up ten deep ready to tell him what to do, when to do it, how long to do it, and on and on. It was not a place for "free spirits," but he adapted to this.

Following basic training, he was sent to Fort Polk in Louisiana, where the Army was doing its pre-Vietnam, jungle training. Of all that he encountered in Vietnam, nothing in his memory was harder than Fort Polk. On one survival mission, he and his unit killed an otter to have food on one night and a huge snake for food the next night. I'm not sure I could have handled this, but he did—again, there was adaptation.

My friend was then shipped out to Vietnam where he adapted to different looking people, different customs, a different language. On his first trip into the field, where he helped guard a firebase, his unit was overrun, and he faced real bullets and real death. Again, he adapted. He was even captured and put into prison for a short while, which challenged the ability to adapt to the hilt. He survived. Finally, he caught malaria, found his dreams of being a soldier come to an end, and returned home to anything but a hero's welcome.

But, if you met my friend today, you would find a totally sane, positively contributing member of his community. You would find someone who has become a good worker, father, spouse, and as stable and solid a citizen as you could ever meet. I do not know what life might present him with in the future in terms of change, but I am sure that if he takes time to look at all he has successfully triumphed over, he will be able to approach situations of change with confidence and courage. His "Change Inventory" proves beyond a shadow of a doubt that he has a great capacity to adapt, survive, and almost be a master of change.

Most all of us are the same way. If we focused for a moment on all that we have dealt with, all that we have successfully overcome, all that we have faced, like my friend we would be compelled to

come to the conclusion that it is altogether strange that we have the typical reactions to change or the possibility of change that we do. We are good at change! We have unbelievable skills at adapting! If we weren't pretty good at change, we probably wouldn't be where we are today. Of course, we don't need to go looking for change or

chaos; it will find us plenty soon enough. But we do need to be honest with ourselves. We have probably survived much more than any work change that could be thrown

"If we refuse to over-personalize, if we carefully draw the line between appropriate and excessive role identity, and if we actually create a 'Change Inventory,' then we can take control of our own lives and destinies in a profoundly significant way."

at us.

After all, we are Americans. We can live in deserts, on mountain tops, at the North and South Pole, in the ocean depths. We can even go to the moon. And, we don't simply go to the moon; we take our golf clubs and see how far we can hit golf balls! If we actually went to the effort of creating a real, on-paper "Change Inventory" and kept it nearby, we would have a constant reminder, when change occurs, that we are very good at change. We are powerfully creative in our abilities to adapt. We do not need to be afraid of change. We are masters at surviving!

In conclusion, change is an external circumstance that has relative power which ultimately depends—not on the power of the changes which are taking place—but on the power of our internal selves. If we **refuse to overpersonalize**, if we **carefully draw the line** between appropriate and excessive role identity, and if we actually **create for ourselves** a "Change Inventory," then we can take control of our own lives and destinies in a profoundly significant way. We either take control or we surrender control. When we surrender, we put ourselves at the mercy of change and its agents. The central issue is never **what happens to us**—the outside circum-

stances. The central issue is always **what happens because of us**—the internal sense of self and strength of character that assures survival. Yet, not simply survival, but rather a quality of life which has joy, dignity, and positive meaning. Such a life is not destroyed or diminished by change. 🐿

ABSTRACTER-AGENT SURVEY *continued from page 18*

"alternative" products were used in approximately 19 percent of all relevant transactions in the past year. Asked how they describe the products that lenders accept in lieu of a title policy, most responded that these products are "title reports," "certificates of title," "title and lien searches," and "opinions of title." Other more creative descriptions conveyed essentially similar products: for example, "owners and encumbrance report."

Among all companies surveyed, at least 40 percent believe that their competitors are offering products that lenders accept in lieu of a title policy. They reported these products are being offered in connection with homeowner refinancing (59 percent of those reporting), in connection with home purchases (22 percent), and in connection with other transactions such as second mortgages and equity lines of credit (36 percent).

Although "certificates of title" is probably the most common label for these products, a number of respondents mentioned the Norwest TOP program. Indicative of the strong negative emotions these products evoke, some respondents described them as "junk," "cheap," and "cheap and limited liability."

Judging from their comments, it appears that many company executives feel pressured by competitors "giving services away for free" and providing a less complete (and cheaper) version of a service that both companies offer. 🐿

Extreme Technology Forum!

The recently completed 1999 **Technology Forum & Expo** was a great success: ALTA went to extremes to make sure that everyone got their money's worth, and more. The American Land Title Association was pleased to welcome 600+ attendees to the show, where attendees were impressed with and educated by the 30+ educational sessions and more than 60 exhibit booths, double the number available last year.

"Which sessions should I choose?"

The impressive quantity and variety of educational opportunities left many attendees wondering "Which session should I choose?" The multiple educational tracks, technology demonstrations, and networking opportunities were equally impressive to exhibitors, many of whom went all out with fabulous new exhibit booths and a myriad of products to offer.

But even if you missed a session (or couldn't attend), there is still time to order session audiotapes. Please see page 35 for a complete audiotape order form. For additional information, the **1999 Technology Forum & Expo Proceedings Book** (containing handouts from educational sessions) is available for \$40 to ALTA members (\$120 to non-members.)

Plans are currently underway for an even bigger and better Tech Forum in the year 2000. The Mirage Resort and Casino in fabulous Las Vegas, Nevada, will host the **2000 Technology Forum & Expo**. A city of pure excitement, the Las Vegas venue will make a welcome change, offering the ultra-plush Mirage, which is sure to impress even the most discriminating of travelers.

Finally, ALTA sends a big "thank you" to everyone who helped make this year's **Technology Forum & Expo** such a big success, and particularly our official sponsors: Comforce Information Technology, Elliptus Technologies, Inc., SMS, and Stewart Title Guaranty Company. We hope you'll come to Las Vegas in the year 2000 to see what we have up our sleeve in the New Millennium! 🦄



Actually, it does do Windows.®

Need a hand around the office? With ProForm for Windows, you'll get everything you expect from the top-selling Closing and Title Insurance software – one-time data entry, automatic calculation of all closing costs, and the best customer support in the business – plus the power to work right in Windows. So go with the pros. Go with SoftPro.

SoftPro
CORPORATION

CALL 1-800-848-0143 TODAY FOR YOUR FREE DEMO DISK.

www.softprocorp.com

NAMES IN THE NEWS

Newly appointed to president at Rattikin Title Company in Fort Worth, Texas is **Jack Rattikin III**.

Mr. Rattikin joined the firm in 1983 and holds a BBA from the University of Texas at Austin, as well as a JD from Texas Tech University School of Law. Rattikin Title Company is confident that Mr. Rattikin, with his strong community ties and years of experience, will play an important role in the future growth of Rattikin Title.

In neighboring Arizona, **Michael J. Rooney** has been named vice president and Arizona district manager for ATI Title Agency of Arizona, Inc. Prior to joining ATI Title, Rooney was vice president and Dallas area manager for Chicago Title Insurance Company in Dallas, Texas.

Recently named as vice president in charge of commercial title operations for Fidelity Title & Guaranty Co. in Winter Park, Florida is **Jim Dyer**. In this new capacity, he will be responsible for underwriting and troubleshooting.



Rooney



Wroblewski

First American Title Insurance Co. announced in January that **John T. "Jack" McGrath** has succeeded Robert G. Bannon as regional vice president of the Mid-Atlantic region, where he will be responsible for management and operations in Maryland, Virginia, and Washington, DC.

Elsewhere, **Douglas R. Hitchen** joined Investors Title Insurance Co. of Chapel Hill, North Carolina, as vice president of information systems, bringing over 12 years of information technology experience to his new post.

In Media, Pennsylvania, **Michele Rist** was promoted to sales manager at T. A. Title Insurance Co., in order to motivate and manage an expanded sales team, recently joined there by **Colleen Leuthe** and

Robert Ludwick. The T.A. Title Insurance Co. Board of Directors also recently appointed **Maureen Wroblewski** to serve as a member. Wroblewski has a wide scope of knowledge in the real estate and lending industries.

On the west coast, Fidelity National Financial, Inc. announced the hiring of **Robert P. Murphy** as chief executive officer of Granite Financial, Inc., a wholly-owned subsidiary of Fidelity.


At Ohio Bar Title Insurance Co., Columbus, Ohio, has named **Robert B. Scherer** to the position of president and chief executive officer.

In other news at Ohio Bar Title, **James M. Nussbaum, Jr.**, was appointed to the office of chief operating officer, and **Daniel J. Hunter** was elected to the additional offices of secretary and treasurer.

The following people have received promotion to the office of assistant vice president at Chicago Title and Trust Co. or one of its subsidiaries: **Jeff Gross** is now assistant vice president, CTIC, while remaining manager of the lenders closing department in Chicago, and **Walter Jones** has been promoted to assistant vice president, CTIC and TICOR Title while remain-

Get Premium Savings On Your Errors & Omissions Insurance

PLUS
0% INTEREST PREMIUM FINANCING!

- Claim-Free Credits
- Retroactive Coverage
- Free License Defense Coverage
- Limits to \$1,000,000 
- Four Deductible Options
- Loss Prevention Support Services

* Coverage is not available in all states



NORTH AMERICAN TITLE ORGANIZATION

1-800-992-9652

210 University Drive • Suite 900 • Coral Springs, FL 33071





Jones



Obzud



Selby



Prentiss



Kuntz



Tiedke

ing branch manager in Rockville, Maryland. Also in Rockville, **Eric Schneider** is a new assistant vice president, CTIC and Tior Title, while remaining agency counsel. **Lisa McFadden** has been named assistant vice president while remaining manager, Loop CPU, in Chicago. **Allison Rabin** is also now assistant vice president, CTIC and remains manager, residential service examiners department, Chicago. **Cynthia Hopwood** is now a regional accounting officer.

At LandAmerica Financial Group, Inc., headquartered in Richmond, Virginia, **John M. Obzud** has been promoted to manager of the company's Southeast region. A resident of Orlando, Obzud is a 22-year veteran of the title industry and will be responsible for the collective op-

erations of Commonwealth Land Title Insurance Co., Lawyers Title Insurance Corp., and Transnation Title insurance Co. in the Southeast region. Also at LandAmerica, **Jeffrey C. Selby** is now director of the company's National Commercial Services division, a network of offices in 16 major metropolitan areas nationwide, specializing in coordinated title and real estate-related services for national commercial customers. Also promoted at LandAmerica recently were **Delcenia C. Prentiss**, now vice president and director of software programming; **Robert J. Kuntz**, now vice president and director of infrastructure; and **Linda Barry Tiedtke**, now president and chief operating officer of Commonwealth Land Title Company of Fort Worth.

After 35 years, **Vern Estes** has decided to retire from Big Horn Land Title in Casper, Wyoming; **Kathy Boyd**, who has been affiliated with the company since 1973, will succeed as president. Estes hopes to devote more time to fishing and his antler business, which has become quite successful.

On a sadder note, we mark the passing of **Clem Silvers**, 88, El Dorado, Kansas attorney, past ALTA President (1963-64), and former owner of Allen Abstract and Title Company. Mr. Silvers died on February 18 in his home, with his family surrounding him. He received many honors during his life, including "Title Man of the Year" from the Kansas Land Title Association in 1984. He is survived by son, Bud Silvers; daughter, Sharon Knowles; and five grandchildren.

For Land Records Conversion Systems Call Amitech



..... Visit Our
..... Booth No.2235
..... at AIIM in Atlanta
..... April 13-15
.....



phone—703-256-2020 • 5501 Backlick Road • Springfield, VA 22151 • web—www.amitech.com • e-mail—amitech@amitech.com

1999 Affiliated Association Conventions

April

8-10 **Tennessee**, Chattanooga Marriott, Chattanooga, TN

23-25 **Oklahoma**, Sheraton Kingsington, Tulsa, OK

May

6-8 **New Mexico**, Clovis, NM

18-21 **California**, Laguna Cliffs Marriott, Dana Point, CA

20-23 **Palmetto**, Hyatt Regency, Greenville, SC

23-26 **New Jersey**, Nemaocolin Woodlands Resort, Farmington, PA

June

3-4 **South Dakota**, Deadwood, SD

3-5 **Texas**, Santa Fe Hilton & El Dorado Hotel, Santa Fe, NM

4-6 **Virginia**, The Omni, Richmond, VA

6-8 **Pennsylvania**, Castle Harbour Resort, St. George, Bermuda

6-8 **Iowa**, Lake Okiboji, IA

11-12 **Arkansas**, Bentonville-The Clarion, Bentonville, AR

17-18 **Colorado**, Gread Divide Lodge, Breckenridge, CO

24-27 **New England**, The Black Point Inn, Prouts Neck, ME

27-29 **Oregon**, Sunriver Resort, Bend, OR

July

8-10 **Illinois**, Heidel House Resort, Green Lake, WI

18-20 **Michigan**, Shanty Creek Resort, Bellaire, MI

22-24 **Utah**, Sun Valley, ID

August

5-7 **Montana**, Fairmont Hot Springs Resort, Fairmont, MT

5-8 **Idaho**, McCall, ID

MARKETPLACE

Rates for situations wanted or help wanted are \$80 for first 50 words, \$1 for each additional word, 130 words maximum (per insertion rate drops to \$70 for first 50 words, \$1 for each additional word, for three or more consecutive placements). For sale or wanted to buy ads have a rate of \$250 for 50 words, \$1 for each additional word, 130 words maximum (per insertion rate drops to \$225 for 50 words and \$1 for each additional word for three or more consecutive placements). Placing a box around an ad cost an extra \$20 per insertion for help wanted or situations wanted, \$50 per insertion for sale or wanted to buy. Blind box service available upon request.

Those desiring to place classified advertising in Marketplace, send ad copy and check made payable to American Land Title Association to **Title News Marketplace**, American Land Title Association, Suite 705, 1828 L Street, N.W., Washington, D.C. 20036. Responses to classified placements should be sent to same address unless otherwise specified in ad copy.

8-11 **New York**, Charleston Place, Charleston, SC

12-14 **Indiana**, Omni Severin Hotel, Indianapolis, IN

12-15 **North Carolina**, Grove Park Inn & Resort, Asheville, NC

13-15 **Minnesota**, Breezy Point Resort, Brainerd, MN

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

19-21 **Wyoming**, Holiday Inn, Rock Springs, WY

September

9-11 **Missouri**, Westin Crown Center, Kansas City, MO

12-14 **Ohio**, Dayton Marriott, Dayton, OH

16-18 **Dixie**, Grand Casino, Gulfport, MS

16-18 **North Dakota**, Gladstone Inn, Jamestown, ND

16-18 **Wisconsin**, Stone Harbor, Sturgeon Bay, WI

17-19 **Maryland, DC, VA**, Cavalier Hotel, Virginia Beach, VA

22-24 **Nebraska**, MidTown Holiday Inn, Grand Isle, NE

23-26 **Washington**, Coeur d'Alene, ID

November

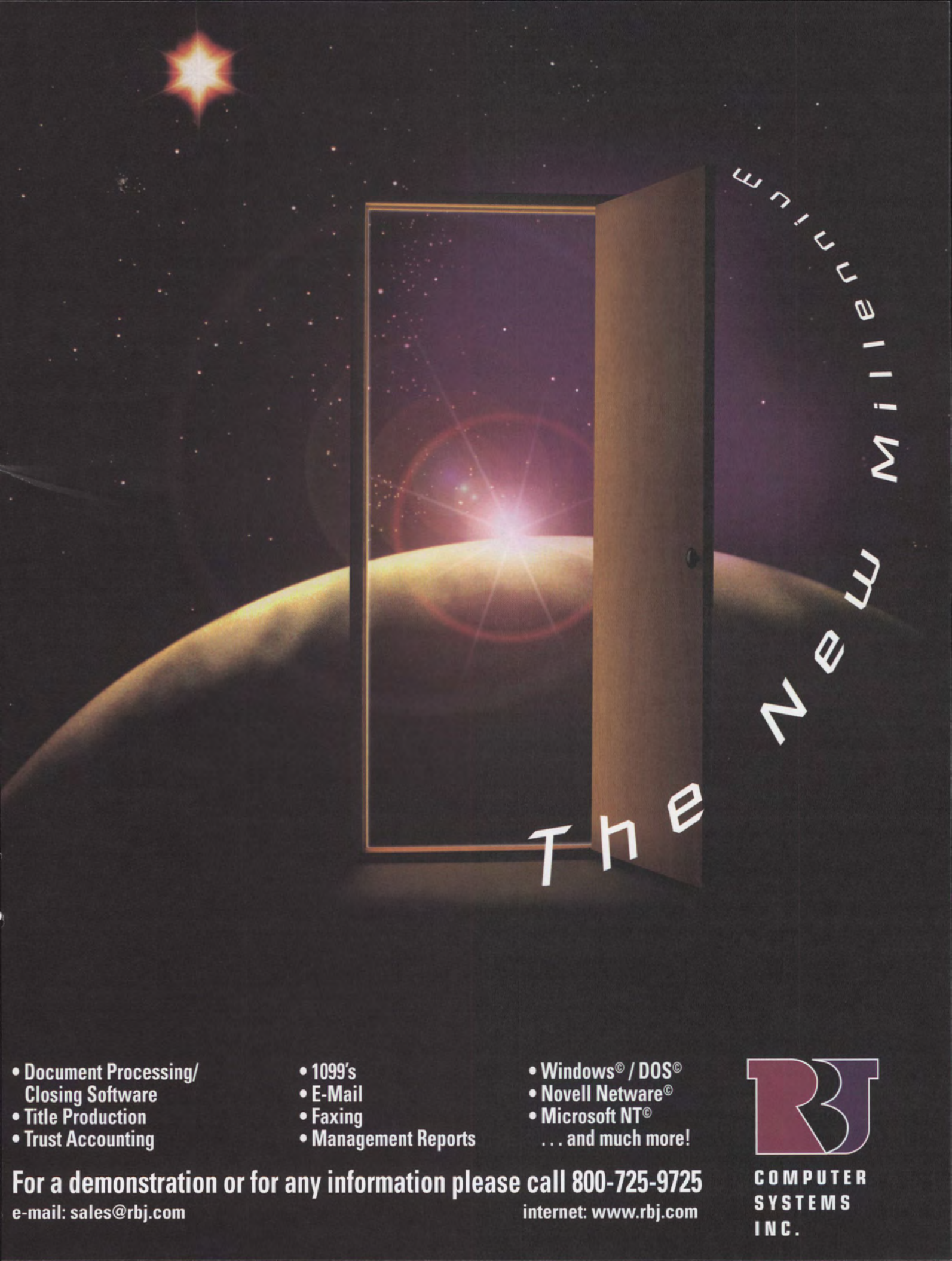
10-13 **Florida**, Westshore Hotel, Tampa, FL

December

2-3 **Louisiana**, Chateau Sonesta, New Orleans, LA

TITLE NEWS ADVERTISERS

Amitech	page 43
Corporate Development Services	page 32
Datatrace	page 10
Elliptus	cover 2
EscrowData.com	cover 4
North American Title Organization	page 42
RamQuest	page 11
RBJ Computer	page 45
SMS	page 21
Smart Title Solutions	cover 3
SoftPro Corporation	page 41
Title Industry Assurance Company	page 15
TitleData	page 6
TitlePac	page 25
Title Pro	page 29



The New Millennium

The

- Document Processing/
Closing Software
- Title Production
- Trust Accounting

- 1099's
- E-Mail
- Faxing
- Management Reports

- Windows® / DOS®
- Novell Netware®
- Microsoft NT®
- ... and much more!



For a demonstration or for any information please call 800-725-9725
e-mail: sales@rbj.com internet: www.rbj.com

Sometimes a particular site may have unique value to a particular lessee. In appropriate circumstances, this unique value might be taken into account in valuing a leasehold estate. For example, Tavern on the Green is a restaurant located within Central Park in New York City. If it had to move, it would no longer be "on the green." In valuing a leasehold estate, this type of intrinsic value might be considered. In our example, the telecommunications company may get optimum coverage from the top of a certain hill or the roof of a certain building. If it had to replace the site, it is not inconceivable that the company may need to develop two new sites to replicate the coverage provided by the old site.

e. Cost of Development of Replacement Property

Of significant concern to the telecommunications company is the cost of locating and developing a new site for its tower. Some of these costs are clearly covered by a leasehold policy and are discussed above. Others, however, are not necessarily covered. The company needs to locate and lease another site that is technologically compatible with its communications network. The costs of developing the new site include the costs of testing the new site for reception and "fit" into the communications network, negotiating and leasing the site from the new landlord, and securing the necessary land use approvals for operation of the new site. It may also need to construct and operate a temporary communications facility until the new site is operational.

These "soft" costs are likely not covered by an ALTA Leasehold Policy. That is not, however, the end of the story. An insured wishing to purchase title insurance covering these development costs can do so by negotiating an endorsement to its leasehold policy (such an endorsement may not be available in some states.) Of course, the amount of insurance should be increased to reflect the additional coverage.

f. Consequential Damages - Loss of Revenue.

This can be a significant item of damage for a tenant who is dispossessed

from its leased property. Loss of business is not, however, covered by title insurance. Title insurers are restricted to a single line of insurance by the laws of most states and cannot insure against lost revenue. Coverage for consequential damages for loss of business revenue is more appropriate to business interruption insurance.

Determining the Amount of Insurance Coverage

Because the damages that may be suffered by an insured are difficult to quantify at the time of issuance of a title

"A fundamental mistake many make is to ignore the fact that the leasehold estate is valued at the time of loss, not at the time of entering into the lease."

insurance policy, it is not surprising that there is no general agreement regarding how to determine the amount of insurance for a leasehold policy. There are, however, some general guidelines and considerations that can be useful in determining the amount of insurance.

One method for figuring the amount of leasehold insurance is to use a rent multiplier, such as five times the yearly rent. Although there is no apparent basis for using any particular multiplier (any of which can fairly be characterized as being plucked out of thin air), the practice has created somewhat of a following in the industry, perhaps because of a lack of competing methodologies. Moreover, some states regulate the amount of insurance that is to be purchased, partially through the use of rent multipliers. In New York, the minimum amount of insurance for a leasehold policy is set forth in the TIRSA (Title Insurance Rate Service Association) Rate Manual, as approved by the New York State Insurance Department, and is determined according to one of the following methods:

- A. (1) For lease terms of six years or less, an amount equal to the total aggregate rent payable under the lease; or

- (2) For lease terms of more than six years, an amount not less than the first six years of aggregate rent (for percentage leases, estimated rent may be used); or

- (3) Not less than the fair market value of the land and improvements at lease commencement; or

- (4) Not less than the appraised value of the land and improvements at lease commencement; or

- B. If there is proposed construction, the projected cost of improvements may be added to the amount specified in (1) through (4) above;

- C. When insuring an assignment of a leasehold estate, the minimum amount of insurance is the greater of the following:

- (1) The full consideration for the estate, including all mortgages assumed or taken subject to; or


- (2) The value of the leasehold estate calculated by the method in A(1) or A(2) above.

In addition to the above, the amount of insurance should account for the value of leasehold improvements. Where a tenant is constructing improvements to the leasehold estate or holds title to its leasehold improvements, the leasehold improvements should be insured to their full value (or cost).

Where a tenant negotiates coverage for the estimated cost of developing a new lease location, the amount of insurance should include these estimated development costs. Most sophisticated tenants should be able to provide a fairly accurate estimate of these development costs.

It should be kept in mind that determining the amount of leasehold insurance is anything but an exact science. Moreover, the amount of insurance purchased does not determine the amount of damages that may be payable in the event of a title failure, but rather, merely sets a limit on the amount of recovery.

Conclusion

Tenants are not by nature larger risk takers than are owners of fee interests in real property. Anyone contemplating a lease of real property, particularly long-term leases or where significant leasehold improvements are to be made, should consider the purchase of leasehold title insurance for all the same reasons the owner of a fee would purchase a policy. 

SMART TITLE SOLUTIONS



Introducing Smart Title Solutions. For your information.

If this were a simple FYI., we would leave it at that: we're now Smart Title Solutions (STSS), formerly Experian Title Information Services.

But our new name is just the beginning. You'll soon be hearing a lot more about us. About our expanded geographic coverage, from Seattle to Detroit, from Chicago to Orlando. About our new imaging capabilities. And about our new Windows-based Smart Title System, a smarter, single desktop solution for accessing tax and title information, maps, document images and more.

What's in a name? Visit our booth at the ALTA show and discover why STSS is the smarter solution for today and the future.

- A new name. A new commitment.
- Expanded coverage across the country.
- A new Windows-based information retrieval system.
- New imaging capabilities.
- Formerly Experian Title Information Services.

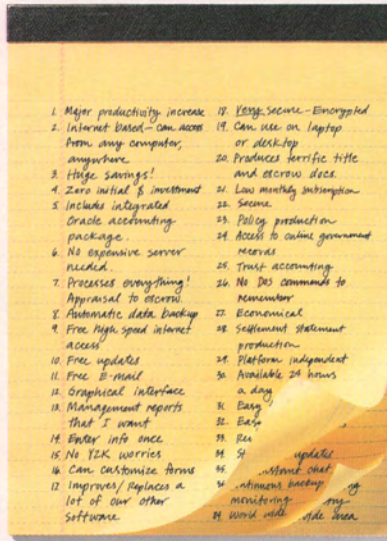
SMART TITLE SOLUTIONS

C a l l 8 0 0 4 2 6 - 1 4 6 6

Reasons to stay with your existing title/escrow software



Reasons to switch to EscrowData.com



There are 114 compelling reasons why you should be using our software in your title/escrow business.

We couldn't decide which would be most appealing to you, so here they are. All 114 of them.

If significantly increasing total production, and dramatically decreasing software costs are important to you, you'll be very impressed.

EscrowData.com

Visit us at www.escrowdata.com and be prepared to be astonished. Or call us toll free at 877-895-1202. (Marketing positions available)

American Land Title Association

1828 L Street, N.W.
Washington, D.C. 20036