

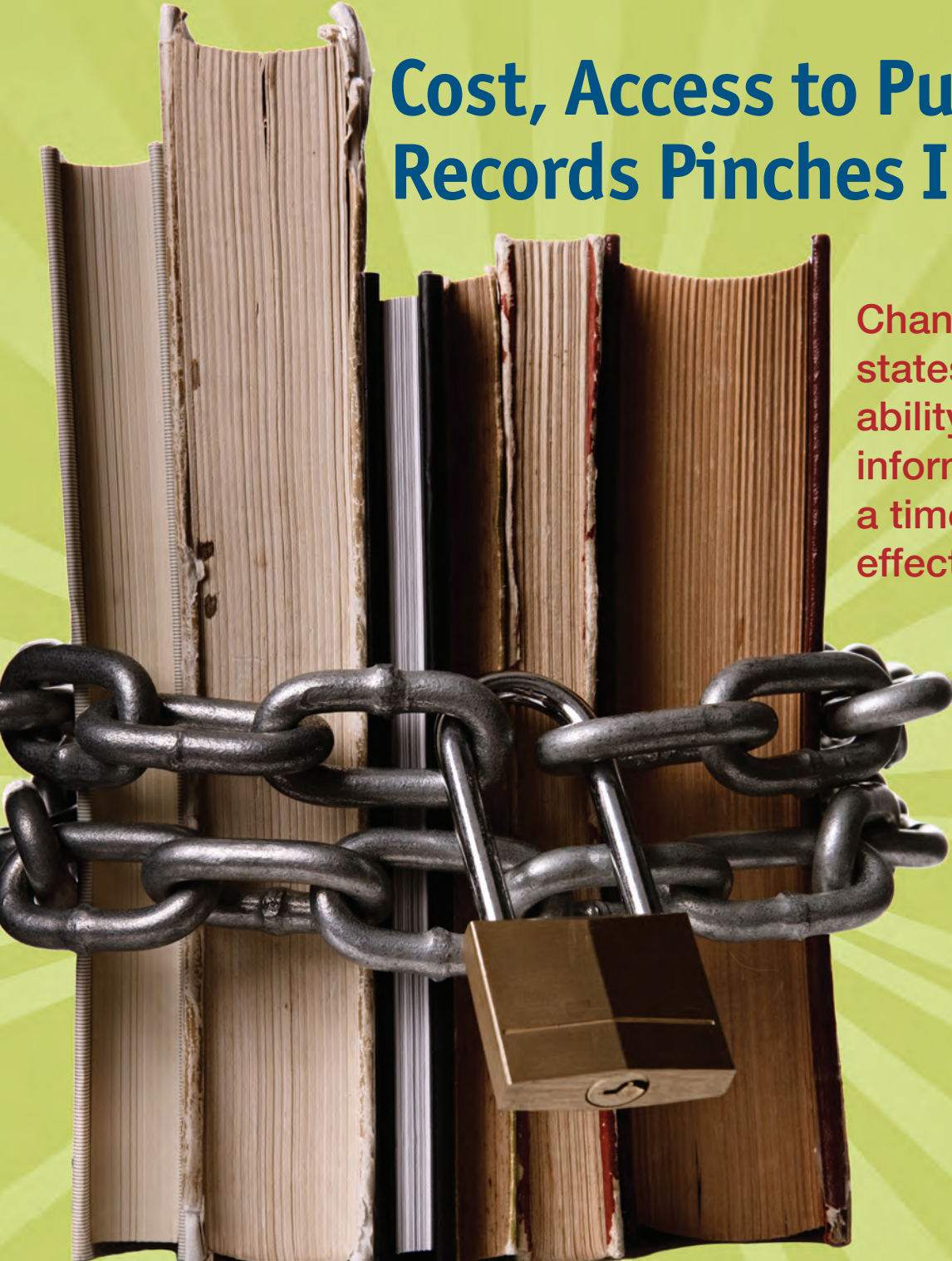
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American Land Title Association

TitleNews

Cost, Access to Public Records Pinches Industry

Changes in many
states impact the
ability to access
information in
a timely, cost-
effective method



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Don't Miss the Business Strategies Conference Brochure on Page 2.

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> contents

TitleNews • Volume 89, Number 3



10

COVER STORY

Cost, Access to Public Records Pinches Industry

By Jeremy Yohe

Changes in many states impact the ability to access information in a timely, cost-effective method

Features

8

INSIDE ALTA

ALTA Launches Personalized Policymaker Education Program

By putting a real face on the land title industry, we can make a difference in helping policymakers understand the value title insurance provides.

19

MARKET STATISTICS

Market Flooded With Undervalued Properties

20

STATE PRESIDENT PROFILE

David Welshons, president Minnesota Land Title Association

22

RUNNING YOUR BUSINESS

Taming the Title Defect Beast through Curative Tracking

William "Billy" Snider

Independent tracking companies can provide a significant savings to title companies

25

RUNNING YOUR BUSINESS

Protect Your Agency by Protecting Your Customers' Data

What would happen if one of your agents lost a laptop that contained all of your clients' data? Your agency could be subject to fines and penalties because the data could be exposed to potential identity theft. Learn how to monitor your laptops and the files that are on them.

Departments

4

Calendar of Events

5

From the Editor's Desk

6

ALTA News

27

Industry News

29

New Members

29

TIPAC Contributors

30

The Last Word

calendar

ALTA EVENTS

May 2-4	Business Strategies Conference St. Louis, MO
October 13-16	2010 Annual Convention San Diego, CA

STATE CONVENTIONS

March 4 - 6	Alaska
March 17 - 18	South Carolina (Palmetto Land Title)
April 15 - 18	Oklahoma
May 2	Iowa
May 6 - 10	New Mexico
May 23 - 25	California
June 2 - 6	Arkansas
June 4 - 6	Virginia
June 7 - 8	Wyoming
June 9 - 12	New Jersey
June 9 - 12	Pennsylvania
June 10 - 11	South Dakota
June 17 - 20	New England (CT, ME, MA, NH, RI, VT)
June 23 - 25	Texas
July 18 - 20	Michigan
July 22 - 23	Illinois
August 5 - 7	Northwest (ID, MT, OR, UT, WA)
August 12 - 14	Kansas
August 15 - 18	New York
August 19 - 21	Minnesota
September 9 - 12	Dixie Land (AL, GA, MS)
September 9 - 11	North Dakota
September 12 - 14	Ohio
September 15 - 16	Nebraska
September 16 - 17	Missouri
September 16 - 18	North Carolina

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Title Industry Prevents 'Snowpocalypse' of Property Rights

The back to back blizzards responsible for Washington, D.C.'s "snowpocalypse" of 2010 dumped three and a half feet of snow on the nation's Capitol along with an interesting question about property rights: Namely, once you manage to dig your car out from its frozen tomb, do you own the space until the rest of the curb is cleared?

Because of Washington's long history of mild winters this question has never before begged an answer. In Boston, which doesn't often shut down when it snows, let alone shut down on the mere rumor of snow, the city has codified its citizens' right to benefit from their snow-clearing labor. On the other hand, a friend's D.C. condo association came down on the other side of the issue a few days ago, issuing an edict to residents not to block the parking spots they had cleared. In D.C., it is illegal to block a parking spot, but few are actually willing to remove a temporary barrier placed by a snow-crazed shoveler, and for good reason.

Some years back, a man was killed outside of New York in a dispute over a shoveled parking spot. The same thing happened after a snow storm in Philadelphia. In South Boston, a form of vigilante justice appears to thrive as those who break the city ordinance and squat on someone else's spot are often the recipients of slashed tires and dented fenders. The fact is that property has value, and until its ownership rights are clearly established and backed by law, confusion, chaos and even violence are the predictable result.

Property rights in America took 100 years to evolve into a system that works so well today, that everyone can and does take it for granted. The only people who don't take these rights for granted are members of the land title insurance industry who spend their waking hours ensuring that the legal system supporting these invaluable rights works as intended. If you want to know what life would be without your good work – the work of this great industry – bring your snow shovel to Washington so we can clear a few parking spots together.



– Kurt Pfothauer



ALTA Rebuffs New Mexico AG Attack on Rates

Title insurance companies have protected the American dream of homeownership for more than a century by providing behind-the-scenes work that strives to eliminate claims and assures homeowners that their investment in a property is protected, the ALTA said in a press release in response to the New Mexico attorney general's request to reduce title insurance rates.

"Unlike insurance agents that sell other forms of insurance, title insurance agents spend the majority of their time and resources preventing claims and protecting homeowners' property rights," said Kurt Pfothenauer, chief executive officer of ALTA in the release. "A recent request by the New Mexico attorney general to decrease title insurance rates in the state highlights a lack of understanding

of the title insurance industry and the preventive measures title agents take to eliminate claims and protect consumers."

New Mexico Attorney General Gary King asked the insurance superintendent to reduce title insurance rates by 13.8 percent. Underwriters are seeking a rate increase of potentially 17 percent, the New Mexico Land Title Association is seeking an increase of potentially 4.6 percent and the Insurance Division staff seeks a decrease of 5.6 percent. Three years ago, the attorney general proposed an 11 percent cut, but the insurance superintendent approved a 6 percent reduction. The insurance superintendent approved a 10.7 percent increase last summer.

Go to the ALTA web site at www.alta.org to view the entire press release. ALTA encourages title agents to share the release with their local media, regulators and legislators.



ALTA Supports Maryland Agents to Rectify Faulty Calculation of Transfer Fees

In January, the *Baltimore Sun* first reported of the faulty practice of several counties in Maryland in the calculation of transfer fees on short sales. Several counties were calculating the transfer tax based on the agreed upon short sale price plus the amount of debt forgiven. ALTA quickly reached out to its Maryland members to get a good understanding of the issue and worked closely with Maryland Land Title Association's Legislative Committee. ALTA contacted the state attorney general's office to press for an expedited release of the office's opinion on this practice.

In less than a week, the AG ruled that counties do not have the authority to include debt forgiven by the seller's lender in calculating the consideration on which the recordation tax will be calculated.

"While not expressly prohibited, it is my view that the counties do not have the authority to

include debt forgiven by the seller's lender in calculating the consideration on which the recordation tax will be calculated," wrote Bonnie Kirkland, assistant attorneys general.

While the statute still allows for counties to tax on the forgiven debt, ALTA will continue to work with the MDLTA to close this loophole in the state law for good.

"Anything that interferes with the recording process of legal documents is a danger for homeowners," said Kurt Pfothenauer, chief executive officer of ALTA. "This creates an additional expense that a seller of a short sale property will be saddled with, and may cause deals to unravel."



ALTA Comments on Proposed TILA Changes to Include Title Fees in Finance Charge

The Federal Reserve Board issued draft regulations in 2009 on Regulation Z (TILA) to amend a portion of the Truth in Lending Act to include title fees in the finance charge for residential mortgage transactions. Currently, TILA excludes from the finance charge a number of fees charged in transactions secured by real property or in residential mortgage transactions if those fees are bona fide and reasonable.

The ALTA submitted a letter to the Federal Reserve Board in December commenting on

the proposed changes. The inclusion of title charges would effectively create lower HOEPA triggers and curtail lending to certain segments of the market. To learn more, check out our article “Proposed TILA Changes Include Title Fees in Finance Charge,” in the February edition of *TitleNews*.

The ALTA Government Affairs Committee, along with several ALTA members with specific expertise, provided valuable input on the comment letter. The ALTA plans to plan to meet with Federal regulators to ensure they understand our concerns.

U.S. Supreme Court Rules on Campaign Contributions

A recent ruling by the U.S. Supreme Court removing restrictions on campaign contributions from corporations should have little or no effect on political action campaigns. A few of the changes include:

- Corporations may now make independent expenditures using corporate funds, even using express advocacy language (“vote FOR candidate X, vote AGAINST candidate y”).
- Nonprofit, 501c4 and c6, corporations may receive corporate contributions and now may make expenditures using those treasury funds.
- Disclosure requirements are still in place for the most part.

HUD Updates RESPA Guidance

On Jan. 29, HUD issued another update to its RESPA FAQs document. The majority of the updates pertain to the GFE. Here are specific guidance updates relating to tolerance violations, the HUD-1 and the written list of providers:

Section 4 and 5 – Right to cure and tolerance violations

Q: In some areas the deed and deed of trust are recorded after a transaction closes and funds. If the actual amount of transfer taxes increases and the settlement agent later collects the increase from the borrower, would this be a tolerance violation even if it occurred after settlement?

A: Yes. Whether settlement charges are collected before, during or after settlement, if the charge exceeds the tolerance threshold, there is a tolerance violation.

Q: In some areas the deed and deed of trust are recorded after a transaction closes and funds. If the settlement agent pays the difference to get on record and intends to collect the increase from the borrower, may the lender reimburse the settlement agent

directly to cure the potential tolerance violation?

A: If the settlement agent pays the difference in transfer tax on behalf of the borrower, the lender may reimburse the settlement agent. The settlement agent must prepare a revised HUD-1 showing the cure of the potential tolerance violation and send the revised HUD-1 to the parties in the transaction, as appropriate.

HUD-1 – GENERAL

Q: Where should separate charges to the seller for the preparation of deeds or a closing charge be disclosed on the HUD-1?

A: Separate charges to be paid by the seller for settlement services that are not included in the definition of “title services” for the borrower must be disclosed on a blank line in the 1100 series on the HUD-1 in the seller’s column.

HUD-1 – 800 SERIES

Q: If an appraisal is ordered through XYZ appraisal vendor management company and the appraisal is subcontracted to ABC Appraisal Company, what name is identified in Line 804 on the HUD-1?

A: XYZ appraisal management company must be identified on Line 804.

ALTA Launches Personalized Policymaker Education Program

By putting a real face on the land title industry, we can make a difference in helping policymakers understand the value title insurance provides.

It seems quite frequently, policymakers simply don't understand the important role the title insurance industry plays in an efficient real estate transaction. Fortunately, ALTA has created something to change this dynamic.

Spearheaded by ALTA President Mark Winter, the association has launched a Personalized Policymaker Education program.



ALTA members are encouraged to reach out to their U.S. Senator, U.S. Congressman, or state regulator to ask them to come to your office

to learn what the industry does to protect the real estate transaction. These visits to your office should take about an hour and should include a 30 to 45 minute office tour and a five to 15 minute drop-in on a closing.

“By reaching out to your elected representative, inviting them to tour your operation and witness a home closing, you can show the

tremendous amount of work and care that goes into the quality land title products we provide,” Winter said. “The housing economy is a key part of many debates on Capitol Hill. For this reason, members of Congress will make themselves available to meet with you. All it takes is a

phone call from you offering the opportunity for them to learn directly from a constituent more about a key part of the real estate settlements services industry. Nothing speaks more powerfully to a policymaker than someone running a business in their home district or state. You are the real estate conveyance expert; the master of the closing universe.”

ALTA has prepared everything needed to make this meeting a success, including step-by-step instructions on how to request a meeting, a sample outline of an office tour and closing visit, and materials that explain more about our industry.

Begin the tour by sharing information about your family, how long you've been in business and introducing your staff. As you take

ALTA'S PERSONALIZED
POLICYMAKER EDUCATION

Host an Office Tour and Closing

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the legislator around your office, explain each step of the process. Inform them how orders come in and are inputted into your system. It's important to be as descriptive as possible about the search exam process. Explain the amount of time and expertise that is needed to determine whether title is marketable. It's important they understand how vital this part of the process is to the entire real estate transaction. Mention that the title search informs the purchaser and lender if the property is being conveyed free and clear of any liens, encumbrances or judgments that may have occurred during prior ownership.

When you get to the commitment prep area of your office, be sure to explain what a title commitment is and what it includes (who is being insured, amount of the insurance, what is being insured, what is required to insure title and what is not insured). Describe what the commitment is used for and who it is sent to.

When describing the clearance, curative and closing prep area of your office, explain that the majority of the one-time title insurance premium covers the cost to discover, identify and repair events that occurred in the past. Tell them that before a policy is issued, a title agent examines the history of a property contained in public records, where they find issues in one out of every three title searches. In order to make sure a homeowner has clear rights to a property, the title agent will scrutinize prior deeds or mortgages, divorce decrees, court judgments, delinquent taxes and child and spousal support payments, vesting, covenants, conditions and

restrictions, general encumbrances, and utility or other kinds easements. Explain what you have to do to fix any title issues.

To wrap up the tour, let the person visiting your office sit in during a portion of the closing. Let them see the interaction and the role the title insurance industry plays in closing real estate transactions. Point out a few of the important documents, especially the HUD-1. After all the documents are signed and the homebuyers have the keys to their new home, your company's work continues behind the scenes completing many more important steps. Let them know about the reconveyance and recording process.

"The time has come for our elected officials to be afforded the opportunity to gain a precise grasp and understanding of the detailed work that goes into the service our industry provides in the real estate conveyance process," Winter said. "By putting a real face on the land title industry, you can make a difference helping policymakers understand what we do."

Schedule Your Meeting Today

For more information on this new initiative, contact Justin Ailes at jailles@alta.org or Alyssa Marois at amarois@alta.org.

Business Strategies Conference Coming Up

This is a reminder to keep your calendars open to attend ALTA's 2010 Business Strategies Conference, being held May 2-4 at the Hyatt Regency in St. Louis.

Attend this conference for the opportunity to hear from the industry's best experts covering topics on leadership, management, sales and marketing as well as industry technology.

Besides hearing in-depth discussions on how the industry is adjusting to the new RESPA

regulations, attendees will have the chance to hear Pat Stone, whose industry experience ranges from being COO of the largest title company in the United States to an operations manager, discuss how to think strategically, while maintaining a tactical focus. Faced with the need to make money today, how do you position your title agency for profit tomorrow? Stone will offer his view on how to make tactics stepping stones to a successful strategy.

Go to www.alta.org to register.

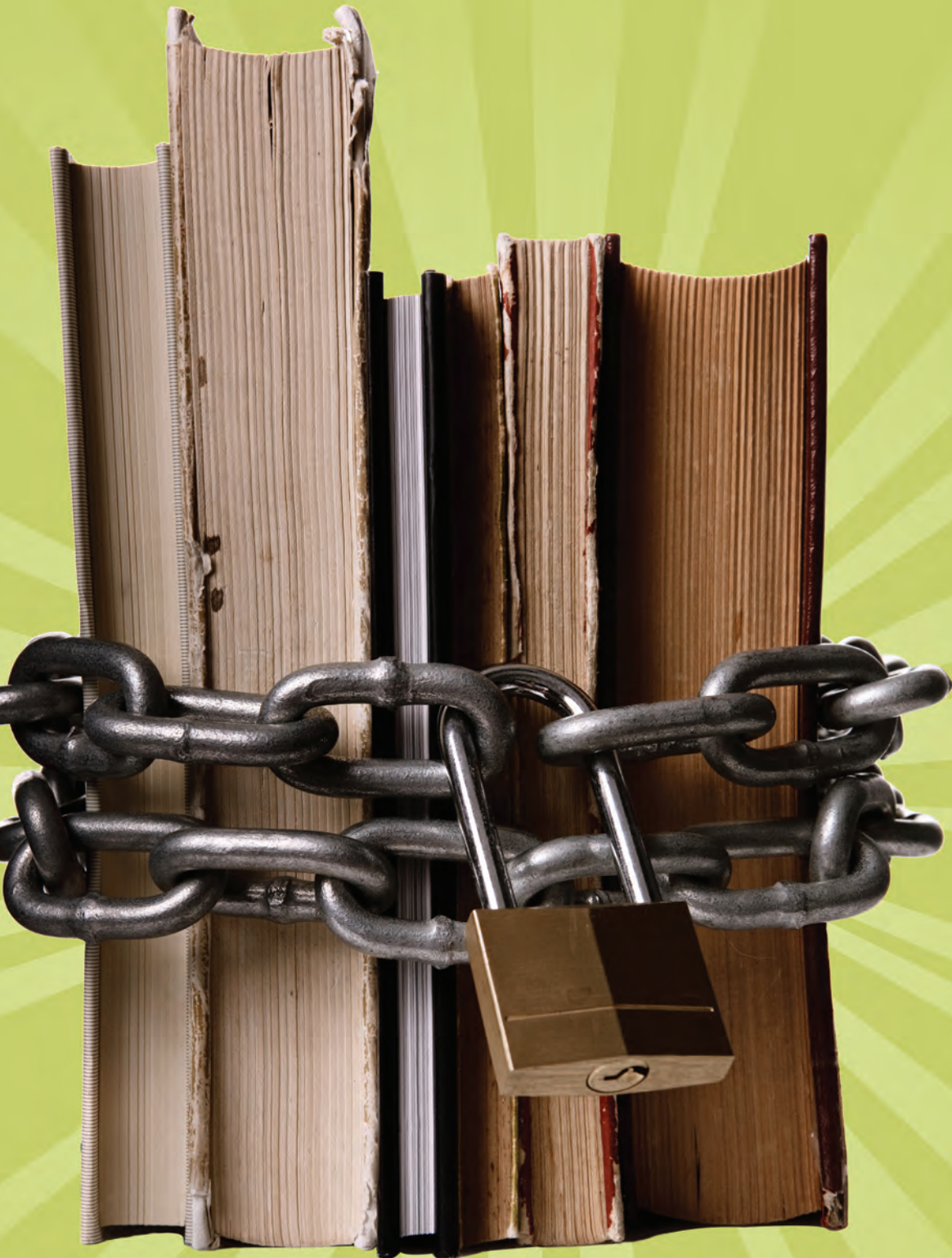


Cost, Access to Public Records Pinches Industry

Changes in many states impact the ability to access information in a timely, cost-effective method

The efficiency of a title agency hinges on the bookends of being able to access public records at a reasonable cost and then easily record new documents back with the county recorder. Unfortunately, title agents are being squeezed at both ends as many states are denying access or increasing the cost to recorded documents, while other jurisdictions are making it more difficult and costly to file mortgage documents. >>

by Jeremy Yohe



The American Land Title Association has closely been watching the shifting attitude regarding access of public records, distorting the picture in how accessible records will be in the future.

“It is the position of the American Land Title Association that the cost to obtain a reproduction of a public record or document in any format should be the public record custodian’s actual out-of-pocket cost to produce the reproduction,” said Kurt Pfothenhauer, chief executive officer of the ALTA.

Increasingly, court decisions and statutes are impacting the title industry’s ability to access property records in a timely and cost-effective manner, according to Jay Sibley, chairman of ALTA’s Real Property Records Committee.

“The evolving world of public records access directly impacts the industry’s core competency – the search and examination of land

titles,” Sibley said. “If we are being affected by this, eventually everyone in the transaction chain that needs title information or offers title products will be impacted some way. When a county starts charging more or tries to prevent access and drives up cost to a title plant, it ultimately hurts their constituents because they will pay more for their real estate transactions.”

of SSNs in public documents is a violation of state and federal privacy laws and punishable by fines and jail time. In response, county clerks shut down access to real property records and document images. The result left long lines at court houses across the state as the title industry was caught off guard, Sibley said. Emergency legislation was passed to exempt clerks from the

Our industry is one of the few where money doesn’t make it better. You can pay a homeowner the policy amount, but you can’t replace the home for them.

Redaction Rampage

Last year, the New Jersey Supreme Court upheld a lower court ruling that found a requestor of bulk property records (on microfilm in this case) is responsible for not only the costs of duplication, but redaction of all Social Security numbers. This pushed cost to access the records from \$19,000 to \$460,000. Fred Burnett had requested an estimated 8 million pages of documents stored on an estimated 2,559 rolls of microfilm with the Bergen County Clerk’s office.

Bergen County’s clerk of courts claimed it would cost in excess of \$460,000 to provide the documents because it had to redact SSNs.

Privacy issues caused a huge scare in Texas three years ago after the state’s attorney general issued an opinion stating that any disclosure

confidentiality laws.

While the problem was alleviated, issues such as these can increase risk as the gap between county records and what the title plant has widens. Underwriters may not issue policies in areas where this is the case, and lenders may shy away from financing mortgages for which they didn’t have guaranteed title clearance.

“From my experience, our industry is one of the few insurance products where money doesn’t always make it better,” said Mary O’Donnell, CEO of Westcor Title Insurance Co. “You can’t just pay a claim and the insured is happy. If you do a courthouse search and a document isn’t indexed correctly, you insure a transaction and then a family moves into that home only to find out that someone else owns the property. You can pay them the policy amount, but you can’t replace the home for them. If we see further restrictions on

Affordable Access to Public Records: The Title Industry’s Achilles Heel?

Jay Sibley will give a presentation on the ever-changing world of public records access and its impact on the title insurance industry during

ALTA’s 2010 Business Strategies Conference, being held May 2-4 at the Hyatt Regency St. Louis at the Arch in St. Louis, Missouri.



the availability of records, it has a dramatic consequence on the ability to deliver good service.”

Denied Access

In Maine, the owner of MacImage of Maine LLC filed a lawsuit last year against 13 counties, claiming he was denied access or not getting timely responses to Freedom of Access Act requests for the records.

John Simpson, owner and general manager of MacImage, said he planned to collect all of the state’s land records and consolidate them on a Web site. He said users of his site would have access to multiple counties’ deeds and titles simultaneously, rather than signing in and out of various databases

that counties use to store their land records.

The complaint, filed in Cumberland County Superior Court, named Androscoggin, Aroostook, Cumberland, Franklin, Kennebec, Knox, Lincoln, Penobscot, Sagadahoc, Somerset, Waldo, Washington and York counties as defendants. MacImage is not suing Piscataquis County because that county has agreed to provide the firm with electronic copies of all of the documents filed in its Registry of Deeds. It also is not suing Oxford County because of a conflict of interest.

In the lawsuit, MacImage argued that by charging rates of nearly \$1 or more per page for electronic bulk purchases of public documents,

counties are making access to those documents prohibitively expensive, in violation of Maine’s Freedom of Access Law. MacImage has already taken Hancock County to court for not allowing the company to obtain the records for a reasonable fee. A judge in Cumberland County Superior Court ruled in favor of MacImage on Sept. 1, 2009.

The court decision prompted the proposal of two bills in the Maine legislature that would impede access to public records and prevent for-profit companies from purchasing land records from county offices and reselling them for a higher price. The first bill, LD 115, would increase the filing fee that the county register of deeds may charge for the second and subsequent

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pages of documents from \$2 to \$4 and clarifies the “reasonable fee” that may be charged for obtaining abstracts and copies of records. The bill also requires persons who obtain records from registers of deeds and subsequently sell or distribute those records to indicate on the records that they are not official copies. In addition, if more than four names are to be indexed, a fee of \$1 must be paid for each additional name, counting all grantors and grantees.

The bill states: “Making abstracts and copies from the records, a reasonable fee as determined by the county commissioners, which may include, but is not limited to, the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs or other transmitting costs; amortized infrastructure costs; any direct equipment operating and maintenance costs; costs associated with media processing time; personnel costs, including actual costs paid to private contractors for copying services; and a reasonable rate for the time a computer server is dedicated to fulfilling the request.”

The second bill, LD 1714, would provide that records maintained by

registers of deeds are not considered public records for the purposes of the freedom of access laws in order to clarify that public access to those records is governed by the laws relating to those registers.

Not all jurisdictions are taking

this same route. Highland County in Florida makes all information available. According to Bob Germaine, the county clerk of court, a general title report can be constructed from the Web site if someone knows where to go and find the documents. Records in Highland County’s courthouse don’t have to be redacted, but anything on the Web must be stripped of personal information.

“There’s no requirement to put the documents on the Web, we just do it for the citizens,” Germaine said. “Florida agents don’t know how

good they have it. This is Nirvana. The land records are electronic for 99 percent of the population. The statutes are very pro business.”

He did warn that government can be greedy. Florida recently passed a bill that mandates every county have e-filing in place for its court system. Germaine said the government is looking to make money off of the e-portal.

“You have got to be careful because governments are greedy,” he said, highlighting that when he started working for the clerk’s office in 1971, it cost \$17.50 to file a complaint. The fee was changed in 2009.

“Now, if you are filing a mortgage foreclosure on a property that’s worth \$250,000 or over it cost \$1,905,” Germaine said.

The counties have budget problems and are looking for every possible revenue source.

Jacked up Fees

Meanwhile, a November court ruling (currently under appeal) in Webster County, Mo., could cost the title insurance industry millions of dollars a year to purchase recorded documents and maintain title plants in the Show Me State.

The issue surrounds whether a title company can buy previously recorded documents from the Recorder of Deeds without application of the “Missouri Sunshine law.” This law provides that the cost for purchasing

Counties Offering E-Recording Continues to Grow

The number of counties that have implemented electronic recording systems topped the 400 mark last year, according to Carol Foglesong, president of the Property Records Industry Association (PRIA). eRecording is the process of receipt, examination, fee calculation and payment, endorsing of recording information and return of recorded electronic documents submitted for recording in a county's land records office.

"It is exciting to see so many counties embracing this technology," said Linn County (Iowa) Recorder and PRIA Technology Committee Co-chair Joan McCalmant. "As the PRIA eRecording standards continue to mature, the number of counties leveraging this technology is rapidly expanding."

According to PRIA's tracking system, it took from the late 1990s until August 2006 to reach the 200 eRecording counties mark. That number has now doubled in less than three years.

PRIA maintains a list of counties that have deployed electronic recording technology and posts the list on the association's Web site (www.pria.us). The list includes counties whose implementations have been verified by PRIA.

"We are certain the actual number of eRecording counties is higher than the number we publish, but the list is limited to those counties we have been able to adequately verify," said Technology Coordinator, Mark Ladd, who also is on ALTA's Real Property Records Committee.

The names of the eRecording Counties are available to the public, while PRIA members have access to a detailed list which includes contact information for the counties, as well as the technology vendors. The list is continually updated by the PRIA Technology Coordinator who tracks down reports of new eRecording-enabled counties from a variety of sources.

"PRIA has worked diligently, in alliance with the Mortgage Industry Standards Maintenance Organization (MISMO), to develop XML standards and promote industry adoption of this important technology," said Foglesong. "Electronic recording is experiencing unprecedented success with county recorders who have deployed the technology." The automation that XML facilitates will improve the quality of data, reduce turn-around times and provide significant cost savings for those who utilize it.

Dennis Hagerty, Michigan Legal Counsel for First American Title Insurance Co., said a significant statute on the horizon would allow for e-recording. Currently, there is no law in Michigan that allows e-recording, although some counties have a system in place and some agents have utilized it.

"The concern with the Michigan Land Title Association is if there is no enabling legislation for e-recording documents, the industry may run into problems with bankruptcy trustees asserting documents were e-recorded didn't meet existing recording requirements and will be set aside," he said.



Six Quick Reasons to E-Record

- The recording gap is decreased.
- In a race state, there is no faster way to get to the register of deeds office.
- Original documents can be returned to all parties involved moments after the closing.
- The originals can never be lost since they remain in the agent's possession.
- Documents submitted to the ROD and rejected can be resubmitted moments later and not days/weeks later.
- Cost reductions can be realized through e-recording with the reduction in overnight carrier charges and other fees.

documents would be limited as directed by this statute. The court ruled that recorders were not limited by the “Missouri Sunshine Law,” but they could charge up to their statutory fee under the recorder’s statute of \$2 for the first page and \$1 for every other page even for bulk sales of documents. This would allow recorders to make a profit off these sales.

“Let’s don’t believe for a second that if this decision is allowed to stand that the counties will not jump

the cost of plant ownership and plant use, Reese said.

As an example of how this could impact the industry in Missouri, Reese said Jackson County charges \$250 for a month’s worth of documents on a disk. This represents the cost to produce the disk. Under the Sunshine Law, the county is only allowed to recover costs (not entitled to a profit).

“If this decision is allowed to stand, it would be possible for the recorder to decide to charge up to

own a plant or use a plant, you should be grabbing your checkbook and helping us out. Left unchallenged, the ramifications of the Webster County decision are huge.”

Texas has endured several attempts to increase the cost of electronic copies of property records for the past decade. Last year, several county clerks once again sponsored last-minute legislation that would have increased the costs of bulk copies from cost of reproduction to 20 cents per page and defined bulk requests as anything more than 100 pages. While the bill failed, it would have also given the custodian the right to deny the request for virtually any reason.

The county commissioners in many counties look at the register of deeds as a cash cow, and in many cases don’t put the money back into the office to upgrade the system.

on the chance to drastically increase their charges,” said Jeffrey Reese, president of MLTA. “The counties have budget problems and are looking for every possible revenue source.”

MLTA, along with the other two MLTA members in the suit are appealing the decision. Given the issues involved, this case may be appealed to the Missouri Supreme Court for a final determination. MLTA is also going to be pursuing legislation that would confirm bulk sales of documents by a recorder’s office are covered under the “Missouri Sunshine law.”

This decision, if allowed to stand, could cause a dramatic increase in costs to obtain documents to post to title plants, thereby hugely increasing

the statutory limit,” Reese said. “For ease of calculation, let’s say they decide to charge \$1 per page. There are currently about 11,000 documents filed in Jackson County a month. If they average three pages per document, that’s 33,000 pages or \$33,000 a month as opposed to the current cost of \$250 a month.”

Reese said MLTA’s counsel estimates that an appeal to the Court of Appeals would cost \$7,500 to \$10,000, with an additional \$15,000 to \$25,000 to appeal to the state’s Supreme Court. He said the association does not have the funds available to pay for the appeal out of its general budget.

“We need donations to help us absorb these costs,” he said. “If you

Formatting Rules

In Ohio, HB 525 mandates the standardization of recorded documents. The statute went into effect July 2009. The Ohio Land Title Association worked closely with the Ohio recorders Association in drafting the bill, according to OLTA Executive Director Mark Bennett.

According to the bill, documents that don’t conform to formatting standards will be accepted only if an additional \$20 is paid. Ohio requires a computer font size of at least 10 point; a minimum paper size of 8.5x11 and a maximum size of 8.5x14; black or blue ink only; no highlighting; margins of 1 inch on each side of the page and on the bottom; 3-inch margin on the top of the first page, reserved for recorder, auditor and engineer; and 1.5-inch margin on the top of each remaining pages.

Even if the document meets the standards, there can be nothing in the margins. A few examples that



might trigger an additional \$20 filing fee include a title company's "return to" stamp that lets the county know where to return the recorded document; the title company's order number, as many title companies place their order number on the documents to easily locate the corresponding file when the document is returned; the borrower's initials on mortgages, as these are often located in the lower right hand corner of the document in the margin; and the notary's stamp, as it may be difficult to place the notary seal far enough into the document to avoid the margins if you are using the crimping-style seal.

Non-real estate attorneys who prepare documents that may need to be recorded eventually may be a source of non-conforming documents. Those who prepare trust documents, powers of attorney, affidavits, etc., should be prepared for these changes. Contractors who prepare their own mechanic's liens will also likely find themselves subjected to the higher fees. After the bill went into effect, it became clear additional clarification was needed.

"Different standards were being applied in different counties and even different employees within the same office," said Amy Kaspar, president of

OLTA. "OLTA again worked with the recorders for that clarification in an amendment to SB 124, which was signed by the governor in December. OLTA has made its members aware of the changes, and agents are charging the extra recording fees for the documents they know will not comply."

Ongoing Battle

Two years ago, several Michigan counties attempted to place restrictions on the use of bulk records purchases and also charge \$1 per page, the same fee as paper copies. Multiple cases were filed by the title industry at the state and district levels. Ultimately, the 6th Circuit Court of Appeals found that the counties could not restrict the use of the information.

Beyond access, there are concerns in several counties in Michigan, according to Dennis Hagerty, Michigan Legal Counsel for First American Title Insurance Co.

Michigan registers are required to provide a grantor/grantee index, but are not required to maintain a tracked index, which, according to Hagerty, is a more efficient way to search title. He said most counties charge for access to the track book.

Wayne County implemented a system that allows free searching of the grantor/grantee index online, but does not provide documents recorded within the past 30 days. These documents are only available through the proprietary track system.

"It forces you to pay to bridge the gap and it just messes up the whole system," Hagerty said.

Many other registers, including Oakland County, which has a large population and contains part of metropolitan Detroit, offer a hybrid

of both systems. Title agents can't search the grantee/grantor system alone because it is integrated with the track system. This prohibits record access, which should be available for free.

McComb County sent out a bulletin indicating that if recording fees are paid by a single check and one of the documents is rejected for recording, the register will not refund the recording fee. It will cost additional money to re-record the rejected document. Bay County charges an additional \$10 for any documents it rejects.

Earlier this year, Bay County in Michigan began charging to access and print records online. Title companies wishing to view the online images and print them will have to pay a \$1 fee, as well as a \$5 fee to use the Internet service. Vicki Roupe, the county's register of deeds, said this fee is necessary as the only way to purchase the documents is to use a charge card and fees are incurred to use this. Roupe indicated that the fees are a means to bring revenue to the county.

"The county commissioners in many counties look at register of deeds as a cash cow, and in many cases don't put the money back into the office to upgrade the system," Hagerty said. "As title people, we just want to have access to these records and keep them up to date. We aren't looking to make a buck off these documents."



Jeremy Yohe is the Director of Communications for the American Land Title Association. He can be reached at jyohe@alta.org or

by phone at 202-296-3671.

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Market Flooded With Undervalued Properties

In January 2006, a ranking of 299 U.S. housing markets, showed where home prices were most overvalued. Little was undervalued: Real estate was white-hot and prices were at or near what later proved to be their tops.

A total of 213 cities were overpriced four years ago. How things have changed. According to a new report

released by IHS Global Insight and PNC Financial Services, just 87 markets are considered overvalued. That means 242 of 330 are considered priced below fair market. The judgment is based on a comparison of median home prices, local interest rates, population densities, and income, plus historic premiums or discounts.

Here are the 10 most overpriced areas:

Metro Area	Median Home Price	Percent Overvalued 2010	Percent Overvalued 2006
Atlantic City, N.J.	\$232,100	30.20%	59%
Wenatchee, Wash.	\$240,900	28.90%	13%
Ocean City, N.J.	\$294,800	26.60%	47%
Longview, Wash.	\$184,700	22.30%	24%
Honolulu, Hawaii	\$605,300	21.90%	31%
Asheville, N.C.	\$172,900	21.80%	24%
Portland, Ore.	\$267,600	20.80%	35%
Bellingham, Wash.	\$280,200	20.00%	43%
Corvallis, Ore.	\$266,400	18.90%	14%
Salem, Ore.	\$201,000	18.20%	25%

Here are the 10 most undervalued areas:

Metro Area	Median Home Price	Percent Overvalued 2010	Percent Overvalued 2006
Las Vegas, Nev.	\$129,700	-41.40%	38%
Vero Beach, Fla.	\$123,300	-39.80%	54%
Merced, Calif.	\$102,300	-37.70%	77%
Cape Coral, Fla.	\$118,700	-36.80%	52%
Houma, La.	\$116,200	-34.60%	-1%
Port St. Lucie, Fla.	\$115,600	-33.30%	72%
Warren, Mich.	\$117,500	-32.30%	15%
Vallejo, Calif.	\$196,900	-31.90%	53%
Stockton, Calif.	\$145,100	-31.80%	72%
Modesto, Calif.	\$138,700	-31.80%	67%

Minnesota Land Title Association



President: David Welshons

Company: DCA Title

Title: Executive Vice President

Industry experience: 20 years

Education: BA in Human Resources and Economics from the College of St. Thomas



What's playing in your iPod?

I have over 2200 songs that I usually have on shuffle. Most of them would be considered some form of rock.

My top 2 artists by the number of songs of theirs I have are the Beatles (for obvious reasons) and the Replacements (Minnesota's



own). Although I have many older rock songs on my iPod, I like to continually add new songs. My latest downloads include songs from American Bang, Blitzen Trapper and Tinted Windows.

If you could have dinner with one person in history, who would that be and why?

That would be Kurt Pfotenhauer for obvious reasons!

What has been the biggest personal challenge for you during your career?

Working with my brother, who also happens to be the Secretary Treasurer of the Minnesota Land Title Association.

What's your favorite beverage to help you unwind?

Beer and vodka tonics in the summer, red wine in the winter, or whatever anyone is buying.

What activities do you participate in to let off some stress?

I enjoy playing basketball and golf, working out and playing with my four kids.

Industry Issues:

What are the major issues impacting the industry in your state?

Obviously, RESPA reform is a national issue. Locally, we are trying to continue opening our relationship with the Commerce Department. We have recently given some "Title Insurance 101" classes to Commerce employees which have been well-received and plan on doing some more this year.

Has any recent legislation been enacted in your state impacting the industry?

Are there any pending bills that loom on the horizon, and what impact could it have? Nothing of great impact was passed in 2009; however there is talk of bringing back a bill that would make interest earned on trust accounts payable to the state to help fund low-income housing assistance.

What advice do you have for agents looking to compete in the new market?

Diversify. Different markets (refinances, new construction, resales, short-sales, bank-owned properties, commercial) seem to get hot quickly and then cool off just as quick.

Agents that work only, or mostly, in one sector are the most at risk when market conditions change.

How many members does the state LTA have? Has membership held steady the past few years? What are you doing to grow membership and keep members engaged?

The MLTA currently has 144 member companies. We have held steady from 2008 to 2009 but saw a decline the previous two years; mostly due to members going out of business.

How do you see RESPA reform and the new GFE/HUD-1 forms impacting the industry?

We are already doing more preliminary HUDs so the loan officers can plug our numbers into their GFEs. We will all need to be more careful with our pricing in order to make sure we comply with the thresholds. Overall, I think it will create more work while at the same time keeping downward pressure on prices.

Take out your crystal ball, and give us an idea when you believe the market will recover in your state?

This is very difficult and I believe somewhat fruitless. There are so many factors at play; including what the Federal Reserve decides to do with interest rates, what, if anything, Congress will pass for housing incentives, and when the job market will turn around. Certain sectors are already improving. Other sectors will be depressed for a long time. Overall, I think it will be a bumpy ride for the next couple of years at a minimum.

ETHICS IN THE TITLE INDUSTRY

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Taming the Title Defect Beast through Curative Tracking

Independent tracking companies can provide a significant savings to title companies

BY WILLIAM “BILLY” SNIDER

You are most likely familiar with the term “title defect.” However, if you are not familiar with the term “curative tracking,” I suggest you read on. At its most basic, it is the curing of title defects arising from a failure to properly record all necessary documents in order to maintain a chain of title that is free and clear of any deficiencies. Simply put – curative tracking is the industry’s best weapon in its ongoing battle against the “title defect beast.” If you have never heard of the beast, you are either living a charmed life, or you most likely tangled with it under another name.

Some of the names attributed to the beast may be familiar: title defect, cloud on title, chain of title defect, defective title, etc. Not to be outdone, the weapon utilized to battle the title defect, has many names also: curative tracking; title clearing; title curing; title defect clearing; curing chain of

title defects, etc. No matter what the moniker, 99 percent of these situations arise through a missing release of mortgage, and are brought to light by an informal or formal “title claim” under a title insurance policy. Where these types of situations used to be handled at a paralegal level, or possibly between lawyers, today, attorneys are skipping this process and going directly to filing a claim. It therefore ends up getting thrown into the laps of the title insurers.

Three things have worked in concert to make this the worst time for title defects, and therefore, curative tracking, in our nation’s history.

1. The first one is nothing new: One of the most troubling and frustrating things about curative tracking is that the title defect is a ticking time bomb; the situation that necessitates curative tracking can lay dormant for years before it’s discovered;

2. in addition, it is not breaking news that we all work in a reality where many lending institutions, servicing companies, and even title companies and law firms, come and go like ships in the night, with many appropriately described as pirate ships; and
3. lastly, we are working in the wake of a refinance boom that’s volume and duration was beyond anything that this nation had ever seen before. It was such a powerful force that it single-handedly brought our economy to its knees.

During the boom, things were moving so quickly that many didn’t take the time to stop and see just how crazy it had become. More than once, I performed a closing where the application was taken that very day. Do a title search, get payoff information, and the lender was good to go. The product wasn’t for us to question. “Stated Income,” “Interest Only” – just get the thing closed. Another example of the insanity was the many borrowers refinancing multiple times in a year, using up imaginary equity to payoff real credit card debt. And with everyone working to get these loans closed, very little attention was paid to what we now refer to as “settlement release tracking.” It’s reminiscent of the steroid era in baseball. Everyone was so wrapped up with the mythical power and majesty of the homerun, that a blind eye was turned to what was behind this energy explosion.

Similar to baseball, our industry stuck our heads in the sand. No attention was paid to the question of how these borrowers were going to make their payments, especially when there were more and more closings to perform. There was total chaos when it came to getting discharges and assignments on record in order to properly release mortgages. We are left with the overused but accurate metaphor of “The Perfect Storm.” All of these elements coming together at the same time to create the worst condition our nation’s land records have ever seen.


Do not underestimate the power of the “title defect beast.” The first time I witnessed its sheer power was when I mistakenly walked into my paralegal’s office at the wrong time. I was immediately stopped in my tracks by the impact of a thrown copy of “The Standards of Title” into my gut. Things are still blurry from that unfortunate day, but I believe that I walked in on some sort of an intern sacrifice; rumored to bring luck to those going on the hunt – looking to obtain recordable assignments and releases from a morass of former and current lenders. As I stumbled back somehow managing to close the door behind me, speaking in a whisper, “the horror ... oh the horror,” clutching that book hard against my chest, I never again underestimated the strength of the abomination that is the “title defect.”

I returned to the office on a mission, some might even say an obsession, to somehow make the process easier and prevent further bloodshed. A plan was needed to address both the clean up of the land records in the aftermath of the refinance boom, and to prevent

anything like this from happening again. My current business partner left her position in the title insurance industry after nine years, and I closed up my real estate practice after more than a decade. It was then that we decided that someone had to clean up this mess, and that there might be some money to be made while doing it. That was in 2006, and I am proud to say that not only are we still around, but we have steadily expanded over this period in what I will delicately refer to as a less than active real estate market. We went from a small regional player, to a company with the capacity to track releases in all 50 states. Witness the birth of the independent release tracking company, capable of handling both settlement release tracking, as well

destroyed the old metaphor of a title defect beast or monster to be feared, into a compelling title defect mystery to be solved. As crazy as it must seem, people preferred the analogy of a crime solving Sherlock Holmes to a vampire hunting Van Helsing. With this sleuthing metaphor in our back pockets we set out to accomplish our goal of taking on any and every matter with a title defect, and bring it to resolution. Now when we get in a new curative track, our staff can’t wait to see what mystery awaits their claim-solving expertise.

We have experienced so much success with our curative tracking, and accomplished such unbelievable results, that these exploits have somehow made their way into what can only be referred to as the area

 With the current poor state of the economy, especially within the real estate sector, the title insurance industry staff that survived the layoffs, is being asked to take on more work and responsibilities to make up for their shrinking numbers.

as the curative tracking of the elusive title defect beast.

We decided that in order to be successful in this curative tracking endeavor, it was necessary to have an entire paradigm shift in the way title defects were viewed by those brave souls anointed to cure them. This was accomplished by changing the climate in which the tracking was done. We

known as “Urban Myth.” Witness some random banter between two attorneys in a closing, waiting for an updated HUD. “Did you hear about the curative tracker that was able to find an officer of a now defunct lender in prison, and convince the convict to execute a release?” “That just can’t be true.” “Oh yeah, there’s more, this same tracker is said to have found a



very elusive gentleman with authority to sign a release through his son's stripper girlfriend's web site." "Right, and my client Big Foot is actually closing on a parcel in Atlantis."

With the current poor state of the economy, especially within the real estate sector, the title insurance industry staff that survived the layoffs, is being asked to take on more work and responsibilities to make up for their shrinking numbers. Therefore, people that never would have had to deal with these types of issues have been drafted into service. The problem here is that management has much more productive things to do than deal with much of the minutia involved in curative tracking. I've personally witnessed a successful sales rep sitting at a desk trying to track down an officer of a defunct lender to sign a release. It didn't take much convincing for her to get the state manager to agree to refer all of its clients' curative, as well as settlement tracking, to our company. It only makes sense where the administrative,

clerical, and secretarial staff was in no way prepared or trained to be effective title curers. Curative tracking is best left to the experts. It can be painstaking, time-consuming, and frustrating work; not the type of stuff that most title insurance attorneys and management signed up for, or should now be drafted into doing.

Enter independent tracking companies – willing to do the work at a significant cost-savings to the title insurance companies that were struggling with it, either in-house, or even worse, paying fees to outside counsel to handle it. This would not be the first time that during a financial downturn, an expanding vacuum was filled by a new type of player in the industry. And due to its success, that player remained an integral part of the process long after the crisis had passed. It's just as simple as who can build the better mousetrap.

Based on my observations from my unique position in the real estate industry, it is my firm belief that

we are at a precipice regarding all aspects of title tracking. This includes the "curative tracking" that is the subject matter of this article, as well as the "settlement release tracking" that ensures all items paid-off at a closing transaction are properly released in the land records. Both types of tracking dovetail perfectly: if settlement release tracking is done correctly, release-related title claims will not be made, and therefore there will be no need for curative tracking on the file.

New developments, practices, and technology are notoriously slow to take hold in our industry. This may have something to do with the fact that the basic tenets of real estate law remain unchanged since prior to the establishment of our very nation, let alone the bar. However, over time we have proven ourselves to be more than capable of separating the wheat from the chaff, and ultimately embracing new ideas that actually improve the process. Living in Connecticut, I can tell you that if the "Land of Steady Habits" is capable of giving birth to the very concept of "settlement release tracking," then it is only a matter of time before all title tracking will be performed by competent, independent, and effective companies. The simple reason being that these companies have proven, and will continue to prove themselves to be the ones with the drive, expertise and resources to effectively get the job done.



William "Billy" Snider is the co-founder and owner of Final Trac, LLC, a full-service, independently owned, discharge/release tracking company, doing business in all 50 states.

Protect Your Agency by Protecting Your Customers' Data

What would happen if one of your agents lost a laptop that contained all of your clients' data? Your agency could be exposed to fines and penalties because the data could be exposed to potential identity theft. Learn how to monitor your laptops and the files that are on them.

“**W**hat do you mean your laptop is gone?” the title agency owner yelled into the phone. This was rapidly followed by, “Where were you?” and “What information was on the laptop?” The answer: “I’m not sure.”

It was Friday afternoon and time to go home for the weekend. Or so the agency owner thought. It was a good week until he got the call from one of his field agents telling him that he had lost his laptop.

Now what to do? No one can tell him what was on the laptop other than their agents always have client data, and critical business information about his business. The owner placed a call to his attorney, who gives him the bad news. The owner must notify the state’s attorney general and could face fines, penalties and paying for credit monitoring

services for all his clients. Worse yet, he must notify all clients that the company has exposed their personal data and that they are now exposed to potential Identity Theft. How many clients will take their business elsewhere?

While this may not actually have happened to you yet, the odds are good that it will. It’s a fact of life, laptops get lost or stolen and many laptops contain company confidential information and/or private information of customers. According to an FBI/Ponemon Institute study, about one laptop in five is either lost or stolen each year and more than 40 percent of all data security incidents are caused by laptops being lost or stolen.

In an effort to protect their residents from the consequences of having their personal information revealed, 45 U.S. states have enacted



laws covering security-related incidents. Most of the laws require companies to notify the state’s attorney general and anyone whose data is, or may be, compromised, as a result of the incident and what the company plans to do about it. You would have to provide your detailed plan for ensuring that confidential information is adequately protected and for notifying those affected by the potential release of their information. In most cases you would be additionally required to provide credit monitoring services for these people for up to one year.

So what do you do about it? Fortunately, this scenario can have a reasonably happy ending. ALTA, in conjunction with its technology partner MobileSecure has made available to its members a solution that provides a mechanism for tracking laptops and the files that are on them. In the event a laptop is lost or stolen, all you would have to do is make a quick call to lock it down and then check your email to get a full listing of the files that were on the machine. Maybe you could enjoy the weekend after all.

So, how well prepared are you if a laptop is lost or stolen? Would your

company know what its exposure was? Do you know, at all times, what files containing company confidential, or worse customer confidential information, are on each laptop in your extended office and remote work location environment? To fully understand the exposure and the accompanying risk, companies need to monitor what files are on laptops outside the office and in the event that they fall into unauthorized hands, they need to make sure that access to the content is minimized.

The impact of security incidents of this nature on a small business could be catastrophic. Not only would the expense related to reporting and credit monitoring be a negative financial burden (estimated by Ponemon Institute to be roughly \$150 per person whose personal information may have been revealed) but the effect on your reputation could severely impact future business.

Large companies have paid hundreds of thousands of dollars to implement data security monitoring and compliance systems but these have typically been out of reach to small and mid-size businesses.

MobileSecure's Laptop Protective Services (LPS) provide a means to manage and understand your data security risk as it relates to company laptops. It is a comprehensive, highly secure, fully-managed service that is easy to use. LPS is also cost effective. For \$60 per year per laptop you can have the peace-of-mind that many Fortune 500 companies have enjoyed for many years but at a cost of hundred thousands of dollars.

LPS is easy to Implement. All you need is an Internet connection, credit card and a phone number and to follow a simple, three-step process. Once installed, the entire service is

managed by MobileSecure. You do not have to provide any IT resources for either setup or ongoing operation.

Of course, there are some other scenarios that you might have come across (or would like to prevent occurring in your company).

One Of Your Employees Resigns

One of your best agents decides to resign and go to work for a competitor. You know that he has

of the situation and mitigate any negative effects.

"LPS gives me a dynamic and proactive system to protect confidential information on my company's laptop computers." said Diane Calloway, President, Specialized Title Services, Inc. "With most states requiring systematic protection for anyone whose personal information is accessed, I can rest assured that I

More than 40% of all data security incidents are caused by lost or stolen laptops.

your company's book of business for the territory on his laptop in the normal course of business and you don't want him to take the information to your competitor.

With LPS, as soon as you find out that personnel are leaving, for whatever reason, you can easily turn off their access to the laptop and thereby restrict access to the data. You would also be able to see where the laptop was last used and have a complete list of the files that were on it at the time.

Control Sensitive Information

You are trying to find out which personnel have seen the contents of a certain file. Maybe it was inadvertently emailed out, or sent out with incorrect information. With LPS, you can locate which devices contain that file and the person that is listed as the primary user of the device, allowing you to take control

am, by using LPS, taking very strong measures to safeguard my clients."

Laptops Represent A Significant Ongoing Risk

There is a significant risk associated with the continued use of laptops but we all recognize that they are highly productive tools and that usage is only going to increase as we move to a more mobile workforce. Isn't it worth a small investment to protect your company, its reputation and your customers? Understanding your risk exposure and having an actionable plan in the event of a data security incident can go a long way to protecting all those hours you have poured into building your business.

For more information on Laptop Protective Services, please visit us at: alta.mobilesecure.com

Judge Fails to Dismiss RICO Claims Against Underwriters

A U.S. district judge failed to dismiss three class action Racketeer Influenced and Corrupt Organizations Act (RICO) lawsuits accusing title insurance companies of allegedly overcharging consumers for title insurance on purchase and refinance transactions.

Defense attorneys recommended U.S. District Judge Joel Slomsky dismiss the claims because the plaintiffs failed to plead a proper RICO enterprise since an insurer and its agents cannot be considered legally “distinct,” according to *Law.com*. The companies named in the suit include Commonwealth Land Title Insurance Co. and Lawyers Title Insurance Co. (underwriters that were purchased by Fidelity National Financial from LandAmerica after it filed for bankruptcy) and First American Title Insurance Co. The underwriters claim the RICO claims are riddled with flaws and failed to satisfy the strict requirements imposed by both the U.S. Supreme

Court and the 3rd U.S. Circuit Court of Appeals.

In their briefs, the defense teams argued that title insurers have no fiduciary duty to disclose the alleged entitlement to the discounted rate or to inform plaintiffs of the non-disclosure, according to reports.

In the suits, Pennsylvania homeowners claim they were overcharged for title insurance when they purchased or refinanced because they were never told that they qualified for a discounted premium. Pennsylvania law calls for a 10 percent reissue rate discount whenever an owner purchases title insurance within 10 years of obtaining a policy issues on the same property and a 20 percent refinance rate discount if the owner applies for a new policy within three years of obtaining a previous policy.

In all three cases, the plaintiffs allege the title insurers overcharged for title insurance when they purchased or refinanced because they were not

told they qualified for a discounted premium.

In issuing his ruling, Slomsky said the argument that the insurers and their agents had no duty to disclose the right to the discounted rate was not persuasive. He said the underwriters and their agents “had the responsibility to charge the correct rate, and disclosure of the correct rate is part and parcel of that responsibility.”

The defense argued that title insurers have no fiduciary duty to disclose the alleged entitlement to the discounted rate or to inform plaintiffs of the non-disclosure. The judge disagreed.

The defense’s main challenge to the plaintiff’s RICO accusations was to attack their pleading of an “association-in-fact” enterprise.

The RICO enterprise alleged by the plaintiffs, they argued, does not satisfy the “distinctiveness” requirement of RICO as explained in federal case law.

To satisfy the “distinctiveness” requirement, the defense team said, a plaintiff must allege that the RICO “enterprise” is distinct from the defendant “person” alleged to have violated RICO and that the “enterprise” is distinct from the alleged pattern of racketeering activity.

The plaintiffs said the insurers are the liable “person” and the “enterprise” is an association-in-fact between the insurers and their title agents in Pennsylvania. The defense argues since the underwriters acted only through their agents, the “person” and “enterprise” are one and the same and therefore fail to satisfy RICO’s distinctiveness requirement.

Slomsky sided with the plaintiffs, finding that their allegations are valid, at least in theory, because “these title agents are independent and distinct entities and individuals.”

Texas-based Company Unveils 'Revolutionary' Title Plant Option

Title Data Inc. (TDI) completed a multi-year, multi-million-dollar project to revolutionize the way land title evidence plants are built and maintained.

Through its TIMS Novo, the company said it has combined eight advanced optical character recognition (OCR) engines with TDI's technology to abstract information from publicly recorded real property documents.

The OCR engines (while simultaneously scanning an imaged document) "vote" on the correct interpretation of a character or string of characters (for example, is that smudged letter a "u" or an "o") and convert the images to text. Title Data's proprietary interface programs then analyze and manipulate this text to generate an abstract for each real property document. TIMS Novo, before uploading the abstracted data into the title plant, validates

it to ensure that the data satisfies TDI's rigorous logic-based rules and conditions; if the data fails, it is sent to an electronic queue for review by an experienced title searcher, according to Title Data.

Previously TDI employed data entry keyers and key verifiers to manually identify and capture information from real property documents. Jay Sibley, TDI's president and CEO, said he was skeptical at first on how Novo would impact the quality of TDI's title plant closings and if it could replace seasoned data entry professionals.

"However, after seeing Novo in action I'm a believer – not only is the quality of the indexing higher, but Novo is identifying more documents which require a title searcher's review than our data entry technicians identified, and our keyers were the best in the business," Sibley said.



Alaska-based Title Agency Denies Kickback Charges, Settles With Regulators

An Alaska-based title agency reached a settlement with the U.S. Department of Housing and Urban Development and the State of Alaska's Division of Insurance (Alaska DOI) for alleged violations of the Real Estate Settlement Procedures Act (RESPA) and Alaska's anti-rebating law.

Under the terms of the settlement, Alyeska Title Guaranty Agency agreed to cease an alleged sham employment arrangement and will pay up to \$155,000 to the U.S. government and the State of Alaska. Alyeska denies its conduct violated RESPA or Alaska statutes, but settled to avoid costly and prolonged proceedings. The company said the settlement is not an admission of wrongdoing, liability or legal fault. Naomi Louvier, owner of Alyeska Title, signed the order.

"Consumers are the ones who ultimately foot the bill from unethical practices in mortgage transactions," said David H. Stevens, HUD's Assistant Secretary for Housing and Federal Housing Commissioner.



"Working closely with our partners in Alaska, we hope this settlement will send a clear message that we have zero tolerance for unethical behavior in mortgage lending."

After a joint investigation, HUD and Alaska DOI alleged that since at least 2003, Alyeska maintained a sham employment arrangement with Kirk Wickersham, owner of FSBO System, Inc. HUD and Alaska DOI allege Wickersham, as a "title marketer," was paid a percentage of Alyeska's title insurance premiums in exchange for referrals he made to Alyeska. The title company said it terminated its relationship with Wickersham in January 2009, and does not have similar relationships with other individuals.

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March Madness Cometh

One of the greatest times of the year for a true sports fan is March. The men's college basketball championship culminates on a Monday night after a month of "win or go home" games often pitting large programs against small, legitimate programs against, well, the not so legitimate. The excitement and anticipation at the tip off of every single game is heightened with the knowledge that on any given day the underdog could win. It just takes one game, a well-prepared team and a little bit of luck,

This time of year is reverently referred to as March Madness, when anything can happen, when the underdog has a chance to shine on a national, brilliantly lit stage. And around water coolers the next day, we sports fans glow with talk of the little school that could-go-all-the-way.

March Madness. Get ready title agents because March Madness is upon us, and oh, are we ready. The small title industry, the underdog, has prepared for RESPA reform better than any other industry in this country; dare I say, better than any other industry in the world!

We have used the chalkboards in our offices to map out our Xs and Os, mount our offense and gently lodge our defense. With the timing of the implementation, we will be in full swing completing new forms in March. March Madness cometh.

Not only are we better prepared than others, we have taken it upon ourselves to be the educators of the Rule for our friends in the related industries. Through old-fashioned town meetings across the country, the title industry has brought the everyday approach and realities of this brave new world. From coast to coast, through the heartland and every town in between it is the title industry that has become the source of information and direction.

Do we know everything? No! Do we care about getting it right? Absolutely!

So game on. March Madness will be just as exciting this year as in every other year heretofore and the small team, the underdog, will be praised around national water coolers as we unequivocally and unapologetically climb the ladder, cut down the net and hoist the crystal as the upset champions of 2010.



Anne Anastasi
ALTA president-elect

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