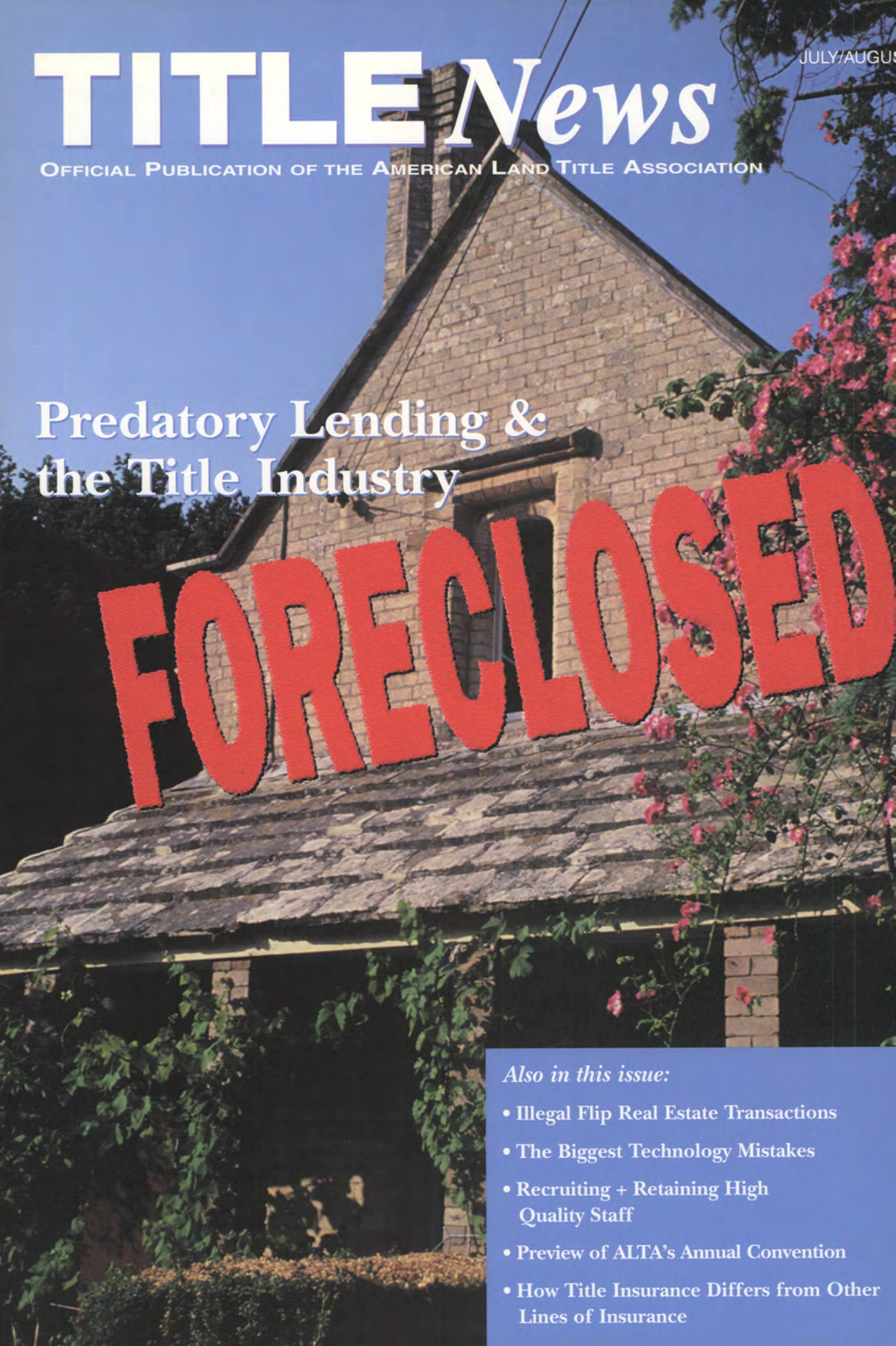
JULY/AUGUS

# TITLE News

OFFICIAL PUBLICATION OF THE AMERICAN LAND TITLE ASSOCIATION

## Predatory Lending & the Title Industry




*Also in this issue:*

- Illegal Flip Real Estate Transactions
- The Biggest Technology Mistakes
- Recruiting + Retaining High Quality Staff
- Preview of ALTA's Annual Convention
- How Title Insurance Differs from Other Lines of Insurance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## FEATURES



## DEPARTMENTS/AND MORE

# ALTA Coming Events

## 2000

### July

**12-13 Joint Property Records Task Force Meeting**
Charlotte, NC

**21-22 Education Committee Meeting**
Ogunquit, ME

### August

**12 TIAC Board Meeting**
West Dover, VT

**21 Research Committee - Abstracter/Agent Subcommittee Meeting**
Annapolis, MD

**20-22 Reinsurance Committee Meeting**
Vancouver, British Columbia

### September

**18-19 Title Industry Accountants Meeting**
Vancouver, British Columbia

### October

**18-21 ALTA Annual Convention**
Kamuela, Hawaii

## 2001

### February

**4-6 ALTA Tech Forum**
Orlando, FL

**26-March 2**
**LTI's Management Development Program**
Houston, TX

### October

**10-13 ALTA Annual Convention**
Palm Desert, CA

# Message from the Abstracter/Agent Section Chair

I have just returned from the Spring seminar of the Ohio Land Title Association (OLTA). It did not resemble any OLTA convention or seminar I can remember. Rather than learning about how the Ohio Division of Unclaimed Funds was preparing to audit us and charge fees and penalties for any funds that have not been properly accounted, we heard ALTA's Ann vom Eigen give an update on the Gramm-Leach-Bliley act and how it will affect us. She enlightened us with a discussion of the privacy provisions, sales rules, the OCC, the Federal Reserve Board, the federal digital legislation under the Uniform Electronic Transaction Act, and of course, RESPA. You could really sense the concern in the audience.

That night at dinner, as our states' political action committee asked for our support and involvement, we heard about the pending legislation to allow real estate brokers to be licensed title agents and to allow them into the title business. Needless to say, the hot topics for discussion were the controlled business arrangements that now exist and the ones coming in the future. And, of course, there was a thorough discussion of the landmark Huntington Bank case, in which an Ohio Federal court has taken the initiative to allow banks into the title industry without complying with the business purpose requirement of the Ohio Insurance Statute. Once again, the concern in the audience was palpable.

As I drifted that evening through the underwriter hospitality suites, everyone was talking about our industry's future: controlled business arrangements, joint ventures and technology.

Bill, a medium-sized agent in a large city, said he didn't know if he could survive with the two major real estate companies starting their own title companies. Bob, a small agent in a small town, had heard rumors of another major underwriter merger and huge defalcation. Steve, a middle manager for one of our major underwriters, discussed the constant pressure he felt from the home office to increase his revenues and to capture a larger market share.

To me, the feeling was clear that no one really had a handle on the future of the title industry in Ohio. But, everyone was sure that we are about to experience major changes, which could threaten the survival of agents, which have been so much a part of the title industry. If ever we needed one another, it is now.

In an industry which has changed little in the last 50 years, we must strengthen ourselves and be ready for whatever comes at us. We should also be thinking about how we can shape our own future — how we can be in control of our own destiny.

We have to seriously consider entering into new ventures, such as ancillary services, or dare I say, explore the entry into the fields of real estate sales and/or mortgage lending. Let's face it, no one has the knowledge and expertise that we have in closing a real estate transaction. Perhaps it is time to use that knowledge and offer these services directly to the consumer. Surely we are capable of directly competing with the lenders and with the Realtors®. No longer should we shy away from competing directly with customers — the rules have changed, and so must we. Let us embrace these changes with excitement and see the opportunities.

Stanley Friedlander

Stanley Friedlander

# Predatory Lending Practices: Finding Solutions

*by Elisabeth C. Zajic*

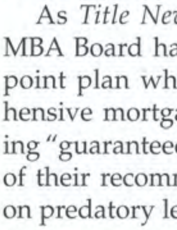
Predatory lending practices are getting a lot of attention these days. It seems as if almost all the players in mortgage finance, from Fannie Mae and Freddie Mac on down, are beginning to scrutinize internal operations in terms of participation in making loans which may fall within the category of abusive loan practices.

Moreover, predatory lending practices, once less politely referred to as "loan sharking," have become priority agenda items for both federal and state lawmakers and regulators. North Carolina recently enacted a new law addressing predatory lending practices, and New York is considering similar legislation. In the District of Columbia, a Task Force assembled from a broad cross-section of special interest groups has been working on a comprehensive redraft of the D. C. law of mortgages, including abusive lending practices and foreclosure law, under the aegis of the D.C. Office of Banking and Financial Institutions. Competing bills on the subject have been introduced in Congress for the purpose of tightening the provisions of the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) on high cost loans. The Office of Thrift Supervision has proposed changes in rules. And, a working group of Federal agencies is developing a policy statement on enforcement of federal fair lending and consumer protection laws that would serve as a warning and guidelines to lenders on acceptable lending practices for subprime loans. In partial response to these realized or pending initiatives, the Mortgage Bankers Association of America (MBA) recently released "best practices" guidelines on predatory lending and a policy statement supporting comprehensive reform of RESPA and TILA as the best form of consumer protection from predatory lending practices.

As *Title News* goes to press, the MBA Board has announced a seven point plan which includes comprehensive mortgage reform — including "guaranteed closing costs" as part of their recommendations for action on predatory lending.

### Why All the Attention Now?

Why all the sudden focus on predatory lending? Claims handlers for title insurers can confirm that abusive lending practices have been around and causing claim losses for almost as long as title insurance has been around. After all, among the primary basic risks covered by a title insurance policy are fraud, forgery, and lack of legal capacity, all three of which have a tendency to go hand in hand with predatory lending practices.



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*Claims handlers for title insurers can confirm that abusive lending practices have been around for almost as long as title insurance has been around.*

To understand how this works, let's take a look at the basic anatomy of a predatory loan. What will you find, as a rule, is a high cost loan made to an unsophisticated homeowner who does not have a lot of money or a steady income stream, but who does have substantial equity in his or her home. The primary objectives of the lender, and/or those involved in the loan process, are to collect extremely high loan fees up front, and ultimately, to force the borrower into default, so that the lender can foreclose and realize the borrower's equity. Then the entire process, in many cases, can start all over again; subject, however, to the gradual decrease in the value of the home due to neglect, unpaid real property tax liens, and the like.

Most frequently, the targets of the predatory lenders are persons of limited education and the elderly. Neighborhoods are scouted for targets which meet the requisite criteria: unsophisticated borrowers with home equity who are in need of quick cash or home repairs. (Many of the predatory lending initiatives are tied into home improvement contracts under which little or no work is actually performed.) Not only are these targeted borrowers vulnerable by reason of their lack of business sophistication, but in many cases, until recently, their financial circumstances prevented them from qualifying for "mainstream" loans at reasonable rates.

The effect of these lending practices can be devastating, not only to victimized borrowers, but also in terms of the deterioration of entire urban neighborhoods. In the District of Columbia, large residential areas of the city once occupied by lower to middle income families with pride in their homes and in their neighborhoods have become virtually uninhabitable areas characterized by the presence of gun violence, drug dealing, and "squatters" living in derelict buildings. Predatory lending practices may not be the sole cause of this deterioration, but they have contributed to it substantially.

### Two Recent Examples

Predatory lending practices are a source of substantial claims loss to title insurers. Two recent examples in the District of Columbia are representative both of the way abusive loan practices work, and the damage that they cause: in human terms, to the targeted borrowers, and in terms of claims losses, to title insurers.

In the Watson claim, claim was made under a First American Title Insurance Company loan policy issued on March 12, 1996, by an institutional lender who is a bulk purchaser of mortgages made by a local lender known for making high cost loans. The claimant foreclosed and, as successful bidder at the foreclosure sale, brought an action for possession. As a defense to this action, the conservator for the mortgagor, appointed by the Probate Division of the Superior Court of the District of Columbia about a year after the issuance of our title insurance policy, raised a plea of title, alleging that the insured mortgage was void by reason of the mortgagor's incapacity at the time of his execution of same.

As our investigation of the facts of the claim proceeded, we discovered that the same local lender had made four consecutive loans to Mr. Watson, each refinancing the last. The first was made in July 1995 for $120,000. This loan was refinanced in October 1995 with a $209,000 loan from the same lender, in turn refinanced in February 1996 by a $225,400 loan. The last loan was made in March 1996 in the amount of $245,000.

*This legislation could prohibit closers from "allowing" the collection of credit life insurance premiums.*

Evidently Mr. Watson had fallen in with a purported home improvement contractor to whom he was supplying "capital" as an investor in the contractor's business. The proceeds from the four loans were completely dissipated in this no-return investment.

Each loan cost Mr. Watson about $10,000 in fees and costs. His interest rate on each hovered around 12%. At the time the first loan was made, Mr. Watson was 85 years old, a retired federal employee with 47 years of civil service, who had lived in his home since 1935. It was unencumbered at the time the first loan was made, and according to his loan application, his unsecured debt was minimal. The home's appraised value is $315,000.

By the time a claim was made under the title insurance policy, Mr. Watson's conservator was represented by counsel acting pro bono, as Mr. Watson had no funds with which to pay an attorney.

### How Was the Claim Resolved?

First American took a deed of the property from the foreclosing lender, in consideration of payment of policy limits. An agreement was reached between Mr. Watson and First American whereby he will remain in the property for six years as a tenant of First American, at a rent which covers basic maintenance only. He will also pay $500 per month into an escrow account. If Mr. Watson should die prior to the six-year period, the escrowed funds will go to First American. Otherwise, after he moves out of the house, which First American will then sell, he will be able to take an "annuity" from the funds to help subsidize his new living arrangements until the funds are exhausted, or until his death. This agreement serves Mr. Watson in enabling him to continue to live in his home, which is his primary desire, while affording some recovery to the title insurer.

The second example of a claim arising out of a predatory lending practice is quite new, and unresolved. The mortgagor, Mr. Roberts, represented by Legal Counsel for the Elderly, has filed suit to set aside a mortgage insured by First American on October 21, 1999.

The complaint was filed on March 28, 2000. In it, Mr. Roberts alleges that the defendants, consisting of the mortgage broker, the funding lender and its assignee, who is currently foreclosing, are seeking to foreclose on a loan created without the consent or even the knowledge of the borrower.

The borrower, described in the complaint as elderly, unsophisticated and with poor eyesight, has owned his home since 1974, free and clear until 1996. At that time he took out a $30,000 loan for home renovation with a 3-year term and a monthly payment of $311. In October 1999, he was contacted by the mortgage broker offering a replacement loan with lower payments. Mr. Roberts was then visited by an individual at his home, who had him sign papers described as a loan application. No copies of the papers were provided to Mr. Roberts.

In December 1999, Mr. Roberts received, by mail, a check for about $7,500. He also received a notice from his previous lender, with the return of his last mortgage payment check, stating that the loan was paid in full. The new loan is an ARM for $43,500 with an upward adjustment to 17.49% interest. His settlement charges were $4,816.46. He has sent back the proceeds check several times, and it has never been negotiated.

The complaint brought by Mr. Roberts alleges violations of TILA, the D.C. Interest Rate Ceiling Amendment Act, the D.C. Consumer Protections Procedure Act (recently held to apply to loan transactions by the D.C. Court of Appeals in DeBerry v. First Government Mortgage and Investors Corp.), 743 A.2d 699 (DC 1999), and the D.C. Mortgage Lenders and Brokers Act. Although matters arising from all of the foregoing laws may be excluded from coverage under Exclusion No. 5 of the ALTA 1992 loan policy, a defense with reservation of rights has been afforded to the insured lender, based primarily on the insured closing letter issued for this transaction. The written loan closing instructions specify that the closing shall take place at the offices of the settlement company. In fact, the funding lender sent the loan package to the mortgage broker, who in turn requested that the loan be closed by an attorney not approved by the title insurer and engaged in an affiliated business arrangement with the mortgage broker. The settlement agent for whom the insured closing letter was issued merely prepared the title commitment and policy, and disbursed the funds, purportedly with the full knowledge of all parties.

This claim has not been fully investigated, and therefore any conclusion as to the truth of the facts alleged by the borrower is premature. Nevertheless, these facts fall within some of the standard parameters associated with predatory lending practices.

### The Need for Reform

The growing concern of the mortgage finance industry, as well as state and federal legislators and regulators responding to consumer concerns, has resulted in a move towards reform of abusive lending practices and mortgage consumer protection law. The mortgage industry itself has begun the process of self-regulation. Freddie Mac recently announced that it would not purchase loans made in conjunction with the purchase by the borrower of a pre-paid single-premium credit life, credit disability, credit employment or credit property insurance policy, whether paid from the borrower's funds or financed. Fannie Mae also has elected to issue guidelines on anti-predatory policies for the loans which it purchases, and the MBA has issued a policy statement supporting legislative solutions to abusive lending practices.

*As Title News goes to press, the solutions under development by the Federal agencies seem to offer the most relief with the least burden for the title insurance industry.*

Unethical loan originators, who take advantage of borrowers on one end, and investors in the secondary market on the other, are becoming the targets of critical concern within the mortgage lending community, replacing a tacit "don't ask, don't tell" mentality.

Of equal importance are some fundamental changes in lending practices and underwriting criteria within the mortgage finance industry. With the recognition that someone with a less than perfect credit record may nevertheless be a good borrower, legitimate lenders are exploring the possibilities for profit in the sub-prime lending market, formerly the virtually exclusive purview of predatory lenders. The reverse mortgage is now an established product, enabling seniors to tap into their home equity as a source of income, without putting their financial security at risk. As a consequence, consumers whose bad credit or limited borrowing power may have once forced them to go to unscrupulous lenders now have access to viable financing options made available by legitimate lending sources.

### ALTA's View

As an Association, ALTA appreciates the concerns that have prompted the introduction of the Predatory Lending Consumer Protection Act of 2000 (H.R. 4250; S. 2415) and other legislation on Capitol Hill. And we realize that predatory lending practices are a source of substantial claims loss to title insurers. In general, the Association supports reasonable legislative and regulatory action to address the problems and abuses that may exist with regard to "predatory" lending practices targeted at vulnerable consumers. We also recognize that there is a fine line between subprime and predatory lending, and that a legislative/regulatory solution to predatory lending practices will provide benefits to the title insurance industry in reduced foreclosures and claims.

Nevertheless, as *Title News* goes to press, the solutions under development by the Federal agencies seem to offer the most relief with the least burden for the title insurance industry.

Several federal agencies working together, most notably the Department of Housing and Urban Development, the Board of Governors of the Federal Reserve System, and the Department of Justice, are in the process of developing a "Policy Statement on


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Predatory Lending Practices." The Policy Statement addresses actions by lenders, including mortgage brokers issuers of credit cards, and secondary market entities. It provides guidance to companies through examples; similar to those cited above, of what may constitute predatory loan. The Policy Statement, in its current draft form, is a strong restatement of current law, and consequently creates a solution which benefits, but does not injure, the title insurance industry.

### Congress Gets Involved

On Capitol Hill, on the other hand, ALTA is concerned that some of the legislative proposals could actually create competitive and liability problems for the title insurance industry. Because we are clearly not central to the lending decisions, and only see the results of these loans at closing, or in limited situations where claims arise, we are limiting our comments to those provisions of the bills which directly affect the title insurance industry. We have three primary concerns.

First, several of the bills introduced in the Federal Congress reduce the thresholds for determining when loans are subject to the additional limitations and restrictions imposed by the HOEPA (Homeownership and Equity Protection Act) amendments to the Truth-in-Lending Act (TILA). HOEPA has always covered refinance loans and second mortgage liens, but has not covered loans used to purchase real estate. However, some of the new bills eliminate the current exclusion for "residential mortgage transactions." They significantly expand the definition of "high cost loans" and therefore the volume of loans that would be deemed "predatory." This may inadvertently reduce the availability of legitimate financing to low-income or less-than-prime borrowers. The concerns raised about predatory lending practices have related to refinance and second mortgage transactions. Consequently, ALTA believes there is simply no reason to extend HOEPA to potentially millions of purchase money mortgage transactions in which there has been no evidence of the kind of abuses to which HOEPA is addressed Consequently, we do not believe that the current exclusion for "residential mortgage transactions" — transactions in which the loan is being used to acquire or construct the dwelling — contained in the current language of TILA § 103(aa)(1) should be eliminated.

*On Capitol Hill, on the other hand, ALTA is concerned that some of the legislative proposals could actually create competitive and liability problems for the title insurance industry.*

### Companion Bills a Major Focus

In addition, H.R. 4250 and S. 2415, the companion bills, eliminate a current provision of HOEPA that we believe should be retained. Under the current law, a second mortgage or loan refinance is subject to the HOEPA requirements if it bears a high annual percentage rate (i.e., more than 10 percentage points higher than the yield on Treasury securities having a comparable maturity) or if "the total points and fees payable by the consumer at or before closing will exceed the greater of (i) 8 percent of the total loan amount; or (ii) $400."[1] In determining what constitutes "points and fees" for purposes of this provision, HOEPA provides that certain settlement charges, including "[f]ees or premiums for title examination, title insurance, or similar purposes" are **not** included if the charge is reasonable; the creditor receives no direct or indirect compensation; and the charge is paid to a third party unaffiliated with the creditor.[2]

ALTA believes that this current exclusion is both reasonable and appropriate. Some ALTA members do participate in affiliated business arrangements, but we do understand the policy rationale behind the inclusion of affiliated business arrangement fees under current law. As the Senate Banking Committee report on the 1994 HOEPA legislation made clear, the purpose of imposing a trigger based on points and fees charged in the transaction was to "prevent unscrupulous creditors from using grossly inflated fees and charges to take advantage of unwitting customers."[3] On the other hand, if the lender is not benefiting from the charge, the charge is made by an unaffiliated third party, and the charge is reasonable, the charge does not affect in any way whether the loan is "predatory," and, as Congress correctly concluded in 1994, there is no reason why such charges should be included in determining the trigger for HOEPA coverage.

Unfortunately, H.R. 4250 and S. 2415, unlike the other bills that have been introduced on this subject, eliminates this aspect of HOEPA. In fact, the rationale for maintaining the current language is even stronger in light of the other changes made to HOEPA by H.R. 4250. H.R. 4250 and S. 2415 would modify the total amount of points and fees that triggers HOEPA coverage from 8% of the loan, or $400, whichever is higher, to 5% of the total loan amount, or $1,000, whichever is higher. The reduction from 8% to 5% would mean that, on a $50,000 refinance loan or second mortgage (for example), total fees and points of $2,500 would trigger HOEPA coverage, whereas under current law the total points and fees would have to exceed $4,000 before the loan would be deemed a "high-cost" loan triggering HOEPA coverage.

While Congress may conclude that this reduction is justified where the

lender is pocketing the $2,500 in points and fees (and therefore may have an incentive to engage in equity stripping and repetitive refinancings), there is no justification in also eliminating the current exclusion for reasonable third-party charges in which the lender does not participate. Indeed, by reducing the trigger amount **and** eliminating that exclusion, H.R. 4250 and S.2415 risks converting many non-predatory, non-abusive loans into HOEPA-covered loans. This prospect could adversely affect the availability of financing to higher-risk borrowers.

Accordingly, we recommended to Congress that the section of the bill, to the extent that it deletes the current third-party charge exemption from the current Truth in Lending Act law, be changed to leave the current law in place. Moreover, we will work to ensure that Congress and the Federal regulators keep in mind that title insurance fees are regulated in most states, that these fees are based on costs and risk, and that adherence is required to ensure solvency and consumer protection.

### TILA Provision a Concern

Our third concern relates to a new provision in TILA (§ 129(k)) that would be added by H.R. 4250, S.2415. The new provision would prohibit a creditor, in connection with a HOEPA-covered mortgage loan, from charging a borrower for credit insurance or a debt cancellation contract on a single premium basis through an up-front charge paid by the borrower at the outset of the loan. We express no views on whether such a prohibition is desirable or appropriate. What we are concerned about is that the language of the proposed legislation that states that "no creditor **or other person** may require **or allow**" the collection of such premiums. The "no . . . other person may . . . allow" language is unnecessary, ambiguous, and would set a questionable legislative precedent.

*While "predatory lending" will continue to be a source of concern and claims for the title insurance industry, it is important to ensure that any new legislation addressing these problems be clear and specific, and that such legislation does not inadvertently cause problems for the title insurance industry.*

The language is unnecessary because the provision, without the additional words, would still prohibit lenders from collecting single premiums for credit insurance. The language is ambiguous, because it imposes obligations on unidentified "other persons" not to "allow" — whatever that means — lenders to collect such premiums. It has the potential for turning the title insurance and settlement services industry into a policeman for the transaction. Finally, it would set an unfortunate precedent for Congress, when it imposes direct obligations or requirements on particular parties (in this context, on lenders), to extend such obligations to "other persons" who may be deemed to have "allowed" an action to take place.

ALTA members are involved in the closing of mortgage loans. Accordingly, we are concerned about impractical obligations being imposed on us because title companies who close loans or who issue title insurance policies to lenders might be viewed as "other persons" who have "allowed" the lender to obtain the single premium in connection with the transaction. Neither TILA, nor indeed other comparable consumer protection statutes, have sought to impose such obligations on third parties, and Congress should not start down that road in this bill. Further, in some states, mortgage loans are "net funded" and checks are not written for the lender items. There is no need for this additional language and we urged the Committee to delete the reference to "or other person" from the bill.

Finally, we note that H.R. 3901, the Schkawsky bill introduced in the House of Representatives, contains a provision referencing "conforming home loans (currently 240,000 or less)." That provision states that "a conforming home loan document in which blanks are left to be filled in after the contract is signed shall not be enforceable under Federal law or the law of any State." We believe this exclusion is overly broad. There should be room for correction of scrivenors errors in a Deed of Trust or Mortgage, and for filling in the recording information of a document referenced on an instrument which is not yet recorded, but will be recorded at or before the recording of the Deed of Trust/Mortgage.

In sum, while "predatory lending" will continue to be a source of concern and claims for the title insurance industry, it is important to ensure that any new legislation addressing these problems be clear and specific, and that such legislation does not inadvertently cause problems for the title insurance industry. Indeed, it is possible that the problems in this area can be addressed through enhanced action by the various federal agencies under existing law, without the need for new legislation. In any event, we are likely to see continued regulatory or legislative activity on this issue at the Federal and state levels, which could affect the industry in unforeseen ways.

[1] *TILA, § 103(aa)(1).*
[2] *TILA, §§ 103(aa)(4)(C) and 106(e).*
[3] *S. Rep. 103-169 at 24 (1993).*

# "FLIP!" Not Just Another 4-Letter Word

## Illegal Flip Real Estate Transactions

*by Lynn W. Wilburn*

In the last two or three years but especially within the last year, illegal flip real estate transactions (FLIPS) have virtually exploded in numbers around the country. Much of the credit for this proliferation in fraudulent transactions can be attributed to "Infomercials" on how to "buy real estate with no money." If you are an insomniac, tune in to any one of these usually late night presentations and you will be treated to some very "creative methods" to obtain real property. Take the "creative methods" described, sprinkle them liberally with criminal intent, add a dash of falsified documents and information and, "presto," you have a recipe for mortgage fraud or FLIPS.

Surprisingly, the primary culprit for the majority of these frauds currently under investigation is the mortgage broker. Of course, he has some help from others like the real estate broker, appraiser, title agent, "straw buyers," mortgage lenders' employees, etc. Since most of these loans are made to borrowers with minimal or poor credit, the mortgage loans (known as "B, C or D paper") generate substantial points and fees to the mortgage broker. That, coupled with the excess funds derived by the crooks from each transaction, seems to be the driving force behind the FLIPS.

Let's discuss the "ABC's" of FLIP transactions. Certainly, a truly honest FLIP wherein A sells to B who sells to C is a real estate investor's dream.

- A is the current owner of the property and wants to sell
- B is buying from A intending to resell immediately to C
- C is purchasing from B and usually obtains a mortgage
- The two transactions are usually very close if not simultaneous

In the honest FLIP, the investor (B) has a seller (A) who is willing to sell below market value AND has found a buyer (C) willing to pay market value. The values are legitimate and the investor's dream, "buy low, sell high," is realized.

The crook's bad FLIP also involves the sale of real property from A to B to C. The principal of "buy low, sell high" is still employed but, beyond that, there are few similarities. A is usually a legitimate seller selling at or near fair market value. B is usually the crook or his designee obtaining the property from A with intent to defraud a mortgage lender. C is usually a "straw buyer" controlled by the crook and usually not qualified for the mortgage loan obtained. The two sales, A to B and B to C, are usually simultaneous and conducted by the same title agent.

*Lynn W. Wilburn, President of Wilburn Investigations, Inc., in Houston, Texas. He can be reached at lwilburn@stewart.com or 713-629-2222.*

*This article is from a presentation to the American Bar Associations' TIPS Title Insurance Litigation Committee in April, 1999.*

Here are some of the elements of a bad FLIP. They are, more or less, in the order in which they occur.

The subject property is often "distressed." The current owner is delinquent or having financial difficulty and desperately needs to sell. Sometimes the property has already been used in a similar scam and is near foreclosure. In extreme cases the same property has been used simultaneously to scam more than one lender at a time.

Of course an appraisal to match the intended scam is necessary. Here, the crooks become very creative. They select the amount they wish to borrow and then "back into" the appraisal. In the cases under investigation, the appraisals have increased the true property values by 50% to 150%. The comparable properties or "comps" utilized are very creative. In most frauds the same appraiser is used for all FLIPS.

Usually, the borrower (C in the second transaction) is a "straw buyer" who could not possibly qualify for the loan. Therefore, the loan application says whatever is necessary to "qualify" the borrower. Bogus verifications of deposit, verifications of employment, etc., are common. In some cases, the same telephone numbers are used over and over again for various "straw buyers" and, occasionally, the same phone number has been put on the same application for both the verification of deposit and employment. The crooks have someone answering that number to give the answers necessary to support the scam.

Along with the falsified loan application, the lender is then shown a contract showing the sale from B to C with no mention of the sale from A to B.

From the title agent to the lender comes a title insurance commitment with the various requirements for policy issue and showing title currently invested in B. In fact, at the time the commitment is issued title is vested in A since the sale from A to B has yet to take place.

To close the transaction, the title agent prepares a HUD-1 or Settlement Statement indicating, among other things, that the borrower (C) brought funds necessary for the down payment. In fact, the borrower brought no money to the closing since the "down payment" came from the proceeds paid to B in the "sale" from B to C. The net effect is that the only funds for either transaction are the loan proceeds from the mortgage lender to C. In some cases, to make the closing appear legitimate to the lender, the title agent, after receiving the funding check, purchased Cashier's Checks and deposited them back into the escrow account so they would appear to be the borrower's down payment.

The title agent then sends the lender's closing package to the lender purportedly representing what happened in the transaction. The falsified documents, of course, are not representative of the transaction.

So far, then, we have:

- Mortgage brokers and/or real estate brokers or agents falsifying documents, finding and providing "straw buyers," providing bogus "VODs" and "VOEs," making numerous misrepresentations to mortgage lenders as to the loans being originated, etc.
- Appraisers providing multiple bogus appraisals with extremely inflated values
- "Straw buyers" (and sellers) falsifying loan applications and other documents
- Title agents providing falsified or altered commitments, failing to follow the lender's closing instructions, preparing HUD-1 or Settlement Statements that do not represent what actually happened at closing and fail to disclose unauthorized disbursements and bogus receipts of funds

While the majority of the title agents or their employees involved appear to be criminally complicit in these frauds, there are some that may be victims themselves, having been taken in by the crooks. Unfortunately, they all have one major problem in their failure to follow the lender's closing instructions. In almost all the lender's closing instructions found in the files connected with the frauds being investigated, the following wording or something similar is present:

"If you know of any change in the ownership of this property in the last six months DO NOT CLOSE THIS TRANSACTION."

A most chilling revelation has been the common thread in interviews conducted with several title agents and their employees. They have all commented that they "do not really have time to read the closing instructions and, anyway, they all say the same thing." When these same individuals were asked why they continued to close transactions that appeared questionable or clearly fraudulent, the usual answer was that the crook was their "best customer."

To recap, these are some of the more important elements of illegal FLIP transactions:

- Extremely inflated values and/or appraisals
- Altered title insurance commitments
- "Straw" buyers and/or sellers
- Falsified HUD Settlement statements
- Unauthorized disbursements
- Altered loan applications
- Fraudulent "VOEs" and "VODs," etc.
- Multiple violations of the lender's closing instructions
- The "best customer" deals
- Same individuals involved as buyers and/or sellers in multiple transactions
- Consecutively numbered files on the same property
- Transfer of funds between files within the same escrow account
- Checks payable to "sellers" (B) deposited back into the escrow account

To no one's surprise, multiple title insurance underwriters are receiving claims as a result of these frauds. Many of the claims are actually insured closing letter claims for failure to follow the lender's closing instructions.

Investigations of FLIP frauds are currently ongoing in California, Colorado, Florida, Georgia, Illinois, Tennessee, Texas and Wisconsin. Losses to mortgage companies, title insurers, government agencies, etc., are estimated to exceed $30,000,000.

To combat these losses, we have instituted training seminars for the personnel of mortgage lenders, title insurers and agents, investigators, auditors and others connected with the real estate industry to detect and prevent this type of fraud. We have done assessments of current business and underwriting practices to ferret out these frauds.

Criminal investigations are underway in all the above cases at the local and/or the federal level. We are providing the evidence necessary for civil litigation necessary for recovery where possible as well as the criminal prosecution.

All available information indicates a continuing escalation of FLIP frauds. It is vital that a collective industry-wide effort be continued to educate all those that may be susceptible to these frauds as they damage not just individuals and companies, but the industry as a whole.

# Recruiting and Retaining High Quality Staff

*by David E. Poisson*

Title companies — or any other employer, for that matter — face no greater challenge than finding and keeping good employees. The nation is in one of the tightest labor markets it has ever experienced — national unemployment is the lowest in 30 years, and total employment is expected to increase 14 percent in the next 10 years.

Employers in this labor market find themselves vying for good employees, not only with the same major employers with which they have always had to contend, but also with the likes of the dot-com newcomers.

The Tire Association of North America, Reston, VA, had its share of difficulties finding the best employees available. Following are some of the strategies I used while there to attract and keep employees. While TANA is an association, these strategies can easily be adopted by title companies.

### Treat staff as individuals with unique personal and family needs.

- TANA staff have a four-day-in, one-day-out work week, which means that while they are expected to work five days a week, only four have to be spent in the office. This policy has allowed us to attract some very capable individuals, mothers, in particular, who now only need a daycare provider four days instead of five. This saves them quite a bit of money, and they get to spend more time with their children. As a result, these employees are infinitely more productive than they might otherwise be.
- From Memorial Day to Labor Day, we close at noon on Friday. This may seem like a throwback to the days when Washington literally did shut down at noon on Fridays. However, we found that when our staff knew they were going to be able to get an early start on the weekend, they were much more productive the other days of the week.
- Every staff member is given a pro rata part of the association's shared tickets to Camden Yards, where the Baltimore Orioles play baseball. Employees each take turns picking dates for the games they want to see, until all of the dates have been chosen. Everyone on the staff shares equally in whatever perquisites there are to enjoy.
- Casual dress is permitted every day.
- We schedule outings at least once each quarter with family and significant others to prevent relationships from becoming one-dimensional.
- TANA pays for the cost of the staff's membership in a health club as a way of encouraging staff to keep fit.
- TANA provides medical, dental, and prescription drug coverage for employees and their dependents.
- Every now and then, TANA staffers "unwind" together after a big project has been completed by taking the afternoon off and enjoying a movie together. For larger companies, this could be done by department.
- Members of the staff get 20 days of leave annually to use for whatever purposes they may choose, including vacation, sick, personal, jury, military or bereavement.

*David Poisson is former CEO of the Tire Association of North America, a Reston, VA-based trade group representing the North American replacement tire market. He is currently General Manager of Internet Marketing for R.R. Donnelley & Sons Company, a leading commercial printer, information services, and logistics supplier. He can be reached at david.poisson@rrd.com or 703-460-2859.*

### Give staff whatever "tools" they need to do their jobs.

- All staff are free to choose the contractors for any outside services needed to complete the tasks for which they are responsible.
- Our employees are provided with association-issued laptops, printers, pagers, and cell phones

to enable them to respond to members' needs anywhere, anytime.
- TANA organizes regular field trips to help staff familiarize themselves with the way things are done in the industry and, most importantly, why they are done that way.

**Provide training to allow staff to keep current and perform competently.**

- TANA provides staff members with $3,000 annually for training to keep pace with the demands of their jobs. The decision of what training to take is solely up to the employee.
- Memberships in professional organizations, like ALTA, and subscriptions to trade journals are paid in full.

In addition to the things listed above, TANA strives to keep base salaries competitive with those of regional employers. And, we match 401(k) contributions with 50 cents for every dollar employees contribute.

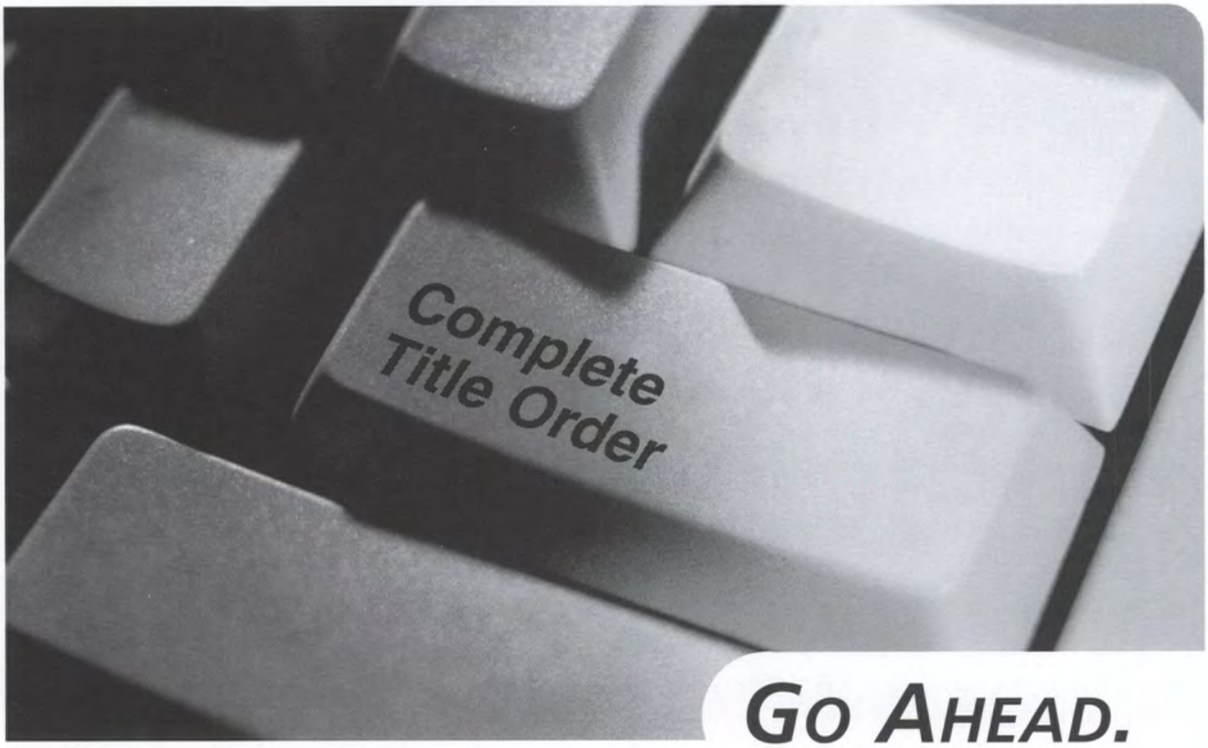
Admittedly, there is little new, different, or terribly earth-shattering about the types of benefits TANA provides its staff. Taken together, however, they have proven sufficiently attractive to enable the association to recruit every candidate to whom we have extended an offer for the last three years — and to have kept every one of them, too.

But salaries and benefits notwithstanding, we believe that what has really accounted for our recruitment and retention successes during this period has been our unswerving commitment to creating not just a staff, but a "culture."

### Relationships Are Key

For most of us, the lion's share of 40 or more years of our lives will be spent in the company of others, not our family, trying to earn a living. But work is that and so much more. Yet, it is how we support ourselves and our families. It is also is a powerful influence in determining who we are and how we relate to others. I am constantly amazed at how many employers fail to recognize this important fact about the employment relationship.

At the end of the day, employers want and need more than just stable work forces. They need truly loyal, committed work forces. But to attract talented employees in the first place, such professionals must be made to feel welcome. And to earn their loyalty, they must be treated well. Ultimately, this means that companies must learn to exhibit a much higher level of interest in their staffs — and in more areas of their staff's lives — than has been routine or customary. Failing that, employers will most assuredly always be caught short in their pursuit of the very best talent this or any future labor market has to offer.


Complete
Title Order

# The Three Biggest Technology Mistakes

*by Valerie Link*

*"A computer lets you make more mistakes faster than any invention in human history — with the possible exceptions of handguns and tequila" — Mitch Ratliffe*

As a computer trainer and all around geek I see it all the time — the starry-eyed look of longing, the clutching at glossy brochures of software companies that swear that they will solve all of your title problems. And then comes the reality check — along with the software check, the hardware check, the training check, the downtime check …

So you've decided to get a new computer system, software and/or hardware. Your old system isn't doing the trick, you need bigger, faster, better. Heed this advice my friend, from someone who knows! It always costs more and it always takes longer.

## 1. Too Much Too Soon

Do you really need all of that stuff *now*? Nothing good ever happens in a hurry, and that's as true with computers as anything else, trust me. There should be at least a month between signing the contracts and installing your software or hardware. Give yourself at least three days before signing a contract, if for no other reason than to think of questions you might not have thought to ask at the demonstration. If they're in a hurry to sign they may have a quota to meet. You don't want to be the quota. And you'll need every minute of that time, believe me.

## 2. Poor Planning and Preparation

Do you really need it? Do you understand *everything* you're purchasing? When the hardware/software folks came in with their wonderful toys, did you understand everything they said, everything they're going to do? Many of the folks I talk to truly do not understand what they have purchased. All they know is that they wanted to catch up with this wonderful computer revolution, be on the Internet, travel the Information Superhighway. And they do get there, but sometimes the process is horribly painful. There is one way to prevent that — prepare and plan.

Prepare by learning about what you're purchasing before you purchase it — evaluate everything. If you don't understand computers, find someone you can trust (ask a friend, another agent, pay someone) who does and have them sit in on the demonstration. Ask questions any time you don't understand something. For example: This software will fax? Wonderful — HOW? Does it have its own program, or is there additional software that must be purchased? If it uses other software, do you have to pay for it, or is it included? Get a quote on paper — then they must give you some hard figures. Just remember that that quote may not include everything.

Set an installation plan — when will the software/hardware be installed, how long will it take? Decide when you will put your old system out to pasture, and when to start using the new. *And no, you cannot run the old system while you're "getting used" to the new. It won't work. It never works.* Believe me it's been tried, many times, ad infinitum, ad nauseum. Given a choice between learning a new system (which is harder, takes longer, and where mistakes happen), or using the old comfortable system, human nature will lead your people to the second choice. The longer they delay the transition, the harder the transition will be. I guarantee it!

Prepare by setting a budget for technology. I once had a gentleman

*So you've decided to get a new computer system, software and/or hardware. Heed this advice ... It always costs more and it always takes longer.*

*Valerie Link is Automation Account Manager for Stewart Title Guaranty Company. She can be reached at vlink@stewart.com or 614-818-1100.*

nearly in tears when I gently tried to warn him that he might very well be buying new hardware again in two years, or at the very least upgrading it. There are newer, bigger, better things coming out all the time, and you need to prepare for that.

### 3. Training, Training, Training

Now, I train people to use computers, so I'm a little biased, but only a little. Yet I am constantly astonished by the number of people who have no clue how to use what they own. In fact, I was talking recently to someone who uses software programs with which I'm quite familiar. It was quickly obvious that they didn't completely know how to use those programs. Yet his business depended on them. Amazing.

Inadequate or poorly supported training is one of the most cited reasons why productivity drops rather than grows with new software. Training is one of the quickest ways to increase productivity and there have been numerous studies to support that assertion. Yet training is one of the first areas cut when managers start looking to save money on technology. I often recommend to my clients that they find additional training in Windows and word processing, since many software programs use them. Yet only one or two have actually done so. (They think I haven't noticed. Then someone asks how to use the mouse. That's a dead giveaway.)

Familiarity with one computer program frequently helps when you're using a different one, particularly if using a Windows-based program. It also helps reduce the intimidation factor that many of your employees may feel when faced with a new program. The money spent on additional training is usually recovered in only a few weeks with the savings gained by increased productivity.

## Have a Back-Up Plan

*The recent outbreak of the "ILOVEYOU" virus reminded the world how quickly computer disasters can strike. Many businesses lost important files and databases in a matter of minutes. Even with excellent virus protection and disaster recovery plans in place, your data may not be entirely safe. That's why it is so important to have reliable back-up procedures. Here are some steps to take to safeguard your data:*

**Use a tiered approach.** The most thorough way to back up your system is with a tiered approach, commonly called a grandfather/father/son (GFS) routine. In this scenario, a master full tape back-up is created on a quarterly or annual basis — this is the grandfather. Additional periodic full back-ups — father tapes — are done, usually weekly. At the son level, daily back-ups are completed. This approach allows your business to have multiple back-up options during the event of an emergency.

**Use multiple tape rotations.** If an office backs up its systems every night using the same tape, it overwrites the previous night's tape. If a problem occurs during back-up and the previous night's back-up was overwritten, there won't be any data to restore. Using a five-tape rotation is a common solution. If something goes wrong, there is always fairly recent data to use for the restore.

**Have a retirement schedule for tapes.** Just like other accessories, tapes wear out and must be retired before they become ineffective. Be sure to erase everything on a tape before discarding it.

**Check your back-up logs.** Sometimes back-ups don't run when you think they're running, so check your back-up logs to be sure. This should be done at least on a weekly basis, but daily is recommended.

**Test. Test. Test.** A simple way to verify that back-ups are working is to test a network or desktop to be sure the data can be successfully restored from the back-up data. In general, this should be done at least quarterly, and for critical servers, it should be done monthly. Users must be aware that some programs do not back up open files. Certain applications, such as Exchange and SQL, require open file agent software programs in order to back up open files. Remember, when new servers are added to your network, you must add them to the back-up routine. The same holds true for any new applications that are installed.

**Store tapes off-site.** Off-site storage is critical for grandfather and father tapes. In the event of a total disaster, if all of your back-up tapes are stored in your building, everything could be destroyed.

If you have questions about whether your back-up procedures are adequate, try one of the following sources:

- The Computer Associates Web site (www.cheyenne.com) contains information about back-up procedures and offers software tools.
- The Veritas Web site (www.veritas.com) contains product information about their back-up products, as well as procedural tips for backing up critical data.

*These tips provided by Landata Systems, Inc., a title and escrow software developer and the technical services subsidiary of Stewart Information Services Corporation. For more information, contact the Landata HelpCenter at 1-888-LANDATA (526-3282) or send an e-mail to HelpCenter@landata.com.*

# ALTA News

## Sixty-Seven Graduate from LTI's Management Development Program

This past March, 67 students had the opportunity to learn the most up-to-date management and leadership techniques during the Management Development Program (MDP), offered by the Land Title Institute (LTI), ALTA's educational subsidiary.

The MDP is an intensive, title industry specific, week-long course held on the campus of Houston Baptist University. The nine-course curriculum was designed for up-and-coming managers and leaders in the land title industry. The program included such courses as: Principles of Managing, Finance for the Land Title Manager, Customer Service, and Marketing Strategies for the Title Industry.

One graduate said, "Not only are the classes very practical to our day-to-day functions, but beyond that, the priceless value of agents/underwriters getting together and exchanging ideas, processes, goals, (and) solutions to our competitive environment and how we can manage all the change in this industry is awe inspiring."

The dates for the 2001 MDP are February 26 - March 2. For information on next year's program, contact Patricia L. Berman, LTI Director of Education at: pat_berman@alta.org or 1-800-787-ALTA, extension 215.

Students used team building exercises to learn leadership and communication skills and human resource management. Graduates said the exercises brought them closer as a group, which permitted free exchange of ideas, information and learning.

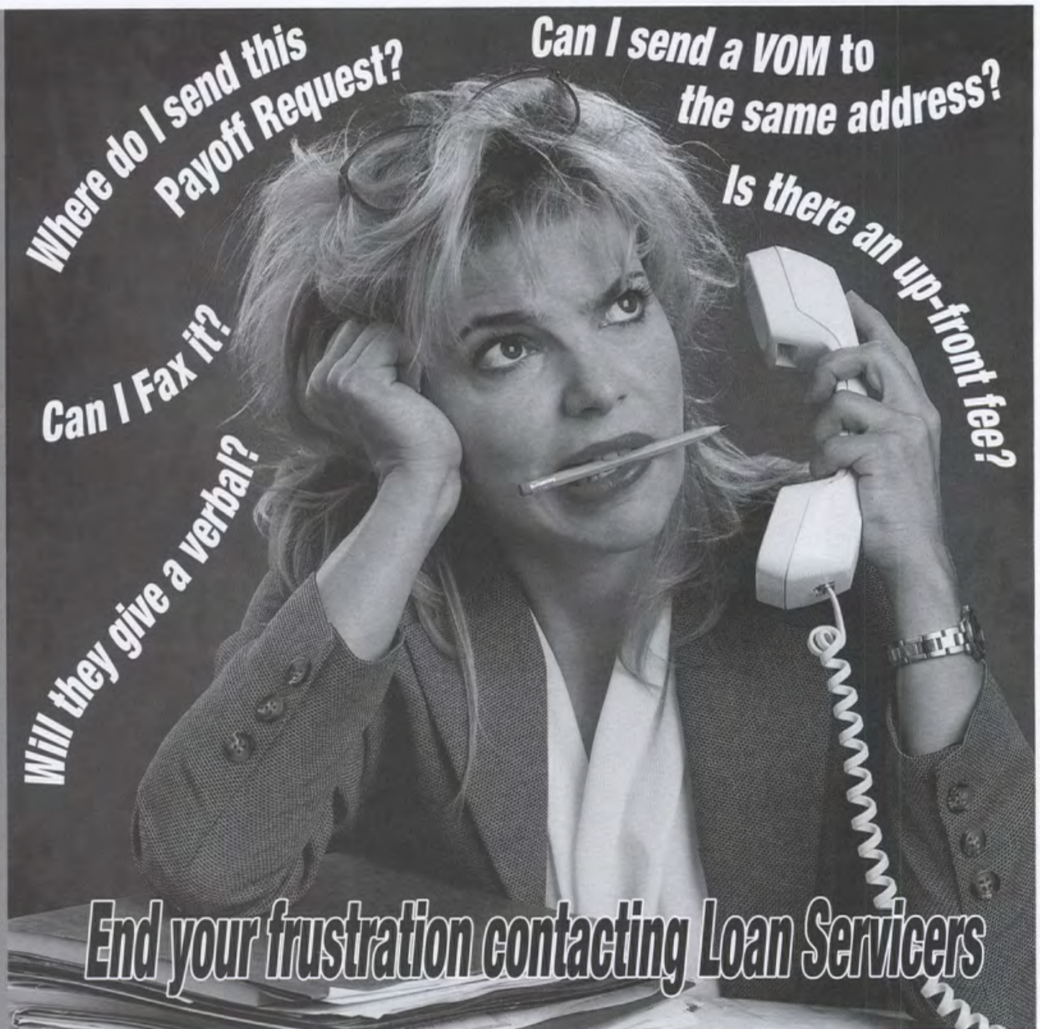
## Fiscal Survival Secured at Title Agents' Community Conference

"The primary reason a business fails is lack of planning," said Carl Forssen, Senior Vice President of Business Resource Services, Seattle, WA, when he addressed the seminar attendees at the Title Agents' Community Conference (TACC).

Held in April in Miami Beach, FL, the TACC seminar offered agents the opportunity to network, learn techniques to ensure financial survival, and to hear the pros and cons of strategic alliances and partnerships.

Forssen led a morning session entitled, "Beyond Survival: Seven Steps to Fiscal Fitness in the New Millennium," followed by a workshop, "The Fiscal Physical®: Know Your Costs." Karen Koogler, The Koogler Group, Largo, FL, spoke in the afternoon on "Partnering for Profit: Working Together in Tumultuous Times."

Carl Forssen listed the many reasons title agents need to have their finances in order.

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# New ALTA Members

## Active Members

*Arizona*
Title Security Agency of Arizona, Tucson

*Arkansas*
LandTrust Title & Closing, Inc., Fayetteville

*California*
Delta Groups Engineering, Irvine

*Illinois*
Superior Title Company, Palatine

*Maryland*
Houlon & Berman, Hyattsville

*Michigan*
eTitle Company, Troy

*Missouri*
Title Searches Inc., St. Ann

*New Mexico*
Central Title, LLC, Los Alamos

*North Dakota*
Grant County Abstract Company, Carson

*Ohio*
Competitive Title Agency, Inc., Cleveland Heights
Land Title Research, Piqua

*Oklahoma*
Atlas Title & Escrow, Inc., Tulsa

*Tennessee*
Patriot Title Services, Maynardville

*Texas*
James F. Slowey III, Bryan

*Ontario, Canada*
LandCanada Limited, Mississauga

## Associate Members

*California*
Wells Fargo, San Francisco
www.Titleboard.com, Burbank

*Colorado*
Zenodata, Louisville

*Iowa*
Rick Van Roekel, Alton

*Maryland*
Millennium Engineering, College Park

*Massachusetts*
Michael P. Krone, Wellesley

*Ohio*
Demotech, Inc., Columbus
Fran Langdon, Reading

*Oregon*
Swiftview, Inc., Tualatin


**See Pages 27 – 31 in This Edition of *Title News*!**

**Get Connected!**

Join ALTA today and here's how you'll benefit: ALTA offers title industry-specific correspondence courses; videos; a technology conference; the Annual Convention; telephone seminars; and a management/leadership school, all to help you keep abreast of changes in the industry. ALTA is in touch with Congress on legislative issues that affect your business. Gain even more valuable information from *Title News*, and the membership directory.

For information about joining, contact Alice Baldwin, Director of Marketing & Membership at alice_baldwin@alta.org, or 1-800-787-2582.

# Nobody's Perfect

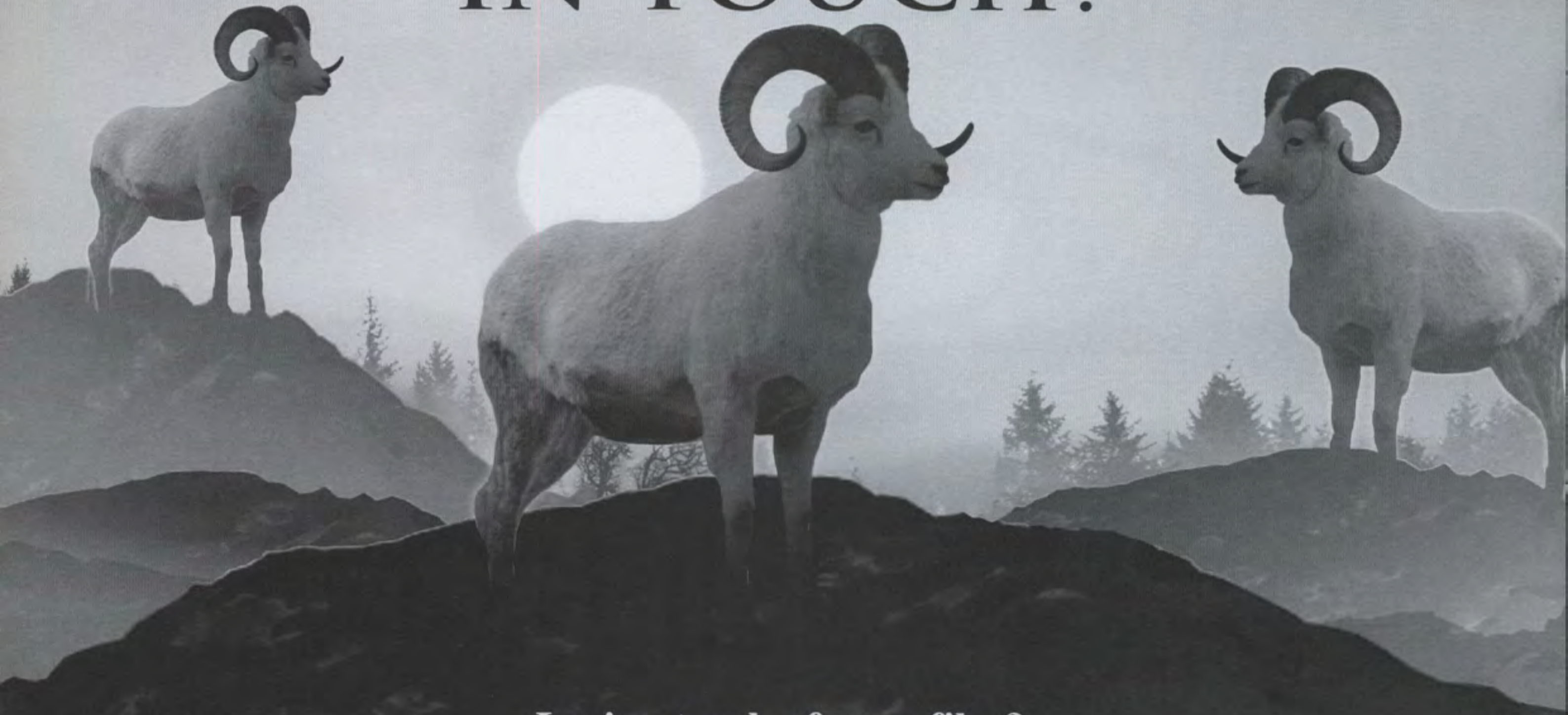

Title Agents & Abstracters Errors & Omission Insurance

## Title Program Administrators

TPA

5225 N. Central Avenue, Suite 110
Phoenix, AZ 85012
Phone: 800-277-5680
Fax: 602-404-9933
Internet: www.titleprogram.com
email: walkerntpa@aol.com

# TROUBLE STAYING IN TOUCH?



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**Branches having trouble coordinating with central offices?**
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**Large offices require special solutions.** Ram Quest uses innovative technologies from Microsoft which allows us to quickly tie multiple branches together. Our large office networking product costs significantly less than competitor's offerings and delivers far more-

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# Preliminary Information


## About the Big Island

Twice as large as all of the other major Hawaiian Islands combined, the Big Island or "Orchid Isle" is also the youngest of the island chain. At some 800,000 years of age, it's also still growing. The Big Island offers just about every type of geographical climate on earth. One can go to the top of Mauna Kea, where freezing temperatures can produce snow on the mountains, or to sea level, where balmy temperatures are at the opposite end of the thermometer. Legend has it that Poliahu, the goddess of snows, and enemy to Pele, the goddess of fire, dwells in the snows of Mauna Kea and is the only one who has ever vanquished the tempestuous Pele, cooling her lava and driving her away from Mauna Kea.

Famous for its sugar cane plantations and Kona coffee, Hawaii has the fewest beaches, but the best weather of all the Islands. Be sure to visit Parker Ranch, where cowboys were branding steers back when the American West was still untamed. Hike the unforgettable black sand beaches. Relax and recharge with shopping and dining in Kona Village. Or view the spectacular eruptions that continue to build the island at Volcanoes National Park.

With horseback riding, scuba diving, snorkeling, golfing on absolutely spectacular courses, and some of the world's most beautiful gardens. The Big Island of Hawaii is an arena of beauty, diversity and constant change.

### HOTEL ACCOMMODATIONS

The Hilton Waikoloa Village at 808/886-1234. The hotel cut-off date is September 17, 2000.

| | |
|---|---|
| Golf/Garden | $183 |
| Partial Ocean View | $204 |
| Deluxe Ocean View | $222 |
| Tower/Concierge | $280 |

### AIRLINE TRANSPORTATION

Delta and American airlines have been designated as the "official" carriers for flights to Kona on the Big Island. For Delta, call 800-241-676, and refer to File Number: 130523A to obtain the discount. For American Airlines, call 800-433-1790, and refer to File Number: 64HOAK.

See the next few pages for more ...

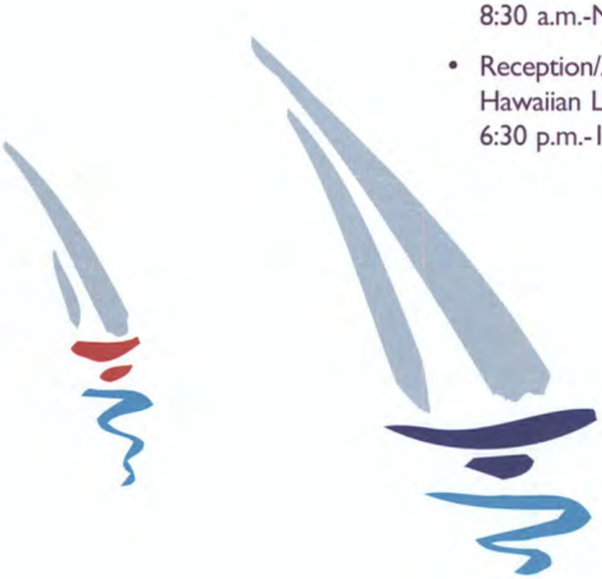
## Preliminary Program

### Wednesday, October 18

- First-Time Convention Attendees Mixer
  5:30 p.m.-6:30 p.m.
- Ice-Breaker Reception — "Aloha"
  6:30 p.m.-8:00 p.m.

### Thursday, October 19

- Special Energizing Session: Hands & Hoops
  7:30 a.m.-8:00 a.m.
- Exhibits Open
  8:00 a.m.-Noon
- General Session — The New World of Dot-coms and the Real Estate Settlement Services Industry
  8:15 a.m.-10:00 a.m.
- Educational & Expo Sessions
  10:15 a.m.-12:30 p.m.
- TIPAC Luncheon — The 2000 Presidential Election
  12:45 p.m.-2:00 p.m.



### Friday, October 20

- Grassroots/State Legislative, Regulatory Action Committee (SLRAC) Breakfast
  7:00 a.m.-8:15 a.m.
- Exhibits Open
  8:00 a.m.-11:15 a.m.
- Educational Sessions: Technology, Industry, & Business Management Tracks
  8:30 a.m.-11:15 a.m.
- Expo Sessions
  8:30 a.m.-11:15 a.m.
- Companion/Guest Brunch — The Legends of Hula and Hawaiian Dress
  9:00 a.m.-11:15 a.m.

### Saturday, October 21

- Exhibits Open
  8:00 a.m.-Noon
- General Session — Featured Speakers: real estate futurist Joel Garreau, *The Washington Post*, Washington, D.C., and Jeffrey Gitomer, Buy Gitomer, Inc., Charlotte, NC
  8:30 a.m.-Noon
- Reception/Annual Banquet — Hawaiian Luau
  6:30 p.m.-11:30 p.m.

## Golf, Fishing & Tennis Tournaments

### Friday, October 20

#### Golf

11:45 a.m.-6:00 p.m.
$190 per person
Maximum: 144 players

Discover Hawaii's most popular land sport for yrourself on the King's Course at the Hilton Waikoloa Village. Tournament fee includes: greens fee, four-person scramble, golf cart, boxed lunch, beverages (sodas/beer), snacks, and Breakfast of Champions awards presentation. Proper golf attire is required for play.

#### Deep-Sea Fishing

11:45 a.m.-6:00 p.m.
$220 per person
Maximum: 132

The warm tropic waters off Kona's shores are home to some of the greatest big game fish in the world, including Pacific Blue Marlin, Ahi and bull dolphin. Departing from the Kona Marlin Center, you'll set sail with a seasoned captain and crew. Tournament fee includes: boxed lunch, beverages (beer/sodas) dry snacks, fruit, Breakfast of Champions Awards Breakfast awards presentation.

#### Tennis

12:30 p.m.-4:30 p.m.
$105 per person

You'll enjoy the natural surroundings and lush landscape around the tournament courts. Tournament fee includes: court fees, balls, tennis pro, boxed lunch, beverages (sodas/water) snacks, Breakfast of Champions awards presentation.

### Saturday, October 21

#### The Breakfast of Champions

7:00 a.m.-8:30 a.m.
Extra tickets for non-tournament attendees: $42

If you participate in a tournament on Friday, please join your fellow competitors on Saturday morning at the ALTA "Breakfast of Champions. After breakfast, awards will be presented to tournament winners.

# HAWAII — 2000 ALTA Registration Form

VENTURE BEYOND THE HORIZON

HAWAII
2000 ALTA
ANNUAL CONVENTION
OCTOBER 18-21, 2000

## 1. CONTACT INFORMATION

### Primary Registrant

Name ______________________ Badge Name ______________________

Organization ______________________________________________

Street Address ____________________________________________

City ______________________ State __________ Zip Code __________

Phone ______________________ Fax ______________________

Email Address ______________________________________________

Is this your first ALTA Convention? ❑ Yes ❑ No

### Companion/Guest or Guest of Honorary Member

Name ______________________ Badge Name ______________________

## 2. REGISTRATION FEES

**Registration Fees** for the Annual Convention — Wednesday, October 18 through Saturday, October 21 — include: Ice Breaker Reception, General Sessions, Educational Sessions, Exhibit Hall Functions, Drawings and Annual Banquet Ticket. **Please check applicable box(es).**

| | Early Bird | Regular | On-site |
|---|---|---|---|
| **Deadline:** | **9/17/00** | **10/04/00** | **After 10/05/00** |
| 1. **Active/Associate Members** | ❑ $525 | ❑ $585 | ❑ $645 |
| 2. **ALTA Honorary Members** | ❑ $215 | ❑ $215 | ❑ $215 |
| | *(if retired, registration is complimentary)* | | |
| 3. **Non-Members** | ❑ $750 | ❑ $810 | ❑ $870 |
| 4. **Companion/Guest (non-industry)** | ❑ $275 | ❑ $335 | ❑ $395 |
| | *Free Companion Brunch Ticket Included — Do you plan to attend the Companion Brunch?* ❑ Yes ❑ No | | |
| 5. **Guest of Honorary Member** | ❑ $115 | ❑ $115 | ❑ $115 |
| | *Free Companion Brunch Ticket Included — Do you plan to attend the Companion Brunch?* ❑ Yes ❑ No | | |

## 3. PAYMENT INFORMATION

### Registration Totals

Total Registration Fees: __________

Total Optional Events Fees: __________

*(from reverse side)*

**Total Enclosed:** $__________

### Payment Method

❑ Check No. ______

❑ MasterCard ❑ Visa ❑ American Express

Account # ______________________

Exp. ______________________

Signature ______________________

### Important Information

### *Please Read the Following Carefully*

1. **Please submit one form for each primary registrant.** Payment for the full amount of the convention registration, plus any additional optional participation fees, must accompany this form. You may fax your registration to ALTA at (888) FAX-ALTA or (202) 223-5843. Faxed registration forms will be processed only if accompanied by a credit card; otherwise, they will be held until payment is received and charged the applicable registration fee at that time.

2. **Important Dates: Your fully paid registration must be postmarked by September 17, 2000**, in order for you to qualify for discount registration fees and inclusion in the printed advance registration list. Those registrations postmarked after September 17 will be charged regular registration fees. You must register on-site in Hawaii after October 5.

3. **Hotel Reservations:** Please call the Hilton Waikoloa Village at 808-886-1234 for your hotel reservations. Specify you are with the American Land Title Association. **The hotel cut-off date is September 17, 2000.**

4. **Refund and Cancellation Policy:** Refund requests for registration fees must be received in writing by October 4, 2000. A $50 processing fee will be applied to all refunds. All optional events are fully refundable before October 4. **No refunds on registration fees or tours after October 4, 2000.**

5. **Disability Assistance:** If you have a disability or special dietary needs that require special attention, please indicate:

______________________________

______________________________

# HAWAII — 2000 ALTA Registration Form

## 4. OPTIONAL EVENTS

| | | COST | QUANTITY | TOTAL |
|---|---|---|---|---|
| **Tuesday, October 17** | | | | |
| A | Noa Noa Snorkel Sail: 12:30 p.m.-4:30 p.m. | $83 | _____ | _____ |
| **Wednesday, October 18** | | | | |
| B | Lender Counsel Meeting - Member | $55 | _____ | _____ |
| C | Lender Counsel Meeting - Guest | $60 | _____ | _____ |
| D | Affiliate Assoc. Executives Seminar & Brunch | FREE | _____ | FREE |
| E | Extra Ice-Breaker Ticket | $60 | _____ | _____ |
| F | Kohala Mountain Kayak Adventure: 7:30 a.m.-12:15 p.m. | $119 | _____ | _____ |
| G | Kohala Mountain Kayak Adventure: Noon-4:45 p.m. | $119 | _____ | _____ |
| H | Kona Shopping & Atlantis Submarine: 9:30 a.m.-4:00 p.m. | $99 | _____ | _____ |
| **Thursday, October 19** | | | | |
| I | Circle Island/Volcano Bus Tour: 6:30 a.m.-5:00 p.m. | $80 | _____ | _____ |
| J | Kohala Mountain Kayak Adventure: 7:30 a.m.-12:15 p.m. | $119 | _____ | _____ |
| K | Noa Noa Snorkel Sail: 8:30 a.m.-12:30 p.m. | $83 | _____ | _____ |
| L | Kohala Mountain Kayak Adventure: Noon-4:45 p.m. | $119 | _____ | _____ |
| M | Noa Noa Snorkel Sail: 12:30 p.m.-4:30 p.m. | $83 | _____ | _____ |
| N | TIPAC Luncheon: 12:45 p.m.-2:00 p.m. | $65 | _____ | _____ |
| **Friday, October 20** | | | | |
| O | Grassroots/SLRAC Breakfast | FREE | _____ | FREE |
| P | Companion/Guest Brunch *(Free with Guest Registration)* | FREE | _____ | FREE |
| Q | Companion/Guest Brunch Extra Ticket | $80 | _____ | _____ |
| R | Golf Tournament *(Complete section 4a at right)* | $190 | _____ | _____ |
| S | Tennis Tournament *(Complete section 4b at right)* | $105 | _____ | _____ |
| T | Fishing Tournament *(Complete section 4c at right)* | $220 | _____ | _____ |
| **Saturday, October 21** | | | | |
| U | Breakfast of Champions *(Free with Tournament Participation — Complete section 4a, 4b, or 4c)* | FREE | _____ | FREE |
| V | Breakfast of Champions Extra Ticket | $42 | _____ | _____ |
| W | Valley Waterfall Hiking Adventure: 7:30 a.m.-12:30 p.m. | $99 | _____ | _____ |
| X | Kohala Coast Helicopter Adventure: 1:45 p.m.-3:45 p.m. | $152 | _____ | _____ |
| Y | Kohala Coast Helicopter Adventure: 2:45 p.m.-4:45 p.m. | $152 | _____ | _____ |
| Z | *Note:* If weight is more than 250 lbs., Helicopter Adventure | $228 | _____ | _____ |
| AA | Extra Annual Banquet Ticket | $110 | _____ | _____ |

**Total Options: $_____**

Please fax Golf, Tennis, and/or Fishing registration by **October 4** to Sharon Johnson at ALTA, 1-888-FAX-ALTA.

### 4a. Golf Registration (Item "R" in Optional Events Registration to the left)

$190 per person includes greens fee on King's Course, 4-person scramble, golf cart, boxed lunch, beverages, awards, and Breakfast of Champions. Proper golf attire is required for play. If we do not receive your preference by October 4, ALTA will do the pairings.

Persons with whom you wish to play:

1. Name (Contact for Group) ______________________
   Company ______________ Phone Number: ______________
   Handicap or average score: ________ Shoe Rental: ❑ Male Size: _____ ❑ Female Size: _____
   Club Rental: ❑ Yes ❑ Right ❑ Left ❑ No
2. Name ______________________
   Company ______________ Phone Number: ______________
   Handicap or average score: ________ Shoe Rental: ❑ Male Size: _____ ❑ Female Size: _____
   Club Rental: ❑ Yes ❑ Right ❑ Left ❑ No
3. Name ______________________
   Company ______________ Phone Number: ______________
   Handicap or average score: ________ Shoe Rental: ❑ Male Size: _____ ❑ Female Size: _____
   Club Rental: ❑ Yes ❑ Right ❑ Left ❑ No
4. Name ______________________
   Company ______________ Phone Number: ______________
   Handicap or average score: ________ Shoe Rental: ❑ Male Size: _____ ❑ Female Size: _____
   Club Rental: ❑ Yes ❑ Right ❑ Left ❑ No

### 4b. Tennis Registration

**(Item "S" in Optional Events Registration to the left)**

$105 per person. The tournament will be a mixed doubles round-robin. Proper tennis attire is required for play. Fee includes boxed lunch, court fee, balls, tennis pro, awards, and Breakfast of Champions.

**Raquet Rental:** ❑ Yes ❑ No

**Please Indicate Level of play**: ❑ Beginner ❑ Intermediate ❑ Advanced

### 4c. Fishing Tournament Registration

**(Item "T" in Optional Events Registration to the left)**

$220 per person. Fee includes transportation to marina, six-pack boat, boxed lunch, beverages, dry snacks, fruit, all fishing equipment, awards, and Breakfast of Champions. Don't forget sunscreen and a hat.

If we do not receive your boat companion preferences by October 4, ALTA will assign you to a boat.

Persons with whom you wish to fish:

1. Name (Contact for Group) ______________________
   Company ______________ Phone Number: ______________
2. Name ______________ Company ______________
   Phone Number: ______________
3. Name ______________ Company ______________
   Phone Number: ______________
4. Name ______________ Company ______________
   Phone Number: ______________
5. Name ______________ Company ______________
   Phone Number: ______________
6. Name ______________ Company ______________
   Phone Number: ______________

# HAWAII — 2000 ALTA Annual Convention

## Tours and Excursions

### Tuesday, October 17

#### Noa Noa Snorkel Sail

*(Snorkeling experience not required)*
12:30 p.m.-4:30 p.m.
$83.00, includes gratuity and meal

Embark on a sea of adventure on the *Noa Noa*, a 50-foot luxury catamaran. Stretch out and enjoy the cool tropic sea breezes out on the *Noa Noa's* spacious deck. Splash in and encounter an endless array of exotic fish and other colorful marine life while snorkeling at an underwater paradise. *All snorkeling gear and towels are provided for your convenience.*

### Wednesday, October 18

#### Kohala Mountain Kayak Adventure

*(Kayaking experience not required)*
7:30 a.m.-12:15 p.m. or Noon-4:45 p.m.
$119.00, includes gratuity

Descend the scenic Kohala mountain range in a way that you've never imagined — via a 4-5 passenger kayak! The thrilling 2.5-mile kayak ride winds through an historic irrigation waterway built in 1905 to irrigate the region's rich sugar plantations.

#### Kona Shopping & Atlantis Submarine

9:30 a.m.-4:00 p.m.
$99 per person, includes gratuity

How many people can say they've been in a submarine? Before the big dive, you will start your day by taking a scenic ride into historic Kailua-Kona. Enjoy strolling through the streets of this quaint town, shopping at the shops and visiting the historic sites. A walking-guide map will be supplied that outlines the places to go and see, including some great lunch spots! After lunch, explore the mysterious underwater world of Kona's colorful reef in a submarine!

### Thursday, October 19

#### All-Day Circle Island/Volcano Bus Tour

6:30 a.m.-5:00 p.m.
$80.00 (Includes a continental breakfast, snacks, soda's, gratuity) Lunch is on your own.

Begin your day with a continental breakfast, then board the bus and begin your 260-mile narrated island-wide tour starting with a visit to Napoopoo, the City of Refuge. Travel through groves of macadamia nut orchards on your way to one of the world's most active volcanoes — Kilauea! Cruise to the quiet town of Hilo and see vast fields of colorful orchids and colorful anthuriums, making this the floral center of the Islands. View delicate sun-streaked rainbows fanning from Rainbow Falls as it plunges 420 feet over a volcanic cliff. Visit a macadamia nut factory to see how Hawaii's famous nut is made into the world's favorite treat.

#### Kohala Mountain Kayak Adventure - see description under Wednesday, October 18

*(Kayaking experience not required)*
7:30 a.m.-12:15 p.m. or Noon-4:45 p.m.
$119.00, includes gratuity

#### Noa Noa Snorkel Sail - see description under Tuesday, October 17

*(Snorkeling experience not required)*
8:30 a.m.-12:30 p.m. or 12:30 p.m.-4:30 p.m.
$83.00, includes gratuity and meal

### Friday, October 20

#### Companion/Guest Brunch - "The Legends of Hula and Hawaiian Dress"

9:00 a.m.-11:15 a.m.
(Free with companion/guest registration)
Extra Ticket - $80

Begin your day with a scrumptious brunch on the terrace lawn, set in the midst of spectacular scenery. Then, discover the legends behind the Hula, the lei, and the grass skirt. Listen to the ancient stories of Hawaii ... its gods and demigods, including the tales of Madame Pele, the Goddess of Fire who watches over the Big Island of Hawaii. Enjoy a demonstration of the Hula and have the opportunity to perform steps yourself, and make your own lei.

### Saturday, October 21

#### Valley Waterfall Hiking Adventure

7:30 a.m.-12:30 p.m.
$99.00, includes gratuity

Hike through the historic plantation towns of Kohala. After the hike you'll be taken back to Pololu Valley via four-wheel drive. View miles of awesome coastline beneath towering seacliffs from a hidden lookout. Hike along an incredible trail carved over a thousand feet into the sheer cliff face. Discover waterfalls galore that cascade into shimmering pools and awe-inspiring scenery, with the highlight being Kapoloa Falls, a 500-foot waterfall.

#### Kohala Coast Helicopter Adventure

1:45 p.m.-3:45 p.m. or 2:45 p.m.-4:45 p.m.
$152.00, includes gratuity

Glide through the sun-drenched skies of Hawaii and experience some of the most remarkable views of the Big Island. Journey to the magical valley of Waipio, viewing secluded and mysterious sights that can only be captured by air. Laced with waterfalls, hidden rivers and streams, taro patches, fish ponds and a wide array of native fruit trees, Waipio is the largest valley on the Big Island.

# How Title Insurance Differs From Other Lines of Insurance

*The following is excerpted from the ALTA/A.M. Best Report, "Title Insurance Report and Industry Statistics."*

Since title insurance is an evidence-producing/loss-prevention line of insurance, its loss expense is less and its operating expense is greater than other property and casualty lines of business. Insurance expenses can be divided into two kinds: loss prevention/underwriting expenses and loss-related expenses. A typical loss prevention insurance line, such as title, boiler and machinery, or surety insurance, usually has higher operating costs and lower losses than other insurance lines. It should be noted that according to the statutory accounting rules for title insurance, only reported claims are reflected in loss expense, while in other lines both reported and unreported (IBNR) claims are included in loss expense. This different methodology causes timing differences in the reporting of losses and loss adjustment expenses for title as compared to the other lines.

Because of the large service and underwriting component of title insurance, its closest counterparts in the property/casualty sector are service, underwriting and loss control-intensive lines of business. Lines of insurance that contain these features are surety, and boiler and machinery. Table 1 compares the average loss and expense ratios between these lines vs. the general property and casualty industry. Title insurance is dramatically different from the general property/casualty industry, with a 70+ point difference in the loss and Loss Adjustment Expense ratio over the past 30 years.

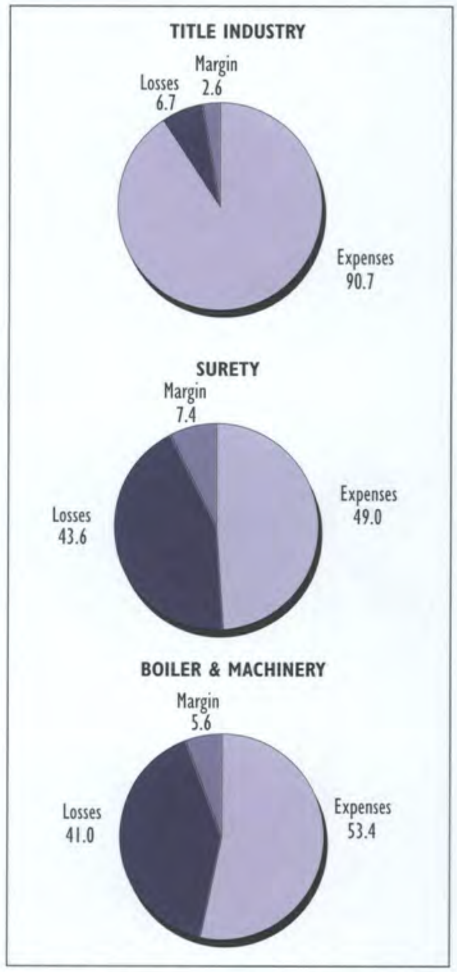
Operating expenses are the single largest component of a title company's costs. A title company's ability to expand its infrastructure and maximize operating profits in good market conditions, and contract and control costs in poor market conditions, is a critical factor to its long-term financial success and solvency. This isn't necessarily the case with property/casualty companies, where the control of loss costs is a more critical factor to success and solvency.

Table 2 shows the percentage of the operating dollar expended for operating expenses. As can be seen in the title industry, at least three times as much of the operating dollar goes toward expenses as in traditional property/casualty lines. Title insurance even requires close to 50% more than some rather traditional loss-prevention lines (such as boiler and machinery). Again, these two tables point out the significant operating difference between title insurance and other lines of insurance.

Table 3 shows the combined ratio for the title industry and the other lines of insurance. Here we see that although the components of the combined ratio are markedly different between the various insurance lines, the total combined ratios are very similar.

## Investment Income Characteristics

Important differences exist in title insurers' and traditional property and casualty companies' ability to generate investment income. Property and casualty insurers collect premiums in advance and hold them until they must be paid out to indemnify claimants for losses. These premiums constitute a large cash flow that companies generally invest in intermediate and long-term investment-grade assets. The investment income generated becomes reinvested and a company's asset base grows at a compound rate until losses on policies materialize and are paid. For longer-tail casualty lines of business, these claims may take decades to appear




**Source for Tables 1 and 2: The percentage of the operating dollar expended for operating expenses.**

and may result in large accumulations of assets. As a property and casualty company increases its ratio of written premiums to surplus (equity), it automatically increases the fraction of its total assets that are financed by advanced premiums from its policyholders. In other words, writing property and casualty insurance can create financial leverage.

These property and casualty reserves are debt, in that in the event the policy is canceled, they are owed to the former policyholder, yet they bear no rate of interest. Hence, this kind of financial leverage does not burden the property and casualty insurer with additional fixed charges and, as long as rates are adequate, provides all the conventional benefits of leverage without much of the downside risk.

Title companies collect premiums after the largest component of their costs (operating expenses) have been incurred. As shown in Table 8, title companies average expense ratio is 90.0+%, while the property and casualty industry has an expense ratio under 30.0%. This results in a significant reduction in available cash flow for title companies to invest. Although the remainder of the title premium collected is available for investment, the relative percentage of premium collected and invested is significantly less. The title industry's financial leverage is low.

Title insurers sell protection against losses caused by problems with legal title to real property arising out of events that occurred before the effective date of the policy. Because most uncertainty about the past can be reduced by careful research, a title insurer can exert a great deal of control over the risks it underwrites. For example, a title insurer can almost elimi-

**Table 1: Average loss and expense ratios between lines of insurance vs. the general property and casualty industry.**

**LOSSES AND LOSS ADJUSTMENT EXPENSES AS A PERCENTAGE OF THE OPERATING DOLLAR FOR VARIOUS LINES OF INSURANCE**

| YEAR | TITLE INDUSTRY | SURETY (STOCK) | PROPERTY & CASUALTY (STOCK) | PROPERTY & CASUALTY (MUTUAL) | BOILER & MACHINERY (STOCK) |
|---|---|---|---|---|---|
| 1970 | 3.6 | 36.1 | 69.7 | 73.3 | 36.8 |
| 1971 | 3.7 | 36.9 | 66.7 | 69.1 | 34.6 |
| 1972 | 3.6 | 34.2 | 66.0 | 68.1 | 34.2 |
| 1973 | 4.7 | 34.9 | 68.6 | 71.2 | 34.6 |
| 1974 | 6.5 | 61.6 | 75.3 | 76.4 | 44.6 |
| 1975 | 8.7 | 68.8 | 78.8 | 80.2 | 43.8 |
| 1976 | 6.3 | 49.2 | 74.6 | 77.1 | 36.1 |
| 1977 | 5.3 | 44.6 | 70.1 | 72.4 | 33.3 |
| 1978 | 5.0 | 46.8 | 69.0 | 72.9 | 30.8 |
| 1979 | 5.0 | 39.6 | 71.7 | 76.3 | 20.8 |
| 1980 | 6.6 | 53.1 | 73.9 | 77.0 | 33.1 |
| 1981 | 8.1 | 34.1 | 75.5 | 79.8 | 33.2 |
| 1982 | 8.4 | 37.4 | 78.6 | 82.1 | 38.6 |
| 1983 | 6.3 | 39.9 | 81.0 | 81.9 | 40.5 |
| 1984 | 7.9 | 49.9 | 88.8 | 87.3 | 53.8 |
| 1985 | 7.7 | 77.7 | 88.8 | 88.6 | 41.5 |
| 1986 | 8.8 | 71.6 | 80.3 | 84.3 | 38.7 |
| 1987 | 7.7 | 66.1 | 76.2 | 82.2 | 32.7 |
| 1988 | 9.6 | 49.3 | 76.2 | 83.5 | 44.5 |
| 1989 | 9.5 | 42.9 | 80.4 | 85.9 | 38.6 |
| 1990 | 10.0 | 36.3 | 80.2 | 87.0 | 48.2 |
| 1991 | 10.0 | 26.2 | 80.1 | 82.8 | 57.1 |
| 1992 | 7.4 | 38.3 | 89.7 | 84.4 | 53.6 |
| 1993 | 5.8 | 23.0 | 78.9 | 81.4 | 58.1 |
| 1994 | 5.4 | 34.5 | 80.3 | 82.4 | 44.9 |
| 1995 | 5.8 | 33.6 | 78.1 | 80.7 | 48.9 |
| 1996 | 4.9 | 27.0 | 77.9 | 47.9 | 47.9 |
| 1997 | 4.6 | 25.6 | 74.7 | 44.8 | 44.8 |
| 1998 | 3.8 | 24.5 | 75.0 | 80.1 | 48.8 |
| Ave. (all yrs) | 6.7 | 42.9 | 76.6 | 79.4 | 41.3 |
| Ave. (last 10yrs) | 7.3 | 31.2 | 79.3 | 81.9 | 49.1 |
| Ave. (last 20yrs) | 7.2 | 41.5 | 79.2 | 82.1 | 43.4 |

Source: Title industry figures developed from A.M. Best reported data and NAIC Form 9's and ALTA.
All other data from Best's Aggregate and Averages 1994 and 1998
Property and Casualty figures incorporate an, IBNR approach, whereas title involves paid claims.

**Table 2: Percentage of the operating dollar expended for operating expenses.**

**OPERATING EXPENSES AS A PERCENTAGE OF THE OPERATING DOLLAR FOR VARIOUS LINES OF INSURANCE**

| YEAR | TITLE INDUSTRY | SURETY (STOCK) | PROPERTY & CASUALTY (STOCK) | PROPERTY & CASUALTY (MUTUAL) | BOILER & MACHINERY (STOCK) |
|---|---|---|---|---|---|
| 1970 | 89.9 | 50.7 | 29.6 | 23.4 | 57.7 |
| 1971 | 80.2 | 51.5 | 29.1 | 23.1 | 57.1 |
| 1972 | 79.8 | 52.0 | 29.4 | 23.8 | 57.7 |
| 1973 | 83.8 | 52.8 | 29.6 | 24.3 | 59.9 |
| 1974 | 91.5 | 52.1 | 29.7 | 24.8 | 59.0 |
| 1975 | 90.3 | 53.2 | 28.7 | 24.2 | 52.4 |
| 1976 | 86.0 | 53.8 | 27.4 | 22.5 | 57.6 |
| 1977 | 84.3 | 51.6 | 26.9 | 21.5 | 53.4 |
| 1978 | 88.7 | 50.3 | 27.6 | 21.7 | 53.3 |
| 1979 | 91.2 | 50.6 | 27.9 | 21.7 | 55.4 |
| 1980 | 98.3 | 52.8 | 28.5 | 22.1 | 57.7 |
| 1981 | 100.5 | 51.6 | 29.4 | 23.1 | 58.6 |
| 1982 | 101.3 | 51.7 | 30.1 | 23.5 | 62.1 |
| 1983 | 89.6 | 47.7 | 30.8 | 23.4 | 63.3 |
| 1984 | 91.2 | 45.6 | 30.1 | 23.3 | 64.5 |
| 1985 | 91.3 | 34.2 | 27.7 | 21.9 | 48.4 |
| 1986 | 87.0 | 45.5 | 26.6 | 21.8 | 48.2 |
| 1987 | 90.9 | 49.9 | 27.1 | 21.4 | 48.2 |
| 1988 | 93.1 | 51.2 | 27.8 | 21.1 | 52.6 |
| 1989 | 94.3 | 51.0 | 28.2 | 21.2 | 54.6 |
| 1990 | 95.1 | 51.1 | 28.2 | 21.5 | 52.8 |
| 1991 | 95.1 | 48.8 | 28.6 | 22.0 | 52.6 |
| 1992 | 90.4 | 45.4 | 28.7 | 22.3 | 49.5 |
| 1993 | 89.7 | 42.4 | 28.2 | 21.9 | 45.5 |
| 1994 | 93.1 | 48.3 | 27.8 | 22.4 | 43.1 |
| 1995 | 90.0 | 44.8 | 27.8 | 23.1 | 43.3 |
| 1996 | 93.6 | 43.8 | 27.8 | 23.1 | 42.4 |
| 1997 | 93.7 | 47.1 | 28.3 | 24.3 | 45.4 |
| 1998 | 92.7 | 43.5 | 29.0 | 24.9 | 46.3 |
| Ave. (all yrs) | 90.7 | 48.7 | 28.5 | 22.7 | 53.2 |
| Ave. (last 10yrs) | 92.4 | 46.4 | 28.3 | 22.7 | 47.6 |
| Ave. (last 20yrs) | 92.7 | 47.2 | 28.4 | 22.5 | 51.7 |

Source: Title industry figures developed from A.M. Best reporting, NAIC Form 9's and the ALTA .
All other data from Best's Aggregates and Averages 1994 and 1998.

nate the possibility that a real estate title will become encumbered by a lien for past unpaid real estate taxes by looking up the property tax records of past years. However, hidden defects in a real estate title, such as errors in public records, will always cause losses. Because of the great importance of real estate titles, title insurers establish their underwriting criteria at a high level of stringency, eliminating all risks they possibly can through careful examination of title before issuing insurance. Consequently, title insurers operate by collecting premiums, much of which are used to cover the underwriting costs associated with the issuance of a title insurance policy. Therefore, in contrast to property and casualty insurers, title insurers expend premium dollars before collection and therefore do not retain most of the premium dollar before it is expended in the ordinary course of business. On the other hand, the loss tail for title insurers is much longer than that for most other lines of insurance and constitutes a form of leverage in that some percentage of premiums is set aside and held for future claims. The loss tail leverage constitutes only a small percentage of the premium, however.

Table 4 shows the ratio of net investment income earned to premiums for title insurers and property/casualty insurers for the years 1974-1998. The property/casualty ratio is significantly larger than for title insurers.

**Table 3: Combined ratio for the title industry and the other lines of insurance.**

**COMBINED RATIOS FOR VARIOUS LINES OF INSURANCE**

| YEAR | TITLE INDUSTRY | SURETY (STOCK) | PROPERTY & CASUALTY (STOCK) | PROPERTY & CASUALTY (MUTUAL) | BOILER & MACHINERY (STOCK) |
|---|---|---|---|---|---|
| 1968 | 87.2 | 83.5 | 100.0 | 99.0 | 97.6 |
| 1969 | 87.3 | 81.9 | 100.6 | 100.6 | 90.9 |
| 1970 | 93.5 | 86.8 | 99.3 | 96.7 | 94.5 |
| 1971 | 83.9 | 88.4 | 95.8 | 92.2 | 91.7 |
| 1972 | 83.4 | 86.2 | 95.4 | 91.9 | 91.9 |
| 1973 | 88.5 | 87.7 | 98.2 | 95.5 | 94.5 |
| 1974 | 98.0 | 113.7 | 105.0 | 101.2 | 103.6 |
| 1975 | 99.0 | 122.0 | 107.5 | 104.4 | 96.2 |
| 1976 | 92.3 | 103.0 | 102.0 | 99.6 | 93.7 |
| 1977 | 89.6 | 96.2 | 97.0 | 93.9 | 86.7 |
| 1978 | 93.7 | 97.1 | 96.6 | 94.6 | 84.1 |
| 1979 | 96.2 | 90.2 | 99.6 | 98.0 | 76.2 |
| 1980 | 104.9 | 105.9 | 102.4 | 99.1 | 90.8 |
| 1981 | 108.6 | 85.7 | 104.9 | 102.9 | 91.8 |
| 1982 | 109.7 | 89.1 | 108.7 | 105.6 | 100.7 |
| 1983 | 95.9 | 87.6 | 111.8 | 105.3 | 103.8 |
| 1984 | 99.1 | 95.5 | 118.9 | 110.6 | 118.3 |
| 1985 | 99.0 | 111.9 | 116.5 | 110.5 | 89.9 |
| 1986 | 95.8 | 117.1 | 106.9 | 106.1 | 86.9 |
| 1987 | 98.6 | 116.0 | 103.3 | 103.6 | 80.9 |
| 1988 | 102.7 | 100.5 | 103.9 | 104.6 | 97.1 |
| 1989 | 103.8 | 93.9 | 108.6 | 108.0 | 93.2 |
| 1990 | 105.1 | 87.4 | 108.4 | 98.5 | 101.0 |
| 1991 | 105.2 | 75.0 | 108.7 | 104.8 | 99.7 |
| 1992 | 97.7 | 83.7 | 118.4 | 106.7 | 103.1 |
| 1993 | 95.5 | 65.4 | 107.1 | 103.3 | 103.6 |
| 1994 | 98.5 | 82.8 | 108.1 | 104.8 | 88.0 |
| 1995 | 95.8 | 78.4 | 105.9 | 103.8 | 92.2 |
| 1996 | 98.5 | 70.8 | 105.7 | 103.0 | 90.3 |
| 1997 | 94.1 | 73.2 | 100.6 | 99.0 | 90.2 |
| 1998 | 96.6 | 68.0 | 104.2 | 105.0 | 95.0 |
| Ave. all yrs) | 96.7 | 91.0 | 104.8 | 101.6 | 94.2 |
| Ave. (last 10yrs) | 99.1 | 77.6 | 107.6 | 103.7 | 95.9 |
| Ave. (last 20yrs) | 100.1 | 88.8 | 107.6 | 108.9 | 94.8 |

Sources: Title industry figures developed by A.M. Best (Form 9 Reporting)
A.M. Best's Aggregate and Averages and the ALTA

**Table 4: Ratio of net investment income earned to premiums for title insurers and property/casualty insurers for the years 1974-1998.**

**NET INVESTMENT INCOME AS A PERCENTAGE OF PREMIUMS EARNED**

| YEAR | TITLE INDUSTRY | PROPERTY & CASUALTY (STOCK) |
|---|---|---|
| 1974 | 4.9 | 8.3 |
| 1975 | 4.6 | 8.2 |
| 1976 | 3.2 | 8.0 |
| 1977 | 2.9 | 8.5 |
| 1978 | 3.3 | 9.3 |
| 1979 | 3.5 | 10.7 |
| 1980 | 4.5 | 11.8 |
| 1981 | 5.4 | 13.6 |
| 1982 | 5.3 | 14.6 |
| 1983 | 4.1 | 14.9 |
| 1984 | 4.4 | 15.4 |
| 1985 | 4.2 | 14.6 |
| 1986 | 4.7 | 13.2 |
| 1987 | 5.0 | 12.7 |
| 1988 | 4.1 | 13.9 |
| 1989 | 5.1 | 15.1 |
| 1990 | 4.7 | 15.2 |
| 1991 | 4.4 | 15.4 |
| 1992 | 5.6 | 14.9 |
| 1993 | 4.8 | 13.9 |
| 1994 | 3.8 | 13.8 |
| 1995 | 5.7 | 16.5 |
| 1996 | 5.0 | 16.7 |
| 1997 | 4.6 | 18.5 |
| 1998 | 4.3 | 17.4 |
| Ave all yrs | 4.5 | 13.4 |
| Ave. (Last 10 yrs) | 4.8 | 15.7 |
| Ave. (Last 20 yrs | 4.7 | 14.6 |

Source: A.M. Best Title Industry Report and NAIC Form 9's, and A.M. Best's Aggregates and Averages 1994 and 1998.

# Capitol Comment

## Federal Privacy Rules Exempt Insurance Providers

The Federal financial services regulatory agencies and the Federal Trade Commission have published final regulations implementing the Gramm-Leach-Bliley Act (GLBA) privacy law. The regulations are clear that none of the federal regulators will enforce the privacy requirements for insurance providers, but will leave that to the states. The rules exempt many agents from providing separate privacy notices, and due to ALTA efforts will generally relieve real estate settlement service providers from providing notices to customers on an annual basis. ALTA will be working with the National Association of Insurance Commissioners on state privacy laws, as the rules are likely to serve as a model for the development of the state privacy laws and rules.

For additional information, contact Ann vom Eigen, Legislative Counsel at ann_vomeigen@alta.org, or go to http://www.alta.org/00/.

## E-mailed Closing Documents Soon a Reality

Just as the bankruptcy reform bill is approaching agreement before final passage, so also the electronic signatures bill (H.R. 1714/S. 761) is close to agreement in its own conference committee. This legislation would give e-mailed signatures, records and contracts the same legal validity as pen-and-ink signatures. It includes ALTA-supported language applying the bill to real estate transactions, allowing for electronic notarization and securitization of mortgage notes. Current sticking points relate to consumer consent. For additional information please contact Ann vom Eigen at ann_vomeigen@alta.org or go to http://www.alta.org/govt/00/e_com.htm.

## ALTA Emphasizes Liability and Cost Concerns in Predatory Lending

ALTA expressed concern to Congress that provisions in some of the Federal bills (H.R. 4250/S. 2415) could sweep the title insurance industry into predatory lending reforms. ALTA noted in a May statement to Congress that some of the legislative solutions could inadvertently impose liability on title companies for collection of credit life insurance premiums, eliminate a current exclusion of charges by independent title providers in the calculation of fees that contribute to high cost loans, and could result in possible caps on closing costs such as title insurance.

Press reports on the abusive practices of subprime lenders have generated both Congressional and Federal regulator response. Congress and Federal agencies are developing solutions to "predatory lending practices," which may limit title insurance industry costs and increase industry liability. At a May 24 hearing on "predatory" lending, Rep. Jim Leach (R-IA) Chairman of the House Banking Committee demanded that the Federal agencies use existing legal authority to crack down on abusive loan practices. HUD has held several "task force" meetings in major cities to learn details of the extent of abusive lending, and several Federal agencies are working together to develop new policies to enforce existing laws.

For more information contact Ann vom Eigen at ann_vomeigen@alta.org or type "H.R. 4250" at http://thomas.loc.gov/.

## ALTA Raises $10,000 for Governor Allen (R-VA)

In April, Former Governor George Allen (R-VA) (center), a candidate for the U.S. Senate, visited the offices of LandAmerica Financial Group, Inc., and met with Charlie Foster, (right), Chairman of the Board and CEO, and President of ALTA, and Jan Alpert, (left), President, and Chair of ALTA's Technology Task Force. They discussed high tech developments in Virginia and the U.S. Congress. TIPAC presented Governor Allen with a $10,000 donation.


The New Millennium

## Names in the News

### Movers & Shakers

**California**

First American Title Insurance Company has named several new employees: **John N. Casbon** has been named Executive Vice President. In this position, he will serve as President of First American Transportation Title Insurance Company. Casbon began his tenure with First American in 1977. **Marsha H. Gleit** has been named Assistant Vice President of Subdivision Projects. Previously, she was Vice President-Operations Manager for CTC Foreclosure Services, Inc.

**Colorado**

**Paul J. Morgan** has been promoted to Senior Vice President and National Operations Manager for United General Title Insurance Company. Morgan joined United General as Vice President and Central Regional Manager in 1998.

**Delaware**

**David W. Toomey** has been appointed State Manager for Delaware for the First American Title Insurance Company. Toomey joined the company in 1992 and has worked in the Georgetown, Kent County, and New Castle offices.

**Florida**

**James W. Smith** has been named Vice President and Florida Agency Manager in the Southeast Regional Office (Orlando) of LandAmerica Financial Group. **Wayne J. Sobien** has been named Vice President and Florida State Counsel for the same office.

**Massachusetts**

**Peter Wittenborg, Esq.**, has been named Manager — Eastern Massachusetts Office for Connecticut Attorneys Title Insurance Company. Prior to joining CATIC, Wittenborg was a partner in the Boston office of the national law firm Stroock & Stroock & Lavan, LLP.

**Maryland**

**Jeffrey A. Weber** has been named State Manager for Maryland for First American Title Insurance Company. Weber started with First American's Washington, DC office in 1997 as Vice President-Regional Claims Counsel.

**Brian N. Rogers, Esq.,** and **Tine K.H. Dickey,** have been promoted to Senior Vice Presidents for The Security Title Guarantee Corporation of Baltimore. In addition, **Rosalie McCubbin** has been named Vice President of the Audit Department.

**Michigan**

**Maxine J. Lievois** has been appointed Vice President and Manager of LandAmerica's Troy National Commercial Services operations. LandAmerica's Detroit and Troy NCS

offices recently combined. Lievois began with Commonwealth Land Title Insurance Company in 1989 as Vice President and Manager of the Troy office.

**Waynette Simpson** has joined Investors Title Insurance Company as Vice President — Michigan Operations. Most recently, Simpson was an officer of a bank-owned title insurance agency in Flint, MI.

### North Carolina

**Kim Dean** has assumed marketing responsibility for both the Durham and Chapel Hill branch offices of Investors Title Insurance Company. She joined Investors Title in 1997, and was most recently Office Manager for the Chapel Hill office. **RaeLynn Wilson** has been named Marketing and Legal Support Manager for Investors Title. She joined the company in 1994, most recently working as Marketing Manager of the company's Chapel Hill branch office.

**Nancy Short Ferguson** has joined Chicago Title Insurance Company as State Underwriting Counsel. She is a Board Certified Specialist in Real Property Law: Residential, Business, Commercial, and Industrial Transactions, by the NC State Bar Board of Specialization.

### Texas

**Jeannie Osborne** has been appointed Chief Operating Officer of Stewart Title's International operations. She joined Stewart Title in 1993. **Foster Edwards** has been named President of Stewart Title of Corpus Christi. Prior to joining Stewart, Edwards was CEO of the Corpus Christi Association of Realtors for 21 years. **Paul T. Sands, Jr.** has been appointed Senior Vice President and Director of Commercial Services for Stewart's National Title Services. **Donald A. O'Neill**, President and Chief Executive Officer for Stewart Mortgage Information, a wholly owned subsidiary of Stewart Information Services Corp., has been named Group President and Region A Manager for Stewart Title Guaranty Co.

### Virginia

**John B. Gayle** has been promoted to Assistant Vice President and Manager of Network Management and Computer Operations for LandAmerica Financial Group, Inc., Richmond.

## Mergers & Acquisitions

**Lawyers Title Insurance Corporation**, a subsidiary of LandAmerica Financial Group, Inc., Richmond, VA, announces the acquisition of the assets of Title Services, Inc., Englewood, CO.

**Centex Title**, a subsidiary of Dallas-based Centex Corp., has acquired

Benefit Land Title Company and Benefit Land Title Insurance Company of Santa Ana, CA.

**Metropolitan Title Company**, Howell, MI, has acquired Johnson-Wert Title of Kokomo, IL, and Markley Title of Logansport, IN. Both companies will assume the Metropolitan Title name.

**First American Title Insurance Company**, Santa Ana, CA, a subsidiary of First American Financial Corporation, has acquired Dentex Title Company in Denton County, TX; North American Title Inc., in Troy MI; Associated Land Title Group and Bay County Abstract, both in FL; and Minnesota-based Itasca County Abstract Company.

**Stewart Title Company**, a subsidiary of Stewart Information Services Corporation, Houston, TX, has acquired Keystone Title Company of Waller County, TX; and Century Title and Escrow in Everett, WA. Manager and part-owner of Century Title, Carl Jorgensen, will remain as president of that operation, renamed Stewart Title of Snohomish County.

### Alliances/Joint Ventures

Carrie Hoyer and Randall Hood of Virtual Desktop, Inc., Waukesha, WI, announced an alliance with Title Support Services, Inc., of Annapolis, MD. VDI, an application service provider, will provide a test and evaluation environment for the Title Support Services' software. Details: Carrie Hoyer: 262-896-8911 or choyer@vdimail.com.

## Kudos

### Agency Receives Castle Award

**Bromstad Abstract and Title Insurance Company** of Carroll County, AR, has been given the Castle Club Award by the Chicago Title Insurance Company. The award is presented to the top ten Chicago Title agencies in Arkansas. Bromstad issued 850 title policies representing 750 transactions in 1999. Details: 501-253-9828.

### Mosley Recognized for Service

**Sandi Mosley**, Account Executive with Chicago Title, earned the Lorain Means Award from the Rockford Area, IL, Association of Realtors. The award recognizes service to the Realtor association and is given to affiliate members. Mosley serves on four boards and is chairman of the Woman's Council of Realtors education committee. Details: 815-962-7787.

### Weatherwax Receives Lifetime Achievement Award

**Debbie Weatherwax**, Vice President of Product Management for SMS — the title and escrow software solutions subsidiary of First American Title Insurance Company — was honored with the Settlement Services Today Lifetime Achievement Award at Title Tech in April. The award recognized Weatherwax for her dedication, achievement and continued contribution to the advancement of title technology. She joined SMS in 1981 as a customer support representative, and has been involved with software development for the title and escrow industry for more than 18 years. Details: Michael White, 714-800-3122.



**We want to hear from you!**

Let us know if you have news about new staff, promotions, honors, awards, or mergers and acquisitions. Send them to Lorri Lee Ragan, Editor of *Title News* at 1828 L Street, N.W., Suite 705, Washington, D.C. 20036 or e-mail notices to lorri_ragan@alta.org

## 2000 Affiliated Association Conventions

*July*
13-15 **Illinois,** Springfield, IL

16-18 **Michigan,** Treetops Resort, Gaylord, MI

*August*
3-5 **Minnesota,** Holiday Inn, Duluth, MN

3-5 **Montana,** Marina Cay Resort, Big Fork, MT

9-13 **North Carolina,** The Park Hotel, Charlotte, NC

17-19 **Wyoming,** The Pronghorn Lodge, Lander, WY

17-20 **New York,** Disney Yacht & Beach Club, Orlando, FL

*September*
6-9 **Idaho,** Sun Valley Lodge, Sun Valley, ID

7-9 **Kansas and Missouri,** Overland Park Marriott, Overland Park, KS

7-10 **Maryland,** Princess Royale Hotel, Ocean City, MD

13-15 **Nebraska,** Holiday Inn, Hastings, NE

14-16 **Dixie,** Sandestin Beach & Golf Resort, Destin, FL

14-16 **North Dakota,** TravelLodge Inn, Dickinson, ND

16-20 **Ohio,** Holiday Inn-Sandusky/Cedar Point, Sandusky, OH

21-24 **Washington,** Semi Ah Moo Resort, Bellingham, WA

*October*
5-6 **Wisconsin,** Wyndam Hotel, Milwaukee, WI

8-11 **Indiana,** French Lick Springs Resort, French Lick, IN

*November*
1-3 **Florida**, Sarasota Hyatt Hotel, Sarasota, FL

*December*
7-8 **Louisiana**, Chateau Sonesta, New Orleans, LA

## Title News Advertisers



## Marketplace

Situations wanted or help wanted ads are $80 for the first 50 words, $1 for each additional word, 130 words maximum. Insertion rate drops to $70 for first 50 words for three or more consecutive placements. For sale or wanted to buy ads are $250 for 50 words, $1 for each additional word, 130 words maximum. Insertion rate drops to $225 for 50 words for three or more consecutive placements. Placing a box around an ad costs an extra $20 for help wanted or situations wanted, $50 for sale or wanted to buy. Blind box service available upon request.

To place a classified ad in **Marketplace**, send ad copy and check made payable to **American Land Title Association** to: *Title News* Marketplace, ALTA, 1828 L Street, N.W., Suite 705, Washington, D.C. 20036.

**Sample: Help Wanted**
LEAD ABSTRACTER wanted for three-county Kansas operation. Must be licensed or comparably qualified. Send resume, particulars, to P.O. Box 888, Kansas City, KS

**Sample: Sale**
TITLE PLANT for sale. Florida location. Microfilm, documents and tract books cover county for more than 50 years. Computerized posting.

## How To Advertise in *Title News*

*Title News* is sent bi-monthly to a select readership of more than 5,000 title owners and managers nationwide, who establish strategy, direct operations, and make purchasing decisions for abstract and title companies. *Title News* is the industry-wide authoritative source on the myriad of national issues, problems and developments of concern to title management professionals.

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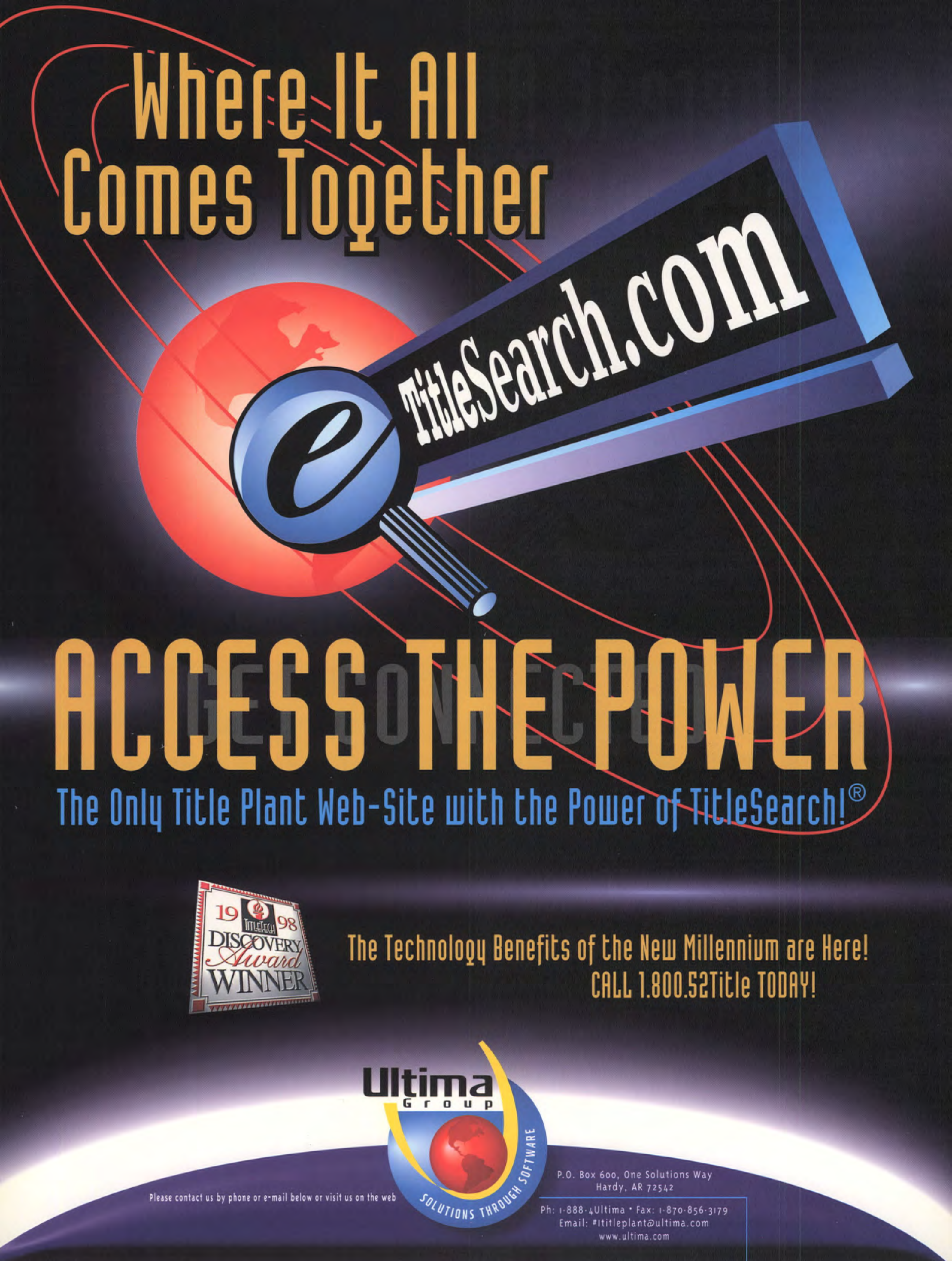

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