September/October 2009

TitleNews

Official Publication of the
American Land Title Association

In Your Corner
ALTA Defends Industry Interests on Capitol Hill and Beyond

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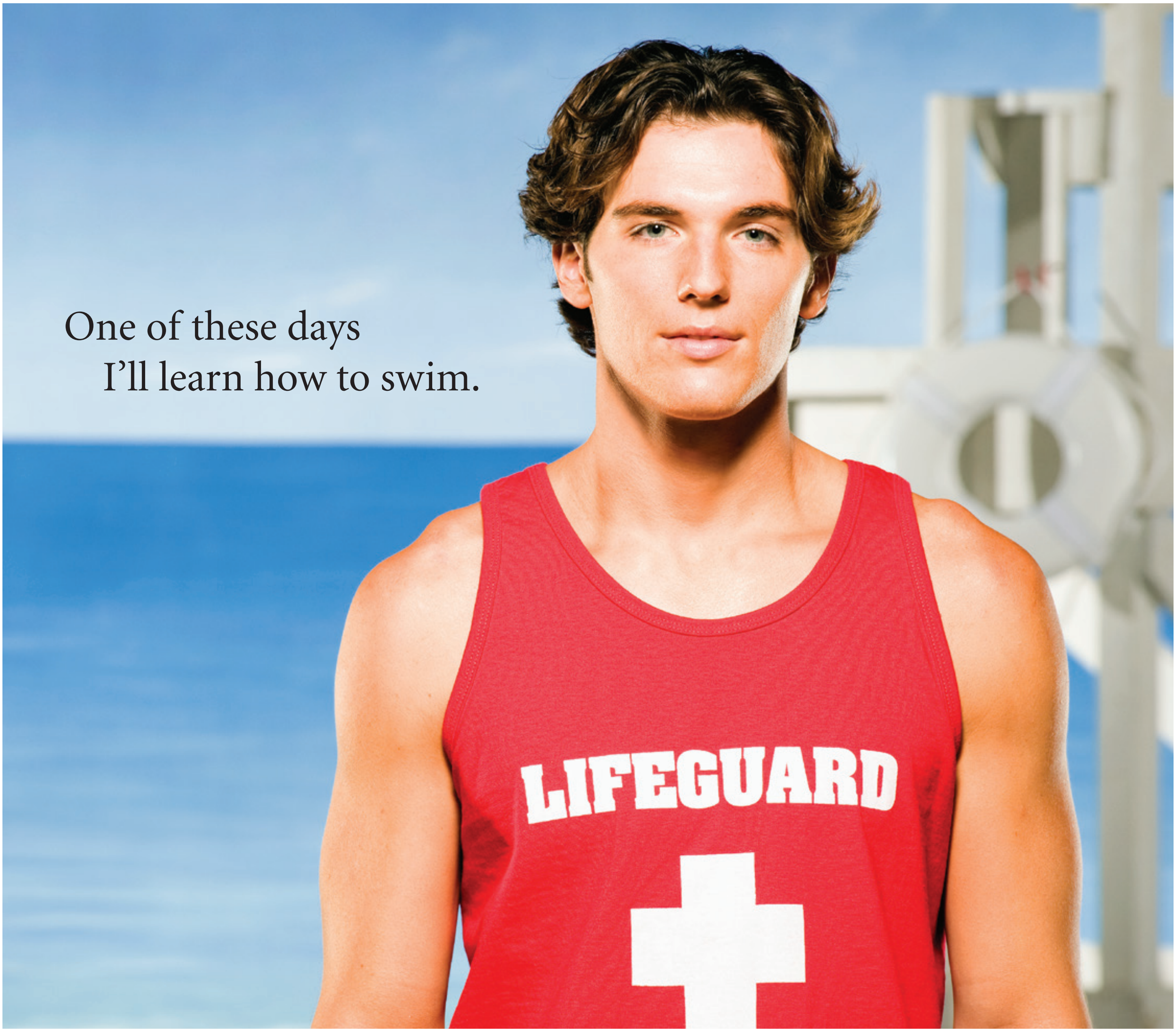
One of these days
I'll learn how to swim.
LIFEGUARD

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TitleNews

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from the publisher's desk

I'm not what you'd call an avid baseball fan, but I do enjoy studying how the good get better, and baseball offers an important lesson. This past month against the trading deadline, you saw struggling teams parting ways with some of their key players while teams with a legitimate shot at a pennant were in acquisition mode, trying to plug weaknesses in their lineup. As those in business know, a great team can make a poor plan look brilliant, even as the most brilliant plan in the world will fail in the hands of a poor team.

I am pleased to be at a point where we can brag just a bit about the team we have at the American Land Title Association. While not as large as some of the powerhouse trade associations flexing their muscles on Capitol Hill, we play smart, we're nimble and we're increasingly effective. Of course, it all starts with the quality of your people, and in the past year and a half as CEO, ALTA's Board has given me the flexibility to add new talent to an already strong staff. We recently made another "move" to help strengthen our lineup at ALTA by naming Jeremy Yohe as Director of Communications. Jeremy spent the past three years as editor of The Title Report and brings a deep understanding of the industry.

Spearheaded by Jeremy, ALTA will deliver more timely and relevant news you need to run your business. Beginning in November, you will start receiving *Title News* monthly. In August, we also launched a Web version of *Title News*, sending e-mail blasts every Tuesday and Thursday. *Title News Online* will provide business strategies, discuss sales and marketing tips, follow industry trends, provide professional profiles, share how ALTA initiatives help promote the title insurance industry, give updates on grassroots efforts, and much more.

Less than a month on the job, Jeremy was initiated into the association when contacted by a reporter with the Wall Street Journal looking to write a hit piece on the industry. Our staff worked with the reporter over a two-week span, and many industry veterans provided valuable consultation. Given where we started with the reporter, I'm fairly pleased with the outcome. Unfortunately, misperceptions about the title industry abound in the mainstream media, and that's why we need to add quality people to help drive our cause.

If you haven't read it already, the cover story highlights ALTA's efforts to defend the industry's interests in several states, as well as in Washington, where we face the creation of a new title industry regulator in the form of the proposed Consumer Financial Protection Agency (CFPA). While the CFPA is touted to "promote transparency, simplicity, fairness, accountability, and access in the market for consumer financial products or services," the reality is that this new federal agency will be given unprecedented power to write and enforce rules for all consumer financial products and services and the individuals that provide them. This includes the title insurance industry, and that's why we are working hard to protect your livelihood.

Beginning in November, I'll start to share this space with Jeremy. In the meantime, if you wish to meet Jeremy, or any other member of our All-Star team, sign up to attend our Annual Convention in Palm Beach, Fla. It's more important than ever to be part of the discussion and to provide input in the rebuilding of the mortgage market.

I hope to see you in October.

– Kurt Pfotenhauer

Hear and Spread the Message

The American Land Title Association is the "Voice of The Title Industry."

That voice can be heard in the halls of Congress through our lobbying efforts, in state regulatory settings through industry testimony and in news outlets as ALTA shares industry positions. The ALTA voice is carried to the membership through regular communications and offerings and the voice becomes stronger as members further their understanding of industry issues through education and interaction.

Every messaging vehicle is important, but some provide added credibility to the message. One of those heightened opportunities is just ahead.

ALTA's 2009 Annual Convention is an event where the "Voice of the Title Industry" can be seen, touched, heard and measured. The strength of any trade organization, state or national, can be quantified by the spirit of their assemblies. The embodiment of their positions and practices can be observed and assessed. And the messaging of industry goals can be unified and dispersed through convention attendees.

The core goal of any trade association convention is to create a knowledgeable and energized base of industry leaders.

The goal of the 2009 ALTA convention is no different.

That is why the speakers and issue discussion panels are top notch. That is why networking opportunities are numerous. That is why attendees will be equipped with industry and operational knowledge to enable future industry success.

The current challenge to our success is less about past industry actions and more about the shaping of the economic future of America. The American Land Title Association has raised its effectiveness as the voice of the title industry as evidenced by the frequent congressional and regulatory inquiries regarding industry views on new proposals and initiatives. But, the voice is constantly being measured and weighed by decision makers for its ability to marshal grassroots activism.

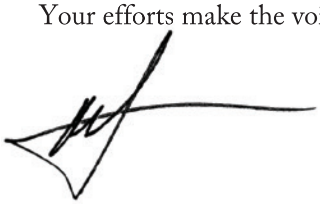
And that is why conventions and meetings are critical to the mission of any trade association, especially ours.

The ultimate success of the convention depends on two things. First, convention participants must return home with an enthusiasm and energy to spread the message. Second, those unable to attend the convention must be eager in their anticipation to hear the message.

I once heard of a traveling evangelist who, upon being complimented for his successful tent meeting replied "The messenger is unimportant when hearts are prepared to receive the message."

Today is a good day to prepare to hear … and spread … the message.

Your efforts make the voice stronger.



– Mike Pryor

perspective

Nothing More Permanent Than Change

History has brought us to a point where change is essential. We have been summoned not just to manage our companies but to transform them. Our task is to provide content – safe, secure, reliable, efficient and transparent – to a wholly different and evolving real estate market.

In developing an industry vision for the upcoming year, we need to reflect on what has transpired over the previous 12 months. In response to the economic meltdown, the government has committed trillions of dollars to various stimulus programs to revitalize the banking community, financial services sector, the automobile industry and the housing market.

Various reform initiatives are "in vogue" as the template to rebuild our economy. The retooling of the economy will have a profound impact on the mortgage market and, as a result, implications for the title industry. Change is the constant. From an industry perspective, the implementation of RESPA reform is scheduled for Jan. 1, 2010; the administration has introduced a financial services reform blueprint that includes a proposal to establish a Consumer Financial Protection Agency (CFPA) with jurisdiction over credit-related insurance products including title insurance; an unclear destiny for Fannie and Freddie; a Federal Reserve proposal to revise TILA regulations; a renewed interest in an Iowa-type state managed title insurance program; and, numerous state insurance hearings on the reasonableness of rates, competition in the marketplace and the profitability of the title industry.

ALTA has the confidence that the industry can seize the challenges and make the future work for us. Simply put, ALTA and its members are committed and have the capability to effectuate positive change.

I look forward to detailing the industry's critical path at the Annual Convention, Oct. 21-24, at the Breakers in Palm Beach, Fla. The Convention's keynote speaker, highly regarded visionary economist Hernando de Soto, will share his views on the title industry's role as a constructive force in facilitating the stabilization and ultimate growth of the housing economy.

Saving the best for last, this goes to President Mike Pryor. On behalf of the ALTA membership, thank you for keeping us on message during an extremely difficult period. Your leadership has been extraordinary. Although I have been nominated to succeed him, no one can replace Mike Pryor.

I salute you.

ALTA President-Elect
Mark Winter

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ALTA Supports Increase in Loan-To-Value Ratios

The American Land Title Association supports the recent expansion of the federal government's Home Affordable Refinance program, allowing Fannie Mae and Freddie Mac to approve mortgages with loan-to-value ratios as high as 125 percent.

Kurt Pfotenhauer, the chief executive officer of the ALTA, said the current ceiling has kept too many borrowers on the sidelines, and that this move would open the door to more homeowners looking to refinance.

"Although the decline of home values is slowing, many home owners still do not qualify for the program," Pfotenhauer said. "Increasing the loan-to-value ratio would afford home owners hampered by falling home values the needed opportunity to refinance high-cost loans."

"But we should keep in mind that driving refinance activity is only part of the solution. Mortgage rates need to be maintained at attractive levels and the $8,000 first-time home buyer tax credit should be expanded to $15,000 and be offered to all home buyers to spur activity in the housing sector," he continued.

Since the administration announced Making Home Affordable Feb. 18, about 200,000 borrowers have received offers for trial loan modifications, according to HUD.

New HUD-1 Educational Material Available

If your agency has not updated its software or trained staff to handle the new Good Faith Estimate and produce the new HUD-1, ALTA is offering a presentation given by HUD officials at the 2009 ALTA Federal Conference.

The CD will help agents learn about the changes that HUD has made concerning the updated RESPA Rule, including line-by-line training on how to fill out the GFE, HUD-1 and HUD-1A. Agents need this training because it will become mandatory to use the new forms beginning Jan. 1, 2010.

The training is given by HUD experts – Ivy Jackson, Laura Turner Gipe and Bart Shapiro. The CD also contains a power point presentation and a hard copy of the GFE, HUD–1 and HUD–1A.

Cost is $50 for members and $99 for non-members. To download an order form, go to *www.alta.org/news/news.cfm?newsID=8638*. For more on RESPA implementation, see page 19.

TIPAC Halfway to Goal

In July, the Title Industry Political Action Committee officially reached the halfway point towards its goal of collecting $250,000. As of July 9, industry professionals donated $125,195. TIPAC also announced the launch of its own Web site, *www.tipac.org*.

ALTA Urges Congress to Expand $8,000 First-time Homebuyer Credit

The American Land Title Association sent a letter June 26 to Congress urging support for two related bi-partisan bills that would expand the tax credit for first-time home buyers to $15,000.

In the letter sent to the Senate and House, ALTA asked legislators to extend the $8,000 first-time home buyer tax credit and remove income and other restrictions on who can qualify for the credit.

The Senate version of the bill, S.B. 1230, was introduced by Sen. Johnny Isakson, R-Ga., and is co-sponsored by Senate Banking Committee Chairman Chris Dodd, D-Conn. The companion bill in the House, H.R. 1245, was introduced by Rep Ken Calvert, R-Calif. Both bills are known as the Home Buyer Tax Credit Act of 2009.

The proposals would extend the home buyer credit to multi-family properties used as the borrower's primary residence and eliminate income caps of $75,000 and $150,000 on individuals and couples seeking to claim the credit. The bill would extend the current credit, which expires Nov. 30, 2009, for one year after enacted.

The idea of expanding the tax credit first surfaced in the federal stimulus bill at the beginning of the year, passed the Senate but was dropped from the final version. The legislation has gained renewed attention since a noticeable uptick in purchase transactions was driven by the $8,000 tax credit.

"There's near total agreement among real estate related trade groups that the $15,000 unrestricted credit is the single greatest thing we could do to stimulate the housing market, and our ALTA members have already reported a surge in purchase transactions directly correlating to the tax credit," said Kurt Pfotenhauer, chief executive officer of ALTA. "To make this credit available to all home buyers regardless of income, could be one of the key answers to ebb the recession."

According to a survey conducted in June by the American Land Title Association, 46 percent of land title professionals believe they have seen an increase in purchase transactions associated with first-time home buyers since the $8,000 tax credit went into effect.

ALTA Names Director of Communications

The American Land Title Association recently appointed Jeremy Yohe as Director of Communications. In his new role, Yohe will be responsible for the Association's communications with its members, the media, and industry stakeholders.

Previously, Yohe was the editor of The Title Report, the largest for-profit publication for the land title industry. In that role, he provided analysis of vital topics impacting large national underwriters to single-state title agents, discussed strategies to grow market share, highlighted emerging business models, featured many leaders of the industry, and discussed the myriad of regulatory pressures impacting the industry across the United States. He has received numerous Associated Press and Society of Journalists awards for writing.

According to Mark Winter, incoming ALTA president, "Jeremy knows the business and has the ability to convey our message. He is a true professional, and his drive and initiative make him a perfect match for ALTA."

ALTA Video Featuring Value Proposition Wins Award

The American Land Title Association's 2008 Annual Convention video was recently honored with a Telly Award for being among the most inspirational from more than 13,000 entries. The video highlighted the association's contribution to the economy, consumers and its members.

In Your Corner

ALTA defends industry interests on Capitol Hill and beyond

The same burning issues the title insurance industry confronted more than 30 years ago continue to be nefarious thorns today. Pricing, competition, marketing, affiliated business arrangements – all are topics regulators and legislators targeted decades ago. The 2007 release of the Government Accountability Office's 74-page analysis of the title insurance industry fueled renewed curiosity of the industry at a federal and state level. With the regulatory and legislative eye fixated on title insurance, it remains imperative the industry continues to express one unified voice as its resolve will be tested and the palpable tension can be felt by agents everywhere. That's why the American Land Title Association is standing firm representing the interests of the industry from Capitol Hill to states across the country.

By Jeremy Yohe

Federal Fray Intensifies

On Capitol Hill, ALTA is engaged in a battle seeking changes to the proposed Consumer Financial Protection Agency. The association, along with numerous other groups and a broad range of businesses, sent two letters to legislators seeking changes to the proposed CFPA. ALTA's efforts in D.C. resulted in a minor victory as House Financial Services Chairman Barney Frank, D-Mass., delayed a vote on the proposal until September.

"ALTA believes there is a need for financial services reform to create an agency which oversees the interaction between traditional providers of financial services – such as mortgage lenders, credit card issuers, and providers of investment products and consumers," said Kurt Pfotenhauer, ALTA Chief Executive Officer. "It makes sense to address legitimate needs by combining existing authority delegated under RESPA and TILA into a single regulator."

The creation of the CFPA would add an additional layer of regulation resulting in fewer consumer choices and higher prices.

"However, the proposed CFPA would sweep all real estate settlement services into the definition of "financial activity" and be delegated extraordinarily broad powers that would impose a harmful level of regulation on the tens of thousands of title-related services providers in residential real estate transactions," Pfotenhauer warned. These corporations, partnerships, and individual proprietors include title insurance companies, agents, abstracters, escrow companies and attorneys.

ALTA joined 12 other insurance trade groups in a letter sent July 15 to Frank; Senate Banking Chairman Christopher Dodd, D-Conn.; Rep. Spencer Bachus, R-Ala., ranking member of House Committee on Financial Services; and Sen. Richard Shelby, R-Ala., ranking member of the Senate Committee on Banking.

In the letter, ALTA said both lenders and insurers aim to allow a consumer to participate in financial transactions and other activities; however they deliver very different products. Importantly, insurance is not an extension of credit. Rather, insurance protects against risk of loss. The fact that some insurance protection covers risks surrounding a credit transaction does not alter the essence of the insurance product – a promise to provide protection in the event of a specified loss. Given this distinction, no forms of insurance should be included within the CFPA mandate – including title, mortgage and credit insurance.

The creation of the CFPA would add an additional layer of regulation resulting in fewer consumer choices and higher prices. The letter said consumers are best protected when they know their rights and the businesses that serve them know their responsibilities, and both act accordingly. "A good regulatory system should foster conditions that encourage investment, competition and innovation, and not perpetuate duplication, inconsistency, and waste," the letter said.

In a separate letter sent July 16 by the U.S. Chamber of Commerce, ALTA joined a group of broad-based businesses asking Frank and Bachus to slow consideration of the legislation to give adequate time to assess its impact, the types of businesses and activities that will in fact be covered, and to study both the proposed benefits and costs of creating a new agency with unprecedented authority.

Numerous questions that have not been answered with any legal certainty exist regarding exactly which entities and types of business activities are covered by H.R. 3126. In addition, the intended benefits to consumers of many of the bill's provisions are unclear.

Pfotenhauer said both of these shortcomings make significant unintended consequences a very real and dangerous probability should the legislation continue on its current trajectory. In fact, many of the most critical decisions about the full scope of and manner in which this agency will define and exercise its expansive authority are delegated by Congress and left up to the new agency without significant oversight.

"The precarious state of the economy makes this exactly the wrong time to rush through legislation without a clear understanding of its full impact on consumer access to credit and on the business community at large," the letter said.

Finally, Understanding

Earlier this year, the industry in New Mexico faced the possibility of legislation that would have allowed the filing of rates lower than the premium rate promulgated by the superintendent of insurance. The goal would have been to create competition and drive rates down further. However, the industry received a reprieve when Mo Chavez, New Mexico's superintendent of insurance, announced effective Aug. 1 title insurance rates would rise 10.7 percent overall.

Additionally, the remittance rates from title agencies to underwriters increased from 19 percent to 20 percent for residential properties. A new rate schedule has yet to be released.

According to Chavez, the ruling was based on findings of pre-filed testimony, direct testimony, facts of law and a rate hearing held in November 2008 and a final information hearing in the first week of June 2009. Testimony was received from consumer, regulatory and industry sources, and the New Mexico Attorney General's Office on behalf of consumers. Chavez said it is his responsibility to promulgate the premium rates of title insurers and title insurance agents for title insurance policies and the percentage of premium to be retained by title insurers.

"Premium rates shall not be excessive, inadequate or unfairly discriminatory and shall contain an allowance permitting a profit that is not unreasonable in relation to the riskiness of the business of title insurance," he said.

It is important underwriters remain solvent in order to endure the cyclical nature of the industry.

A nugget derived from the New Mexico ruling, and something other regulators may learn, was the recognition that it is important underwriters remain solvent in order to endure the cyclical nature of the industry.

"Good news for consumers, the regulators in the non-rate portion of the findings adopted the New Mexico Land Title Association's proposal to shorten the number of standard boiler-plate exceptions on everyone's title commitment by one-third in order to create a title policy that was less complex, more transparent, and offering consumers greater protection," said Stephen J. Rhodes, vice president and New Mexico underwriting counsel for Stewart Title Guaranty Co.

Victory in Michigan

Bernard Youngblood, an old industry thorn, attempted to sink his wolverine claws into the industry once again as the Wayne County, Mich., register of deeds proposed the county create its own government-run title insur-

ance firm to compete with private title insurers. He said a government-run firm would save consumers hundreds of dollars for the same coverage. In 2006, Youngblood unveiled similar plans, pointing to negative headlines as proof that the industry was corrupt and seeking results similar to Iowa's title insurance system.

Youngblood said his office initiated a feasibility study three years ago to determine what it would take to allow consumers the option of purchasing title insurance directly from the county, rather than through private companies. The study was in response to a lawsuit filed in 2006 by several underwriters. The companies alleged that Youngblood allowed a six-month gap between the time documents were presented to his office and when they were recorded for public inspection.

Anthony J. Viviani, president of the Michigan Land Title Association, spearheaded the effort along with ALTA to squelch Youngblood's plans. He said a government-run title underwriter would need to operate with the same standards other underwriters and agents must follow.

"We need to make sure it's a level playing field," he said. "Underwriters need to have reserves set aside to pay claims, they must have surplus capital and they need to be licensed. If he enters the market, he must abide by the regulations that the rest of us have to follow. The consumer will no doubt benefit by the competition, but does he have the dollars set aside to pay the claims when and if they do arrive?"

In rebuffing Youngblood's assertion that title insurance is overpriced, Viviani, who also is general counsel for the Philip F. Greco Title Co., said he would have liked Youngblood to provide data to support his stance.

> "If he thinks it's as simple as putting a shingle on the roof and saying 'get your title insurance here,' he's misinformed.'"

"The government-run entity would need to file rates and have to be competitive, and the rates would need to be based on some claims exposure," Viviani said. "If he thinks it's as simple as putting a shingle on the roof and saying 'get your title insurance here,' he's misinformed.'"

Sale of title insurance was banned in Iowa after homeowners were left with alleged worthless policies by the 1947 collapse of Sioux City title insurance companies. When the prohibition was challenged in Iowa's Supreme Court 30 years later, the court upheld the ban. The court ruled on the basis that the plaintiff in the case — Chicago Title — had collected $370,000 in title insurance premiums over the previous five years without paying anything on the policies.

In order to meet mortgage lender requirements on secondary market loans, the Title Guaranty Division (TGD) was established in 1985, and issues Title Guaranty Certificates in a form approved by lenders and governmental entities in the mortgage business. TGD is also its own underwriter.

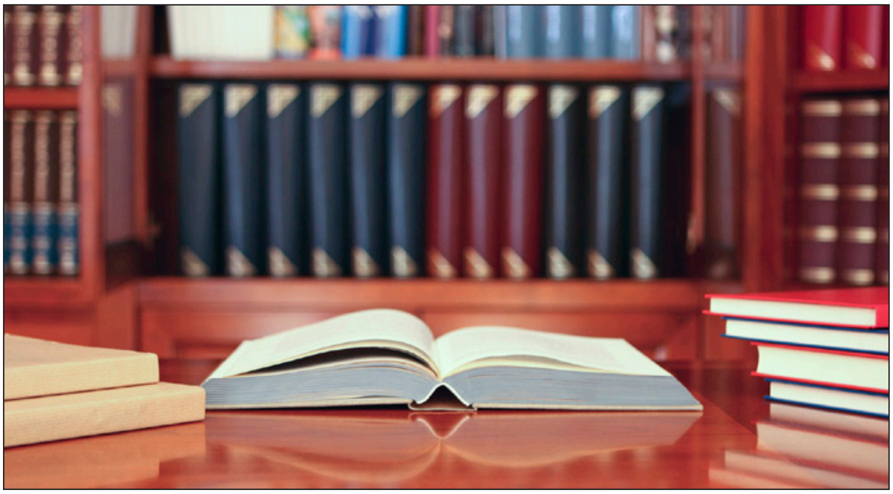
Despite the success of this government system in Iowa, Loyd Ogle, director of the Title Guaranty Division, said that "while the system works in Iowa, it is not something that can be plunked down in another jurisdiction and replicated."

Working together, ALTA and MLTA essentially killed Youngblood's plan for the government-run operation.

Maryland Commission Studies Industry

Last year in the Old Line State, the Maryland Insurance Agency (MIA) established a commission to study the title insurance industry and make recommendations for changes to state laws relating to the title insurance industry. It is co-chaired by Sen. Delores Kelley and Del. David Rudolph.

The commission held five public hearings, concluding July 16 in Baltimore. The hearings covered several topics impacting the industry including consumer complaints reported by the MIA; who is qualified to conduct closings; the cost of title insurance



and the amount paid out in claims; and the handling of escrow accounts.

ALTA testified during the fourth hearing held June 25 in Annapolis, Md., even though the MIA only gave five days notice. While no community members voiced concern to the commission, more than 35 title insurance professionals listened to testimony from 10 individuals supporting the industry, including Justin Ailes, ALTA's director of government affairs.

Despite not being fully informed of what would be discussed at the hearing, ALTA provided testimony that was given in Pennsylvania on May 28 regarding the value of title insurance, while Ailes told the commission that it's the industry's responsibility to educate people and stakeholders about title insurance. He shared that ALTA has a program called the Title Industry Consumer Initiative, which is a multi-faceted strategy for improving oversight of the industry and educating and protecting consumers.

"We, as the national group, have been begging with state administrations to hold Title 101 seminars. We just gave a presentation at the recent National Association of Insurance Commissioners meeting in Minneapolis, and it was greatly received," said Ailes. ALTA has also given the presentation in Indiana, Nebraska, Ohio and Pennsylvania.

The panel is due to make recommendations about possible regulatory changes by December. Ailes suggested if the commission eventually proposes new regulation, it would be more successful if it has full buy-in from the industry. He also told the commission ALTA is supporting the Borrower Right of Inspection, developing legislation that has not yet been introduced but would require lenders to provide closing and settlement documents to consumers 24 hours before closing.

Darlene Arnold, senior enforcement officer of the MIA, shared the breakdown of complaints received by the administration. She reported that of the 392 complaints received so far this year, 245 were title insurance related. Of the 245 complaints, 106 are alleged violations of trust requirements, 92 relate to surety and fidelity bond issues, 13 are from alleged failure to record documents in a timely manner, 12 are from alleged illegal disbursement of funds from escrow accounts and 10 are alleged instances of failure to pay property taxes.

Many in attendance wanted better clarification on the complaints, and how many have already been resolved.

"Consumer complaints aren't in anyone's interest," Ailes said. "They are not in the consumers' interest, the industry's interest or the regulator's interest. When these things occur, let's find out what they are and fix the problem. From our standpoint as a national group, we are eager to support any improvements that can be made."

"Consumer complaints aren't in anyone's interest. They are not in the consumers' interest, the industry's interest or the regulator's interest."

Trouble in New York?

Regulation has been drafted and circulated by the New York superintendent of insurance that could significantly reshape how the title insurance industry conducts business in the state. The overall tone of the proposed regulation indicates that the department of insurance wants underwriters to act as regulators of their agents.

The regulation focuses on premium rates and a proposal to include expenses, losses and profit in rate filings; duties of title insurance companies and agents; disclosures to policyholders; affiliated business arrangements; rebates, inducements and fees; conditions for providing escrow, closing and settlement services; and maintaining escrow and security deposit accounts.

The draft legislation was spawned from a joint investigation by the New York attorney general and the superintendent of insurance after complaints and inquiries were reported. According to the draft legislation, the investigation confirmed that there are industry-wide abuses and illegal practices involving rebates, inducements, gifts and the charging of fees, by various title insurance companies and agents.

The proposed regulation says these alleged illegal practices and abuses have disadvantaged New York real estate consumers by, among other things, driving up insurance costs and perpetuating conflicts of interest.

"The insurance department is attempting to fragment the industry," Ailes said. "We must remain united in working with the superintendent to craft fair regulation."

Avoiding a Landmine

ALTA was contacted in early July by a reporter from the Wall Street Journal to provide comments for a story regarding increased pressure from regulators, rates and the agents' portion of the premium. Early indications suggested the article would treat the industry unkindly. However, the article that appeared in the last section and below the fold of the July 21 edition of the WSJ was more balanced than other articles in the past. Several industry veterans, including Anne Anastasi, spoke with the reporter sharing the industry's value.

"It's obviously not a paid ad for the industry, but we worked with the reporter for several days on the article before its appearance and were able to successfully challenge several pieces of misinformation peddled to him by industry opponents," Pfotenhauer said.

While the article may have been more balanced than other recent stories, ALTA immediately submitted a letter to the editor to help explain what the reporter called "just another mysterious fee."

As of the printing of this edition of *Title News*, the letter to the editor had not yet appeared in the newspaper. Here is a portion of the letter that ALTA submitted to the newspaper:

> "There is no other quality essential to success of any kind, as the quality of perseverance. It overcomes almost everything, even nature."

"In order to maintain current records, new documents must be updated daily. Skilled and trained researchers and underwriters must interpret the effects of these documents on the title. Forged documents, invalid deeds, and incorrect property descriptions are just some of the title issues that must be examined. Searches must also look for recording mistakes, deed indexing errors, unpaid mechanics liens, judgment liens, income or property tax liens, unpaid child support, undisclosed easements, claims by missing heirs, and claims by ex-spouses. One in three real estate transactions requires the title agent to correct a problem before the deal can close."

"Ever since the release of the GAO report, regulators and legislators have ratcheted up their attention on the industry and become more vocal regarding pricing and competition," Pfotenhauer said. "However, ALTA remains determined to highlight the industry's value. John D. Rockefeller once said there is no other quality as essential to success of any kind, as the quality of perseverance. It overcomes almost everything, even nature. Because of our resolve, the industry's interests will remain protected."

Jeremy Yohe is the Director of Communications at the American Land Title Association. He has more than 15 years of experience in the journalism field, having won numerous writing awards. Jeremy can be reached at 202.296.3671 Ext.. 328 or by e-mail at *jyohe@alta.org*.

TILA Changes Will Create 'Brave New World' in Closings

While much attention has been given to the Jan. 1, 2010 deadline for RESPA implementation, there has been another recent regulatory change that will have a direct impact on the closing process.

BY JEREMY YOHE

In 2008, the Home Ownership and Equity Protection Act (HOEPA) and the Housing and Economic Recovery Act (HERA) were passed by Congress, and the Federal Reserve Board published the regulations under the Truth in Lending Act. These regulations were written to provide a more transparent, level and fair regulation of the real estate industry; to add additional steps to help prevent deceptive lending practices; and to protect consumers by making them more informed — and therefore more confident— in their home financing choices.

Changes to the Truth in Lending Act, implemented through Regulation Z, went into effect July 30. There are numerous provisions including the Mortgage Disclosure Improvement Act, which changes the Truth in Lending Act requirements surrounding early and final disclosures to homebuyers and addresses the timing of when fees can be charged. Beginning July 30, lenders are now required to provide initial TILA disclosure for all mortgage loans. This initial disclosure must be delivered to the borrower at least seven business days before closing with the final TILA to be received at least three business days before closing.

If the homebuyer is financing the property, these new regulatory and investor guidelines will impact — and could even dictate — the closing date. Going forward, purchase contracts can still be written with a specific closing date in mind, but all parties will need to take into account that the earliest any home purchase transaction can close is seven business days after the homebuyer is issued his or her initial mortgage disclosures from the lender.

Rich Andreano, a member with the Washington, D.C.-based law firm Weiner Brodsky Sidman Kider PC, said this new disclosure requirement may help in the preparation of the HUD-1, because deals will be set more than three days before closing.

"We will be in a brave new world when it comes to closing in terms of final documents, because the Truth In Lending form will have to go out sooner than it has in the past and that should help at least initially," he said.

Upfront fees cannot be collected by the lender (except for a credit report fee) until the initial disclosures are received. If the disclosures are sent overnight, they are considered "received" the next business day (excluding Saturdays) allowing the fees to be collected on the following business day. Historically, upfront fees could be collected immediately at the time of application for both in person and phone applications. Moving forward, the homebuyer must receive his or her initial disclosures before upfront fees can be collected. The only exception is the credit report fee which can be collected at application.

An increase of more than .125 percent in the annual percentage rate (APR) from the initial Truth in Lending Disclosure (TIL) requires the TIL disclosure to be revised and reissued to the homebuyer. The homebuyer must receive a revised TIL disclosure at least three business days before closing, providing the homebuyer with the time required to determine if the homebuyer is comfortable with the loan choice. If mailed, the TIL disclosure is considered "received" three business days after mailing. A more typical contract date may be 30-45 days — or possibly longer (such as with a new construction loan). Considering that many things occur and may be changed or finalized throughout the course of the transaction, there are a number of things that can impact the homebuyer's APR. Therefore it is critical on the front end to ensure that estimated fees are as accurate as possible.

This is where title agents can prove their value to lender clients. Title agents will want to be as precise as possible in estimating final title costs, including title premium, additional endorsements, title exam, courier fees, and other associated fees.

"The more helpful agents can be at getting lenders accurate information as soon as possible, the more likely when people ask them who is a good person to use when closing, that agent will be on that list. If lenders view you as a closing agent who makes their life easier, you will be one they recommend," Andreano said.

Because of the new regulations, title agents should expect lenders to call earlier in the process to get fee numbers. While this may disrupt operations at first, title agents should experience smoother closings down the road.

"The bad news is that things will have to be more organized and in final form," Andreano said. "If lenders find that things are late, closings will be delayed and that will cause frustration on title agents. To the actual closing, however, there will be fewer surprises and I think that was the intent of the regulators."

Role of Settlement Agent or Attorney to Ensure Timely Closings

- Make sure any third party fees that impact the APR are accurate – understanding any change to fees that impact the APR could lead to a required re-disclosure of the TIL if the changes collectively increase the APR more than .125% (pre-losing TIL). The home buyer must be given an additional three-business-day review period prior to closing, after receipt of the pre-closing TIL.
- Work proactively on providing a preliminary HUD with accurate fees to lenders at least 10 business days before closing. This will enable lenders to issue a pre-closing TIL seven business days prior to the scheduled closing date. This allows three business days from ailing and provides the homebuyers with the time required to determine if they are comfortable with their loan choice.

> Title agents will want to be as precise as possible in estimating final title costs, including title premium, additional endorsements, title exam, courier fees, and other associated fees.

End of 'Rush' Deals?

The new regulations and investor guidelines definitely redefine "rush." The minimum number of days to close a transaction is seven business days after the initial disclosures are delivered and placed in the mail. This would be the fastest scenario. Lenders suggest it's wise to plan on a minimum of 30 days to close.

The final TIL must be received three business days prior to close, and closing can occur on the third business day after receipt. There must be three business days allowed for mailing, then the homebuyers have the three-business day review period required to determine if they are comfortable with the loan choice.

The timing requirements for issuance of initial disclosures and re-disclosure do not apply to investment properties, only primary residence and second-home transactions. The three-day right of rescission still remains in effect for refinances. A loan can close seven business days after any TIL re-disclosure is issued, then, the right-of-rescission period begins.

The loan can fund after the rescission period expires.

Meeting regulatory compliance of the TILA changes are a top concern for community banks, according to a recent survey by Wolters Kluwer Financial Services. The 242 community banks responding to the survey were asked to choose what they believed their top regulatory compliance concerns will be in the next 12 months. Compliance with TILA was a top regulatory concern with 60 percent of respondents saying so, while RESPA followed closely at 58 percent.

Concerns tied to meeting TILA and RESPA requirements are likely to grow at community banks given a resurgence of mortgage lending at these institutions. Lower interest rates, less competition and an enhanced Federal Housing Administration (FHA) loan program have led to a spike in mortgage lending activity at community banks in the past year.

"The survey results confirm that recent changes to TILA and RESPA will indeed place a significant compliance and operational risk management burden on community banks in the months to come," said Ken Newton, executive vice president of banking for Wolters Kluwer. "As these banks increase their presence in the mortgage space, they'll face a number of challenges in efficiently complying with these regulations. Those who will succeed will embrace their new obligations and be proactive in their compliance, making it a critical part of their overall lending workflow."

ALTA Urges Title Agents to Proceed with RESPA Implementation

As the Jan. 1 deadline approaches for implementation of the new Good Faith Estimate and HUD-1 forms, many title agents continue clinging to hopes that the Final RESPA Reform rule will be withdrawn or delayed.

The American Land Title Association, however, urges those in the industry to continue prepping their operations to handle the new forms, even if they are hesitant to spend thousands of dollars to train staff and upgrade software platforms.

"The government is doing no one a service by generating such uncertainty, but I think the odds are in favor of the rule being implemented as proposed in January," said Kurt Pfotenhauer, Chief Executive Officer of ALTA.

This is crucial for title agents to understand, because according to the RESPA rule, lenders can utilize the new GFE before the Jan. 1 deadline, and this would require title agents to use the new HUD-1 forms in that transaction.

Earlier in the year, there were indications that industry groups were seeking, through an amendment to a banking reform bill, to delay implementation of the final RESPA Reform rule to allow the adoption of TILA reform regulations and the coordination of the disclosures under RESPA and TILA by HUD and the Federal Reserve, according to Dan Wold, chairman of ALTA's RESPA Implementation Taskforce.

"At this juncture, there is no certainty that the requested delay will occur," said Wold, who is general counsel for Old Republic Title Insurance. "And it is ALTA's strong recommendation that settlement agents take the necessary steps to be compliant with the new RESPA rule by or before Jan. 1, 2010."

ALTA will advise membership if developments occur that change this recommendation.

Rich Andreano, member of the law firm Weiner Brodsky Sidman Kider PC, said regulators and legislators believed many of the problems fueling the mortgage mess rest with borrowers who didn't get disclosure of their loans soon enough. Regulators have attempted to solve that problem with the new TILA disclosures. Andreano warns other changes could be looming.

"One shoe has dropped," he said. "At some point, regulators will say 'we forgot about the HUD-1' and will begin pushing for early delivery of that settlement document. Now that we have hit the July 30 deadline, and the realization has hit, Congress will be pushing for an advance HUD-1 three days before closing. I can't tell you when, but I think it's going to happen. I can see it coming together, but it may be the fall before it starts crystallizing."

Despite other possible developments, Andreano also urges title agents to prepare for the deadline.

"There's no doubt title agents will go through a lot of expense of implementing procedures to comply with the rule, but you can't put yourself in a position of not complying if it's not delayed. It will cost money, but no effort to get this thing delayed has worked. The political forces were not aligned to let that happen."

The New Mortgage Process and Timeline

Perhaps the easiest way to understand the new process and timelines required by these regulations for a primary residence or second home purchase transaction is with a calendar. Since most transactions are not 'rush' deals but rather close in a 30-60 day timeframe, the calendar below illustrates a desired 30-day close. It is wise to plan for at least a 30-day close.

Assumptions in the Illustration:

- The homebuyer applies on the first of the month.
- The application is taken over the phone.
- The homebuyer locks in the interest rate at least 10 business days prior to the desired close date of July 30.
- A home equity loan was not added to the transaction (doing so would require the same disclosure timelines to start for the home equity loan).
- The estimated fees increased the APR more than .125 percent requiring a re-disclosure of the TIL. (The revised APR was final.)
- The appraisal was ordered and came in at or above value, and the homebuyer received his or her copy at least 3 business days prior to the desired close date of July 30.
- The homebuyer signs and closes on July 30 (the last day of the required final disclosure review period).

If the application is taken in person (instead of a phone application in the example below), then we may be ready to close sooner because the initial disclosures are issued and the upfront fees can be collected at application.

Note: Saturdays are considered a business day only for the purposes of disclosures, unless they are a Federal holiday.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		June 30 Homebuyer finalizes contract of sale on a residential property	July 1 Homebuyer makes phone application with lender	2 element 1	3 Initial disclosures printed and overnighted to homebuyer	4 Federal holiday
5	6 Initial disclosures Day 1 Overnight mail received by customer element 2	7 Initial disclosures Day 2 Earliest date allowed to collect upfront fees – unless the application was taken in person	8 Initial disclosures Day 3	9 Initial disclosures Day 4	10 Initial disclosures Day 5	11 Initial disclosures Day 6
12	13 Initial disclosures Day 7 Earliest date to close if appraisal is not required.	14	15	16	17	18
19	20 Assume desired close date is July 30: Ideally rate locked at least 10 business days prior to close	21	22 element 3 element 4	23 Appraisal must be completed and mailed to the homebuyer 7 business days prior to close PreClosing TIL must be mailed. APR is final	24 PreClosing TIL Mail Day 1	25 PreClosing TIL Mail Day 2
26	27 PreClosing TIL Mail Day 3; PreClosing TIL received	28 Appraisal Minimum Day 1 PreClosing TIL Homebuyer Review Day 1	29 Appraisal Minimum Day 2 PreClosing TIL Homebuyer Review Day 2	30 Appraisal Minimum Day 3 PreClosing TIL Homebuyer Review Day 3 Homebuyer can sign/close	31	

Family/Company Summary (2009 - 1st Quarter)

Company Name	Premium Written Direct	Premium Written Non-Affiliated Agency	Premium Written Affiliated Agency	Total Premiums Written	Market Share	Other Income	Total Revenue
Fidelity Family							
Chicago Title Ins. Co.	91,972,473	160,902,434	47,115,943	299,990,850	15.13%	69,778,721	369,769,571
Fidelity National Title Ins. Co.	27,827,260	143,041,897	53,739,895	224,609,052	11.33%	17,046,410	241,655,462
Lawyers Title Ins. Corp.	30,429,895	94,887,074	20,585,188	145,902,157	7.36%	16,547,545	162,449,702
Commonwealth Land Title Ins. Co.	12,535,195	91,839,966	8,188,875	112,564,036	5.68%	5,541,549	118,105,585
Ticor Title Ins Co.	9,841,805	30,755,899	16,410,272	57,007,976	2.88%	8,318,545	65,326,521
Total - Fidelity Family	178,945,013	556,843,349	156,095,908	891,884,270	44.98%	126,163,228	1,018,047,498
First American Family							
First American Title Ins. Co.	75,218,259	244,921,886	149,130,111	469,270,256	23.67%	82,681,115	551,951,371
First American Title Ins. Co. of NY	6,283,878	14,142,935	1,589,600	22,016,413	1.11%	6,483,622	28,500,035
Pacific Northwest Title Ins. Co.	-	2,876,926	13,013,771	15,890,697	0.80%	18,750	15,909,447
First Canadian Title Ins. Co.	14,421,557	-	-	14,421,557	0.73%	-	14,421,557
First American Title Ins. Co. of OR	11,117,690	1,430,797	-	12,548,487	0.63%	4,539,039	17,087,526
Total - First American Family	111,382,559	272,064,007	164,046,680	547,493,246	27.61%	104,415,943	651,909,189
Stewart Family							
Stewart Title Guaranty Co.	16,117,906	127,488,941	76,756,863	220,363,710	11.11%	9,525,852	229,889,562
Stewart Title Ins. Co. of NY	3,204,898	17,646,465	328,095	21,179,458	1.07%	1,102,277	22,281,735
Monroe Title Ins. Corp.	962,818	1,971,732	63,460	2,998,010	0.15%	1,587,156	4,585,166
National Land Title Ins. Co.	-	1,902,825	-	1,902,825	0.10%	1,255	1,904,080
Arkansas Title Ins. Co.	-	1,354,751	105,178	1,459,929	0.07%	921	1,460,850
Total - Stewart Family	23,722,520	150,997,636	77,253,596	251,973,752	12.71%	12,217,461	264,191,213
Old Republic Family							
Old Republic National Title Ins. Co.	3,506,796	89,159,333	26,182,487	118,848,616	5.99%	9,721,716	128,570,332
Mississippi Valley Title Ins. Co.	50,073	4,394,961	-	4,445,034	0.22%	256,689	4,701,723
American Guaranty Title Ins. Co.	97,735	287,728	609,219	994,682	0.05%	319	995,001
Old Republic General Title Ins. Co.	-	-	-	-	0.00%	-	-
Total - Old Republic Family	3,654,604	93,842,022	26,791,706	124,288,332	6.27%	9,978,724	134,267,056
Regional Companies							
Attorneys' Title Ins. Fund	-	36,289,477	-	36,289,477	1.83%	6,042,345	42,331,822
Title Resources Guaranty Co.	64,591	14,121,497	11,731,093	25,917,181	1.31%	-	25,917,181
Investors Title Ins. Co.	6,077,452	6,273,601	3,194,392	15,545,445	0.78%	226,766	15,772,211
Westcor Land Title Ins. Co.	-	8,250,650	5,335,564	13,586,214	0.69%	420,263	14,006,477
North American Title Ins Co.	-	377,561	10,876,717	11,254,278	0.57%	-	11,254,278
Southern Title Ins. Corp.	176,021	8,407,113	352,490	8,935,624	0.45%	253,832	9,189,456
Connecticut Attorneys Title Ins. Co.	-	8,831,634	-	8,831,634	0.45%	527,600	9,359,234
Security Title Guarantee Corp. of Balt.	14,000	6,961,104	-	6,975,104	0.35%	219,969	7,195,073
Alliant National Title Ins. Co.***	-	5,567,913	-	5,567,913	0.28%	-	5,567,913
Land Title Ins. Corp. of CO	-	-	4,766,099	4,766,099	0.24%	23,211	4,789,310

California	Total Premium	Market Share
First American Title Ins. Co.	94,557,322	30.1%
Fidelity National Title Ins. Co.	69,872,192	22.2%
Chicago Title Ins. Co.	62,494,125	19.9%
Stewart Title Guaranty Co.	21,094,859	6.7%
Old Republic National Title Ins. Co.	18,832,916	6.0%
Lawyers Title Ins. Corp.	15,990,740	5.1%
Ticor Title Ins. Co.	8,195,686	2.6%
Commonwealth Land Title Ins. Co.	7,884,158	2.5%
North American Title Ins. Co.	5,514,153	1.8%
Westcor Land Title Ins. Co.	3,606,698	1.1%
Security Union Title Ins. Co.	2,670,841	0.9%
Commerce Title Ins. Co.	1,203,326	0.4%
TransUnion Title Ins. Co.	1,198,708	0.4%
United Capital Title Ins. Co.	1,012,243	0.3%
EnTitle Ins. Co.	3,966	0.0%
TOTALS	314,131,933	

Texas	Total Premium	Market Share
Stewart Title Guaranty Co.	43,960,732	20.3%
First American Title Ins. Co.	40,542,964	18.8%
Chicago Title Ins. Co.	29,965,474	13.9%
Lawyers Title Ins. Corp.	26,519,440	12.3%
Fidelity National Title Ins. Co.	18,166,353	8.4%
Title Resources Guaranty Co.	17,845,040	8.3%
Alamo Title Ins. Co.	9,673,306	4.5%
Commonwealth Land Title Ins. Co.	9,343,902	4.3%
Old Republic National Title Ins. Co.	5,792,827	2.7%
Alliant National Title Ins. Co.	4,305,682	2.0%
Ticor Title Ins. Co.	4,029,718	1.9%
Commerce Title Ins. Co.	1,734,105	0.8%
Southern Title Ins. Corp.	1,562,889	0.7%
Security Union Title Ins. Co.	1,525,863	0.7%
North American Title Ins. Co.	1,140,813	0.5%
TOTALS	216,109,108	

Florida	Total Premium	Market Share
First American Title Ins. Co.	38,890,089	23.9%
Attorneys Title Ins. Fund	35,382,800	21.8%
Chicago Title Ins. Co.	17,506,604	10.8%
Stewart Title Guaranty Co.	14,033,957	8.6%
Fidelity National Title Ins. Co.	13,850,653	8.5%
Old Republic National Title Ins. Co.	12,213,852	7.5%
Commonwealth Land Title Ins. Co.	8,406,413	5.2%
Lawyers Title Ins. Corp.	5,878,028	3.6%
Ticor Title Ins. Co. - FL	5,471,036	3.4%
Westcor Land Title Ins. Co.	3,770,039	2.3%
Ticor Title Ins. Co.	3,029,568	1.9%
Title Resources Guaranty Co.	1,828,225	1.1%
North American Title Ins. Co.	1,275,003	0.8%
Commerce Title Ins. Co.	546,731	0.3%
National Title Ins. Co.	376,189	0.2%
TOTALS	162,459,187	

New York	Total Premium	Market Share
First American Title Ins. Co. - NY	22,016,413	17.9%
Stewart Title Ins. Co.	21,179,458	17.2%
Commonwealth Land Title Ins. Co.	17,966,932	14.6%
Fidelity National Title Ins. Co.	17,245,011	14.0%
Chicago Title Ins. Co.	12,433,156	10.1%
Old Republic National Title Ins. Co.	9,418,594	7.7%
Lawyers Title Ins. Corp.	7,489,103	6.1%
Ticor Title Ins. Co.	5,635,136	4.6%
Monroe Title Ins. Corp.	2,998,010	2.4%
Washington Title Ins. Co.	2,749,456	2.2%
Security Title Guarantee Corp. - Baltimore	1,244,269	1.0%
Northeast Investors Title Ins. Co.	962,437	0.8%
Ticor Title Ins. Co. - FL	593,587	0.5%
Conestoga Title Ins. Co.	479,367	0.4%
Westcor Land Title Ins. Co.	431,850	0.4%
TOTALS	122,842,779	

Pennsylvania	Total Premium	Market Share
First American Title Ins. Co.	20,374,940	24.4%
Commonwealth Land Title Ins. Co.	13,013,122	15.6%
Lawyers Title Ins. Corp.	9,688,777	11.6%
Chicago Title Ins. Co.	9,459,729	11.3%
Fidelity National Title Ins. Co.	8,842,125	10.6%
Old Republic National Title Ins. Co.	8,530,363	10.2%
Stewart Title Guaranty Co.	4,027,660	4.8%
Security Title Guarantee Corp. - Baltimore	2,025,764	2.4%
Ticor Title Ins. Co. - FL	1,843,828	2.2%
T.A. Title Ins. Co.	1,776,496	2.1%
Title Resources Guaranty Co.	1,069,274	1.3%
Ticor Title Ins. Co.	833,880	1.0%
New Jersey Title Ins. Co.	813,310	1.0%
Investors Title Ins. Co.	611,975	0.7%
Conestoga Title Ins. Co.	608,887	0.7%
TOTALS	83,520,130	

Arizona	Total Premium	Market Share
First American Title Ins. Co.	25,922,108	36.7%
Fidelity National Title Ins. Co.	17,835,646	25.2%
Lawyers Title Ins. Corp.	9,140,297	12.9%
Chicago Title Ins. Co.	5,026,076	7.1%
Stewart Title Guaranty Co.	3,955,261	5.6%
Commonwealth Land Title Ins. Co.	2,267,848	3.2%
Security Union Title Ins. Co.	1,573,039	2.2%
Old Republic National Title Ins. Co.	1,481,475	2.1%
Title Resources Guaranty Co.	1,156,735	1.6%
Ticor Title Ins. Co.	786,477	1.1%
North American Title Ins. Co.	532,220	0.8%
Westcor Land Title Ins Co.	491,561	0.7%
National Title Ins. of New York	228,886	0.3%
Alliant National Title Ins. Co.	189,814	0.3%
Commerce Title Ins. Co.	100,033	0.1%
TOTALS	70,687,476	

Who Needs a Survey?

Whether you are buying, selling, or acting as another's representative, there are several reasons a land survey may need to be performed in real estate transactions.

CHRISTOPHER M. WICKERN, L.S.

There is no way around it. Buying property is an expensive undertaking, and investing in real property is often the single largest investment an individual will make in their lifetime. It involves acquiring rights and interests in real property. The client sees the attorney, title company, and even the Realtor as experts in protecting different aspects of their interests. This all adds to the cost of the transaction. It's expensive, and as Will Rogers once said, "They ain't making any more of it." Knowing a property's boundary is of fundamental importance in nearly all real estate transfers. Yet, experience tells us land surveying and boundaries are one of the least understood and most overlooked elements.

Whether you are buying, selling, or acting as another's representative there are several reasons a land survey may need to be performed in real estate transactions. A Realtor, a title company, county recorder, county assessor, and even your attorney cannot identify where the property boundaries are. While the surveyor works for the buyer or the seller, he is not an advocate for a client. In fact, we do not serve our client at all if we can be persuaded to present less than the truth. A licensed land surveyor is responsible equally to his client and the client's neighboring landowners for accurately locating existing boundaries. He is also charged with the accurate location, setting visible monuments at boundary corners, and describing new lines that a landowner may authorize him to create.

The only professional legally authorized to do this is the licensed land surveyor. The surveyor is not concerned about whether he can exactly reproduce the measurements of the previous surveyor. His concern is that he can find or reproduce the exact corners that were originally set. To correctly replace missing corners, he must have a firm foundation in property law. The correct application of the law means that if the property ends up in court, the court would agree with the boundary surveyor's conclusion. What we really do as land surveyors is protect the property rights of our clients and their neighbors. We do that by understanding and applying land law and by evaluating evidence. It is the individual who is not served, and possibly harmed, by not consulting the licensed surveyor.

Most people investing in real property are buying homes and businesses. Very often, (and to their detriment) they do not know where the boundaries of the property are.

The land surveyor renders a highly technical and complex service and is the recognized expert in matters pertaining to property boundaries.

There are several fundamental questions that should be asked in real property transactions to see if a survey is needed. Some of these are:

What is the Property's Boundary?

In its most simple terms, it is the point or line where the rights and interest in real property stop, and those of another begin. This is the realm of the land surveyor.

What is a Boundary Survey?

The surveyor examines the current and historic record description of the property. No boundary exists by itself. All boundaries are affected by, and have an effect on, the boundaries of the neighboring properties. The surveyor also examines the records of all the adjoining properties, and any implied record such as maps, plats, and drawings. The surveyor uses technical equipment, scientific principles, legal principles, an understanding of boundary case law, and the intention of the parties as expressed in the deed to position himself in the vicinity of the boundary. That is where the search for boundary evidence begins. The objective is to accurately determine the original location. Accuracy is not how well we can measure cited courses and distances. Accuracy is how close we come to finding and perpetuating the original bounds of the property.

What isn't a Boundary Survey?

A survey prepared for an architect or consulting engineer may have been accomplished to standards very different from those required for a boundary survey. An "as-built" survey is merely a detailed map of a building or other improvement and its relation to the plans it was built from. It appears complex and comprehensive, but it may not address boundary concerns.

What is the Relationship of the Property to the Neighboring Properties?

All parcels of land exist in relation to the parcels surrounding them. Surrounding parcels may include privately or publicly owned lands, rights-of-way, easements, roads, and

Why Can't Two Surveyors Agree?

It is not particularly unusual for two competent surveyors to disagree as to where a boundary line should be located. How and why do such problems occur? For an explanation of the sources of these types of discrepancies, ALTA members should attend "Why Can't Two Surveyors Agree? Understanding Boundaries & Legal Descriptions," presented by Gary R. Kent, L.S. at the Annual Convention in Palm Beach, Fla., on Oct. 23. Gary is a member of ALTA and serves as its liaison to the National Society of Professional Surveyors (NSPS). He is also the chair of the NSPS committee on the ALTA/ACSM Standards.

There are many unrecorded rights that can affect title to land that may not show up in a title search, but would be obvious with a survey of the property.

navigable and non-navigable bodies of water. Legal descriptions were written by different people at different times often with no established standards and are very inconsistent. The described boundary may in fact overlap or not meet, and there may not be legal access to the parcel. The surveyor identifies problems and conflicts if they exist, and they are instrumental in conflict resolution.

What is the Relationship of Occupied Lines to Record Lines?

Many times the boundary lines of a parcel as physically occupied or possessed are different from the distances and direction called for in the written record, or deed. These discrepancies may be nothing more than minor discrepancies between measurements, or it may identify a significant encroachment of one property onto another. The survey map or plat should show any discrepancy or possible encroachment.

How are the Easements and Physical Improvements Related to the Boundary?

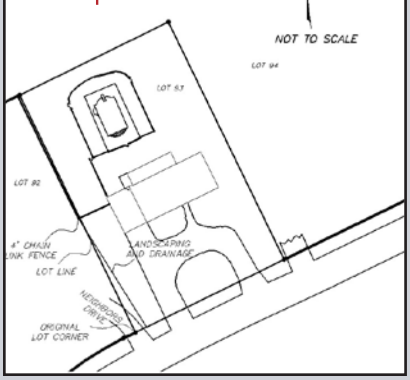
The typical features of a survey include fences, driveways, buildings and utilities. The easements are shown, and discrepancies between the written easement and the actual location of the utility are shown. There are also many unrecorded rights that can affect title to land that may not show up in a title search, but would be obvious with a survey of the property, such as the right of a neighbor to use utility lines, drainage ditches, sewer lines, or unrecorded travel easements across the property. Rights may have been acquired by prescription or other methods of land transfer by unwritten means.

Christopher Wickern is a licensed registered land surveyor in Arizona, professional land surveyor in Missouri, and a certified federal surveyor. He is the survey manager for Engineering Surveys & Services, in Sedalia, Mo. Chris has many years experience in land and boundary surveys, with specialized training in the U.S. Public Land Survey System, and specialized training in riparian boundary issues.

Examples of Different Survey Disputes

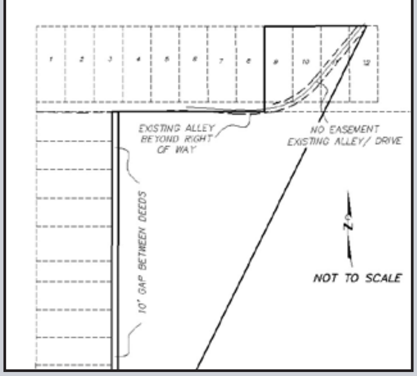
Some examples and discussion of these problems from recent surveys follow. In the course of their work, surveyors frequently identify problems with neighboring properties such as conflicting descriptions, gaps, overlaps and encroachments.

Example 1



Discussion: Example 1
This scenario involves a well established neighborhood in a 1960s subdivision. Deeds and adjoining deeds all read: all of Lot 92, all of Lot 93, all of Lot 94. Property sold as is since houses were first build. All lots are simple rectangular lots, however, the existing long standing improvements create an angle point on the west line of Lot 93. The property was surveyed. A search was made for the southwest corner, and an original lot corner was found as called for in the subdivision plat. The corner falls in the middle of the west adjoiners drive. The surveyor did not create the problem, rather identified the problem. The owners, their title company and surveyor worked to resolve the problem.

Example 2

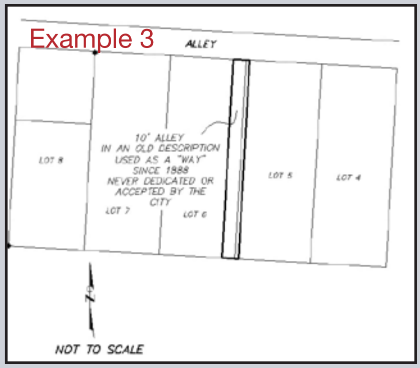


Discussion: Example 2
The north lots are in a well established 1889 subdivision. The parcels along the west are all described from the southwest corner of Lot 1; Thence South 15 feet to the south line of the alley; Thence east 120 feet to the point of beginning. All lots are 120 feet east-west. The property south of the subdivision lots and east of the 120 foot east-west parcels begins at the southwest corner of Lot 1; Thence south 15 feet to the south line of the alley; Thence east 130 feet to the point of beginning. The diagonal east line is the westerly right of way of an old railroad, now a trail owned by the state parks. The railroad owned the parcel shown as well as the right of way.

There is a 10 foot gap between the deeds. There is one common line on the ground. All of the west adjoining parcels were created between 1889 and 1998. There is no indication that any of these parcels have ever exercised any claim over the strip. The railroad has never done anything within the strip other than mowing.

The platted alley extended to the east side of Lot 12 before the railroad was built. These issues are ongoing and have not been fully resolved.

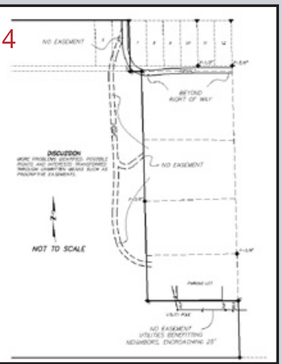
Example 3



Discussion: Example 3
The deeds from 1948 to date mention no north-south alley, but the city had maintained a way for many years. Research was conducted and it was found that the person who created the subdivision sold these two lots in 1888. They described them as all of Lot 5 except the west two feet, and all of Lot 6 except the east eight feet to be used as a way.

It was never dedicated or accepted by the city. The title company, attorneys, surveyor and the city worked to resolve the modern issues chiefly brought on by the way being dropped from descriptions and recent searches only going back 50 years.

Example 4



Discussion: Example 4
More problems identified. Possible rights and interests transferred through unwritten means such as prescriptive easements.

Profiting from Social Media Technologies with a Customer-Centric Strategy

Title agents must learn to unlock new strategies that will bring service providers, business partners and customers together.

BY TRAVIS WRIGHT

The New Web Experience

Social media has ushered in a new era of open and collaborative communication for the masses. The need to be heard, to feel connected and to create transparency has given rise to new technologies that power this new "voice of the customer." Applied to the real estate and title insurance industry, social media has the potential to unlock new strategies that will bring service providers, business partners and customers together.

Imagine for a moment, that your company Web site was the only medium available for you to market your services. No salespeople, no print advertisements and no educational events; only your Web site. If that were the case how important would your Web site, its content and its ability to create a "customer experience" become to you? Since Google has taught us that we can find everything and everyone on the Internet, would your customers' expectations for content, transparency and the online experience be more demanding than it is today?

Creating and Keeping Customers

Management guru Peter F. Drucker stated long ago that the purpose of business "is to create and keep customers." Harvard uber-strategist Michael Porter says that a business strategy is the "creation of a unique and valuable position by choosing what not to do and by creating fit among a company's activities." Thus, it follows that successful and profitable businesses are those who create and live a strategy to attract and retain customers.

A Customer Centric Strategy

Social media should be important to you if you're looking for a better way to attract and retain loyal customers and business partners — such as Realtors — to your company's services and value proposition. Customer centricity is about aligning all your company's activities toward the interests, needs and demands of your customers regarding their real estate transaction with you. In that light, social media technologies can help you engage and align with your customers' needs.

Most of us are familiar with social media Web sites such as Facebook, YouTube, Twitter and LinkedIn. Perhaps you've already set up your profiles and begun experimenting by sharing text, pictures and videos with your friends, family and business peers. If you're using social media, isn't it a good bet that your Realtor-partners and their real estate clients are doing likewise? So the larger question is how small, medium and large businesses can leverage this phenomenon of online interaction and the technology tools that power it.

Social Media and Web 2.0

First, recognize that the term "social media" refers to a wide collection of dynamic Internet technologies that facilitate all the features and functions we find on social networks such as blogging, texting, video-sharing, ratings and reviews.

Technologists use the term "Web 2.0" to describe these computer applications that make the online experience more user-friendly, two-way interactive and rich. The term also serves to distinguish this evolution of the Internet from the previous Web 1.0 environment where company Web sites were little more than one-way channels delivering static lists of products and services.

Everyone Wins

From a marketer's standpoint, social media presents a new communication channel in which businesses can present their products and services with rich media to attract and engage customers. From a customer's viewpoint, companies who utilize social media applications make it easier to evaluate the company's products and make better choices after reviewing comments, opinions and ratings from other customers of the company.

From a business owner's perspective, Web 2.0 and social media applications can convert a little-used company Web site into your most powerful sales, marketing and customer acquisition toolkit. In effect, you have the opportunity to create an entirely new Web experience in which your staff, partners and customers can engage, collaborate and transact business.

Content is King

At the core of successful social media Web sites is content. Content can consist of rich media such as audio, video and text in the form of podcasts, blogs, surveys, user-forums and wikis. Much of this content should originate from the Web site provider (you) but even more content can be contributed from the visitors to your site with the easy online publishing and editing tools that social media technologies provide.

When you engage in social media you become a publisher of content. Thanks to the power of Web 2.0 technologies, social media platforms like Ning allow you to publish your content in all the rich media: streaming video, audio and text. Think of a social media site as a cable TV channel attracting and serving its audience with content in the form of news, weather, sports, sitcoms and movies. With the right content and media delivery, your social media Web site could offer visitors a wealth of entertainment, education and collaboration that will lead to 'creating and keeping' customers. An easy (and free) way to try this is to set up an account on *www.ning.com* and begin to publish.

For larger enterprises — like national underwriters or large regional title agencies — you should research content management system (CMS) vendors that can create custom Web portals and integrated Web experiences for your customers utilizing the power of all the social media applications.

Keep Connected With ALTA

Beyond all the information ALTA provides on its own Web site, you can also stay abreast of industry news through several social media sites. Stay connected to industry news by following ALTA on one or all of these social mediums.

facebook

LinkedIn

twitter

Community and Collaboration

Successful social media campaigns tap into the 'wisdom of the masses' and bring people together around common interests, needs or desires. Visit *www.starbucks.com* and *www.v2v.net/starbucks* and see how Starbucks is building communities and engaging their customers.

You can join communities for your personal networking but you can also create social network communities for promoting your business. For small and medium size businesses, consider using YouTube to create your company's video 'channel' (see *www.youtube.com/coldwellbanker*), or use Facebook to create your company's own page (see *www.facebook.com/coldwellbanker*).

Notice how Coldwell Banker links their social media sites to their primary business Web site at *www.coldwellbanker.com*. Imagine how you can model this strategy of engaging customers at your social media "outposts" and then pulling them into your corporate Web site where all your products, services and value propositions are to be found.

For larger enterprises — like national underwriters or large regional title agencies — you should research content management system (CMS) vendors that can create custom Web portals and integrated Web experiences for your customers utilizing the power of all the social media applications. For starters, check out *www.vignette.com* or *www.fatwire.com* to see enterprise solutions that power social media content and strengthen customer engagement for large corporations.

Realtors and Title Agents Go Hand-in-Hand

Realtors have been very quick to adopt the use of Twitter, Facebook, YouTube and blogs to engage with their friends and customers. Title insurance agencies and field representatives should do likewise and get in sync with their best business partners and, ultimately, the homeowners who pay your title premiums.

Getting Started

A great way to get started on your social media journey is to "just do it." One of the reasons for the impressive numbers of users on Twitter, YouTube and Facebook is that the technologies are quite easy to use. Spend the next few months on two or three sites with which you feel comfortable and fully participate. Ask your employees to do the same and compare lessons learned.

Set up a free blog site on *www.wordpress.com* and experiment with your writing skills. Buy a Flip camcorder and see how easy it is to create video podcasts and upload to YouTube. If you're really adventurous, set up an account on *www.ning.com* and create your own social media site and begin to upload blogs, pictures, videos, podcasts and invite your friends and peers to register.

Many Resources

Learning about social media is a journey and the social technology landscape is changing daily. If you are serious about the social media wave just use Google searches on the subject to find white papers, consultants, technology vendors and real live users who will share with you what they know.

Remember, your customer-centric objective is to create a user experience for all your stakeholders which is centered on your unique and valuable position of industry knowledge and practical content that educates, entertains and engages your audience in such a way that they will want to conduct business with you.

One Agent's Experience

Don't miss the November edition of *Title News* as Derek Massey, president of Mid-Atlantic Settlement Services, shares his trials and tribulations in the social media realm. Massey will offer insight into how he started down the social media path, which sites he finds the most beneficial, how to approach marketing and whether or not results are meeting expectations.

Travis Wright is the strategist at Wright Strategy Advisors which advocates customer centric business strategies. He's held executive positions with Stewart Title, GMAC Real Estate, Countrywide Financial, Prudential Real Estate and Coldwell Banker Real Estate. As President of various technology divisions at Stewart Title Co., he led initiatives to streamline the real estate transaction and closing process by promoting digital documents, e-signatures, and Web-based transaction management systems throughout the real estate industry. *www.wrightstrategy-advisors.ning.com*, *travis@wrightstrategyadvisors.com* , or 281-217-2789

industry news

RedVision Hires Pearson to Manage Growing Arizona Region

RedVision, a national provider of real property research solutions based in New Jersey, announced the hiring of Scott Pearson as Arizona State Manager. Prior to joining RedVision, Pearson worked as Senior Commercial Escrow Officer and Escrow Operation Support at First American Title's National Default Title Services. At First American Title, Pearson managed internal requests to begin foreclosure and forfeitures for private lenders with loans or agreements serviced by First American's Account Servicing Department. Pearson also managed daily operations for the department's title division, overseeing examination and servicing of all litigation and foreclosure reports for western United States.

First American Announces Personnel Changes

The First American Corp. announced recent personnel changes, including new national account directors and the president of First American Trust. Christopher Del Moral-Niles was nominated to serve as president of First American Trust, FSB. Niles, who had previously served as treasurer for First American, is expected to assume his new duties effective Oct. 1, 2009. Niles will be responsible for the day-to-day management of First American's primary depository and wealth management activities and also will serve on First American Trust's board of directors. Also recently appointed to new positions were Karen Hodum and Jon Rutila, who each were named national account directors for First American's Lenders Advantage division. Hodum and Rutila, who are both based in Clearwater, Fla., will be responsible for developing business for First American's centralized title and settlement services.

Old Republic Continues Commercial Operations Expansion, Names New Chief Title Officer for San Joaquin Ops

Norman Essey has joined Old Republic National Commercial Title Services (ORNCTS), a division of Old Republic National Title Insurance Company. He will serve as manager of the Columbus office and will be appointed to the position of vice president. Essey will help grow marketshare in the Midwest and nationally for its national commercial title services division. Since June 2008, ORNCTS has expanded its national footprint in 10 major commercial real estate markets, with its Columbus office being its 11th commercial operation. Also, Tom Stoermer has joined Old Republic Title Co. as vice president and chief title officer in its San Joaquin County operations. Stoermer has served in the title and escrow business for 37 years. In his new position, he will focus on underwriting and title management duties for both residential and commercial transactions in the county. Prior to joining Old Republic Title, Stoermer worked on commercial and new development transactions for First American Title Co. in Stockton, Calif., for 11 years.

United Lender Services Taps Fuchs as EVP

Richard Fuchs, the former owner and president of Express Financial Services (EFS), is the new executive vice president of strategic business development for United Lender Services Corp., a national title and settlement services and appraisal management company. Fuchs was the sole owner of EFS for more than 22 years, with a national service center in Greentree, Pa., and nine full service branches. He is also one of the original founders of TAVMA, the title and vendor management association. Fuchs also served on several industry committees including formerly holding the title of President of the International Credit Association of Pittsburgh.

Former MBA technology VP Joins SigniaDocs

Harry Gardner, the former vice president of industry technology for the Mortgage Bankers Association, was given the post of chief strategy officer at e-mortgage services provider SigniaDocs. Gardner, who will assist in the company's effort to replace paper mortgages with high-speed, cost-effective electronic mortgages across the industry, also previously served as president of the Mortgage Industry Standards Maintenance Organization (MISMO), the industry group that created the electronic mortgage standard practices and documents known as SMART Docs, the technology that makes e-mortgages possible.

Maryland Issues Data Call

The Maryland Insurance Administration requested all title insurance underwriters licensed to write title insurance in the state to submit financial data related to its title insurance business by Aug. 28. The department requested a listing of all appointed title agencies/agents in Maryland for calendar year 2008 and 2009. For each agency/agent, the department wants the contractual commission percentage the underwriter was/is obligated to pay for calendar year 2008 and 2009. Underwriters also had to submit information regarding:

- Whether a single commission percentage is paid for all types of business the agency/agent places with the insurer. If so, the percentage amount should be provided;
- Whether different commission percentages are paid based on the type of business placed with the underwriter. If so, the underwriter should list each type of business and the associated commission percentage paid for each type of business placed;
- Whether there is a sliding commission schedule based on other factors. If so, underwriters should provide a listing of those factors and attach a copy of the schedule of commissions; and
- Whether there was/is an opportunity for "contingent commissions" based upon certain triggers. If so, underwriters should provide a listing of those triggers and attach a copy of the contingent commissions schedule and associated triggers.

First American Introduces National Residential Rental Services Division

First American National Default Title Services recently launched its new National Residential Rental Services (NRRS) Division, which provides financial institutions with an option for evaluating and executing rental-based loss mitigation strategies for non-rural, non-seasonal, multistate single-family Real Estate Owned (REO) properties. National Residential Rental Services said it expects to accelerate financial institutions' use of rental-based strategies as an extension of loss mitigation and asset disposition practices by providing services that facilitate both the generation of net positive cash flows from the rental income of otherwise non-performing assets, and the protection of asset values for eventual sale. NRRS also expects that its services will assist financial institutions in complying with recently enacted and prospective anti-displacement legislation such as the Protecting Tenants at Foreclosure Act of 2009.

Stewart Offers Title Agencies Marketing Services

Stewart Title Guaranty Co. is offering a Marketing Resource Center for Stewart-underwritten title agencies to help strengthen their brand and drive business. When utilizing this tool, title agencies will have access to a variety of marketing materials including flyers, customized e-mails, drop cards PowerPoint templates, calendars, greeting cards, postcards, public relations toolkit and tradeshow and events guides. Items can be customized with the agency's information and logo.

First American Makes Offer to Acquire First Advantage

The First American Corp. has made an offer to acquire the issued and outstanding common stock of its publicly traded subsidiary, First Advantage Corp., which provides consumer credit, motor vehicle and employment background checks, among other services. Under the terms of the offer, First Advantage's shareholders would receive, at a fixed exchange ratio, 0.5375 of a share of First American common stock for each share of First Advantage common stock. First American indirectly owns approximately 74 percent of First Advantage's common stock.

Demand for FHA, VA surges

The Mortgage Bankers Association reported that Federal Housing Administration and Veterans Administration loans represented 35.9 percent of new mortgage applications in June, the highest level since November 1990. Back in August 2005, just 6.8 percent of mortgage applications were for these federally insured loans.

Simplifile to Accept Check Payments for E-recording Services

Simplifile, a Utah-based provider of electronic recording services, has signed an agreement with MyECheck, Inc., a provider of online check image services. The agreement will facilitate the integration of the MyECheck Remotely Created Check solution into the Simplifile e-recording service which will allow Simplifile customers to make payments for recording and submission fees using an online check imaging process.

Resource Title Opens Commercial Office in Chicago, Adds to Staff

Resource Title Agency Inc. continues its growth in the commercial title insurance sector, opening a new office in commercial hub Chicago and adding two senior executives. The office will be managed by newly appointed Senior Vice Presidents Linda Short and David Kozicki. The move comes on the heels of the Cleveland-based firm adding three other commercial executives in the past seven months.

As SVP for Resource Title's National Commercial Division, Short will lead the sales and marketing operations for the office. She comes to Resource Title from a major national title underwriter where she oversaw commercial business development and managed national accounts. Prior to that, she spent seven years with Duke Realty Corp.

Kozicki will serve as SVP and national underwriting counsel for Resource Title's National Commercial Division. He will direct the office's underwriting, operational and compliance functions while also participating in sales and account development. Kozicki is an 18-year veteran of the title industry, most recently resident vice president and associate national counsel for the commercial division of a national title underwriter. While there he specialized in the coordination and closing of large single and multi-site commercial and industrial national real estate transactions, primarily for high-volume corporate and REIT customers.

Urban Settlement Services Recognized for Growth

Pittsburgh-based Urban Settlement Services, LLC has been selected by Black Enterprise Magazine as one of the top Black Businesses in the nation and is listed on the "2009 B.E.100s List." The company, founded by Charles and Elisa Sanders, has a staff of 125 and revenue of $50 million grossed in 2008. It has offices in Pennsylvania, North Carolina and Colorado, and processes and provides information regarding loan modifications, loss mitigation, predictive data analytics, title, title insurance and appraisal information. It is a supplier of real estate information products to mortgage lenders, servicers and government agencies. In 2008, the company processed approximately 600,000 loan work-outs that helped thousands of families to keep their homes.

Company Launches Free National Directory of Title Insurance Providers

TitleInsurance.com recently launched a free online directory of title insurance providers. TitleInsurance.com features options to search by county, by state or by a title company's name. Title provider information includes contact information. The company said title agents and underwriters have the ability to develop and edit their own free, online listings and can also purchase advertising or a search result position on the site to enhance their company's visibility. Enhanced listings include a company profile and options to request a title quote and/or place an order.

Title Alliance Acquires Second Northern Ohio Title Joint Venture

Title Alliance Ltd. announced on June 1 that it acquired Newman Title Agency Ltd., a joint venture in the Northern Ohio area that is comprised of a group of Realtors from the Russell Realty Offices in the Northern Ohio area. Russell Realty was founded in 1962. Currently they have nine offices and almost 500 agents spread throughout Northern Ohio. Newman Title Agency has been operating since 2004. Newman Title Agency is located in Strongsville, Ohio, and is managed by Sherry Sims Weisner, a veteran title agent and title officer.

Pentagon Credit Union Forms National Title Company

Prime Alliance Solutions Inc., a provider of advanced mortgage solutions for credit unions, and Pentagon Federal Credit Union announced the formation of Prime Alliance Title LLC, a credit union-owned mortgage title insurance company with a national scope. Joe Brancucci is chairman and CEO of Prime Alliance Solutions.

The new title company began operations in early July, fulfilling orders in a few states. Fully operational now in Virginia, Washington, D.C., Maryland, Delaware, Pennsylvania, New Jersey, New York, North Carolina, Florida and Colorado, Prime Alliance Title is pursuing licenses and relationships in its pursuit of service to credit unions everywhere, which it expects to complete by early 2010.

Alexandria-based Pentagon Federal is the third largest credit union in the nation with $13.4 billion in assets and some 900,000 members. It serves employees of the Department of Defense, the Department of Homeland Security and defense-related companies, as well as veterans. Pentagon Federal posted $1 million in net income in the first quarter, which was among the most challenging quarters on record for credit unions.

Arizona Title Agency Changes Name

Lawyers Title Agency of Arizona has changed its name to Landmark Title Assurance Agency, the company announced in July. The agency, which has been in business for 57 years, will begin using industry-tracking technology to assist brokers and lenders with transactions, according to Landmark Title President Doug Thompson.


We're in this together.
Thank you for working with First American.
Getting through challenging times takes hard work and great partners. All of us at First American want to thank our agents for the work you've done to meet these challenges, and let you know that we look forward to the opportunities our partnership will continue to bring.
Now, more than ever, your dedication—and partnership—is appreciated.
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How About a Systemic-Risk Council?

As Congress evaluates the Obama Administration's far-reaching plan to overhaul the regulatory architecture of the nation's financial services industry, it should remember one of the factors that exacerbated our current financial crisis.

The president and Congress cannot afford to centralize too much power in the hands of a few interlocked regulators or else they replicate the very centralization of decision-making resources that led to the downfall of several of the world's largest financial institutions such as AIG.

Over recent decades, as banks, brokerages and insurance became more and more integrated, the checks and balances instituted to prevent a recurrence of the Great Depression were eroded and small groups of individuals were free (legally and otherwise) to put billions, if not trillions, of other people's money on the line to back up what we now know to be faulty judgments.

If, in the rush to clean up the mess, we put too much authority in the hands of a few, we might simply be creating a government regulatory mirror of the management weaknesses that brought Wall Street to its knees last year.

The economic crisis clearly demonstrates the need for a regulatory mechanism to better protect the wider economy from shortsighted business practices of large, interconnected corporations and financial products that carry unacceptable levels of risk. When risk is allowed to go unchecked, devastating losses cascade throughout our entire financial system, as we have experienced with credit default swaps.

Main Street Americans have felt the painful consequences of systemic risk. According to the AARP, retirement savings losses for ordinary Americans have topped $5 trillion. Venerable Wall Street firms crumbled while others merged in order to survive. Layoffs increased and growing numbers of financially overwhelmed homeowners faced foreclosure. We must learn to manage systemic risk more effectively to prevent a future crisis on this scale.

Congress has an opportunity to provide an effective and efficient solution by tapping the existing network of state and federal regulators to monitor and address the accumulation of excessive risk in our financial markets.

State and federal regulators who oversee the financial services arena are responsible for investor protection and capital formation, and they have access to all the relevant information on risk in the financial system.

What's needed is a chartered forum for regulatory cooperation and communication. Many of us were worried during the run-up to the recent crisis; we were early critics of unregulated hedge funds and the risks of "naked credit swaps;" but, we lacked the authority to make our case.

An antidote to preventing further system-wide failures is a systemic risk council, headed by an independent chair and made up of representatives from all federal and state regulators in securities, banking and insurance. This all-inclusive approach recently was presented to the House and Senate committees responsible for overseeing financial services in a joint letter from the North American Securities Administrators Association, the Conference of State Bank Supervisors and the National Association of Insurance Commissioners.

The council should be authorized to collect and evaluate data from all financial sectors to assess current levels of systemic risk and analyze new financial products or business practices that could increase risk levels. When the council identifies a problem, it should be empowered to issue recommendations to the regulators with primary authority over the market sector in question.

A comprehensive systemic risk council of state and federal regulators will bring lawmakers closer to the imperative of rebuilding market integrity and restoring investor confidence.

Steven Irwin is a member of the Pennsylvania Securities Commission and a partner in the Pittsburgh law firm of Leech Tishman Fuscaldo & Lampl LLC.

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