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# TitleNews

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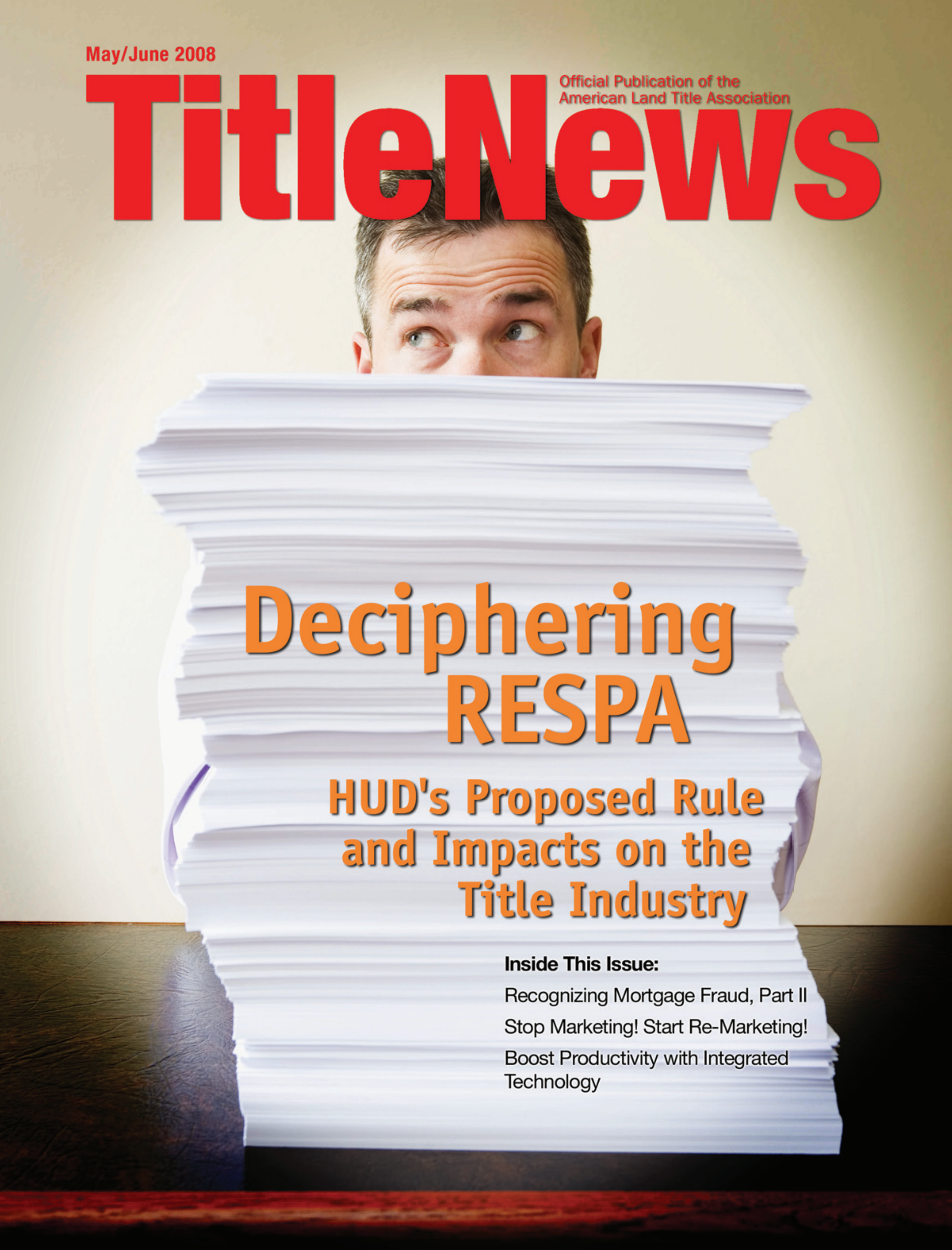

## Deciphering RESPA

### HUD's Proposed Rule and Impacts on the Title Industry

**Inside This Issue:**

Recognizing Mortgage Fraud, Part II

Stop Marketing! Start Re-Marketing!

Boost Productivity with Integrated Technology


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# TitleNews

PUBLISHER
**Kurt Pfotenhauer**

EDITOR IN CHIEF
**Michelle Sweet**

DESIGN/ELECTRONIC PRODUCTION MANAGER
**Shawn Sullivan**





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point of view

# HUD's Missed Opportunity for Positive Change

Every good leader understands that for significant change to occur, there must be a special climate that incubates that change. Every good leader understands that those special times...those opportunities...are rare and must be used thoughtfully in order to have maximum benefit.

The Department of Housing and Urban Development's (HUD) proposed overhaul of the Real Estate Settlement Procedures Act (RESPA) arrives at a critical time of opportunity, but tragically misses the mark as a positive change agent.

I, along with many in our industry, had high hopes that HUD would take real measure of this special time of interest in the housing market and use this rulemaking opportunity in a very surgical and progressive manner to help simplify the closing process for consumers.

In my view, instead of simplification the proposed rule creates confusion. And rather than promote consumer choice, it ultimately will limit consumer choice.

The implementation cost to small business is staggering. And it's not just the financial cost. The proposal places an enormous burden on the settlement agent to explain items and/or discrepancies that were CREATED by the lender. The sheer lack of forethought and understanding of the component parts of the settlement process is alarming.

In addition, the proposal provides a misguided marketing advantage to some players with the "guaranteed" pricing structure for some of the settlement charges. The guaranteed pricing structure has been described as "the discount store approach to lending and settlement," largely because it is almost exclusively focused on price and concentrates the determination of that price into very few hands.

It is this "concentration of choice" that will ultimately betray the American consumer. The net effect of the guaranteed pricing structure will tilt the playing field away from small title companies and small lenders. Both will be unable to compete as the flight from quality at a fair price becomes a train wreck of high-volume lenders dictating prices that can only be met by equally high-volume title companies. As competition is driven away, the consumer will be left with fewer choices. Not only will prices then rise, but the consumer's ability to choose from a wide array of providers will have been snuffed out by the very agency that was supposed to be protecting their ability to choose.

And, once again, the proposal forgets that for every buyer (that HUD purports to be protecting), there is a seller. The proposed rule acts as if the buyer is the only person affected by the process. During the last ill-fated rule discussion, the title industry repeatedly reminded HUD that many of the buyers were also sellers in a companion sale. HUD's new rule still does not exhibit any understanding of "trading up" or the seller's role in the transaction.

This proposal does much more harm than good...to everyone. For every attempt to solve a perceived problem, the probability…the certainty...of unintended consequences looms large.

Every good leader understands that an opportunity for substantive change is rare. Every good leader understands that such an opportunity, when lost, is seldom recovered, but I fear HUD will cling to this ill-advised rule, preferring to pass something rather than taking the more difficult path of substantive change. The homebuying process is too important to the American consumer and our economy to deserve such treatment. The opportunity for substantive change is not lost, but this proposed rule is wasting precious time.

– Michael B. Pryor

# news

## ALTA's 2008 Annual Convention • October 15-18, 2008
## Koloa, Hawaii • Innovative Strategies in Today's Market

Is your business positioned to face the challenges of the downturn in the real estate market? Are you taking advantage of these changes to position your business for the new market? Come to the American Land Title Association's 2008 Annual Convention to hear from national experts, learn relevant industry and management topics for your business, and network with the leaders in the land title profession.

This year's Annual Convention features world-class experts on business, the economy, and politics who will present exclusive information on the changes in their field and how the title industry will be affected. Just weeks before the national election, our presenters will share timely information from an insider's perspective.

The professional development sessions offer more than a dozen educational programs providing strategies and tools to help ALTA members successfully navigate the challenges ahead. Sessions include:

- Surviving the current real estate market
- Where to look for new business opportunities
- Ensuring compliance with federal and regulatory requirements
- Shifting to a "consumer" culture
- Adopting and adhering to ethical standards and business practices
- Educating the public about the value of the land title industry

### WHAT'S NEW IN 2008

ALTA is continually striving to enhance the programming of our signature annual event. This year's educational components are designed to educate you on topics specific to the current market and provide you with the tools you need for business success in the new market.

- ALTA's 2008 Convention offers CE/CLE credits for many of the educational sessions. Participants will be able to sign-up on site to apply for credits in their particular states.
- Expanded concurrent programming offers attendees a choice to attend multiple professional development sessions specific to your needs as an agent, manager, or underwriter.

Watch for specific program and registration details on ALTA's Web site (*www.alta.org*) and in next month's issue of Title News.

## Spotlight on Exhibitor Showcase

Members can explore the vast array of new products and services at the Exhibitor Showcase. More than six vendor product demonstrations are scheduled to educate ALTA members on today's technological advances, which may help your business run more efficiently and effectively.

# > news

## Michelle Korsmo Appointed SVP at ALTA

Michelle Korsmo joined ALTA on April 7 as Senior Vice President of Marketing and Member Services. In her new role, Michelle will oversee corporate communications, member services and education, and membership development.

Michelle was Executive Vice President of the Americans for Prosperity (AFP) Foundation, a Washington, D.C.-based nonprofit organization dedicated to educating citizens about economic policy. She managed a team of 52 people and a $10 million budget for the Foundation.

Previously Michelle was Deputy Chief of Staff to U.S. Secretary of Labor Elaine L. Chao, serving as liaison for the secretary to various offices of the White House.

Michelle's husband, John, for many years owned and operated and abstract and title company in Fargo, North Dakota, and was a long time member of ALTA and TIPAC.

According to ALTA CEO Kurt Pfotenhauer, ""I am very pleased to have Michelle in this important role. Her strategic vision and management skills will help us identify and implement programs and services that meet the needs of our members in a rapidly changing economy and real estate market."

Michelle can be reached at 800-787-2582, ext. 218, or *michelle_korsmo@alta.org*.

## LTI Online Has a New Vendor

LTI Online is up and running following the successful online migration to Castle Worldwide, LTI's new online partner. All prior access codes and pricing structure remain the same. LTI made every effort to simplify the student experience, and we hope that you enjoy the updated platform. For more information about the courses, go to *www.alta.org/lti/courses.cfm* or contact Kevin Russell (800) 787-2582 ext. 232; *kevin_russell@alta.org*.

## The Return of Thaddeus Eagle

"The Return of Thaddeus Eagle: Completing a Title Insurance Commitment Form," a new educational video in DVD format, is now available from The Land Title Institute, Inc. This updated program replaces the previous LTI Commitment Form video.

The 17-minute video provides a detailed explanation of Schedules A and B of the 6-17-06 ALTA Commitment Form and the differences between Exceptions and Requirements.

Land Title Institute

The purchase price is $71 for ALTA members and $101 for nonmembers. To order online, please visit the Land Title Institute page on *www.alta.org*, or contact LTI's Education Manager, Kevin Russell at *kevin_russell@alta.org* or 1-800-787-2582 x 232.

## Pat Berman Retires

Pat Berman retired as Director of Education after 24 years of service to ALTA and its members.

Pat, known as "Mom" to most of us, started at ALTA in May 1970 as Executive Secretary to William J. McAuliffe, Jr. After a short hiatus, Pat returned to ALTA as the Director of Education and Member Services, and the overseer of the Land Title Institute. In this capacity, Pat spearheaded the administration and development of three LTI correspondence courses, the production of educational videotapes, coordinated regional seminars and educational sessions, and was the creator of Title Triumph.

Pat and her husband Bill will be living a quiet life in Holly Springs, NC. ALTA would like to thank Pat for her years of service and wish her all the best.

# TIPAC Update

I highly recommend attending the ALTA Federal Conference held in March. The 2008 conference had a high level, powerful agenda featuring federal officials, officials from state departments of insurance, and industry experts. Especially relevant to 2008, attendees heard analysis of the presidential election from nationally recognized political analyst Amy Walter.

On Wednesday, ALTA members were ambassadors for the title industry in important Federal meetings. ALTA held a breakfast in the U.S. House of Representatives, heard legislative updates from Congressman Paul Kanjorski of Pennsylvania and Congressman Tom Feeney of Florida. FHA Commissioner Brian Montgomery shared HUD's priorities in today's market. ALTA members presented our position on RESPA Reform during intimate meetings with our Senators and Congressman. I was struck by the romance, charm, and a feel of power when you walk the halls of Congress.

I am proud to say that TIPAC has raised $67,620 from 165 member contributions in the first quarter of 2008. With a goal of $200,000 in 2008, I believe we can exceed the mark. Last year we had almost 600 contributors, with most contributions arrive in summer and fall.

A tremendous thank you goes to three individuals who have given TIPAC the maximum yearly contribution: ALTA President Gary Kermott, ALTA Board Governor Ted Chandler, and ALTA Member William Peirson of Texas. These "max-out" contributions are the cornerstone of expanding the effectiveness of our PAC. Another key indicator of the strength and influence of our PAC is the growth in the number of new contributors. This year we have seen tremendous growth in first time contributors giving amounts ranging from $25 to $2,500. All contributions are critical to our success in making this year's goal a reality.

Thank you for your support and please continue to "REACH FOR THE STARS".

John Voso can be reached at: jvoso@oldrepublictitle.com

# Head of Small Business Administration Nominated to Lead HUD

The Bush Administration nominated Steve Preston, the Small Business Administration (SBA) Administrator, to be Secretary of the Department of Housing and Urban Development (HUD) on April 18, 2008.

If approved, Preston, 47, would replace Alphonso Jackson, who resigned last month. Preston is taking over at a sensitive time as demands grow for a more effective federal response to the home foreclosure crisis.

During his tenure as SBA Administrator, Preston led a reform agenda to make the agency more accountable and responsive, especially to small business owners affected by natural disasters. The Bush administration credited him with managing loan guarantee programs similar to those run by HUD.

"The department requires strong leadership at a time when our housing market is experiencing a period of challenge and uncertainty," said Bush in announcing Preston's nomination.

Prior to his appointment to the SBA, Preston worked for home services provider ServiceMaster starting in 1997, most recently as executive vice president of strategic services. He previously served as the company's executive vice president and CFO.

ALTA CEO Kurt Pfotenhauer welcomed Preston's nomination saying, "his experience with ServiceMaster and the Small Business Administration give Mr. Preston great insight into the needs of small businesses involved in the real estate community. I look forward to meeting with him quickly to convey the land title industry's priorities, especially as they relate to the pending RESPA reform proposal."

Preston also served as senior vice president and treasurer of payment-processing company First Data Corp. between 1993 and 1997. Earlier in his career, he was a senior vice president in investment banking at Lehman Brothers.

Although Preston's confirmation to lead the SBA was unanimous, there may be a bumpy ride this time around. Senate Banking Committee Chairman Chris Dodd (D-CT) has questioned the nominee's lack of housing experience during a time of housing crisis.

# Deciphering RESPA

## HUD'S Proposed Rule and Impacts on the Title Industry

Despite HUD's goal of simplifying the settlement process, the department has created a complicated rule that promises to be controversial. Read about the most important changes to RESPA and what they mean for the title industry.

The wait is over. On Friday, March 14, 2008, the U.S. Department of Housing and Urban Development (HUD or department) published its proposed regulations to reform the Real Estate Settlement Procedures Act (RESPA). HUD partially titles its rule a "Proposed Rule to Simplify and Improve the Process of Obtaining Mortgages"; however, the rule appears to be far from simple. >>

In addition to expected changes to the Good Faith Estimate (GFE), HUD proposes to introduce tolerances for settlement charges, require a new format for disclosure of yield spread premiums, modify the HUD-1 Settlement Statement (HUD-1), introduce a new closing script, and amend certain established RESPA definitions, to name a few. As a result, RESPA reform is never without controversy, and HUD appears to have created a complicated and controversial rule. Accordingly, this article summarizes the most important changes proposed by HUD's rule, and identifies certain practical issues that may impact the title insurance industry.

RESPA reform is never without controversy, and HUD appears to have created a complicated and controversial rule.

## I. Seven Main Components of Proposed Rule

### A. Good Faith Estimate

The GFE is the signature piece of the 2008 proposed RESPA rule. HUD's proposed rule takes the current one-page, suggested form for the GFE and requires a mortgage originator to provide a four-page standardized form within three days of receiving a GFE application. This proposed form would include a summary of the key terms of the loan as well as an estimate of total settlement charges. The rule would require a mortgage lender or broker to keep the GFE's offer for settlement costs open for ten business days to allow the consumer to comparison shop with other loan originators. With regard to the initial interest rate, the GFE must acknowledge that the rate is available until a specified date. Until that rate is locked, however, the initial interest rate may continue to float.

#### 1. Tolerances

Related to the estimate of settlement charges on the GFE, HUD proposes to create three separate categories of settlement charges and subject them, absent "unforeseeable circumstances," to different tolerances. The first category of fees would be subject to a zero tolerance standard, meaning the fees estimated on the GFE may not be exceeded at closing (i.e., lender's own service charge, recording fees). HUD would subject the sum of the fees in the second category to a 10 percent tolerance. While each individual fee in this category may increase or decrease, the sum of the total increases may not exceed 10 percent at closing (i.e., appraisal fees, title insurance fees if the services are obtained from a lender-recommended provider). The final category of fees would be subject to no restriction, meaning HUD would not limit the amount of any increase in the fees. These fees, therefore, may increase by more than 10 percent at closing (i.e., daily interest, title insurance fees if the borrowers shop for their own provider).

#### 2. Disclosure of Yield Spread Premiums

Although current RESPA regulations require yield spread premiums to be disclosed as paid to a mortgage broker outside of closing, HUD's proposed rule would require such fees to be disclosed on the second page of the new GFE form as a "credit or charge for the specific interest rate chosen." The "credit" in this case encompasses a yield spread premium, and the "charge" is meant to denote the presence of discount points.

#### 3. GFE Fees

In modifying the GFE, HUD states its preference that mortgage lenders and mortgage brokers not impose any charges for a GFE. The department, however, acknowledges that there may be incidental or nominal costs in providing GFEs to prospective borrowers. The rule, therefore, proposes to permit a lender to charge a fee but limits the amount to a lender's actual costs, including the cost of an initial credit report.

#### 4. FHA Origination Fees

Finally, under current FHA regulations, HUD limits the amount of an origination fee a mortgagee may collect to one percent of the loan amount. In the proposed rule, HUD has recommended that this limitation be removed. The department appears to believe that its new rule on the disclosure of settlement charges and tolerance limitations will force lenders to reduce their origination prices which, in turn, will alleviate any need for a maximum FHA origination fee.


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# ALTA Comments on RESPA

The following interview with CEO Kurt Pfotenhauer describes how the association is tackling this difficult and important issue.

### Why did HUD come out with this rule?

HUD's goal is to simplify the mortgage loan and settlement process and make it more transparent for consumers. While we certainly agree with that goal, we feel HUD's proposal falls considerably short and only creates more confusion in a process that is already mired in regulatory procedures and requirements.

### How does it fall short?

For one, it would impose a burden on settlement agents by requiring them to prepare and read a detailed "closing script" at settlement that includes an explanation of the loan terms which, in many states, is the function of an attorney. The proposal also arguably puts more control over the selection of settlement service providers into the hands of large national banks, to the detriment of local banks and local title agents/abstracters.

### What is ALTA doing?

We have had staff, the Government Affairs Committee, and expert consultants pouring through the proposal to determine its impacts. We also have solicited broad member input as to how this would affect their businesses. This is a complex rule that has more than 100 pages of text and a 500-page economic analysis. The department spent four years drafting the proposal, and they've given us two months to fully explore all the ramifications from a business, economic, regulatory, and consumer perspective. We've asked for an extension, and hope that by the time this goes to print, we'll have received it.

Secondly, we have been actively talking to members of Congress to educate them about the negative impacts of the rule and to request hearings on certain aspects of the proposal. Third, we are engaged with the Small Business Administration to bring its voice into the mix on behalf of all our small, independent agents who may be adversely affected. Fourth, we are engaged in discussions with other real estate trade associations—REALTORS®, mortgage bankers, brokers, and others—in an effort to unify our approach. Finally, we are engaging HUD directly and arguing our points face-to-face.

### Where can members find additional information about the new rule and the industry's position?

The actual proposal and other materials are posted on ALTA's Web site. Additional materials will be posted as soon as they become available. Meanwhile, there is a very good article in this issue of *Title News* that describes, in more detail, how the rule would impact our industry.

### What are the next steps?

We will continue to work with members of Congress and other trade associations in an effort to deal with issues raised by the proposal. We also will attempt to work with HUD to help craft meaningful alternatives to some of the more onerous requirements. Finally, we are asking our members to communicate the industry's concerns to their representatives of Congress.

*For more information, go to www.alta.org, Federal Issues/RESPA Reform.*

### B. HUD-1 Settlement Statement

#### 1. HUD-1 Form

While the current GFE and HUD-1 do not match or allow for easy comparison, HUD proposes to alter the HUD-1 form to allow a consumer to directly compare the fees identified on the GFE to those fees charged at closing. Specifically, the Department proposes to bold certain text and include bracketed language on the HUD-1 that identifies the section of the GFE where a consumer will find the estimated charge.

In addition, while the current HUD-1 requires a lender or mortgage broker to itemize their internal origination charges, such as processing fees and document preparation fees, the modified HUD-1 would require only the lender's bundled "service charge" to be disclosed at closing. Similarly, rather than itemize fees for primary title services, such as the title search, title examination, and title binder, the modified HUD-1 provides for a single "title services and lender's title insurance" fee to be disclosed on the HUD-1. This category of fee matches that on the proposed GFE form. However, the split in title premiums between the agent and underwriter would be separately disclosed.

Phil Schulman holds up a sample of the Good Faith Estimate during a special session at the ALTA 2008 Federal Conference titled: "ALTA Perspective on Proposed RESPA Rule." Attendees were given a preview of ALTA's analysis of the rule and how it will affect the title industry.

#### 2. Mark Up of Third-party Fees

In addition to the changes HUD proposes to make to the HUD-1 form itself, the rule proposes to include new language in Section 3500.8 of the RESPA regulations. This language would state as follows: "The amount stated on the HUD-1 or HUD-1A for any itemized service cannot exceed the amount actually received by the third party for that itemized service, unless the charge is based on an average cost price in accordance with paragraph (b)(2) of this section." If read literally, this language seems to suggest that the markup of third-party fees would be prohibited under the new rule.

### C. Closing Script

The rule also proposes to create a new addendum to the HUD-1, or a closing script, which the settlement agent is tasked with preparing, reading aloud to the consumer at closing, and providing in hard-copy format to obtain the consumer's written acknowledgment. Essentially, the rule would require the settlement agent to explain specific loan terms as stated in the mortgage note, such as interest rate, monthly payment amount, and the presence of a prepayment penalty and balloon payment. The settlement agent also must compare the loan terms and settlement charges to those estimated on the GFE and indicate whether certain settlement charges exceed the 10 percent tolerance. The appendix to RESPA's regulations would contain the closing script form, as well as detailed instructions and examples a settlement agent would use to complete the document.

### D. Average Cost Pricing

In addition to proposing modifications to actual disclosure forms required under RESPA, HUD's proposed rule targets other aspects of the act to provide clarity and decrease settlement costs for consumers. One such modification would allow lenders and mortgage brokers to use average cost pricing for settlement services, rather than charge the consumer the exact cost in every circumstance. HUD would allow a lender to determine average cost by using the actual average cost of a settlement service over the previous six-month period or a tiered pricing approach. If a lender or broker uses one of these methods, HUD will deem the lender to have complied with the requirements of the rule for stating the actual charge.

**E. Negotiated Discounts**

Section 8 of RESPA prohibits any person from giving or receiving a thing of value in return for the referral of business. As currently defined, "thing of value" includes discounts, and Section 8 prohibits the giving or receiving of discounts in exchange for the referral of settlement service business. The rule, however, proposes to amend the definition to exclude discounts negotiated by settlement service providers (i.e., title companies) in the price of a third-party settlement service, as long as no more than the discounted price is charged to the borrower and disclosed on the HUD-1.

**F. Required Use**

Currently, RESPA's regulations prohibit the required use of a particular settlement service provider; however, discounts, rebates, or customer incentives do not constitute required use as long as the rebate or incentive is a true discount that is not made up elsewhere in the transaction. HUD's rule proposes to modify this definition of "required use" to include both economic incentives and disincentives that are contingent on a borrower's use or failure to use a particular provider of settlement services. If, however, a settlement service provider offers an optional combination of services at a lower price, these discounted services would not constitute required use. This modification appears to be a direct result of complaints the department has received concerning home builders' offers of large discounts to their customers who agree to use affiliated mortgage or title companies.

**G. Miscellaneous Amendments**

In addition to the extensive modifications discussed above, the rule proposes to update mortgage servicing disclosure requirements and remove expired provisions of the escrow regulations. The rule also would amend RESPA's regulations to recognize the applicability of ESIGN, which would allow disclosures in electronic form. Consumers would be required to consent to the electronic receipt of documents, and a lender must ensure it meets all other ESIGN requirements.

## II. Potential Impact on Title Insurance Industry

Overall, the proposed modifications discussed above give every settlement service provider something to be concerned about. For the title insurance and settlement industry the newly proposed closing script is likely to get the most attention, and it raises several issues.

- First, the closing script would require a title agent to explain loan terms and settlement charges to the consumer, which, in many states, is a role that a licensed attorney is required to perform. In these states, if HUD requires a title or settlement agent to be responsible for explaining the loan terms to a borrower at closing, the agent could risk committing the unauthorized practice of law.
- Second, HUD acknowledges in the appendix to the rule that the addition of the closing script to the settlement process will increase the time it takes to conduct a real estate closing by approximately 45 minutes and increase the cost of a settlement by at least $54. HUD, however, does not appear to anticipate the additional time it will take to provide answers to borrower questions or give weight to the fact that title and settlement agents will be required to update software and train employees, which only adds to the extra expense. HUD states that its purpose for the rule is to simplify the process and reduce consumer costs, but the proposed closing script may have the opposite effect.
- Third, the rule does not provide answers to several practical problems with the closing script. For instance, if final settlement charges exceed the 10 percent tolerance,

## The "Rules" of Rulemaking

*Following is a synopsis of the rulemaking process by which federal agencies create new regulations or amend existing ones—*

Regulatory agencies create regulations according to rules and processes defined by the Administration Procedure Act (APA). The APA defines a "rule" or "regulation" as:

The whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.

And, the process of "rulemaking" is defined as:

Agency action which regulates the future conduct of either groups of persons or a single person; it is essentially legislative in nature, not only because it operates in the future but because it is primarily concerned with policy considerations.

Under the APA, agencies must publish all proposed new regulations in the Federal Register at least 30 days before they take effect, and they must provide a way for interested parties to comment, offer amendments, or to object to the regulation.

Some regulations require only publication and an opportunity for comments to become effective. Others require publication and one or more formal public hearings. The enabling legislation states which process is to be used in creating the regulations, and those requiring hearings can take several months to become final.

New regulations or amendments to existing regulations are known as "proposed rules." Notices of public hearings or requests for comments on proposed rules are published in the Federal Register, on the Web sites of the regulatory agencies, and in many newspapers and other publications. The notices will include information on how to submit comments or participate in public hearings on the proposed rule.

In addition, the complete text of all proposed rules is published in the Federal Register and typically posted on the agencies' Web sites.

Once a regulation takes effect, it becomes a "final rule" and is printed in the Federal Register, the Code of Federal Regulations (CFR), and usually posted on the Web site of the regulatory agency.

The RESPA proposal was released on March 14, 2008, with an open comment period until May 13, 2008. (ALTA requested a 60-day extension and it was unknown as of this writing whether it would be granted). HUD will review all public comments and amend its proposal, simply respond to comments, or seek further clarification. It can then release an amended proposed rule for comment or a final rule that may or may not contain changes. The final proposal is then submitted to the Office of Management and Budget for approval before becoming effective. Once passed, HUD has indicated that there will be a 12-month period to move to the new forms and regulations.

– Ed Miller, *Chief Counsel & Vice President of Public Policy* should a settlement agent close the loan when he/she knows the loan is in violation of Section 5 of RESPA? If a closing agent must read aloud the closing script to a borrower, what does the closing agent do in escrow closings, internet closings, and closings by mail where there is no face-to-face meeting? What if the borrower does not speak English; must the closing script be read aloud or provided in writing in another language?

We expect that these are only a few of the issues the title industry will raise with HUD in connection with the proposed closing script.

> No other insurance agents (i.e., homeowners, auto, and life insurance) are required to disclose the percentage of insurance premiums they receive as compensation."

With regard to the proposed HUD-1, this form includes two additional disclosures that the Department does not propose for the GFE. In lines 1113 and 1114 of the new HUD-1, a title/closing agent would be required to disclose the title agent's portion and title underwriter's portion of the total title premium. Yet, in the Appendix to the rule the department expressly states that it removed the premium breakout from the GFE, as the title agents argued that itemizing the premium split is costly and serves no useful purpose. If this is the case, then what useful purpose does the disclosure serve on the HUD-1? No other insurance agents (i.e., homeowners, auto, and life insurance) are required to disclose the percentage of insurance premiums they receive as compensation. Moreover, if the disclosure of the agent and underwriter portions of the title premium is intended to allow the consumer to negotiate a different title rate, the disclosure of this split just one day prior to closing is too late to allow a consumer to shop for another provider.

Finally, certain aspects of the proposed rule may disproportionally affect a title insurance or settlement agent's ability to offer the lowest prices to their customers. Notably while the rule allows for average cost pricing, the text refers to the determination of the average cost based on activities of the "loan originator." By using this specific term, one has to question whether only lenders and mortgage brokers may use an average cost for the settlement services they control. If this is the case, HUD fails to recognize that title and settlement agents would greatly benefit from the ability to use average cost pricing, particularly as it relates to mortgage recording fees. Because of the uncertainty of recording fees prior to closing, an average cost could help ensure that consumers do not pay more than actual recording fees, and the title or settlement agent is not at risk for claims of overcharges under RESPA.

Ultimately these items only skim the surface of the issues and impracticalities raised by the proposed RESPA rule. While the closing script appears to have the most impact on the title insurance industry, other aspects of the rule could make it more difficult, for instance, for title companies to compete with lender-owned affiliated business arrangements as well as negotiated discounts offered by lenders and other settlement service providers. As a result, the title industry should not assume this rule is for lenders only; your business could be directly affected by HUD's proposed changes.

## III. Conclusion

Despite HUD's stated purposes for the proposed RESPA rule, the department has delivered a complicated rule that will prove to be controversial. Every corner of the settlement service industries likely will raise an objection to some piece of HUD's proposals. For the title insurance industry, the proposed closing script and limitations on average cost pricing likely will be hot issues that will elicit a strong response from title and settlement agents. Moreover, with the market in the midst of a credit crunch, one must question why at this particular time HUD would create new consumer disclosures that will require providers to expend considerable time and money to update necessary systems and train employees. Buckle your seatbelts; it's RESPA reform time, and that means déjà vu all over again.

For current information on RESPA go to *www.alta.org/publications/titlenews*.

**Phillip L. Schulman** is a partner with the Washington, D.C. office of the law firm of K&L Gates. He specializes in real estate and consumer finance matters affecting the title insurance, mortgage banking, and real estate industries.


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# 2008 ALTA federal conference


Three congressional staff members and ALTA's Ed Miller provided an insider's view of the Senate Banking and House Financial Services Committee agendas.

Representative Paul Kanjorski of Pennsylvania spoke to members about the upcoming economic stimulus package and FHA Reform.

The 2008 ALTA Federal Conference was held March 10th through 12th in Washington, DC. Over 100 ALTA members gathered to hear from federal and state regulators, members of Congress and staff, and industry experts on issues regarding the title and real estate industries. Sessions focused on the housing and lending crisis, RESPA reform, the proposed Uniform Closing Instructions, and state regulators' initiatives. In addition, participants received an overview of a developing ALTA Ethics education program.

Members of Congress and their staff joined ALTA members on Capitol Hill for a breakfast

Richard G. Carlston of Miller Starr Regalia, Dudley B. Ewen, III (Maryland Insurance Administration), and Woody Girion (California Department of Insurance) discuss their views during the State Regulatory Session.

Representative Tom Feeney of Florida, a former title industry professional, reassured attendees that Congress is working for effective economic reform.

Kurt Pfotenhauer, CEO, talks with Representative Gary Miller (R - CA) at the Congressional Breakfast sponsored by ALTA.

Gary Kermott, The Honorable Brian D. Montgomery of HUD, Kurt Pfotenhauer, and Representative Darrell Issa (R - CA) chat before the Capitol Hill Luncheon.

reception and to hear briefings from leaders of the House Financial Services Committee. ALTA members also visited their congressional representatives and senators to brief them on problems for the title industry with the proposed RESPA rule and to relate our support for the FHA Modernization legislation. It was a content filled conference that also provided ALTA members with valuable networking opportunities. Be sure not to miss this important event in March 2009, when we will reach out to new members of Congress and tackle important issues following the 2008 election.



ALTA members from Texas enjoy a conversation with Representatives from Texas.

BY CAROLE BULLION



# Recognizing Mortgage Fraud, Part 2

Mortgage fraud is on the rise as perpetrators continue to seek new and creative ways to stay one step ahead of the law. Here are some of the latest trends in mortgage fraud and what the FBI is doing to combat this growing epidemic.

The problem of mortgage fraud is growing. In September 2002, the FBI had 436 mortgage fraud investigations. Currently, they have more than 1,036. That's an increase of 237 percent in the last five years. It is obvious that this white-collar crime is on the rise and happening in new and improved schemes. What are the new trends in mortgage fraud, and what are the FBI and local law enforcement doing about it?

Let us first take a look at the newest trends:

## Builder/Seller Bailout

Builder/Seller Bailout schemes occur when the builder or seller is motivated to move inventory that has been sitting in a declining or depressed market. They want to move these properties as quickly as possible to avoid the cost of carrying a vacant home. Mortgage payments, taxes, insurance, and utilities can eat up any profit realized and in some cases cause a loss to the builder/seller. The builder/seller conspires with an appraiser to inflate the value of the home and sell to an unsophisticated buyer or even a "straw" buyer. The closing takes place, the builder/seller walks away with the inflated equity, and, in most cases, the unsuspecting buyer or straw buyer goes into default. The buyer will be unable to sell or refinance the home as the value is much lower than the original inflated appraisal. The red flags to look out for in this scenario are:

- The builder/seller is willing to do anything to sell property
- The borrower is barely qualified or unqualified and needs special financing
- The sales price and appraisal are inflated
- Silent second mortgage can be involved
- Zero money down sales are included
- The source of funds is questionable
- Parties to the transaction know each other well or are affiliated

## Chunking

Chunking usually begins with a seminar that is held to educate potential investors on how to "get rich quick" by investing in real estate with no money down. A third party (usually the presenter at the seminar) encourages these attendees to invest in a real estate property and acts as their counsel/agent. Under the presenter's guidance, the attendee completes all of the necessary loan applications and shares all of his financial information in order to obtain financing to invest in this property. Unbeknown to the attendee, the presenter takes the information and applies for many loans on many pieces of property. The scheme requires assistance from an appraiser, broker,

and title company to ensure that the attendee/buyer does not have to bring money to all of the closings. The presenter acts as agent for the buyer in all of these many closings. The result is that the buyer receives loan proceeds from the original closing, and the presenter pockets loan proceeds from all of the rest of the closings. The lenders are stuck with defaulted loans on these properties as the buyer does not have the ability to repay all of these loans, and the properties are forced into foreclosure.

## Identity Theft

We see the commercials on TV. The elderly grandma using slang and jammin' to teenage tunes while explaining the purchases she made at the skateboard shop and video game store. Or the prim and proper professor claiming to have purchased a new hot rod and some heavy metal concert tickets. They are funny to watch. But, in reality, identity theft is happening each and every day in all parts of the country, and the catastrophic trail it leaves behind is not funny at all.

As of this date, identity theft is on the rise.

## True Story: "Swindling Grandpa"

A few years ago, a closing was conducted for a piece of property owned by a single man. The transaction was for a mortgage to refinance his property to take cash out. It really wasn't a refinance as there was no existing mortgage. The property was free and clear.

Title work was ordered and showed clear, appraisal was done as a "drive by," and the value was comparable to the neighborhood. The loan was approved, so closing was set. The gentleman showed up, produced his driver's license with picture, signed all of the documents without questions and left. Three days after closing, when the rescission period was over, the borrower showed up to pick up his proceeds check in the amount of $64,000. The file was closed and stored away and forgotten—until the foreclosure notice was received in the mail by the real owner. The owner not only was unaware of a mortgage on his lien-free property, but also was substantially older than the man who had appeared at closing. Now what do you supposed happened from there? Was the real owner responsible for the debt in his name that he did not create? In this case, absolutely not!

The culprit in this transaction knew the victim, which is the case in a lot of stolen identity situations. He had plotted and orchestrated a plan to steal identity records (birth certificate, drivers license number, and social security number)from this elderly man and headed to the office of the secretary of state. The secretary of state used this stolen information to issue a valid state driver's license with the victim's name and address, but with the criminal's picture on it, thus allowing this thief to walk away with all of the cash. Now we have a man who wants the title of his property back to free and clear and a lender that wants the mortgage paid that is now in default. What a mess!

In the end, the title company, through no fault of its own, had to pay the lender the full amount of the mortgage which was $65,000. What could the closer of the title company have done differently? A black light was used to verify that the driver's license had the state seal on it, which made it a valid identification document to rely on in the state in which the closing took place. What is surprising is that if the closer had checked the birth date on the driver's license and took a good look at the individual signing, they would have clearly seen that something didn't add up. The man who showed up at the closing was at least 20 years younger than the real owner!

One of the popular new ways to steal identities and real estate at the same time is for the crook to prey on individuals who spend significant amounts of time in another state during the year. Here in the Midwest, we call them "snowbirds." The culprit watches these residences, waits for the owners to leave, hires conspirators to move into the house to pose as the rightful owners, and puts the house up for sale. The house is shown, sold, and closed on with unsuspecting buyers and the thieves pocket the cash, and take off for the next house. Meanwhile, the snowbirds return to find another family living in their home!

> Currently, the FBI has more than 1,036 cases of mortgage fraud. That is an increase of 237 percent in the last five years.

What can you do? One quick and easy answer to that is Card the customers and clients you work with! Pay special attention to the details on the identification. If your state issues IDs with special marks, verify that the marks are present. Look at the picture carefully and question any discrepancies.

### True Story: The Mistress

Years ago, back in the 1980's (I know, I am dating myself!) a closing was conducted in a real estate office. In those days no one ever asked for identification. A man and woman came in to close on a home they owned. Closing took place with a good size mortgage being signed. Everyone left happy. Shortly thereafter, however, the buyers came back into the office to explain that they had driven their moving van to their new home and when they reached the front door, a woman came out to see what was going on. The woman was the wife of the man who had signed as seller at closing. The woman that had appeared with him was his mistress posing as his wife. The real wife knew nothing about the sale. She had been out of town taking care of her sick mother for some time. During that time, her husband had put their home up for sale, sold it, and left the country with his girlfriend. Unfortunately, the buyers were left homeless and had to pay on their mortgage until the issue was cleared up. I don't believe the husband was ever found.

### Equity Skimming

Equity skimming often begins with a "straw buyer." This is a financially qualified individual who a scammer convinces to purchase a property on the scammer's behalf because the scammer doesn't want his name to appear on the deed and mortgage.

The scammer recruits the straw buyer by promising to pay the individual a fee and make the mortgage payments. After the closing, the straw buyer deeds the property to the scammer, but the scammer never records the deed. The scammer rents out the property, but makes no mortgage payments and continues to collect rent until the eventual foreclosure several months later.

In another variation, a scammer steals an individual's identity and ap-

plies for a mortgage in that person's name. Once the loan is closed, however, the result's the same; the scammer rents out the property and collects rent without making mortgage payments until the lender eventually forecloses on the property.

### Foreclosure Rescue Scheme

With a foreclosure rescue scheme, a scammer identifies a homeowner who's at risk of defaulting on a mortgage or whose home is already in foreclosure. The scammer then misleads the owner into believing that the scammer can prevent the owner from losing the home.

One variation of this scheme defrauds the homeowner without defrauding the lender. The scammer convinces the homeowner to sign a form that supposedly authorizes the scammer to contact the lender on the owner's behalf. In reality, the form is a deed transferring the property's title to the scammer. The scammer then pays off the mortgage, evicts the owner, resells the home and pockets the equity.

A second variation defrauds both the homeowner and the lender. With this scheme, the scammer charges the homeowner an up-front fee that supposedly will pay for the scammer's services. The scammer simply pockets this fee without doing anything, and the homeowner ultimately loses the home in foreclosure.

> The problem of mortgage fraud is not going away. According to the FBI, the answer lies in teamwork.

Boy, if these new and improved schemes don't scare you, nothing will! Now that we have taken a look at the latest and greatest in mortgage fraud, the question still remains:

### What is Being Done About It?

While local law enforcement in most areas has the authority to police white-collar crime such as mortgage fraud, most local law enforcement agencies are strapped for resources and need to handle the dangerous crimes first, leaving the FBI to handle these investigations

Since 1999 the FBI has been actively investigating mortgage fraud all across the United States. The FBI also works closely with the mortgage industry to provide fraud-prevention education and awareness. To raise awareness of this issue and provide easy access to personnel, the FBI has provided points-of-contact to groups such as the Mortgage Bankers Association, Fannie Mae, Freddie Mac, and others.

The FBI also has been working on creating a more productive reporting requirement for mortgage fraud by establishing broader rules involving SARs (suspicious activity reports). The Bureau has been working with the Financial Crimes Enforcement Network (FinCEN) to promote an efficient method of identifying and reporting mortgage fraud activity affecting nonfederally insured mortgage lenders. In addition, on a case-by-

case basis the FBI receives close cooperation with the lenders making the investigations much easier.

By working with individual lenders, as well as national associations such as the MBA, the Appraisal Institute, the National Association of Mortgage Brokers, and the National Notary Association, the FBI will be more easily able to define and combat this serious problem.

The problem of mortgage fraud is not going away. According to the FBI, the answer lies in teamwork. Teamwork of parties involved in these transactions. As a member of the title industry, I firmly believe that we are a part of that team. We have front row seats to these transactions, and if we take the time to look carefully at the details and follow our gut when something seems out of the ordinary, we can be a part of the solution.

For more information on how the FBI is fighting mortgage fraud, go to *www.fbi.gov*

**Carole Bullion** is owner of Classic Title Agency, in Brighton, MI; author of *The Dark Side of the Closing Room*; and a presenter at ALTA conventions. She can be reached at: *cbullion@sbcglobal.net*

BY SUZANNE PENLEY



# Stop Marketing! Start Re-Marketing!

In these tough economic times, it is becoming increasingly difficult to gain new customers through traditional marketing approaches. Why go in search of gold when there's a gold mine right in your own backyard?

## "Right Under Your Nose!"

No doubt you've heard or said this phrase countless times—when that temporary bout of forgetfulness turns to the realization that you've been looking at something all along. Then you wonder how you missed it in the first place.

The lost file sitting where you left it on the filing cabinet while you frantically searched for it. Or your missing pair of eyeglasses forgetfully placed on top of your head. It's amazing how often we don't see what is literally right in front of us, including our customers.

Your customers are the revenue-producing assets for you and your company. They choose to bring you their business, and need to believe that their decision was the right one—especially when it comes to the service they receive. When they receive good service, they feel they matter to you.

## Love' Em or Lose' Em

Things change. The good feelings your customers had for you when they were new shift as they begin to feel unappreciated. As transactions become methodical, you may start to become complacent. The bloom is off the rose, so to speak.

Leaner times mean stiffer competition for business, your business, and being mediocre is not enough. When a customer stops doing business with one company and goes to a competitor, they typically report they did so because they felt the service levels had declined and they felt unimportant. Because we don't consciously or intentionally provide poor service, we wonder what could have caused a customer to feel that way.

## Save Your Money: Stop Marketing!

Businesses succeed by getting, keeping, and growing customers. Given the current challenges of the title industry, it is becoming increasingly difficult to gain new customers through traditional marketing approaches. No matter how streamlined your company, you may feel that you are barely keeping up and wonder why, with all the money you're spending on marketing, there is less to show for it. When this happens, companies often allocate more marketing dollars. When that doesn't produce the hoped-for business, they assume the problems are due to the current economic climate. While that's certainly a huge factor, it isn't the whole picture.

Companies in the service business traditionally spend approximately 80 percent of their marketing dollars going after new customers, while only 20 percent of their business comes from new customers because of those marketing efforts. Reverse the percentages and what you are doing is "Re-Marketing."

What if you could double your business and spend little or no money? Sound too good to be true? The solution is "right under your nose!"

Before you spend money on a new slogan or advertising campaign, stop and redefine who you want to impress and why.

## More Customers or More Business?

Start by asking this question: "Is the way to grow and increase revenue through more customers or more business?" Common sense tells us that more customers mean more transactions, and more transactions mean more revenues. But more customers will do little good if existing customers are leaving out the back door. You don't have to go in search of gold when there's a gold mine right in your own back yard.

People like to do business with people they know and like—people with whom they feel a connection, or relationship. These are your current customers, and they are "right under your nose." You talk with them frequently and they are in your office several times a month. They have invested in you. Shouldn't you take the extra time to invest more in them?

Your customers are your greatest "sales force" because they will promote you by word of mouth. This kind of referral, from someone who has had first-hand experience with you, is invaluable.

## Story Time

With all the choices that customers have today, what are the factors that will steer them to you? Stories—repeated by existing customers to their colleagues, friends, and other acquaintances. The stories people tell about you and your company related to their positive experiences are worth their weight in gold, and are a many times more valuable than an advertisement or brochure. People need a reason to tell a story, whether good or bad, so make it a top priority to ensure that each and every one of your customers has a positive story to tell. Always try to go above and beyond, and treat them as if they are a brand new customer no matter how long you've been working with them. In other words, never take your customers for granted.

To give an example, haven't you tried a new restaurant simply because someone you know raved about the food? Or gone to see a movie solely because someone you know oozed with enthusiasm about it? By the same token, have you ever changed your mind about going to a particular restaurant or movie after someone told you how terrible it was?

## Re-polish Your Silver

How did you treat your more established customers in the beginning? Did you spend a lot of time with them, returning all of their phone calls immediately, patiently answering all of their questions, any time of day? In effect, you wanted to shine like freshly polished silver.

Do you still treat these customers with the same amount of attention? If not, then it's time to re-polish your silver! Just as silver becomes tarnished when it isn't polished regularly, we too can begin to look a little dull and blotchy in our customers' eyes. They aren't quite sure what's different because the changes occurred so gradually. Because you believed they were satisfied, perhaps you didn't see the need to keep up the high level of attention.

Once your customers start to feel unappreciated, they may start to look over the fence at the neighbor's pasture to see if it's greener over there. Your job is to keep their eyes focused on your pasture! To do that, you need to treat your customers as if they are the most important people in the world.

## Re-Marketing Tips & Techniques

Re-Marketing is easy and effortless. Recall the things you did for customers when they were new to make them feel welcome and appreciated. If you aren't still doing those things, do them!

Don't just think in terms of the physical tasks. Focus on the desired results you want them to experience. Did you do save them time? Did the information or advice you provided increase their knowledge, resulting in an increase of their business?

Also focus on the feelings you want them to have. Do you create a sense of comfort for your customers because they have confidence that you're always on top of things? Do you show them how important they are by calling or sending a hand-written note thanking them for their business?

Re-Marketing is the way to earn and keep the trust of customers who will in turn give you more of their business as well as refer new customers to you through word of mouth. If only one in ten of your customers sends you a new client in a year, how many new customers would that be? I'd be willing to bet the number would be a lot higher than the number of new customers you might have gotten through costly marketing programs. And in the process, you are building an incredibly powerful sales force—one that you could never afford to pay. In addition, when the people who are selling your services are speaking from their personal experience, and have nothing to gain by referring you, the credibility of their "sales pitch" goes through the roof.

To grow your business in this volatile economy, stop Marketing and start Re-Marketing. Remember, the source of future business is "right under your nose!"

**Suzanne Penley** is President and CEO of Customer Focused Systems, an award-winning company that helps individuals and organizations create a competitive advantage through unsurpassed excellence in customer relations. She can be reached at (713) 592-8282 or *Suzanne@customerfocusedsystems.com*

# 2007-2008 ALTA Financial Report

2007 proved to be a challenging year for ALTA. The association accomplished many goals in the areas of government affairs, education, membership, and public relations.

Despite the significant downturn in the overall real estate market, ALTA's revenues remained on plan or as expected, and expenses were kept beneath budgeted limits. A brief synopsis of ALTA's financial picture for 2007, and a look at the approved 2008 budget follows.

## Year In Review

In anticipation of a continued decline in the real estate market, ALTA's 2007 operating budget was developed with a conservative outlook on revenue and tight controls on expenses. As expected, the market downturn continued in 2007; however, ALTA's overall revenue did not decline as much as anticipated. In fact, a few of the association's income-generating programs, such as meetings and investment income, were more successful than the previous year. Expenses were closely monitored throughout the year and, overall, came in more than $500,000 under plan. Unaudited 2007 Year-End Financials indicate that the association has assets and liabilities in balance at $11,220,000 with a net income of $70,000.

The final financial hurdle for 2007 will actually take place in May 2008, when the association will be audited by the accounting firm of Johnson Lambert & Company, LLC (JL&Co). JL&Co. brings special expertise to the engagement and is well respected in the Washington, DC, not-for-profit business community. ALTA staff is looking forward to the process and is confident that a positive report will be given to the association's Audit Committee.

## A Look Ahead

With the first quarter of 2008 already behind us, the association is well positioned for what is already shaping up to be a very challenging year. The real estate market is at levels that many in the title industry have not seen in decades, and some have never seen at all. Unfortunately, a bounce back in the market could still be some time away. Historically, ALTA's financial performance has closely mirrored the financial cycle of the title industry. Accordingly, in formulating ALTA's 2008 budget, management planned significant declines in revenue and minimal increases in expenses.

Budgeted income for 2008 is $5,620,000 with expenses budgeted at $6,000,000. This very conservative budget results in an estimated net loss of $380,000 for the year. The association, like many member companies, is taking steps to make the most of the downturn in the market by retooling and strategically positioning itself for the future. It is management's goal to minimize losses in 2008 and implement best practices that will maximize income opportunities in 2008 and beyond.

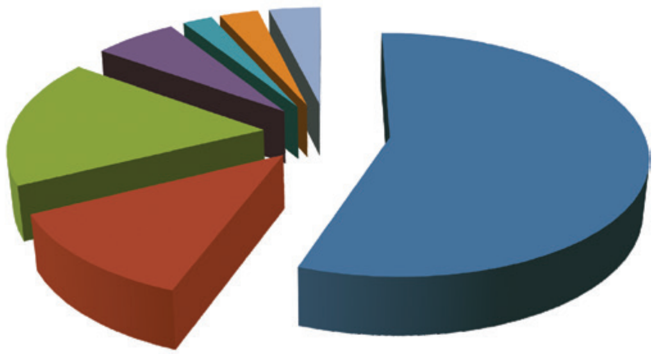
Exhibit 1 represents the approved 2008 Income and Expense Budget. Exhibit 2 represents the percentage of revenue and expense categories as they relate to the overall 2008 budget.

**Mark E. Hernick** is ALTA's vice president of operations. He can be reached at 800-787-2582 ext. 222 or *mhernick@alta.org*.

## 2008 Approved ALTA Income and Expense Budget

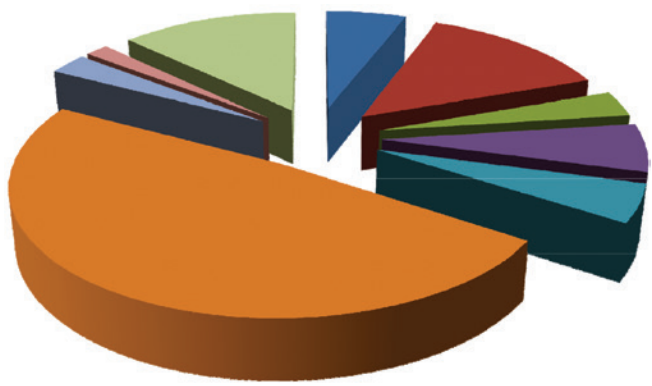
| | |
|---|---|
| **GENERAL FUND INCOME** | |
| Dues | $3,125,000 |
| Investment Income | 675,000 |
| Convention / Tech Forum / Fed Conf. | 970,750 |
| Public Relations Campaign | 347,000 |
| Title News | 125,000 |
| Directory | 27,500 |
| Product Services | 85,000 |
| Web & E-News / (E-Communications) | 50,000 |
| Other Income | 215,000 |
| TOTAL INCOME | $5,620,250 |
| **GENERAL FUND EXPENSES** | |
| Legal / Professional Services | $350,000 |
| Convention / Tech Forum | 824,118 |
| Committees | 201,500 |
| Public Relations | 375,000 |
| Rent - Occupancy | 295,000 |
| Personnel - Salaries | 2,333,224 |
| Personnel - Benefits | 328,386 |
| Personnel - Pension | 247,330 |
| Travel | 122,500 |
| Telephone | 25,000 |
| Postage | 27,500 |
| Supplies | 20,000 |
| Information Technology | 95,300 |
| Duplicating | 17,500 |
| Title News | 100,000 |
| Directory / Leadership Directory | 65,000 |
| E-Communications | 77,500 |
| Dues and Subscriptions | 25,000 |
| Insurance | 40,000 |
| Audit | 35,000 |
| Product Services | 130,000 |
| Bank / Credit Card Fees | 50,000 |
| Bad Debt | 2,500 |
| Miscellaneous | 82,500 |
| State Legislative & Regulatory Fund | 10,000 |
| Depreciation / Amortization | 100,000 |
| Lobbying Tax | 20,000 |
| **TOTAL EXPENSES** | **$5,999,858** |
| **OPERATING INCOME (LOSS)** | **($379,608)** |

## ALTA Revenue



Dues 55.6%
Investment Income 12%
Meetings 17.3%
Public Relations 6.2%
Title News 2.2%
Product Services 2.9%
Other Income 3.8%

## ALTA Expenses



Professional Services 5.8%
Meetings 13.7%
Committees 3.4%
Public Relations 6.3%
Rent - Occupancy 4.9%
Personnel 48.5%
Information Technology 1.6%
Depreciation 1.7%
General Admin 12.9%

BY CRAIG MULDOON



# Boost Productivity With Integrated Technology and Services

New technologies can help create a desktop "virtual title plant" and a nearly paperless office, improving productivity and profitability as a result.

Faced with a rising tide of foreclosure orders, Florida-based New House Title began looking for ways to ramp up its statewide title search and examination services for attorneys and underwriters specializing in foreclosure. Historically, the company's in-house staff had processed foreclosure title search orders using data purchased from outside sources. However, that approach was becoming too cumbersome for the company's growing volume. New House Title needed a more efficient solution that could improve turn time and could grow or shrink in accordance with demand.

Today, New House Title is processing orders more quickly and easily than before, while maintaining its commitment to a high level of customer service by collaborating with an outside vendor. The secret of New House Title's success? A state-of-the-art, Web-based, automated title search solution integrated with in-house production systems and combined with some creative thinking about the company's business model.

## The Changing Technology Landscape

With the advent of desktop computers and the Internet, obtaining title records and managing real estate transaction files has become an increasingly streamlined process. Many—although certainly not all—county recorders now maintain electronic databases containing scanned images of deeds and related documents, allowing real estate professionals to access electronic files without stepping foot into a county courthouse. A few courthouses have even adopted e-recording systems for some transactions.

Industry service providers have adapted accordingly, developing new kinds of automated title search technology and solutions that take advantage of Web connectivity and desktop publishing tools for managing document images. Today, a title agent, underwriter, attorney, or related service provider can expedite the "paper chase" that a real estate closing entails. New technologies and services are available to help title companies, default and foreclosure vendors, attorneys, and other parties in the title process create a desktop "virtual title plant" and a nearly paperless office, improving productivity and profitability as a result.

Today's automated title search systems are far more powerful and adaptable than in the past. With the higher quality title search systems, a real estate professional can easily gain access to a uniform set of courthouse, tax, and property appraisal data across every county covered by a particular database. In minutes, such a system can automatically create geographically indexed plants and empower the user to quickly compile a range of title evidence, from legal and vesting reports to full statutory reports. Some of the more sophisticated automated title search solutions can actually be seamlessly integrated into a company's existing production systems, eliminating the need to retype data from one software application into another and freeing up staff attention to focus on larger issues.

## Emergence of New Operational Models

All parties in the title process can benefit from integrated title search software and services that streamline work production and reduce costs. Title agents and underwriters are looking to expand their services and coverage areas and operate more efficiently by outsourcing some aspects of title production. Lenders and settlement services providers need the full range of title evidence, from legal and vesting reports to full statutory reports, to secure lender's title insurance. Foreclosure and default services providers, including attorneys, need systems and processes that can shrink or expand as needed, since the current tsunami of default and foreclosure orders is not expected to continue indefinitely.

Technology is only the beginning, since even the best title search technology does not eliminate the need for human labor and judgment in preparing title documents, title commitments, and policies. Often, closing documents must be obtained in person at an actual courthouse before being copied and possibly scanned and transferred into a digital, searchable database. Many title searches invariably require handling of actual pieces of paper, and that situation is not likely to change anytime soon.

The challenge for settlement services providers lies in optimizing the right blend of people and technology to lower costs, ensure quality, and improve turn times. The key question for title agents, underwriters, attorneys, lenders, and other parties in the transaction process is whether it is best to perform this essential manual labor with in-house staff or to integrate technological tools and an outsourced resource to handle some of the more mundane aspects of the work. Some title search technology partners offer the best of both worlds, providing an automated title search system that can be integrated into existing production systems along with outsourced staff and services. These additional resources can assume the responsibilities involved in manually obtaining title documents and converting them into electronic form, such as PDF or TIF files, that can be easily transferred electronically to the search and production system.

A high-quality title search technology partner can help a company integrate title search tools into an existing production system and can augment client staff with outsourced services for functions that require human expertise.

In an ideal scenario, a company turns to outsourced services to perform lower level work, such as indexing or scanning hard copies of documents, so the title agent, underwriter, lender, or vendor can deploy their expert in-house staff only on expert-level tasks. This arrangement not only pushes work down to the most affordable resources on a variable, rather than fixed, cost basis, but also empowers the company to deploy in-house staff on more challenging work that builds their knowledge and involves higher level thinking rather than manual document management.

> Today, a title agent, underwriter, attorney, or related service provider can expedite the paper chase that a real estate closing entails.

It's important to note that this combination of technology and outsourced services is available right here in the United States. Much ado has been made about outsourcing work to India and other offshore locations, but that strategy only works to a point. Domestic title search resources are far better equipped to understand U.S. legal terminology and cultural practices, and to physically obtain documents from a county courthouse if need be. Integrating technology and services into your workflow can be a powerful efficiency strategy because it is costly for highly compensated title examiners or abstracters to spend time on routine title production work that could be performed by lower cost labor. A company that integrates automated title solutions into their production systems gains a competitive edge, especially if it is able to reconfigure its workflow to maximize operational efficiencies.

## Boosting Turn Time, Adding Connectivity

Westcor Land Title Insurance Company, licensed in 23 states, is another example of a company that found new efficiencies through a strategic combination of technology and services. In its home state of Florida, the title underwriter historically had hired three high-level title examiners for every one lower level support staff person processing title orders, despite having access to a title search system. Seeking a replacement system, Westcor adopted a Web-based technology solution that could be customized and integrated with Westcor's production system. The new system covers nearly every county in Florida and contains an image database dating back several decades. Production staff can quickly locate deeds, appraisal, and tax records before a title examiner is involved. Also important, the system's powerful search function can locate mis-posted or mis-indexed documents.

Another advantage of the new system is that Westcor's Florida title plants are connected via a Citrix server through which employees at any plant can view the workload for any other Florida plant. Work is shifted to plants with the most available capacity at any given time, creating a steady, cost-efficient use of company resources, with faster turnaround time than before. Westcor now uses entry-level staff to produce title reports and gather 70 percent or more of the search data immediately, without a title examiner having to

initiate the process. As a result of these technology-enabled process improvements, the title underwriter requires only one examiner for every two support staff—realizing at least a 20 percent annual savings in production costs. Also important, Westcor now completes all title orders within 48 hours.

## Connecting Case Management and Title Search

An increasing volume of foreclosures and mortgage defaults has placed increasing demands on attorneys that specialize in these areas. Automated title search technology can expedite the work but must accommodate the many different kinds of case management software used by attorneys in this field. Today, new systems integration technology such as NetDirector can provide an interface between attorneys' case management systems and title technology. Staff no longer must re-key data into their production systems and manually perform cumbersome data assembly tasks.

## Enhancing a National Title Search Database

A division of a real estate information services company processed more than 7.8 million title searches in 2007. One of the division's popular products is a national database of searchable public record information and recorded document imagery, along with other real estate information solutions for residential realty, title, lenders, commercial, builders and developers, underwriters, home buyers, and sellers in the United States and abroad.

A key business strategy for the company is to integrate "best of breed" technologies into its products to enhance the real estate transaction process for clients. Thus, when the division sought to expand its database product and to build greater efficiency into its workflow management, it collaborated with an automated title solution that was integrated into the company's production system, expanding the database's reach into four additional states. The division's database now provides access to a hundred county databases and more than 65 million images.

## Gaining a Competitive Edge

Whether the real estate market is booming or slowing, companies that build efficiency into their workflow stand to gain a competitive edge. With today's user-friendly title search technologies, integrating current technology into legacy production systems is no longer the painful challenge it once might have been. Today's leading-edge title search technology is driving operational innovation and improving efficiency in every aspect of the title process.

**Craig Muldoon** is director, title services, Red Vision Systems. For more information, contact Craig at *craig.muldoon@redvision.com*, call (352) 331-8242 or visit *www.redvision.com*.

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## New Members

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*Greenwood Village*

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**Final Trac, LLC**
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**G & J Titlesearch**
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**Niola Associates**
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Sarah Markesky
**Sally Markesky, Title Research**
*Essex*
Michelle McKean
**Statewide Title Searches**
*Branford*

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**NRT Title Services of MD**
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*St. Charles*
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