

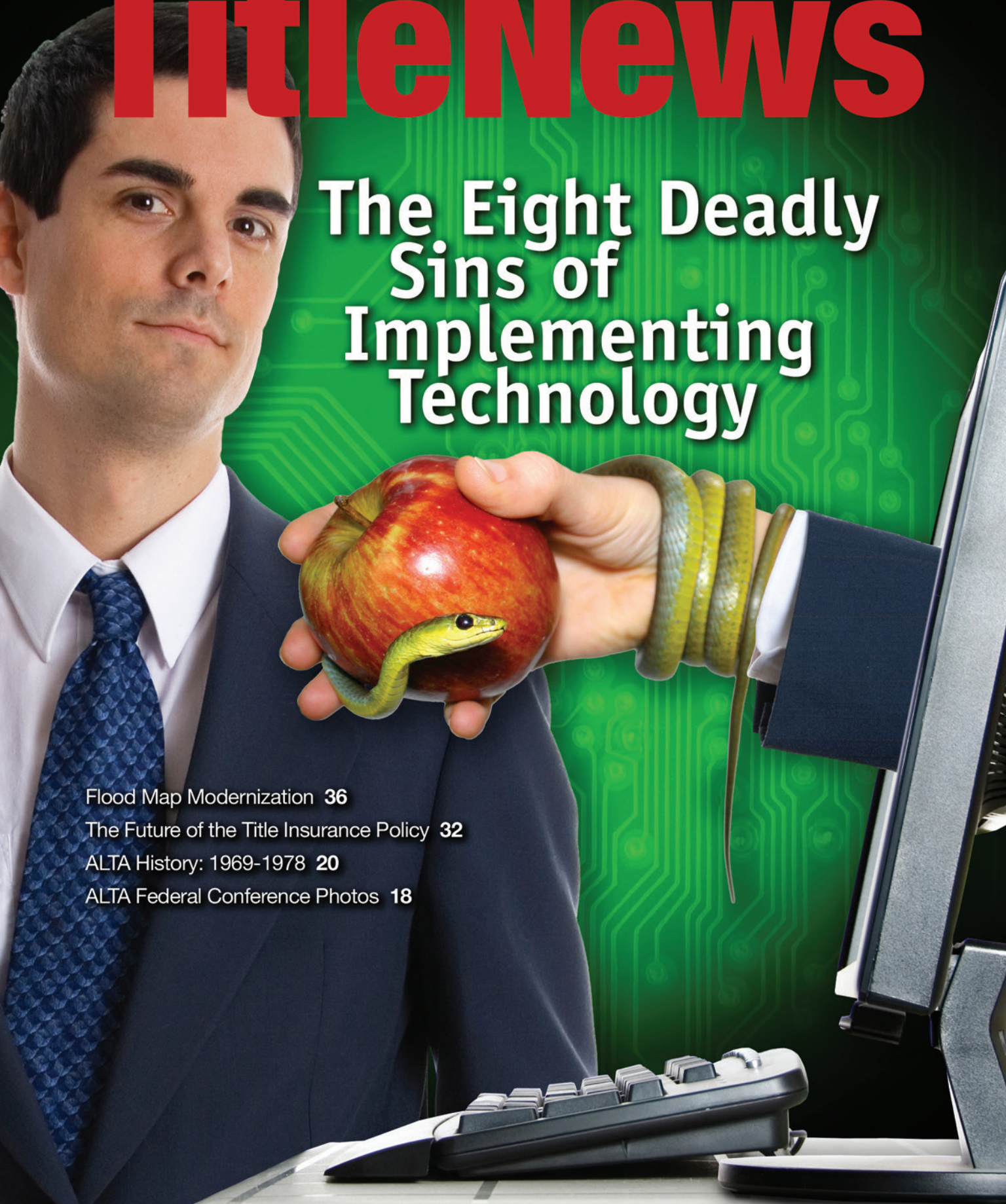
May/June 2007

Official Publication of the  
American Land Title Association

# TitleNews

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## ALTA EVENTS

Date	Event
October 10-14	ALTA Annual Convention Chicago Hilton & Towers, Chicago, IL

## STATE CONVENTIONS

May 18 - 21	Pennsylvania
June 3 - 6	New Jersey
June 5 - 7	Wyoming
June 7 - 8	South Dakota
June 7 - 10	Virginia
June 8 - 10	Texas
June 21 - 23	Arkansas
June 21 - 24	New England (CT, ME, MA, NH, RI, VT)
July 5 - 7	Utah
July 12 - 14	Illinois
July 15 - 17	Michigan
August 2 - 4	Idaho, Oregon, Washington
August 8 - 11	North Carolina
August 9 - 11	Minnesota
August 10 - 12	Kansas
August 12 - 15	New York
August 23 - 24	Wisconsin
September 6 - 9	Maryland
September 9 - 11	Ohio
September 12 - 14	Arizona
September 12 - 15	Colorado
September 13 - 15	Indiana
September 13 - 15	North Dakota
September 14 - 16	Dixie Land (AL, GA, MS)
September 14 - 15	Missouri
September 19 - 21	Nebraska
November 14 - 16	Florida
December 6 - 8	Louisiana

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# The Need to Speak Up

**T**here is an old cowboy saying that reads “Never miss a chance to shut up.” For our industry, nothing could be further from what we need to do right now. We need you to speak up.

The purpose of this article is to encourage, challenge, and cajole you into getting involved with your association both on a state and national level.

As we all know, our industry has taken a number of criticisms over the last couple of years from legislators, regulators, consumer groups, and the media. Our best response is to proactively work with these groups to maintain a clear line of communication.

I believe that it’s very important that we visit with each regulator in every state. By visiting with our regulators we personalize our industry, whether we do so through our individual companies or through the efforts of ALTA or state associations. We replace an image of an impersonal insurance industry with that of people who are hardworking, honest, career-minded and provide a very valuable service to the real estate economy. You can find good information about current industry issues in the “Federal/State Advocacy” section of ALTA’s Web site.

I would also suggest that you consider proposing an Advisory Council to work with your state regulator. The Advisory Council could be made up of representatives from our industry and the real estate, lending, and homebuilding industries. In states where an Advisory Council exists, such as Oregon, Colorado, and New Jersey, the relationship with the regulator is very good. In addition, I also believe we should consider recommending an Advisory Council to work directly with the NAIC and its Title Insurance Working Group.

The regulators want to work constructively with the industry. In a recent letter to the industry regarding rate regulation, the California Insurance Commissioner, Steve Poizner, concluded his letter by saying, “I remain open to hearing proposals from the industry on alternatives that facilitate healthy price competition and protect against excessive rates.” It’s in our industry’s long-term best interest to have a good working relationship with our regulators and legislators.

So please get involved. If you don’t, you’ll have to live with the decisions and directions of others who do. We have a compelling story to tell; it’s up to us to get out there and tell it.

Teddy Roosevelt said: “The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat and blood...”. I’ll see you in the arena.

– Gary L. Kermott



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**AMERICAN  
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# news

## ALTA Sponsors Habitat Home

We are pleased to announce an exciting addition to the ALTA Annual Convention. ALTA is proud to partner with the Windy City Habitat for Humanity Chapter (WCHFH) and sponsor a home within the city of Chicago to help celebrate our 100th Anniversary.

Attendees at the convention, October 10-13 in Chicago, and ALTA staff will be asked to volunteer their painting/carpentry skills or non-skills (WCHFH is prepared for us all) to help complete the home. WCHFH anticipates breaking ground in June, so that by October "inside" volunteer work can be done. This is an excel-



lent opportunity for us to give back and to leave a lasting tribute to the city where our first convention was held.

A few interesting facts... it will take approximately ten months to complete the home. A large part depends on the family and how they are doing on their sweat-equity hours. Also, our build will be a two-story house, which is not the norm.

Look for more details on the house and volunteer opportunities as soon as they are "hammered down!"



**A** This is a typical Habitat for Humanity home. The one ALTA will work on will be two stories, which is unusual

## Call for Presentations Announced

If you would like to speak at ALTA's Annual Convention this October in Chicago, now's your opportunity. Proposals are due June 1. For more information on

suggested topics and other things you need to know, visit the Annual Convention page on ALTA's Web site and click on Call for Presentations.



## Join National Homeownership Month

Each year, the President declares June as National Homeownership Month. This is a perfect opportunity to get involved in events happening in your town or city and help spread the word about the valuable services we provide. Start by contacting your local city or county government or Chamber of Commerce to ask if there will be a celebration in your community.

If there are events taking place, sponsor a booth at a local home fair, or give a presentation to local civic organizations such as Rotary or Kiwinis utilizing the presentation tools in ALTA's Title Industry Marketing Kit, which is free to ALTA members. You might also contact your local Habitat for Humanity to see if a project is being done near you.



## ALTA Ads Win Award

For the second year in a row, ALTA's ads targeting consumers in regional issues of *Time*, *Newsweek*, *U.S. News & World Report* and *Sports Illustrated* have won a Regional Creative Excellence Award in the Real Estate Category by Time Warner/Media Networks, Inc.

The ads, part of ALTA's Public Awareness Program, remind consumers of the importance of hav-

ing an Owner's Policy. The publications were selected after research showed the first-time homebuyers read those publications.

Time Warner judges look at all of the ads placed in their region and select two winners in each category for refined and effective "creative" (another way to say good ads.)



## Colin Powell to Address ALTA Annual Convention

Former Secretary of State Colin Powell will be the keynote speaker at ALTA's 2007 Annual Convention, October 10-13 in Chicago. Colin Powell is sponsored by First American.

The convention will culminate the yearlong celebration of ALTA's 100th anniversary. ALTA's first convention in 1907 was in Chicago, and this year the anniversary theme will be carried throughout the convention. The Closing Banquet will be the party of the year, and you won't want to miss it. Mark your calendar to attend;

program information will be available in early summer.

If your company is celebrating, or has celebrated, its 100th anniversary, you can add it to the Centennial Directory in the special 100th Anniversary Section of

ALTA's Web site. You can read ALTA's history, purchase products with the 100th anniversary logo, and add your comments about ALTA or the industry. Look for the 100th Anniversary Logo to link you directly to the special pages.



## Industry Forms Receive Slight Changes

Some of the industry forms endorsed by ALTA in 2006 have received typographical and formatting changes recently. The Owner's Policy, the Short Form Residential Loan Policy, and Endorsements 13, 13.1, 14, 14.1 and 14.2 all have changes. In addition, changes have been made

in the 4 and 7 series of endorsements. The Owner's Policy update is available free on ALTA's Web site. Other updates are available to those who subscribe to the Policy Forms Online. Visit the Forms section of ALTA's Web site and look for Policy Forms Online to learn more.



## Presidents Roll Call

LOOK FOR THIS SPECIAL PRESIDENTS ROLL CALL SECTION IN EACH ISSUE OF TITLE NEWS THIS YEAR, WITH A LISTING AND PHOTOS OF ALL ALTA PRESIDENTS. HERE ARE THE PRESIDENTS FROM 1947 THROUGH 1967.



**Kenneth E. Rice\***  
1947 - 1948  
Chicago, IL



**L.R. Zerfing\***  
1954 - 1955  
Philadelphia, PA



**Arthur L. Reppert\***  
1961 - 1962  
Liberty, MO



**Frank I. Kennedy\***  
1948 - 1949  
Detroit, MI



**Morton McDonald\***  
1955 - 1956  
DeLand, FL



**William H. Deatley\***  
1962 - 1963  
New York, NY



**Earl C. Glasson\***  
1949 - 1950  
Waterloo, IA



**John D. Binkley\***  
1956 - 1957  
Chicago, IL



**Clem H. Silvers\***  
1963 - 1964  
El Dorado, KS



**Mortimer Smith\***  
1950 - 1951  
San Francisco, CA



**Harold McLeran\***  
1957 - 1958  
Mt. Pleasant, IA



**Joseph S. Knapp, Jr.\***  
1964 - 1965  
Baltimore, MD



**Joseph T. Meredith\***  
1951 - 1952  
Muncie, IN



**E.J. Loebbecke\***  
1958 - 1959  
Los Angeles, CA



**Don B. Nichols\***  
1965 - 1966  
Hillsboro, IL



**Edward T. Dwyer\***  
1952 - 1953  
Portland, OR



**Lloyd Hughes\***  
1959 - 1960  
Denver, CO



**George B. Garber\***  
1966 - 1967  
Los Angeles, CA



**George E. Harbert\***  
1953 - 1954  
Rock Island, IL



**George C. Rawlings\***  
1960 - 1961  
Richmond, VA

\*deceased



## Centennial Gems

**Q:** Who was the title industry's nemesis during the 70s?

**A:** Read the article on page 10 to find out.



**Q:** When was this quote said?

*"It is not difficult to see why a Congressman or Senator, who doesn't understand how title insurance operates or why title insurance differs from casualty or life insurance, would react to the claim that title insurance charges are too high by supporting a bill that would have the federal government place an artificial limit on what these charges would be. It is the same lack of understanding that has resulted in frequently unfair criticism of the title industry by the press and by consumer advocates."*

**A:** November 1973 by Congressman Robert Stephens (D-GA). (Could just have easily been today!)

**Q:** When did RESPA first go into effect? When was it amended?

**A:** RESPA first went into effect June 20, 1975. It was amended July 1, 1976.

**Q:** What state and town were adversely affected by Indian Land Claims?

**A:** The state of Maine and the municipality of Mashpee, MA.

**Q:** Who said the following quote?

*"We believe that the government could realize substantial savings if it adhered to its general policy of self-insurance by using certificate of record title as an acceptable form of title evidence and by discontinuing the purchase of title insurance, except when a statute, such as the Military Construction Act of 1959, provides otherwise."*

**A:** The General Accountability Office in 1972.

## Oh The Places We've Been!

Many ALTA members say it is fun to reminisce about the wonderful convention locations over the years. Look for this special section in every issue of *Title News* this year listing the places we've been!

- 1947 Kansas City, Missouri
- 1948 Chicago, Illinois
- 1949 Atlantic City, New Jersey
- 1950 Oklahoma City, Oklahoma
- 1951 Colorado Springs, Colorado
- 1952 Washington, D.C.
- 1953 Los Angeles, California
- 1954 Chicago, Illinois
- 1955 Cleveland, Ohio
- 1956 Miami Beach, Florida
- 1957 Richmond, Virginia
- 1958 Seattle, Washington
- 1959 New York, New York
- 1960 Dallas, Texas
- 1961 Minneapolis, Minnesota
- 1962 St. Louis, Missouri
- 1963 San Francisco, California
- 1964 Philadelphia, Pennsylvania
- 1965 Chicago, Illinois
- 1966 Miami Beach, Florida

## Is Your Company 100 Yet?

If your company has celebrated, or is about to celebrate, 100 years, we want to know about it! We have a special Centennial Directory on the 100th Anniversary Web pages and we'd like you to add your information.

Click on the 100th Anniversary Logo on the home page to find more information about ALTA's anniversary and the Centennial Directory. You will also be able to read ALTA's history, add your thoughts to the Time Capsule, and order items with the 100th anniversary logo. We want to hear from you.

# The Eight Deadly Sins of Implementing Technology

The key to a successful technology implementation is a thorough understanding of the potential pitfalls of that same implementation. Knowing your company's objectives before the installation is critical.

**I**s it the gun or the person who pulls the trigger that kills people? A strange question related to technology isn't it? Well, in many ways it's the same for technology. Is it the technology or the people using the technology that cause frustration and unsuccessful implementations? With over 23 years experience both developing and implementing technology in a wide variety of industries, I can say without a doubt that it's not the technology.

So what is it? It's not just one thing but a mix of culture and a philosophy. >>

by Mark McElroy



Companies all over the world view technology incorrectly. You cannot expect a piece of software to work for you if you aren't willing to make a very strong commitment to it and use some sort of structure on an ongoing basis to control it.

After reading this article you will have a different perspective on, and approach to, how you view, operate, and implement your technology choice.

### A Prescription for Failure

People treat software badly, and it, in turn, treats them badly! The typical scenario in the selection of title production software is that an application is chosen by someone because they liked the way it looked, felt, or because of the involvement or influence of a particular underwriter. A technology project like this is doomed from the beginning because no one took the time to verify that the application would work for their particular business and meet whatever expectations they may have had for this software.



Then you try to implement a technology that was not appropriately selected and that will inevitably affect your entire company. As busy executives you don't have time to fully learn the new system. So you implement the software and you never test it – you just go! And what

happens? You get out of the software exactly what you put into it – not very much and not at all what you need or expected. At this point, many companies blame the software vendor.

### The Correct Way

Now let's assume that you have done your due diligence and have chosen a good product that fits a high percentage of your requirements. How do you implement it successfully?

I am going to discuss two things to consider with regard to any implementation. The first is to understand that you are dealing with people with their own perspectives and expectations. And the second is that you will need to follow specific steps to help you be successful and avoid costly mistakes.

### Setting & Measuring Objectives

A key element in determining success or failure of any implementation is the ability to measure specific objectives throughout the company. One of the most common mistakes that I have seen in my years of software implementation is that companies neglect to set objectives, at all levels of corporate structure, and then track those objectives for success.

Did you realize that software replacement should make or save money, not just perform tasks or create reports? But for this to happen, you first have to accomplish a successful implementation of any software or new business process, the following three-tiered level of perspectives and objectives are carefully considered:

#### Executive

At the executive level each implementation is likely to have financial

objectives associated with it. You will need to define those objectives prior to beginning the project and measure them afterward to determine the success. In many cases the objectives are fairly simple and are related to financial reporting and the ability to measure the performance of your company and the changes you will be making.

#### Middle Management

This is where the rubber meets the road. Those in middle management typically have a two-fold perspective, financial and operational. The key here is to understand not only what they need financially but also what operational metrics or specific operational functionality they require. If you fail to understand these items or leave them to "status quo," the project will be perceived as a failure.

#### Staff Members

Each individual in this category typically only understands his/her world. They will be most concerned about how an implementation will affect their day-to-day activities. If you fail to capture their ideas or give them a voice in determining what will work the best, you are likely to have a very unhappy staff, and the project will fail.

In almost every unsuccessful implementation the revolution starts at this level and compounds as it moves upward. The complaints about change, and there will be some, begin here and then are perceived as issues and roadblocks by the leaders in your organization. The leaders become uneasy and feel they have made a mistake with this software decision when, in fact, these occurrences are very normal and should be expected.

# Profits Plunging? Losing Customers? Revenue Decreasing? Need Help?

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This is easily countered early in the project. The leaders of the company must explain why they are implementing the new technology and what they hope to achieve. The focus at this level needs to be on encouraging your people and allowing them to get involved. There will still be issues that arise; the key is to have a method and plan for resolution of these issues.

### Knowing the Pitfalls

In a recent article, Implementation Consultant Dolien Nicolassen called out seven “deadly sins” of software implementation and provided a catalyst for the following discussion. Additionally, I think that there is an eighth “deadly sin” that merits men-

tion. If you are aware of these pitfalls and their potential causes, you can head them off before they occur and lead your operation to a successful implementation.

### Deadly Sin #1 Set an Unrealistic Budget and Time Frame

Most projects are doomed from the beginning because of unrealistic expectations about the expense, the time frame, and the resources required for the project. This happens because the planning is typically done by people who have no real understanding of the implementation process. Nor do these planners understand the responsibilities of either

the software vendor or the company itself.

The solution is very simple. Ensure that you take the time to understand not only what it takes to implement the software but also the overall impact of the implementation on your business. Know what the time frame is to complete the implementation and understand the responsibilities of everyone involved in the process. Set yourself up to succeed!

### Deadly Sin #2 Treat Implementation as a Low Priority or Technical Project

If your organization perceives the implementation as a “necessary evil” or simply as a technical project, there is no reason to even begin the imple-

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mentation process. This project cannot be something that gets in the way of business. This technology must be embraced as an integral part of your business now and into the future.

It is critical that your company leaders let staff know their thoughts on implementing this technology – that it is a business project, what the business will gain from it, and what the individuals in your organization will gain from it. If your people don't understand this, issues will turn into complaints that will create doubt, deadlines will be missed, and you will be calling your vendor trying to understand where it all went wrong.

If you are not willing to put your best people on the project, how will the software be appropriately molded to meet the needs of your business? It is the people that understand your business the best that need to make the decisions about how the software

Even the smallest and easiest projects run into issues. It is how you handle the issues that will make the difference in your organization. The reality is that every issue can be an opportunity to prevent, fix, or improve something in your business – integrate this thinking into your business philosophy and you set your organization up for success.

### **Deadly Sin #3 Have No Strategy to Manage Change**

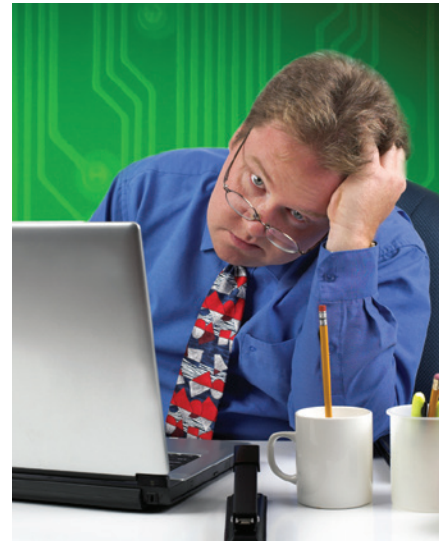
The best way to kill enthusiasm and incite a revolt is to announce to your team that a new software product will be implemented soon and that they will be told about training in due time! It can't be stressed enough that staff needs to know that there is a purpose behind change.

Change is difficult for anyone. The best way to instill a positive attitude

**Change is difficult for anyone. The best way to instill a positive attitude and have everyone welcome change is to include them in the process.**

is to perform for your business. This will result in your business's increased capability and success in the marketplace once the implementation is complete. If your management team isn't publicly and actively committed, how will the rest of your staff know that this implementation is important? How can you expect them to rally around this project with a can-do attitude if you are not willing to do the same?

and have everyone welcome change is to include them in the process. Give your people a voice and encourage them to be involved by reviewing business processes and procedures. Help them see benefits of the new software in the future. Encourage them to take ownership in the initial stages of the project and you will elicit their ownership for the technology project's ultimate success.



### **Deadly Sin #4 Give No Priority to Business Process Change**

Your new software will support any process you currently have in place – good or bad. If you have bad business processes in your organization today, you must fix them. Fail to fix them and your new software is only going to make those bad processes more apparent and make them operate faster! Take the time to understand how you operate today. Look for ways to improve your operation through your business processes. Make these changes to your business before you begin using the software; plan for it during the implementation. With the best business processes in place, your new software will only strengthen your organization.

### **Deadly Sin #5 Neglect to Test the Software**

You cannot expect software vendors to understand “how” you perform your business. Nor can you expect them to know the expectations and the business requirements that you have for the software. Once your business solution is defined and architected, it is imperative that you

test, test, and test some more. It is likely that once you perform the initial architecture and setup of the software, you will discover that a series of bad assumptions have been made. You must test the software and be prepared to change the original configuration before going live with it. Ask yourself if the solution that has been configured will support and enhance your business and make changes accordingly.

### **Deadly Sin #6 Have No Provisions for Support and Continued Business Process Change**

Going live with your new product is not the end of the process; in fact, it is only the beginning of your continued business improvement. I can almost guarantee that 30 to 90 days into any implementation you will experience issues, have suggestions about how something could have been better implemented, or see a need for simple tweaks in the software configuration. Your software implementation is a business lifestyle change – not a one-time event. The day you stop considering change or assume that change isn't going to happen is the beginning of your slow but eventual downfall. Rather, look forward to and embrace the opportunity that change brings for your business.

I would recommend three business reviews with all of your staff after 30, 60, and 90 days. This is an opportunity to understand how the system is working for your operation and how both the process and the software supporting that process could be better. I would also recommend continuing these business reviews periodically to ensure fresh ideas and constant positive change in your business.

### **Deadly Sin # 7 Have No Relationship with Your Software Vendor**

It is easy to blame software for everything. It is just as easy to make your software vendor the scapegoat for everything. This is completely counter-productive and will not only sabotage your success but also result in adversarial relationships with a valuable business resource. Your soft-



ware is the enabler of your business; your software vendor is your lifeline and is very likely to have answers to questions and possible solutions for business issues that might arise.

With this technology you are making a long-term investment. You should view the relationship with the technology vendor in the same way. The ability to rely on your software vendor is critical to your long-term success. Your goal should be to have long-lasting relationships with your software vendor and to be able to partner on issue resolution, custom software projects, networking, and product development.

Additionally, I would encourage you to develop and maintain a strong relationship with the support personnel of your technology vendor; they will be your active, engaged partners in this business relationship. We also recommend participation in your software vendor's User Group to access an invaluable network of other

users and, in some cases, a voice in strategic direction and product development of your business software.

### **Deadly Sin # 8 Modify Software Too Much**

We understand that many companies have unique requirements that may require modification of business software solutions. However, it is imperative that you have a full understanding of these modifications – which ones are acceptable and how they will impact your upgrade path in the future. Your software vendor is likely to understand what is risky and what may cause problems.

I know it seems complicated. You are probably wondering why this can't just be simple, like a refrigerator for instance. Plug it in and go. As nice as this would be, I doubt we will ever see the software that reads your mind and knows exactly what you want it to do! But if you pay attention to these points and follow the processes that I have defined, a couple of things will happen; you will have increased your chance of being extremely successful and your company culture and view of technology will forever be changed! And lastly, you may never have to buy another software package. Wouldn't that be a great thing?



**Mark McElroy** is president of RamQuest Software, Inc., in Plano, TX. He can be reached at [MMcElroy@ramquest.com](mailto:MMcElroy@ramquest.com) or 800-542-5503.

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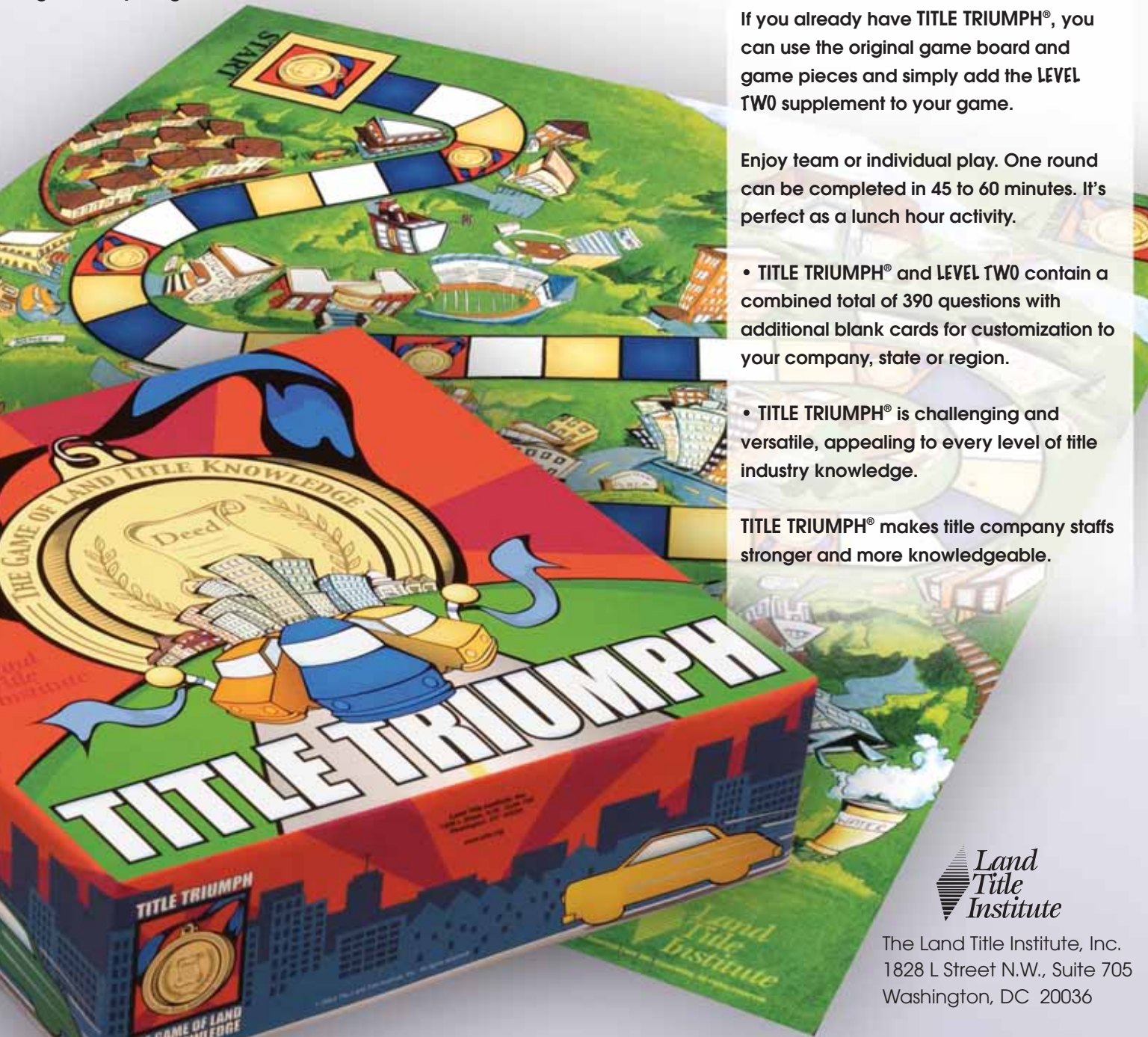
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## 2007 federal conference highlights



▲ Members of the Louisiana Land Title Association visit with their congressman, Rodney Alexander.

▲ Bill Ronhaar from Washington State visited the office of his senator, Patty Murray.

# Conference Attendees Learn to Meet & Greet



▲ Staff from the House Financial Services Committee and the Senate Committee on Banking, House and Urban Affairs briefed attendees on the 2007 committee priorities.



▲ A panel discusses the Herculean efforts to draft new uniform closing instructions.



▲ ALTA President Greg Kosin and other members from Illinois visit with their Congresswoman, Judy Biggert.



▲ An aide to Senator Ben Nelson talks to his constituents from Nebraska.



▲ The delegation from Alabama meets with Congressman Jo Bonner.



▲ Former ALTA President, Cara Detring, Missouri, shares a moment with friend and Congresswoman JoAnn Emerson.



▲ ALTA members from Colorado meet with their Congressman Ed Perlmutter.

# The Way We Were 1969 – 1978

This decade in ALTA's history was particularly challenging. RESPA, the issue of Indian Land Claims, and savings and loan's being allowed to engage in abstracting and title insuring tested ALTA for years.

**A**s the battle with the American Bar Association over the National Bar Related Assurance Corporation ended (you can read more on that in the March/April issue of *Title News*), a new threat arose, a possible congressional investigation of the title insurance business.

## Senator Proxmire Attacks



Senator William Proxmire (D-WI) was the instigator in the Congressional investigation. In a letter dated February 5, 1969, to the vice chairman of the Federal Reserve Board, Senator Proxmire requested the Board undertake a study of title insurance premiums "to protect homebuyers against unreasonably high closing costs." (*Sound familiar to what's happening today?*) In his letter he compared closing costs based only on charges for a survey, title examination, and title insurance in Manchester, NH, and Buffalo, NY.

The Federal Reserve Board denied his request.

Senator Proxmire then assigned the study to his staff. ALTA wrote to Senator Proxmire indicating we would cooperate in this study and pointed out that title insurance was not used in the majority of single-family dwelling land transfers in Manchester and Buffalo, but it was available. Our letter also referred to a 1965 study published by the Housing and Home Finance Agency, which found that a substantial majority of borrowers had no complaint about closing costs.

ALTA submitted cost information to the senator's staff on: (1) Updating an abstract, (2) Surveys, (3) Title insurance, (4) Title examination, and (5) Fees of attorneys for supervising the closing in seven different cities - Providence, RI; Buffalo, NY; Boston, MA; Omaha, NE; and Madison, Milwaukee, and Eau Claire, WI.

In addition several representatives from ALTA, including the chairman

of the Research Committee, a consultant to the Research Committee, our general counsel, and staff, met with Martin Lobel, legislative assistant to Senator Proxmire, and Kenneth McLean of the senator's staff.

The direction of Senator Proxmire's study seemed to change course as it progressed. In his initial letter to the Federal Reserve Board he called for an investigation of title insurance premiums "to protect homebuyers against unreasonably high closing costs." In a letter four months later to an ALTA member, he said that he found significant variation in title costs in different parts of the country, but that he had not found any basis for rate variations. Thereafter, in a meeting on July 28, Kenneth McLean discussed possible antitrust violations involving interlocking directors because customer representatives served on the Board of Directors of title companies; unreasonably high salaries of title company executives; and the reduction of closing costs if title companies spent less on perfecting titles and assumed more risks.

## Congress Gets Involved

In March 1970 the Senate subcommittee on Housing and Urban Affairs was considering a bill, S. 3442, one section of which (Section 701) would allow the HUD secretary and administrator of the VA to set settlement costs.

In a letter to the members of the subcommittee, ALTA President Thomas J. Holstein, president, La-Crosse County Title Company, La-

Crosse, WI, urged that Section 701 not be adopted. He stated, in part:

*“...we believe that empowering the Secretary of the Department of Housing and Urban Development and the Veterans Administrator to determine fees for settlement-related services including charges for abstracting and title insurance is unnecessary, improper, and could inadvertently prove detrimental to the American homebuyer.”*

Unfortunately, both the Senate and House passed the legislation, called the Emergency Home Finance Act of 1970. On July 24, President Nixon signed it into law. It directed the HUD Secretary and the Administrator of Veterans’ Affairs to prescribe standards governing the amount of settlement costs allowable in connection with financing of housing built, rehabilitated, or sold with assistance provided under the National Housing Act or under chapter 37 of the United States Code. (This act was the basis for settlement cost regulations issued by HUD and the VA in 1972. More on that later.)

### Proxmire Not Through Yet

In March 1971, Martin Lobel advised ALTA that the senator planned to mail a questionnaire to some, if not all, ALTA member underwriters. He said that the Senator was concerned about closing costs and wanted to determine if title costs were too high or too low. He also said that the senator was interested in title insurance because of the low payout figure. He wondered if the payout was only 4.5 percent compared to 68.8 percent in liability insurance, why the title insurance rates were “so high.”

One month later Senator Proxmire forwarded a questionnaire to the “leading title insurance companies in

the United States.” He sought data on their operations, including their relationship to other financial institutions.

In June he sent another questionnaire to the title insurers requesting a breakdown by category of information in the first questionnaire including personnel expenditures for both part-time and full-time staff; expenses for staff in researching titles and in sales; and costs attributed to maintaining a title plant.

## “Members of the American Land Title Association, we are fighting for our lives.”

After the senator’s staff studied the information, they announced that the title insurance industry came out better than anticipated. They acknowledged that title insurance was a risk-preventative business and losses should be low. They found title insurance underwriter personnel expenses to be 43 percent and commissions to be 18 percent, which they concluded, were not unjustified. But the staff raised objections to (1) interlocks in which officers and directors of other financial institutions serve title insurance companies in similar capacities and (2) variations between owner’s and lender’s title insurance coverage.

On October 29 Senator Proxmire introduced the Title Charge Reduction Act, S.2775. In his introductory speech he said S.2775 “will enable more people to buy homes by reducing the title charges they must pay.” He added, “The high cost of title search and title insurance have prevented many people from buying homes.” One basis for his bill was the alleged experience of his legisla-

tive assistant, Martin Lobel, when he bought a home. Senator Proxmire said that Mr. Lobel was required to purchase lender’s title insurance even though he was assuming the mortgage and there was no defect in title which could impair the lender’s interest.

In December the ALTA executive vice president met with Mr. Lobel concerning S.2775 and his complaint about title services he received when

purchasing a home in D.C. Mr. Lobel was certain that he had to purchase a lender’s policy. He was shown the settlement sheet in his transaction. It contained no charge for either a lender’s or owner’s policy. He bet five dollars that he had received a title insurance policy. Mr. Lobel and the ALTA EVP then walked to Mr. Lobel’s home to look at his transaction documents. He did not have a title insurance policy. He had a binder and a title guarantee policy, which was evidence to him that a title search and examination had been made, that it was done for him and not for the benefit of the lender, and he had authorized the examination. He paid the five dollars.

### Federal Regulation Proposed

Section 701 of the Emergency Home Finance Act of 1970 directed HUD and the VA to undertake a joint study of settlement costs and to make recommendations for legislative and administrative actions to reduce



and standardize real estate settlement costs.

In February 1972 HUD Secretary Romney presented the long-awaited report to the House. The report's recommendations were mostly in accord with ALTA's ideas. They included:

- requiring the use of a single uniform settlement statement;
- requiring that lenders give detailed estimates of settlement costs to

borrowers in advance of settlement; ■ the elimination of kickbacks; and ■ stricter state regulation of title insurance.

At about that same time, the Real Estate Settlement Cost Reform Act of 1972, H.R. 13337, was proposed by Congressman Wright Patman (D-TX). It would create a federal title insurance program. It was considered to be a serious threat to the land title industry. ALTA Immediate Past President Alvin W. Long, president, Chicago Title Insurance Company, testified against this proposed legislation. ALTA advocated state rather than federal regulation of land title services and that states should be given the opportunity to meet federal standards before they were put into place. ALTA stated that where state

regulation was ineffective, ALTA would support HUD settlement cost standards.

This bill also called for lenders to pay for land title services that benefited them. ALTA questioned the actual benefit of this provision to the homebuyer.

On March 2 the Senate passed S. 3248, a housing and urban development bill that would make kickbacks illegal and require HUD and VA to establish settlement cost standards for federally assisted housing and for home mortgages purchased by Fannie Mae and Freddie Mac.

As a result of all of this congressional activity, James G. Schmidt, chairman of the ALTA Federal Legislative Action Committee, chairman of the board and chief executive

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officer, Commonwealth Land Title Insurance Company, Philadelphia, PA, closed his remarks at the ALTA Mid-Winter Conference as follows: “Members of the American Land Title Association, we are fighting for our lives.”

All attempts to enact federal settlement regulatory legislation in 1972 were unsuccessful.

However, on July 4, HUD and later the VA, issued regulations setting proposed maximum settlement charges for a credit report, field survey, title examination, title insurance, closing fee, and pest and fungus inspections in six locales: Cleveland, Newark, San Francisco-Oakland, Seattle-Everett, St. Louis, and the Washington, DC, area.

## ALTA stated it favored “strong regulation of the land title industry at the state, rather than the federal level.”

HUD received a record number of responses concerning these regulations. Most of them were critical of this action.

In its statements to HUD and the VA, ALTA charged that they were proceeding in an unauthorized manner and urged them to refrain from establishing settlement cost standards until adequate investigation and hearings could be completed and that the agencies should not undertake to reduce charges for title examination, closing fees, attorneys, and other items below rates prevailing in the affected area as of July 4.

ALTA stated it favored “strong regulation of the land title industry at the state, rather than the federal level, so such regulation can best be

adapted to local conditions and allow a fair profit without unreasonable restraints and impositions.”

ALTA hired Arthur D. Little, a nationally recognized research firm, to analyze the methodology used by HUD and the VA in formulating the charges for title services. In a report submitted to HUD and the VA, Arthur D. Little concluded:

*“The attempt by HUD to establish maximum allowable prices for the various title services by examining the pattern or prices charged in selected states, rather than by determining the actual costs and fair profit of providing the services in the specific areas being regulated, is without precedent and is a theoretically unsound basis for regulation.”*

In 1972 the House Subcommittee on Conservation and Natural Resources studied the cost of title insurance. It generated a letter, dated November 22, 1972, from the General Accountability Office to the Attorney General, which was sent to House and Senate Committees. In that letter, the GAO stated:

*“Relatively few claims requiring payment by the insurer have been made in recent years for defects in government land titles. We believe that the government could realize substantial savings if it adhered to its general policy of self-insurance by using certificate of record title as an acceptable form of title evidence and by discontinuing the purchase of title insurance, except when a statute, such*

*as the Military Construction Act of 1959, provides otherwise.”*

### Still Trying for Federal Regulation

The title industry could not get a break in the scrutiny it faced. HUD and Congress were still gunning for federal regulation of title insurance. The number of bills introduced during this time was dizzying.

On May 1, 1973, ALTA President James O. Hickman, senior vice president, Pioneer National Title Insurance Company, Los Angeles, CA, filed a statement with HUD in opposition to HUD’s proposed federal regulation of settlement charges. He stated that such a regulation was not a proper or desirable response to the need for insuring that land could be readily transferred at reasonable costs.

In July Senator Proxmire attempted to extend federal authority to regulate settlement charges by introducing an amendment to the Fair Credit Billing Act, S.2101, on the floor of the Senate. An ad hoc committee of title insurers and the ALTA legislative counsel were successful in their efforts to defeat this bill. The Senate turned down Senator Proxmire’s amendment by a vote of 53 to 38.

In late July two Senate bills were introduced. One, S.2228, eliminated federal authority to regulate settlement charges and the other, S.2288, further extended them. They set the stage for a significant Congressional battle.

On July 30 the Senate Subcommittee on Housing and Urban Affairs scheduled a hearing on S.2228. James G. Schmidt, chairman of ALTA’s Federal Legislative Action Committee, testified in favor of this bill. He pointed out “contrary to the



**▲** ALTA President James O. Hickman, left, discusses the association's 1973 testimony before the Senate Subcommittee on Housing and Urban Affairs, with James G. Schmidt, center, chairman of ALTA's Federal Legislative Action Committee, and William J. McAuliffe, Jr., ALTA Executive Vice President.

statement made by some who favor federal rate regulation of settlement charges, the HUD-VA report did not find that settlement costs were unreasonable in most areas of the country." He said the following measures would effectively ensure reasonable charges for settlement services: greater advance disclosure of the cost of settlement services, elimination of kickbacks and referral fees; and helping local governments improve and modernize their system for recording and indexing land transactions.

By August, Congressman Robert Stephens (D-GA) and others introduced a third settlement regulatory bill, H.R. 9989. It contained anti-abuse and disclosure provisions and would eliminate all federal authority to regulate settlement charges.

Another bill, H.R.11183, was introduced in the House that was the same as Senator Proxmire's bill in the Senate, S.2288.

A significant development occurred in the issue of federal regulation of

settlement charges when, in testimony October 29 before the House Consumer Affairs Subcommittee, HUD assistant secretary-FHA commissioner Sheldon Lubar said the proposed FHA-VA home loan settlement maximums, published two years prior for the six locales, were determined without information on what it cost to provide related settlement services in those areas. To determine those costs, he said, would require a new, extensive, and inordinately expensive federal bureaucracy.

On November 9 Congressman Stephens (D-GA), in a speech at the convention of the Dixie Land Title Association, made some noteworthy comments concerning the settlement charge issue. He said that Congress was considering federal rate regulation of settlement services because those who perform these services had failed to develop understanding among public officials and the public regarding the services and the reason for the related charges. He said: "It

is not difficult to see why a congressman or senator, who doesn't understand how title insurance operates or why title insurance differs from casualty or life insurance, would react to the claim that title insurance charges are too high by supporting a bill that would have the federal government place an artificial limit on what these charges should be. It is the same lack of understanding that has resulted in frequently unfair criticism of the title industry by the press and by consumer advocates."

In testimony on December 4, 1973, before the House Subcommittee on Housing, Sheldon Lubar said HUD faced a congressional conflict with regard to Section 701 (the section that would allow the HUD secretary and administrator of the VA to set settlement costs) since bills were pending to both extend and eliminate its 1970 settlement charge regulatory authority. He also said that effective federal regulation of settlement charges would be impossible and that administrative cost of attempting to do so would far outweigh any benefit to the public.

In ALTA's testimony before the committee, we called for elimination of federal authority to regulate settlement charges through repeal of Section 701 of the Emergency Home Finance Act of 1970.

Also ALTA opposed provisions that would direct the HUD secretary to establish maximum settlement charges for transactions involving federally related home loans; would prohibit any attorney performing legal services incident to a settlement from receiving a commission in connection with the issuance of title insurance in that settlement; and would authorize any title company and its agents to perform all title



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services in connection with a federally related mortgage transaction, regardless of state law.

The Senate did not vote on either S.2228 or S.2288 in 1973.

### More Bills in 1973

In January 1974, House hearings on H.R.12066, the Real Estate Settlement and Escrow Account Act of 1973, were held. A majority of consumer advocates at those hearings agreed that federal regulation of settlement charges would not effectively stabilize or reduce these costs for the homebuyer. They recommended a federal requirement that settlement charges be paid by the lender rather than the buyer, as they believed the lender would be in a better position

to bargain for lower charges and apply pressure to bring efficiencies.

In March Senator Brock introduced S.3164, which brought the approach of his prior bill, S.2228, more in line with that of H.R.9989. Senator Proxmire introduced S.3232, a bill that provided for the mortgage lender to pay all settlement charges in connection with a federally related mortgage loan. It was in line with H.R.12066.

The Senate and House Banking Committees considered legislation that included eliminating the HUD and VA authority to regulate FHA and VA home loan settlement charges through repeal of Section 701 of the Emergency Home Finance Act of 1970.

Senator Proxmire worked vigorously to obtain a final Senate bill that did not repeal Section 701. He was successful. The Senate voted 55 to 37 not to repeal the section.

In the House a floor amendment to remove a repealer of Section 701 lost on a vote of 202 to 199. Thus the final House bill, H.R.9989, repealed Section 701.

### The Birth of RESPA

Conferees of the Senate and House were appointed to work out the differences. During the week of December 9, 1974, Congress approved a compromise settlement bill, the Real Estate Settlement Procedures Act of 1974 - RESPA - recommended by the conferees. On December 22, 1974, President Ford signed this Act.

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RESPA, generally, was in accord with provisions supported by ALTA and others in the real estate industry with one major exception. The bill did not repeal Section 701 of the Emergency Home Finance Act of 1970, which ALTA had sought. The conferees had considered it but rejected repealing it.

Specific provisions of RESPA called for:

- a uniform settlement statement
- advance disclosure of settlement cost information to homebuyers
- disclosure of previous selling price of residential real estate
- prohibition of kickbacks
- prohibition that homebuyers be required to purchase title insurance from a particular company
- limitation of advance tax and insurance deposits in escrow accounts
- disclosure of beneficial interest in real estate transactions
- prohibition of fee for preparing truth-in-lending statements, and
- HUD establishment of demonstration land parcel recording systems to help improve local public record systems

At about this same time ALTA staff was contacted by HUD staff to assist a federal interagency task force in the development of disclosure and settlement costs statements. The ALTA Research Committee, Arthur D. Little, and DC-area title men were pressed into service to assist the task force. ALTA submitted a proposed settlement statement. In February 1975 HUD published a proposed rule on real estate settlement procedures in the Federal Register, including a Uniform Disclosure /Settlement Statement. The statement incorporated many of the suggestions made by ALTA.

On June 20, 1975, RESPA went into effect. The title industry was concerned about Section 8 of RESPA, the kickback section, since it was difficult to determine exactly what activities were prohibited or permitted. Realtors and lenders had concerns about other sections of RESPA. As a result the Senate Banking, Housing and Urban Affairs Committee held hearings at which these concerns were raised. ALTA President Robert Jay, president, Land Title Abstract Company, Detroit, Michigan, testified before the committee. He urged that RESPA be amended so as to provide statutory authority for HUD, in conjunction with the Department of Justice, to provide explanatory opinions interpreting Section 8.

In July of that year ALTA President Robert Jay was a speaker at a National Association of Realtors emergency meeting on RESPA. He stated in part:

- RESPA came into being as a compromise to avoid federal regulation of settlement charges.
- The burden is on the real estate industry to prove that RESPA is an effective settlement reform for the consumer.

If this is done, a strong argument could be made against more objectionable settlement legislation, such as the calling for federal rate regulation or lender payment of settlement charges.

### **Proxmire Still a Pill**

Senator Proxmire was not pleased with RESPA. In a letter dated August 12, 1975, he said:

*“Since the passage of RESPA, I and other members of the Congress have received numerous complaints about the excessive paperwork burden which*

*the Act imposes on lenders. Those who criticize RESPA argue that the disclosures required are complicated, costly and of little practical benefit to consumers. On the other hand, those who support these disclosers have argued they will help to reduce excessive settlement charges by encouraging consumers to comparison shop for settlement services.”*

As a result, as chairman of the Senate Committee on Banking, Housing and Urban Affairs, Senator Proxmire called for three days of hearings in September 1975 on whether RESPA was achieving its objectives.

ALTA President Robert Jay testified that complex and radical alternatives like lender pay should be carefully studied for their impact after related national statistics on closing costs were developed by HUD and that RESPA, with certain changes, should be given a fair opportunity to work before Congress considered settlement reform.

During the course of these hearings Senator Proxmire said that he was opposed to RESPA, that he favored lender payment of homebuyer closing costs as an alternative to the settlement cost disclosure approach of RESPA, and that it might be better to repeal RESPA rather than retain the act for limited benefit while it resulted in costly problems and delays for lenders and homebuyers.

On October 30, 1975, the House Subcommittee on Housing and Community Development held RESPA hearings. ALTA President Richard Howlett, senior vice president, Title Insurance and Trust Company, Los Angeles, testified. He called for prompt approval of H.R.10283, which contained a number of changes in RESPA. President Howlett said:

*“ALTA strongly supports the*

## ALTA history

*retention of the uniform settlement statement provision of RESPA as it would be modified by H.R.10283. The nationwide use of a uniform settlement statement is not only beneficial in that it clearly itemizes, in a rational, comprehensive manner, closing costs for homebuyers and provides these buyers with a basis for comparing past charges with those in future transactions."*

### RESPA Amended

After Senate and House Banking conferees worked out a compromise on this legislation, on December 19, Congress passed S.2327, which amended RESPA. In January 1976 President Ford signed it into law.

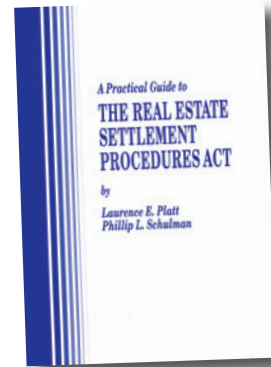
RESPA, as amended, required that effective July 1, 1976, homebuyers receive "a Good Faith Estimate of

the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement."

ALTA filed a statement in response to HUD's request for comments on how to compile estimates of buyer settlement charges. We suggested that it could best be done by HUD field offices working closely under broad guidelines of the department with local land title companies, local lenders, and other local sources of settlement charges.

In response to a request from the director of the HUD Division of Housing Research, ALTA furnished suggestions on implementing Section 13 of RESPA, which called for HUD to establish demonstration land parcel recording systems in selected

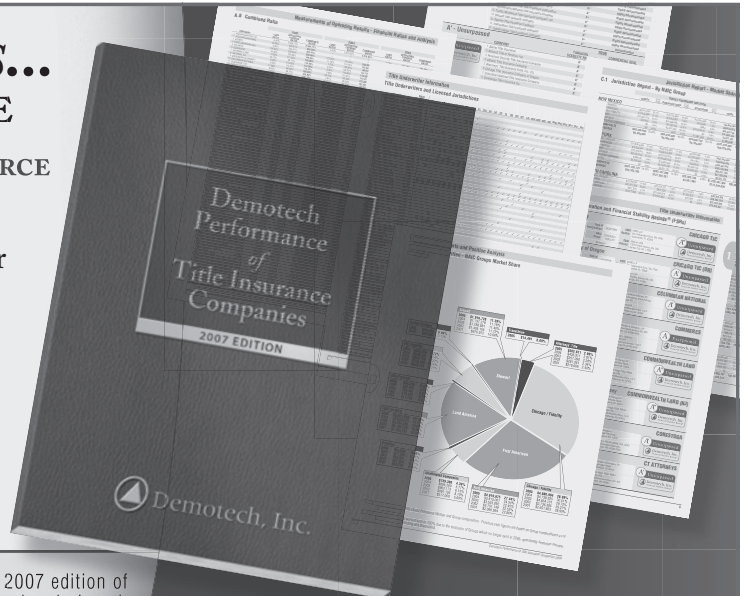
locales to help improve public record systems. ALTA pointed out that knowledgeable persons could develop a better records system in theoretical terms if expense was no object. ALTA cautioned: "However, the expense of converting from existing systems, cumbersome as they are, could far outweigh the value of any



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public benefit that may be realized. Perhaps the basic result would be transferring a huge expense burden to all taxpayers in return for a very small reduction in service fees for those who buy homes a few times during their lives.” ALTA emphasized that it would support development of a uniform, efficient nationwide land recording system at reasonable cost to the public. ALTA stated that the best approach might well be that of continued evolutionary improvement of existing local systems.

In March 1976 HUD issued its proposed RESPA regulations in the Federal Register. On April 28, ALTA submitted a statement to HUD recommending improvements in applicability, disclosure, and antikickback guidance. ALTA recommended many changes in regulations pertaining to Section 8 of RESPA and proposed a number of suggestions concerning the questions and answers for offering guidance on Section 8.

HUD published newly revised regulations and a revised settlement information booklet that were effective June 30, 1976. Significant changes were made that strengthened the antikickback guidelines. Also, HUD expanded its definition of allowable activities under Section 8 of RESPA.

RESPA laws and regulations continued to be enacted after 1976.

### Savings & Loans Wanted In

In yet another issue to threaten the title industry, in May 1970, the Federal Home Loan Bank Board (FHLBB) issued proposed regulations that would allow savings and loan service corporations to engage in abstracting and title insuring.



ALTA submitted a letter to the FHLBB urging changes in the proposed regulations so as to not authorize this activity.

The ALTA revisions were not adopted by the FHLBB; thus it was possible for service corporations to engage in abstracting and title insuring. This was a matter of great concern to the ALTA.

The FHLBB adopted a regulation providing that no insured institution may grant a loan or extend service on the prior condition that the borrower contract for title examination, escrow, or abstract services.

At the 1971 ALTA Mid-Winter Conference members adopted a resolution opposing the FHLBB regulations that permitted the entry of service corporations into the areas of abstracting, land title insurance agency operations, and land title insuring. It was forwarded to the FHLBB. A few months later, the FHLBB announced that service corporations, without prior approval, could engage in certain activity including abstracting but had to first obtain FHLBB permission before beginning title insurance broker or agency business.

On January 5, 1973, the FHLBB published proposed regulations to allow service corporations of federally chartered savings and loan associations to engage in the title insurance business as title insurance underwriters or agents.

ALTA advised the FHLBB that by so operating, service corporations would be acting contrary to state and federal antitrust law, would be in a position to violate state-controlled business statutes, would be in a conflict of interest situation, and might be proceeding without proper statutory authority.

The FHLBB asked ALTA to expand on its antitrust concern. ALTA submitted a statement contending that the proposals were in clear conflict with the antitrust policy against market foreclosure. ALTA believed that the proposals would create a closed market in which outside competitors could, and probably would, be effectively foreclosed from competition for business and transactions in which a savings and loan that has a title company is the lender.

There will be more on service corporations in future articles on ALTA's history.

### Indian Claims

Beginning in 1977 Indian claims became a big issue for the title industry. ALTA was deeply involved with the issue.

In a series of lawsuits, Indian tribes sought the return of property located in New England. The two largest suits were brought against the state of Maine and the municipality of Mashpee, Massachusetts.

Two tribes in Maine claimed ownership of 58 percent of the state, some 12½ million acres. They sought \$25 billion in back rents and damages. The tribe in Mashpee claimed the entire town, 17,000 acres.

These cases were based on alleged violations of the Federal Non-Intercourse Act of 1970. This act provided that land transactions between an Indian tribe and a non-Indian party must be supervised and ratified by Congress on behalf of the sovereign United States. An unratified transaction, under the act, was null and void. The tribes contended that the federal government had not approved the sale of lands as required under the act.

ALTA formed a Special Committee on Indian Land Claims to keep



abreast of such claims, to work with law firms capable of researching Indian history and law, and to be a source for ALTA members for factual and legal information on Indian claims.

ALTA staff met with the New England Land Title Association and planned to provide extensive help with respect to these claims through this newly created committee.

As a result of the Indian claim involving the entire town of Mashpee, banks and mortgage lenders were reluctant to make mortgage money available in that area. On March 21, ALTA representatives met with Senator Edward Brooke (R-MA) at his request to discuss this matter. He urged title companies to get “the economy moving again” in Mashpee and to issue title insurance policies on Mashpee properties. The title company representatives said each would have to make an independent

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underwriting judgment on providing title insurance in Mashpee.

President Jimmy Carter appointed Judge Gunter to review the Indian Claim disputes in Maine and Mashpee and to recommend a solution.

In May ALTA met with Judge Gunter and recommended that any federal solution include the following two ingredients:

1. Landowners, purchasers, lenders, and local tax authorities must be assured that existing titles were marketable and insurable; and
2. Landowners must not be subject to financial liability for trespass damages or any other forms of damage.

ALTA representatives believed that their input to Judge Gunter had a positive impact on the recommendations concerning the Maine claim he made to President Carter on July 15.

But the tribes did not accept Judge Gunter's recommendations.

In October House and Senate committees held hearings on proposed legislation to alleviate some of the economic problems posed by the claims of the Mashpee Tribe. ALTA submitted a written statement pointing out a number of substantive and technical problems with the legislation and several reasons why the measure might not make title to residential property marketable in Mashpee. This legislation was voted down during markup proceedings.

However, a federal court jury decided that the Indians, who filed a land claim against the town of Mashpee, did not meet the legal definition of a tribe and thus in effect rejected their claim.

On February 13, 1979, the United States Court of Appeals for the First Circuit unanimously affirmed this decision.

## Other Highlights This Decade

### Torrens System

When adoption of the Torrens System was advocated at the local level, ALTA responded to requests for help from affiliated associations. The Torrens System was a system wherein public officials by statute promulgate a system of land registration and title certification. Assistance was given to the District of Columbia Metropolitan Area Land Title Association, in its efforts to oppose a proposal by our old friend Martin Lobel from Senator Proxmire's office, to have the District of Columbia adopt a compulsory Torrens system.

ALTA representatives also assisted the Maryland State Title Insurance Association, Inc. in connection with proposed legislation to bring a compulsory Torrens system to Montgomery County, MD. Mark Winter, ALTA's director of government affairs and William McAuliffe, ALTA executive vice president attended meetings of a Montgomery County Task Force Committee considering this proposed legislation. Subsequently the proposal to establish a Torrens system in Montgomery County was voted down.

ALTA assisted the Washington Land Title Association in connection with a discussion of ideas for expanding the Torrens system in Washington during a public conference on housing in Seattle.

### ALTA Conventions

Up until 1976, ALTA conventions were held in cities where ALTA was invited by the local state association. The state association bore some of the costs of the convention. When one local association declined to issue an invitation because of the costs it would incur, the ALTA Executive Committee decided that beginning in 1977, ALTA would pay for all the costs and

not be dependent upon an invitation by a state association. This action allowed ALTA to select the convention site, a practice which still continues today.

### TIPAC

In 1973 the Board of Governors created the Title Industry Political Action Committee, TIPAC. Its purpose was to provide individuals in the title industry with a voice in federal politics through campaign contributions.

Francis E. O'Connor, the first TIPAC Chairman, Senior Vice President, Chicago Title and Trust Company, Chicago, Il, in his report at the 1973 ALTA Annual Convention, said: "At this very moment, matters crucial to the future of our industry are pending in the Congress and in state legislative bodies throughout the country. This demands that we organize our efforts so that our voice may be heard by those having a vote on issues affecting us so vitally. TIPAC is designed to do just that for us."

In 2007, TIPAC is one of the most effective tools available to make sure that ALTA concerns are heard in Washington.

### The Next Decade: 1979-1989

Look for the article on the next decade of our history in the July/August issue of *Title News*. If you missed a decade during the year, you can find all of the history on ALTA's Web site under the special 100th Anniversary Section.



**William J. McAuliffe, Jr.** was executive vice president of ALTA from 1965-1984. He is serving as historian and adviser to ALTA during this 100th anniversary celebration. He can be reached at [billm@alta.org](mailto:billm@alta.org).

# The Future of the Title Insurance Policy

ALTA's first executive vice president offered his predictions in 1956 on the future of the title industry and specifically the important role the title policy would play. See if his predictions came true.

**H**ow do I dope out our future? Not the future tomorrow morning before breakfast; but just as sure as day follows night, I truly believe the future will come into our field of endeavor. My predictions will come by voluntary action on our own part. They will come as the result of public demand.

## 1. The extinguishment of the abstract as we know it today?

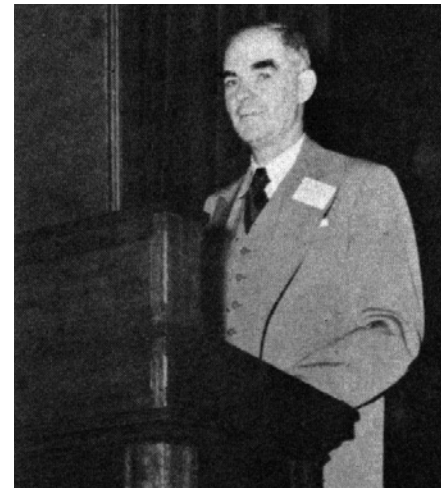
Note please I close this with a question mark not a period. It is not a statement. It is a question. I wish I could completely resolve my own thinking on this point.

There are many facets in the diamond of our profession. Some are pure white as for instance the complete title plant -- an absolute necessity, in my judgment, or its

equivalent, in the economic life of any community.

But that is only one facet. There are others. One is on the discolored side. It is the slowness of service made necessary by the preparation of the abstract itself and intensified by the constantly increasing size of the abstract, both in the number of pages and the material to be covered in the entries.

Another is the inability or the unwillingness of the abstracter in some localities to do much toward speeding up service of abstracts. I could cite -- but will not -- plenty of instances to prove where poor service by the abstracter accomplished results that were dire to the future of his own business. One is the appearance in the field of a competing abstract company.



▲ Jim Sheridan speaks at ALTA's 50th Annual Convention.

Another is the entrance of the title insurance more and more into community life.

In other words, I presume that the extinguishment of the abstract of title as we know it today will be affected, will be retarded or postponed, or will be speeded up exactly in proportion to the good or poor service the abstracter gives to the public.

## 2. The growth and expansion of the use of title insurance.


First of all I want to emphasize that I work for you who make abstracts only; I work for you who make abstracts and also have a title insurance connection; I work for the title insurance companies. Our job in national headquarters is to be of service to all. I am no proponent for one method as against another. We try to report our observations based upon facts and without any

coloring of personal affection for or against any other.

Only he who buries his head in the sands would deny, the growth of title insurance is phenomenal. This has been notably so in case of mortgage policies. I shall not dwell here for the reasons for the demand. Suffice it to say the demand is there, and there are companies able and willing to fill the demand.

The next great forward step in the further extension of title insurance, in my judgment, will occur in the owner's policy. It is under way now. I do not expect it to be stopped or slowed down. There are too many buyers from too many localities who call for it.

No matter what the condition may be today or may be tomorrow, I believe the abstract office is and will continue to be the fountainhead of title evidencing. There are rough

 No matter what the condition may be today or tomorrow, I believe the abstract office is and will continue to be the fountainhead of title evidencing.

spots between various factions or segments within our profession. That is admitted by all. There are obstacles to be overcome. That, too, is admitted. But the ingenuity of the American businessman I predict will solve, will surmount these obstacles.

As I see the future of our profession, the modern, up-to-date local abstract office will be as necessary to the title insurer, to the local examining attorney for said title insurer, and also to the general public as are the

five senses of the body are necessary to the continuance of life itself.

Here below I outline my own personal thinking of the future of the title insurance policy; and it will be clearly seen I interweave the local title plant, the abstract office, the local examining attorney agent of the title insurance company and the title insurance company itself into mosaic -- each of necessity vital to the other.

The title policy of the future, as I visualize it, will differ from the title policy of today to the point that the information contained in the local abstract and title plant is vital to the proper issuance of the policy.

Or, put another way, conceivably the abstracter of titles could survive in a market which consists of abstracts of title plus the opinion of the examination attorney. The insurer of titles will find it necessary to procure, by means available to him, information

necessary to the issuance of his policy in the form desired by the public.

The owner's policy of title insurance of the future will cover, I believe, points of information and indemnity not now therein contained. Some of these are already in the cards. Still others undoubtedly are in the remote future. But come they will through a wedding of the title insurer and a local agent who is in possession of a plant or who can procure the necessary data from a plant; and the


local office can become a headquarters of realty transactions.

Let me emphasize here and now this point: Assuming title insurance -- owner's policies as well as mortgage policies -- continues at the phenomenal growth witnessed in the last ten to fifteen years outside the large urban centers into the medium-sized towns and then down to the rural areas, it becomes rather obvious that the insurer will need the information contained in the title plant, or its equivalent, in the form of an adequate search of the public records. Each complements the other. One is necessary to the other. There should be a full partnership working agreement.

The reverse is equally true. The relationship can not function successfully if it is a wedding of convenience, a stopgap arrangement. It can not and must not be a shotgun wedding. It should not be viewed by the abstracter as a necessary evil, which, reluctantly, he has accepted. Nor should it be considered by the title insurer as one step in a campaign, long or short, to take over the office of the abstracter and operate it as a branch office.

If the policy of the future does come into fruition, it will include numerous items of coverage not now contemplated by either the insurer or his agent. It will mean additional exposure for the insurer and his agents; it will mean additional work and additional expense. And it will mean additional revenue.

This then is my conception of the all-inclusive policy of title insurance, owner's form -- a comprehensive policy it might be termed.

 A. In the ATA form the insurer covers materialmen's liens and labor liens. I expect this to be extended to the owner's policy.

■ B. There is an ever increasing request for an owner's policy that carries protection against rights of parties in possession and questions of survey.

Requests for both, at the moment, seem to stem largely from great industries seeking to invest pension funds in real estate. Associate counsel of one large industrialist takes the position that pension monies are trust monies and he wants in the way of protection for that trust money anything and everything that, in the nature of protection, he can buy. More lately he has extended his thinking to investments by his company in industrial property owned by his company per se.

■ B1. For the title insurer this means more inspection and greater care in inspection.

■ B2. In the case of the agent it means exactly the same type of inspection. Thus to both it means increased operating expenses.

## The modern, up-to-date local abstract office will be necessary to the title insurer.

■ B3. In the matter of survey coverage it means both will have to use much greater care in selecting engineers to do the survey work.

I would not be surprised to see many title insurer companies be concerned enough to maintain their own engineering department rather than rely on outside engineers, particularly engineers about whose ability they have some doubts, and engineers from whom recovery for loss occasioned to the title insurer by engineering errors might be remote.



▲ Jim Sheridan, third from left, celebrates ALTA's 50th anniversary with his executive committee.

■ B4. In the case of the agent I do not foresee company-employed engineers necessary except in a few spots where the size of the community might warrant such employment. But I do believe the abstracter agent will have an extremely close business relationship with a few -- not many -- engineers whose work he will be willing to accept--and none others.

Perhaps it might even shape up to the organization of a wholly-owned subsid-

ary operated by a firm of engineers.

■ C. A death-record plant.

■ D. Federal liens; an index of federal liens. Requests for coverage against the above are steadily on the increase. Such additional service to the beneficiary means in turn the call will move down into the locality of his agent. Yes, it means additional expense -- increased service -- but it also means increased revenue.

It is exactly in the same category as is the extension by the abstracter to cover probate and court back in the old days.

■ E. Zoning Ordinance. There is an ever increasing request on the part of owners of real estate for information on this. It applies both to abstracts and title insurance policies. It comes from the large, medium-size, and small incorporated towns.

For anyone to build a record of zoning ordinances admittedly is a monumental job. I do not believe the demand for this will come in the immediate future, but I do suspect it will come.

In other words, ladies and gentlemen, I expect the calls upon us to ever be on the increase and never on the decrease.

■ F. Future physical improvements authorized by the governing body of a political subdivision but with respect to which no lien as yet has been spread.



**James E. Sheridan** was executive vice president of ALTA from 1931-1959 when it was headquartered in Detroit. This article was

originally printed in the November 1956 *Title News* as part of the proceedings from ALTA's 50th Annual Convention that year in Miami Beach, FL.

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 inside the industry

# Flood Map Modernization Affects Everyone

Congress has approved the multiyear Flood Map Modernization effort to update these maps and transform them into more reliable, easy-to-use, and readily available digital products. Using them will help you help your customers.

## Protect Against the High Costs of Flooding

**F**looding is the number one natural disaster in the United States and has increasingly been a topic in the news headlines in recent years.

While the record hurricane season of 2004 and the catastrophic season of 2005 definitely made front-page news, flooding occurs throughout the country...and throughout the year. Though hurricanes do cause flooding and their dramatic impacts make the news, floods can also be a result of slow moving storms, quickly melting snow, water backup due to inadequate or overloaded drainage systems, and dam or levee failure. Flooding is traditionally associated with the spring and summer months; however, winter storms and rains can

create just as much damage. For example, from November 2005 through April 2006, federal disasters involving floods were declared in eight states west of the Mississippi River, and resulted in more than \$122.8 million in flood claims being processed.

And when floods occur, homes and businesses are damaged in areas prone to high-risk flooding, as well as low-risk and moderate-risk areas. In fact, about one out of four claims filed with the National Flood Insurance Program (NFIP) have occurred in the low- and moderate-risk areas. So, everyone is potentially at risk. But financial protection through the purchase of flood insurance is easily available in the NFIP's some 20,200 participating communities through local insurance agents, with over 85 companies writing the insurance on

behalf of the federal government. Homeowners' insurance policies do not provide coverage for flooding damage. Flood insurance can be written for properties located in high-risk, moderate-risk or low-risk areas. The average NFIP premium is about \$500 a year, and there are currently 5.3 million NFIP flood insurance policies in force.

## Flood Zones, Maps, and Flood Insurance

To determine in what flood zone a home or business is located, an insurance agent or lender (or their servicer) will utilize one of FEMA's (Federal Emergency Management Agency's) flood hazard maps to identify the flood risk. If the flood zone determination is being performed for a closing, and the results indicate that the building is in a high-risk zone (known as a Special Flood Hazard Area) and the loan is through a federally regulated lender, then flood insurance will be required at closing. (Unfortunately, a recent study by RAND Corporation indicated that just over half of the properties in high-risk areas in the U.S. are not covered by flood insurance.)

Because these flood hazard maps, also known as Flood Insurance Rate Maps (FIRMs), indicate areas at risk of flooding, they are important tools in the effort to protect lives and properties across the United States. Many of these maps currently in use were developed in the early days of the NFIP and require updating. Over time, water flow and drainage pat-

terns may have changed dramatically due to surface erosion, land development, and natural forces. Consequently, a community's flood hazard maps may not accurately portray the current flood risks.

### What Is Flood Map Modernization?

Recognizing the need for more reliable flood hazard maps nationwide—and at the urging of a coalition of many stakeholder associations—Congress approved the multiyear Flood Map Modernization (“Map Mod”) effort to update these maps and transform them into more reliable, easy-to-use, and readily available digital products. As a result, Map Mod is enabling communities, citizens, and stakeholders to more efficiently obtain flood hazard data, learn their flood risk, and make more informed decisions about land development, floodplain management, and mitigation projects that limit damages in future flooding events. Ultimately, this effort will result in safer communities. The current goal of Map Mod is to produce digital flood maps to cover 92 percent of the population of the United States and 65 percent of its land area by 2010. As of December 2006, 48 percent of the U.S. population has digital GIS flood data, and 23 percent of the U.S. population has effective flood maps that meet quality standards.

Regarding residents and businesses, remapping of their communities will provide them with up-to-date, reliable, Internet-accessible information about their flood risk on a property-by-property basis. By showing the extent to which areas in their community are at risk for flooding, the new flood maps will help these home and business owners understand their current flood risk and make more

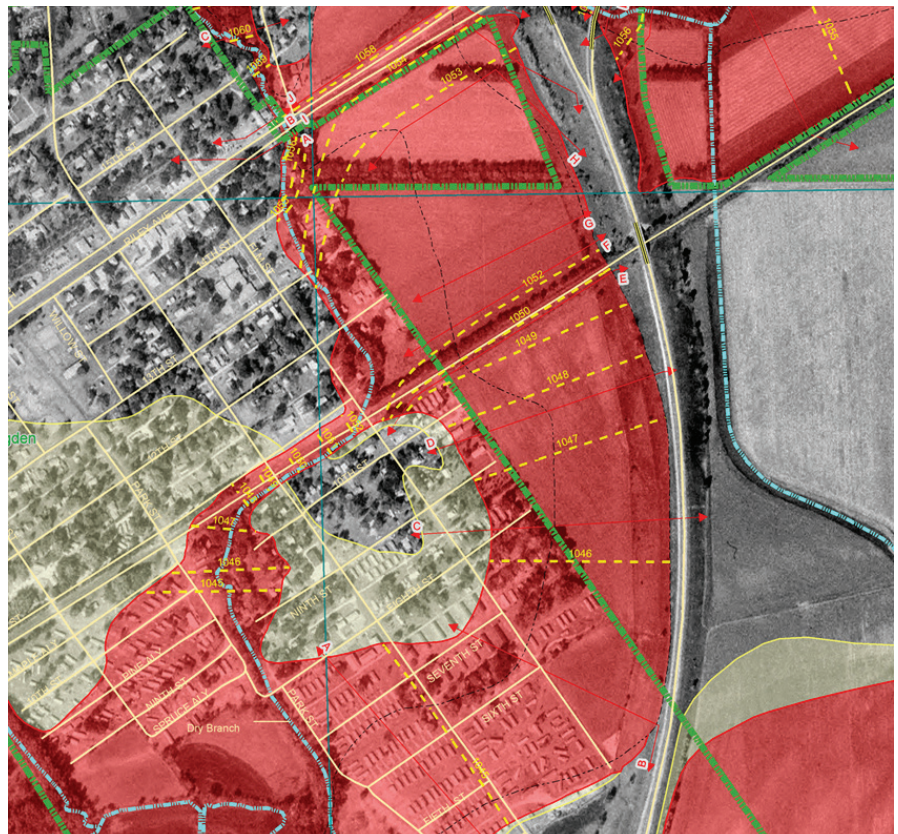
informed financial decisions about protecting their property. (Perhaps the number of people financially protected in high-risk areas with flood insurance will increase!)

Using the latest mapping technology, incorporating the most recent data in current models, and delivering it in a Geographic Information System (GIS) format will not only allow the digital maps to be updated more easily and less costly in the future but will also provide the most accurate picture of the current flood risk. This means that many flood designations will change with the new flood maps. It is important that community residents and business owners know their flood risk and understand how these map changes will affect their flood-insurance requirements. Property owners may learn that their flood risk

is lower or higher than they thought. So, it is important they stay informed throughout the mapping process.

### Staying Informed Throughout the Mapping Process

Typically, when a community goes through a remapping, the preliminary maps are officially presented to the community and that community holds public meetings for the citizens to learn about the changes. A 90-day period then follows, which allows for interested parties to file an appeal or protest to the maps. The community must provide documentation that is the most recent scientific information proving that the specific portion of the map is not accurate. Once all of the appeals and protests are addressed, FEMA will issue a Letter of Final Determination, which basically



**A** Digital Flood Insurance Rate Map

gives the community six months to pass an ordinance that adopts the new flood maps and related flood insurance studies. Once those six months are up, the new flood maps become effective. It is at this time that any changes in

in compliance with the flood map in place at the time of construction or who have maintained continuous coverage. As a result, they can utilize the flood insurance rates for the zone in effect at the time the building was

## It is important that businesses involved in the sale and purchase of properties stay informed throughout their local remapping process.

flood zones—and hence new flood insurance requirements—become effective. Consequently, it is important that anyone involved in the sale or purchase of a property with a structure on it stay updated throughout this whole process. This will help ensure a smooth closing and no surprises concerning a change in the flood zone and the sudden need for flood insurance at the last moment or, even worse, buyers walking away from the sale because they learn at closing that the property is in a high-risk area.

### Knowing Your Flood Risk

As mentioned earlier, when property owners are mapped into a high-risk area (noted on the flood maps with the letters “A” or “V”) and they have a loan through a federally regulated lender, they will be required to carry flood insurance. This often translates in the owner’s mind as meaning high costs for flood insurance; however, it is important that they know their options. If a building is redrawn into a high-risk area, there actually are lower-cost options available through the NFIP’s “Grandfathering” rule. This Grandfathering rule was created to recognize policyholders who built

built or when coverage was taken out, respectively.

If the building on a property is remapped from a high-risk zone to low- or moderate-risk zone—noted as “X” on the flood maps—the flood risk is reduced but not removed. Though these properties do not have a federal requirement for flood insurance, there is still risk for flooding. As mentioned earlier, FEMA statistics show that 20 to 25 percent of flood claims occur in moderate- and low-risk zones. Property owners may qualify for the lower-cost flood insurance policies, known as Preferred Risk Policies, with premiums starting as low as \$112 a year for building and contents coverage.



If the building on a property remains in the same zone, residents and business owners should be encouraged to contact their insurance agent to review what coverage options offer the best protection for their property.

### Stay Informed

By better identifying the current risk, Flood Map Modernization will result in safer communities across the U.S. It is important that businesses involved in the sale and purchase of properties (i.e. title companies, lenders, real estate agents, property appraisers, insurance agents) stay informed throughout their local remapping process. This will allow them to be a resource to their clients by helping them understand the property’s current flood risk, if and how it will be changing, and how to ensure it is then financially protected.

For more information about flood map modernization and flood insurance contact:

- FEMA Web site on Mapping: [www.fema.gov/plan/prevent/fhm/mm\\_main.shtm](http://www.fema.gov/plan/prevent/fhm/mm_main.shtm)
- For general information about flood insurance: [www.FloodSmart.gov](http://www.FloodSmart.gov)
- For specific mapping questions: FEMA Mapping Assistance Center 1-877-FEMA-MAP
- Visit FEMA’s Map Service Center’s website at [www.msc.fema.gov](http://www.msc.fema.gov) or call 1-800-358-9616.

Diane Littles is part of the Mapping on Demand (MOD) team, National Service Provider for FEMA’s Flood Map Modernization. She can be reached at [diane.littles@mapmodteam.com](mailto:diane.littles@mapmodteam.com)

Bruce Bender is with Bender Consulting Services, Inc. and a member of the MOD team. He can be reached at [Bruce.Bender@mapmodteam.com](mailto:Bender@mapmodteam.com)



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# > member news

## Member news

### CALIFORNIA



**Mary Kay Kennedy** has been named senior vice president for the Northern California region of First American Exchange Company, LLC, San Jose, a member of the First American family of companies. She has been vice president and counsel for the Northern California region since 2003.



**Mandy Krawchuk** has been appointed vice president, Stanislaus County sales manager for Old Republic Title Company, Stanislaus County. Previously she was with a competitor in the title department.



**Casey Sheehan** has been appointed senior vice president, Sacramento County manager for Old Republic Title Company, Sacramento County. Sheehan has over 40 years of experience.



**Thomas L. Schlesinger** has been named senior vice president, director of national settlement services operations, of the Lenders Advantage Division of First American Title Insurance Company, Santa Ana. He was also recently named senior vice president and chief operating officer for Lenders Advantage's Western region.

### MARYLAND



**Albert G. Boyce** has been promoted to vice president and counsel for the National Services Group of Old Republic Title Insurance Company, Columbia. He joined the company in 2006 as claims counsel for National Agency.

### MINNESOTA



**Nathan Heinz** has joined LandAmerica Commercial Services as advisory title officer in the St. Paul office. Heinz previously worked with title companies in Indiana and Wisconsin.



**Michael Tarpey** has been promoted to vice president and treasurer of Old Republic National Title Insurance Company, Minneapolis. Tarpey joined Old Republic's International Finance Department in 1993. He moved to ORNTIC in 1998 and most recently was vice president, claims and financial analysis.

### PENNSYLVANIA



**Elaine Layton** has been promoted to vice president and deputy general counsel for Old Republic National Title Insurance Company, Cannonsburg. Previously she was vice president and counsel for the National Services Group.

### TEXAS



**Mark A. Bilbrey** has joined Old Republic National Title Insurance Company as senior vice president and chief operating officer of the Central Title Group in Houston. Previously he worked for a national underwriter as its national agency sales manager. Prior to that, he was president of Warranty Title & Abstract in Oklahoma.



**David Tandy** was named president of United Title of Texas' Austin division. Previously he was chief information officer of a national underwriter and executive vice president of a vendor management company.

## KUDOS

**North American Title Company**, Phoenix, AZ, has received top honors for its Arizona division. *Arizona Business* magazine named the division "Best Title Company" as part of its 2007 Ranking Arizona: The Best of Arizona's Business. North American placed first out of 46 title companies in the residential real estate category.

Who ranked 2-10? In order, they are: Lawyers Title of Arizona, First American Title, Chicago Title, Stewart Title, Great American Title, LandAmerica Transnation, Security Title, Capital Title and Fidelity National Title.

Conducted by *Arizona Business* magazine, Ranking Arizona: The Best of Arizona's Business is the largest business opinion poll in the state. The magazine selects 250 categories for the public's vote based on business and leisure activities of Arizona's business professionals.

## Mergers & Acquisitions

**Old Republic Title Holding Company**, Oakland, CA, has acquired North State Title Company, with six offices in Yuba, Colusa, Glenn and Sutter counties.

## New Members

### Active Member

#### ALABAMA

Sheila Lambert  
**North Alabama Title Co**  
*Ashville*  
Greer Bisignani  
**Title Now, Inc.**  
*Birmingham*

#### ARIZONA

Denise Robins  
**Master Title Agency, Inc.**  
*Phoenix*

#### CALIFORNIA

**GWI Consulting, Inc.**  
*Irvine*

#### COLORADO

Robert Howe  
**Title Company of the Rockies, Inc. - Eagle County**  
**Subsidiary of Title Midwest, Inc.**  
*Avon*  
Brian Cooper  
**Unified Title Company, LLC**  
*Colorado Springs*

#### CONNECTICUT

Angela Fedumentti  
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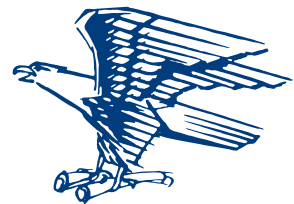
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