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American Land Title Association

TitleNews

A man's face is visible from the nose up, peering over a white desk. To his right is a large, tall stack of papers and folders, some bound with rubber bands. The papers are in various colors, including green, blue, and brown. The background is a plain, light-colored wall.

Foreclosures Take Their Toll

More stringent lending requirements and complicated closing instructions are adversely impacting all transactions – not just foreclosures – as it's taking longer and costing more for title agents to close deals.

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ALTA 2011 Federal Conference
Liaison Hotel
Washington, D.C.

May 8 - 10

2011 Business Strategies Conference
The Cosmopolitan
Las Vegas, NV

October 12 - 15

2011 ALTA Annual Convention
Charleston Place
Charleston, SC

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Plan to Attend
ALTA's 2011 Federal
Conference and Lobby Day

MARCH 13-16, 2011
Liaison Hotel
ON CAPITOL HILL
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professionals and
involves federal
legislators and
regulators, you'll
hear about it at
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Definition of 'QRM' Could Drastically Change Lending Landscape

There's a heated debate in the mortgage industry over imminent lending rules that could significantly alter sources of business for ALTA members.

Regulators must meet an April deadline for issuing lending regulations triggered by passage last summer of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 201011 (Dodd-Frank Act).

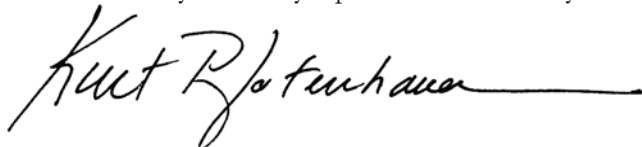
The Dodd-Frank Act requires lenders to retain a 5 percent risk-retention for two years in loans sold to the secondary market. The act includes an exemption from the risk-retention requirements for certain high-quality, lower-risk mortgages. The mortgage industry is divided over defining what type of loans should qualify as a "Qualified Residential Mortgage" (QRM), which would exempt those loans from the risk-retention requirements.

We sent a letter along with 11 other trade associations telling regulators they should consider the harmful consequences of issuing a narrow QRM exemption as it would make it harder to obtain credit. If a QRM is established that is more stringent than current standards, millions of creditworthy borrowers would be considered high risk and would only be eligible for mortgages with higher interest rates and fees and without the protections required by the statutory QRM framework that limit risky loan features. ALTA urges federal agencies to define the QRM's parameters in a way that facilitates a housing recovery and ensures access to conventional mortgage credit for all qualified buyers and refinancers, including low- and moderate-income households, minority families, and first-time buyers, while preserving high quality, empirically sound underwriting and product standards.

Meanwhile, some have suggested that the QRM standard should only include loans with a very high down-payment requirement in order to limit QRM eligibility to an arbitrarily small percentage of the market. ALTA believes this would make mortgages unavailable or unnecessarily expensive for many creditworthy borrowers. Wells Fargo has asked U.S. regulators to set a down-payment standard of 30 percent on mortgages that wouldn't have to meet a new requirement. If regulators are persuaded by Wells, more business could be driven to the Federal Housing Administration, which is exempt from the risk-retention rules and guarantees loans with down payments as low as 3.5 percent. This would move a substantial amount of risk from the private sector to the government. It could also mean further consolidation among lenders, thus disrupting the order channel of title agents.

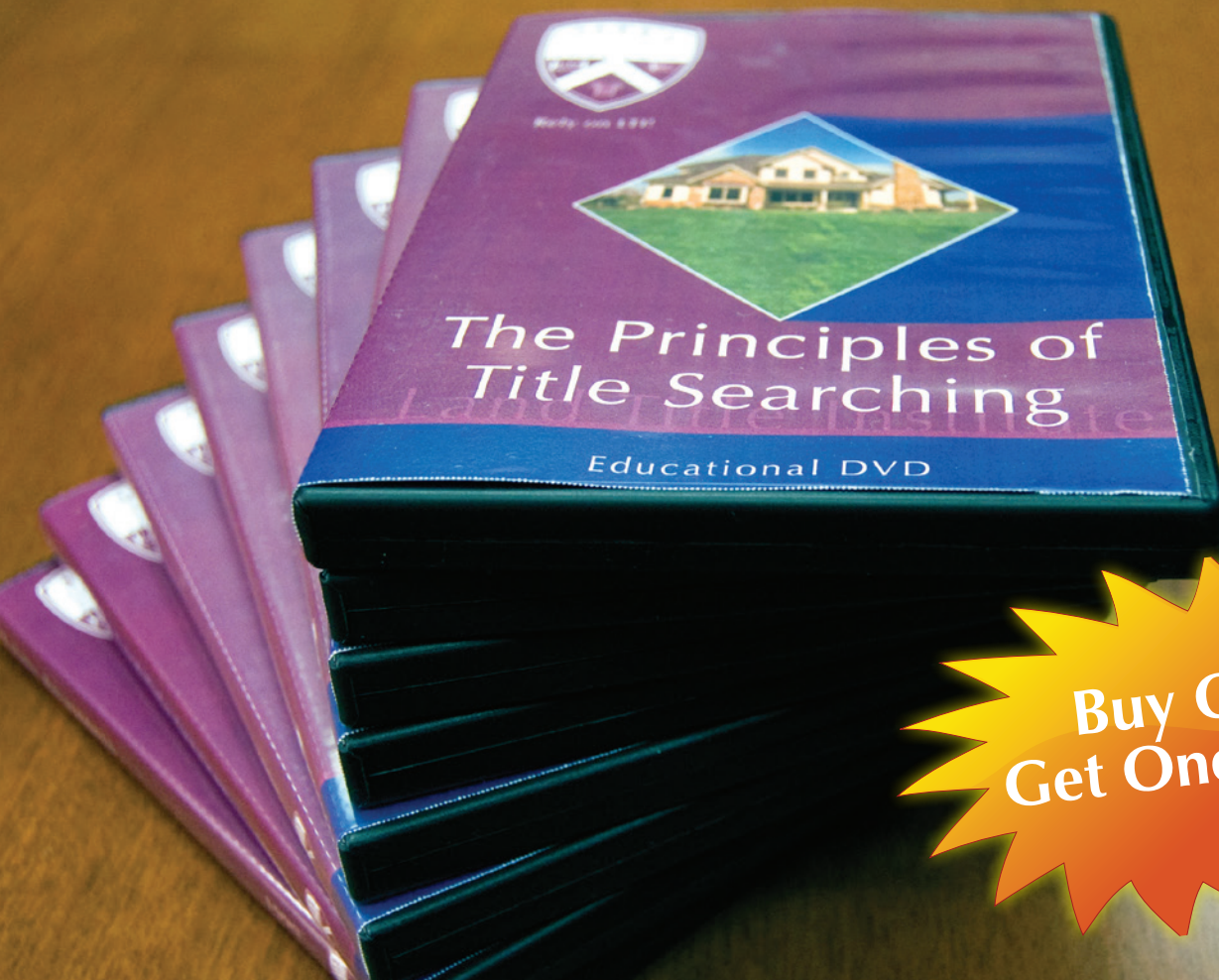
We also took the opportunity to send a separate letter to regulators explaining why title insurance is an important underwriting tool for a sound real estate transaction. ALTA recommended a title search, examination, curative work and the placement of both an owner's and loan title insurance policy are best practices that protect both individuals and creditors and should be included in the QRM exemption.

Don't miss my Advocacy Updates e-mailed every Monday, as we keep you apprised of developments.



– Kurt Pfothenhauer, ALTA CEO





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ALTA Addresses FASB Proposal to Change Accounting Standards

The American Land Title Association submitted a letter Dec. 15 to the Financial Accounting Standards Board (FASB) sharing concerns regarding proposed changes to the insurance contract accounting standards.

The proposed insurance accounting standards are meant to shift accounting of insurance risk from an exit value model (based on the value a purchaser would offer to obtain the contract) to a fulfillment based model (showing the amounts the insurer would pay throughout the life of the contract).

After studying FASB's proposals, ALTA's Accounting Committee drafted a comment letter highlighting the differences between title and other lines of insurance and why the current accounting standards that recognize these differences is appropriate. The European's equivalent of FASB, called IASB, issued its own draft earlier this year. FASB is attempting to harmonize U.S. and international accounting standards.

According to Brent

Scheer, chair of the Accounting Committee, some of the inherent difficulties of this switch include determining the appropriate actuarial models, discount rates and loss assumptions.

"The proposed changes would alter how insurance companies value their insurance liabilities for financial reporting purposes," he said. "ALTA Accounting Committee members were critical to getting this message to FASB in such short order."

ALTA's letter focused on explaining the differences between title insurance and other lines of insurance including differences in underwriting, regulation (including that title insurance is a mono-line industry), and reserving.

"There are several significant differences between title insurance contracts and other types of insurance contracts," said Kurt Pfothenauer, chief executive officer of ALTA. "These differences are contemplated in the current GAAP accounting model for title insurance, and we believe these differences

should continue to be contemplated by FASB in any proposed changes to the accounting for insurance contracts. We also believe these differences present a challenge to adopting the proposed accounting model set forth in the discussion paper."

ALTA's letter summarizes key differences between title insurance and other insurance lines:

- Title insurance does not have a finite contract term, which can lead to the situation where the title insurer is unable to determine which and how many of its policies are still in force;
- Title insurance is issued for a one-time premium, and there are no renewals;

- Title insurance provides coverage to compensate for past events that exist before the policy is issued, but are not discovered until after the policy is issued;
- Title insurance underwriting operates almost entirely on the basis of identifying, evaluating and correcting covered matters before the policy is issued. Therefore title insurers incur significant cost related to underwriting prior to issuance of the policy.

The FASB proposal does not specifically mention title insurance, but it does refer to the international exposure draft, which provides guidance on the definition of insurance contracts. Title insurance is included in the examples of contracts that are insurance contracts. Title insurance is described as insurance against the discovery of defects in title to land that were not apparent when the insurance contract was issued). In this case, the insured event is the discovery of a defect in the title, not the defect itself.



Large Agents Meet in New Orleans

Large title agents from across the country met Jan. 24-26 at the Ritz Carlton in New Orleans for the ALTA Title Agents Executive Conference to discuss and share information about several issues impacting their operations.

Featured speakers included ALTA board member Diane Evans, Rich Macaluso and Craig Haskins. ALTA President Anne Anastasi also attended. Topics discussed ranged from technology

title agents should be utilizing to errors and omissions liability policies.

Kurt Pfothauer, ALTA's chief executive officer, provided a government affairs update addressing issues such as the Consumer Financial Protection Bureau, GSE reform, ALTA's efforts to help pass legislation banning private transfer fees and talks to study the feasibility of a federal land title recording system.

ALTA's Land Title Institute Offers Free Presentation on 1031 Exchanges

ALTA's Land Title Institute is offering free access to a presentation on 1031 Exchanges. Titled "1031 Exchanges: Understanding the Title Agent's Role and Agency's Liability," which was presented by Hugh Pollard of First American Exchange Co., the presentation provides agents an understanding of the process and how it can provide a value added service to existing customers and even generate new customers. Whether handling the sale of a relinquished property

or the acquisition of a replacement property, a working knowledge of 1031 exchanges and their requirements makes it easier for closers to understand their role and the agency's potential liability. This presentation also provides information on how to handle situations that can arise during the closing. If you have questions, contact Kevin Russell at krussell@alta.org or 800-787-2582. You can access the presentation here: www.alta.org/news/news.cfm?newsID=12802.

Two U.S. Reps Confirmed to Speak at Federal Conference

U.S. Reps. Ed Perlmutter (D-CO) and Ed Royce (R-CA) have both confirmed they will speak during ALTA's 2011 Federal Conference, which will be held March 13-16 at the Liaison Hotel in Washington, D.C.

Perlmutter also spoke at last year's Federal Conference and provided a timeline of the mortgage meltdown and rational steps the Federal government took to resurrect the financial system. He praised last year's passage of the Dodd-Frank Wall Street bill saying "When Wall Street operates like the Wild West, Main Street suffers. This bill is about whose side you're on. We cannot let America's families and small businesses pay the price for Wall Street's recklessness."

Royce, a senior member of the House Financial Services Committee who is pushing for a repeal of President Obama's Health Care reform, opposed the financial reform bill, including the creation of the CFPB.

"Through the creation of a Consumer Protection Bureau, this bill separates consumer protection



regulation from safety and soundness regulation. This model, which governed Fannie Mae and Freddie Mac, created competing and often conflicting interests. Applying this same flawed model throughout our financial system will weaken not strengthen our regulatory structure," he said.

Don't miss the opportunity to hear from both of these passionate representatives as they offer a peek inside the 112th Congress and how Democrats and Republicans plan to work together to continue helping the U.S. economy recover. Register for the conference at www.alta.org/meetings/federal/.

ALTA also has a pending invitation to U.S. Sen. Scott Brown (R-MA) to speak at the conference. Brown was an ALTA member while operating a law firm and conducting title work in Massachusetts.

ALTA Develops Title Insurance Primer Article for Members to Submit to Newspapers

ALTA has developed an article titled "Title Insurance Vital to Protecting Homebuyers" to help combat misconceptions in the marketplace stemming from the foreclosure paperwork issues. The article explains what title insurance is, the different title insurance policies, the steps taken to issue a policy, how it differs from other insurance products, how a policy can protect consumers and what questions consumers should ask before purchasing a policy.

The article can be a useful tool for members to submit to their local newspapers in order to educate consumers on the value of title insurance and the importance of purchasing an owner's policy.

The article was written to apply to as many members as possible and can be adapted by you to reflect industry variances in your marketplace. A Word document of the article can be downloaded at www.alta.org/membership/mediatools/.

ALTA Schedules Small Agents and Abstracters Forums

With agents and abstracters facing economic challenges, ALTA has developed five Agents and Abstracters Forums to make them more accessible and affordable. The first of these was held Jan. 16 in Nashville, Tenn. To learn more about the Forums, check out the Last Word column on page 30 by Mike Nichols, the founder of the Small Agents and Abstracters Forum.

You can register for any of the Forums at www.alta.org/meetings/smallagents/.

HERE'S A GLANCE AT THE UPCOMING SCHEDULE:

Midwest

March 27, 2011
Kansas City, MO

Midwest

April 10, 2011
Minneapolis, MN

West

May 8, 2011
Las Vegas, NV

Northeast

September 18, 2011
Baltimore, MD

ALTA Members Set TIPAC Fund Raising Record; Exceed \$500K in Election Cycle

John Voso, chair of ALTA's Title Insurance Political Action Committee, reported TIPAC raised more than \$250,000 for the second consecutive year.

For all of 2010, TIPAC received \$259,575 from 576 contributors.

The TIPAC Board of Trustees also exceeded its goal of \$500,000 for the 2010 cycle by the elections in November.

Voso has set a goal of \$300,000 for 2011.

If you have any questions or comments, please contact Kelley Williams, ALTA's manager of government affairs, at kwilliams@alta.org or 202-261-2935, or John Voso, Jr. at jvoso@oldrepublictitle.com or 216-408-8866.

ALTA Donates 100 Pounds of Soap to Help Prevent Disease and Save Lives

The American Land Title Association partnered with Clean the World to help prevent the spread of disease and save lives.

During its 2010 Annual Convention in San Diego, ALTA donated 100 pounds of soap from staff and participating attendees who stayed at the Manchester Grand Hyatt. The donation will help 99 children for one month. According to Clean the World, every day in North America thousands of hotels discard millions of pounds of soap and shampoo.

Each year around the world, more than five million lives are lost to diseases with the majority of deaths being among children less than five years old. Studies have shown that simple hand washing substantially reduces the spread of diseases.

Clean the World distributes recycled soap products, along with appropriate educational materials, to impoverished countries worldwide, and to domestic homeless shelters.

Foreclosures Take Their Toll

More stringent lending requirements and complicated closing instructions are adversely impacting all transactions – not just foreclosures – as it's taking longer and costing more for title agents to close deals.

While the recent controversy surrounding flawed foreclosure practices by some lenders will have minimal impact on the number of claims, many agents have already reported increased costs due to more intensive searches, curative efforts and tougher underwriting requirements. Simply put, title agents are spending more time and incurring additional expense to get transactions closed.

James Sitterly, president and CEO of three small title companies in New Mexico, said his operations are conducting more extensive searches and taking longer to clear title when working with attorneys to get a payoff. >>

By Jeremy Yohe



“This process creates time and work problems because of delays in obtaining figures to close,” he said. “With the extra hour it takes to do the new and improved HUD, we are adding hours to each closing. I find it impossible to increase my costs when everyone is suffering in this down economy.”

Nevelyn Kemp, manager of New Mexico-based Ekmar Abstract & Title, agreed with Sitterly that the amount of time to conduct a search for a foreclosure is the biggest factor in driving cost.

“With everything going on, we contact the underwriter to make sure we are safe in doing the deal,” she said.

“Tracking through several unreleased deeds of trust in the chain of title is time consuming and costly.”

One problem title agents face is verifying the proper entity was paid off and that the deed of trust or mortgage was released. The problem is magnified because HUD requires these to be released when they purchase a property from the foreclosing lender.

“HUD will not accept an indemnity or for an underwriter to insure over the lien,” said David Townsend, CEO of Agents National Title Insurance Co. “This is really slowing the process down and costing a lot to the underwriter and the bank.”

It’s also costing agents who must verify that a payoff was made by a

title agent that may no longer be in business and that a title policy was issued at the time.

“This is a very time consuming process that involves ‘guessing’ as to who employed a notary or looking at the document to verify who submitted it for recordation,” said Cara Detring, president of Missouri-based Preferred Land Title. “Tracking through several unreleased deeds of trust in the chain of title is time consuming and costly. The Mortgage Electronic Registrations System (MERS) is a valuable tool to assist in this tracking.”

While MERS has been attacked in the media, it has helped mortgage lenders eliminate the need for

recording mortgage loan assignments when ownership rights change in secondary market transactions.

The MERS System allows settlement agents to electronically determine the current servicer of any loan on the system, enabling settlement agents to obtain pay-off amounts.

The MERS system has registered more than 22 million loans since it began in 1996, with over 22,000 loans being registered daily. (ALTA members are offered a special discount of \$75 per year to access this database.)

At the center of the foreclosure fire in Florida, Joe Campoamor

Timeframe from First Late Payment to a Foreclosure Referral

Here’s a glance at the states slowest to refer for foreclosure. The average days delinquent at foreclosure start in November was over a year in Massachusetts and California.

Massachusetts	373
California	367
Maryland	358
New York	344
Nevada	302
Pennsylvania	295
Tennessee	295
Virginia	290
Washington	289
Ohio	278
Maine	278

Source:
Lender Processing Services

agreed there are far too many liens of all kinds, including mortgages that should have been satisfied.

“When satisfactions aren’t recorded, this makes things more cumbersome,” said Campoamor, president of Tampa-based Integrity First Title. “In many instances, the bank that owned the initial mortgage did not own it at the time it was paid off. Trying to find the last servicer can be difficult and many of them are not in business anymore.”

An associated problem is that many of the lender/investor owners of deeds of trust issue powers of attorney to servicing entities.

“Those POAs have to be tracked and compared to servicing agreements of various loan packages to verify the correct POA is produced



as proof of the authority to release a particular deed of trust or mortgage,” Detring said.

Many lenders with REOs refuse to document whether a borrower was alive at the time of the foreclosure, if proper notices were given, if the debtor filed bankruptcy or was under a right to redeem the property, and whether the debtor was serving in the military at the time that the foreclosure process commenced.

“It is a struggle to get through the exam and subsequent requirements of information for closing,” she said. “The process takes roughly three times longer to get the file from order to closing.”

The problems are not only the product of sloppy loan documentation over the past decade with lax lending standards, it’s also a reflection of the economic times where lending practices and requirements have tightened so it’s hard to qualify for a loan. The documentation is lengthier and

lender closing instructions have become more complicated.

Lenders may be trying to offload liability for the viability of the loan and the borrower’s rights onto the title insurance agent.

“That is not the purpose of title insurance or the closing process,” Detring said. “As a result, we spend more time and money in the review of lender instructions and analyzing the various liability clauses than before. Many title agents have had to incur legal fees to do this. Plus, there is a significant demand for underwriter time to work through these instructions, and that is only for the agents knowledgeable enough to raise a question about those instructions.”

Campoamor says the documentation issue has impacted the entire market, not just transactions involving foreclosures, because banks have tightened lending standards. He said while his company used to close a refinance in 15 to 45

Delinquencies and Foreclosures

Total U.S. Loan Delinquency Rate: 9.02 Percent



Total U.S. Foreclosure Inventory Rate: 4.08 Percent



Source:

Lender Processing Services

days, it’s now typical to take 60 to 90 days to close.

“Banks’ closing instructions are much more comprehensive,” Campoamor said. “Within the closing instructions, banks are requiring title companies to perform items that are out of the scope of the closing.”

Some of these tasks include obtaining VA certifications or verifying correct coverage, mortgage clauses, etc., when collecting the declaration page for hazard insurance.

Title agents must thoroughly read the closing instructions because some have multiple tiers.

“There are some closing instructions that are more specific that apply to a certain loan, and there are some that will refer to master closing instructions,” Campoamor said. “Many times the bank doesn’t provide master closing instructions and you have to go back and ask for them. Not following the closing instructions could be the basis of a

claim, and the more banks can put that in there, the more it covers them.”

This only causes delays as lenders typically don’t send the closing instructions until the day of closing.

“I’m fortunate in each of my offices, I have very experienced managers and closers,” said Campoamor of Integrity’s three offices. “You always have to read the closing instructions, so there isn’t any retraining; you just have to read more and read them more carefully. We have had to make a few adjustments such as asking for more information from our customers.”

He added that the foreclosure crisis has resulted in his agency working more closely with its underwriters “even to get approval to issue a policy in some of these situations where unusual underwriting conditions exist.”

“We need to find out what they deem acceptable, gather the information and submit it to them for approval.” said Campoamor, whose company underwrites with Old Republic National Title, WFG National Title and Alliant National Title.

Townsend’s advice to agents is that they need to know what they are agreeing to and should be reading lender instructions very carefully.

“More liability is being placed on the agent,” he said. “If you are

working with a national lender, read the instructions very carefully. Title claims are up for matters that are not covered under the policy and lenders are trying to recoup underwriting loss by filing title claims.”

While the foreclosure issue has resulted in additional expense, it’s also emphasized the value of an adequate search and examination, and clearance of title errors found in the public records, according to Diane Evans, vice president of Colorado-based Land Title Guarantee Co.

“Within the closing instructions, banks are requiring title companies to perform items that are out of the scope of closing.”

“If agents within our industry failed to discharge the professional obligations that we have committed to, such as protecting the sanctity of the public records, we could not provide adequate assurance of marketable title or would incur far more claims,” Evans said. “We have a great opportunity at this moment to emphasize the value of search and exam and to urge consumers, real estate agents and lenders to demand that the search and exam process be completed.”



Jeremy Yohe is the director of communications for ALTA. He can be reached at jyohe@alta.org or 202-261-2938.

Judicial vs. non-judicial foreclosure states				
Judicial only	Judicial more common	Both used equally	Non-judicial more common	Non-judicial only
Connecticut	Oklahoma	Arkansas	Alabama	Michigan
Delaware	Wisconsin	Hawaii	Alaska	New Hampshire
Florida	South Dakota		Arizona	Tennessee
Illinois			California	Utah
Indiana			Colorado	
Kansas			Georgia	
Kentucky			Minnesota	
Louisiana			Mississippi	
Maine			Missouri	
Maryland			North Carolina	
Massachusetts			Rhode Island	
Nebraska			Texas	
New Jersey			Wyoming	
New Mexico	Trustee sale states			
New York	Trustee sale only	More common	Voluntary	
North Dakota	District of Columbia	Washington	Iowa	
Pennsylvania	West Virginia	Virginia		
South Carolina		Oregon		
Vermont		Montana		
		Nevada		
		Idaho		

Source: RealtyTrac: <http://www.realtytrac.com/foreclosure-laws/foreclosure-laws-comparison.asp>

Use of Non-Attorneys in UPL States Could Impact Foreclosures

In North Carolina and South Carolina, real estate and mortgage loan closings, including refinance loans, must be supervised by an attorney. Performing a title search, preparing title and loan documents, and closing a loan without the supervision of an attorney constitutes the unauthorized practice of law.

The South Carolina Supreme Court recently decided two seminal cases which could forever change the risk analysis used by the lenders and servicers as they choose their vendors in 2011, according to Jamie Kosofsky, partner and owner of Brady & Kosofsky in Charlotte, N.C. Although these cases are in South Carolina, they are based on tenets of common law which can be applied in either jurisdiction.

In *Wachovia Bank v. Coffey*, Op. No. 4685, 2010 WL 1904876 (S.C. Ct. App. May 6, 2010), Wachovia closed a home equity loan without the supervision of an attorney and later instituted foreclosure proceedings. The court of appeals held that Wachovia, having committed the unauthorized practice of law in closing the loan without attorney supervision, came to the court with unclean hands and thus was barred from seeking equitable relief, Kosofsky said.

In *Matrix Fin. Services Corp. v. Frazer*, 2010 WL 3219472 (S. Car., Aug. 16, 2010), the court ruled that the lender, Matrix Financial Services Corporation, which refinanced its own mortgage with the Frazers, as borrowers, was not entitled to equitable subrogation because it could not satisfy the requirement that it voluntarily paid off the original mortgage, upon which it was not secondarily liable. The court also held that an equitable remedy was not available because Matrix closed the loan unlawfully and with unclean hands under South Carolina law, which requires that all loan closings be supervised by an attorney.

“As servicers, lenders, and REO departments review their operation plans for 2011 and beyond, they will need to disclose the risk of losing the right to foreclosure and other equitable remedies to their investors before choosing a non-attorney alternative in attorney states such as North Carolina and South Carolina,” Kosofsky said.

Currently, the North Carolina State Bar Authorized Practice Committee and North Carolina Bar Association, are investigating settlement agencies who are operating in North Carolina in violation of North Carolina rules of ethics and practice of law statutes which prohibit any company other than law firms from offering title search, reports, and document preparation by using attorneys who are “on call” rather than in a manner consistent with the spirit of the North Carolina Statutes and Rules of Ethics. Companies who utilize these illegal means are guilty of a Class 1 Misdemeanor and may face substantial fines and penalties.

“Lenders and servicers found to be using illegal means to handle activities defined as the practice of law may be barred from seeking equitable remedies such as foreclosure and specific performance of real estate contracts, thus creating astronomical levels of liability to investors and servicers who rely on the origination and REO departments to provide them with security for their investments,” Kosofsky said.

According to Kosofsky, there are some big compliance landmines waiting to explode.

“We are paying for the shoddy work, bad decisions and lack of oversight in the recent past,” he added. “The mainstream media has made a big deal out of the ‘trends’ such as robo-signing and has ignored the fundamentals as to how we got here, and the fact that the fundamentals are not getting better. Many cost-cutting measures in pricing are still being used, and in many cases being expanded.”



Massachusetts Supreme Court Upholds Ruling on Foreclosures

The title industry continues to carefully review each transaction, especially the resale of REOs.

The Massachusetts Supreme Court ruled Jan. 7 against US Bancorp and Wells Fargo & Co., upholding the opinion of the lower court that two foreclosures were invalid because the banks failed to prove they owned the mortgages.

In the previous case, held in March 2009, Judge Keith C. Long said the foreclosures were improperly transferred into two mortgage-backed trusts and voided them. The judge denied the banks' request to reverse the ruling.

Justice Ralph D. Gants upheld the decision saying, "We agree with the judge that the plaintiffs, who were not the original mortgagees, failed to make the required showing that they were the holders of the mortgages at the time of foreclosure."

Kurt Pfothenauer, CEO of ALTA, said that since the Massachusetts case was first decided two years ago by the lower court, "title insurers have asked lenders to provide evidence they own the mortgage and have a right to foreclose."

"Reasonable and sound underwriting is the rule of the day," he said.

This new ruling supports the lower court's decision as to the necessity of recording the assignment: "We do not suggest that an assignment must be in recordable form at the time of the notice of sale or the subsequent foreclosure sale, although recording is likely the better practice," wrote Massachusetts Supreme Court

Judge Ralph D. Gants. "The key ... is that the foreclosing entity must hold the mortgage at the time of the notice and sale in order accurately to identify itself as the present holder in the notice and in order to have the authority to foreclose under the power of sale."

It's important to note that in the ruling, the Court did not say that these borrowers should not be foreclosed on.

The court said the borrowers were in violation of their mortgage covenants, had received notice of the foreclosure and did not contest the action. Because of this, the banks were entitled to foreclosure if they showed they owned the mortgage, but they failed to comply with the legal requirements necessary to perfect title.

Of note, the court specified:

- That assignment in blank is acceptable.



- Banks must be able to prove they own the mortgage.
- Banks must provide a roadmap as to what the banks would have had to do to establish to chain of ownership.
- To prove ownership the bank must show the chain of purchase and sale agreements and the loan schedule.

Also, the court did not say that the lenders could not go back and re-foreclose on these properties. Based on what the lenders have re-documented since the initial actions, the lender should be able to restart and complete the action now, subject to the normal legal delays.

It is important to realize that if these loans were in the MERS system, which they were not, the chain of ownership would have been easier to prove.

If a loan is in the MERS system, MERS becomes the mortgagee of record, as the nominee of the holder with the beneficial interest in the mortgage.

When a loan is originated with MERS as the nominal mortgagee (or is assigned to MERS post-origination), MERS tracks all further mortgage loan and mortgage servicing transfers and other assignments until ownership or servicing is transferred to an entity that is not a MERS member.

ALTA believes this ruling will not affect homeowners who purchased a previously foreclosed property and obtained an owner's title insurance policy as it remains unlikely that a court will take property from an innocent current homeowner and return it to a previous homeowner who failed to make payments on the loan subject to the foreclosure.

Two New England States Enact Emergency Amendments to Foreclosure Rules

Vermont and New Jersey are the latest states to impose more rigorous standards on foreclosure plaintiffs in response to allegations that fraudulent affidavits may have been employed to prosecute foreclosure proceedings and obtain foreclosure judgments, according to the Washington, D.C.-based law firm Patton Boggs.

Under Vermont's Dec. 21, 2010 emergency amendment to Rule 80.1(g) of its Rules of Civil Procedure, and New Jersey's Dec. 20, 2010 emergency amendment to Rule 4:64 of its Court Rules, a foreclosing plaintiff's counsel must submit a sworn certification confirming that:

1. the attorney personally communicated with a representative of plaintiff;
2. the representative advised counsel of a personal review of the plaintiff's records relevant to the case and the filings in support of foreclosure; and
3. the representative confirmed to counsel both the factual accuracy of those court filings and the technical accuracy of any notarizations.

The attorney must also confirm his or her own diligent inquiry and inspection of the papers, and certify that the pleadings and other papers in support of foreclosure are complete and accurate. While Vermont's Rule applies to all residential foreclosure cases, New Jersey's applies only to uncontested foreclosures.

Also in New Jersey, Patton Boggs reported a Chancery judge overseeing all residential foreclosures in the state entered an order directing six lenders to show cause why the court should not enter an order suspending their uncontested foreclosure actions (including sheriff's sales and the issuance of writs of execution) because of public reports of irregularities in their mortgage foreclosure processes. The order contemplates the appointment of a special master to inquire into, review and report on the foreclosure practices of those lenders, and appoints former state Attorney General Ed Dauber to respond to the lenders' submissions and argue in favor of the show cause relief proposed.

Steve Gottheim, ALTA's regulatory and legislative counsel, said foreclosed properties still owned by banks are the issue, but it is too early to tell if insurers will need more documents from servicers before insuring a property out of REO in Massachusetts.

"As a reminder, owner's policies cover defects caused by a defective

judicial proceeding or document affecting title that was not properly created, such as in this case where the deed transferring ownership from the borrower to the bank was improperly executed because the lender could not prove standing to foreclose," he said.



Virus Attack Amplifies Need for Title Companies to Safeguard Private Information

ALTA's Technology Committee publishes a set of guidelines to help title companies ensure security in real estate transactions.

In the fall of last year, employees at a northern Virginia title company couldn't log onto their online banking for several days. During that time, three unauthorized wires went out of the agent's escrow account to banks in New York and then immediately overseas to Russia.

The agent suffered a loss of more than \$200,000 and had to fund the escrow account for the shortage. What happened? A Zeus botnet virus infected either the bank's or the title agent's computer system and enabled the theft to occur.

The Zeus botnet is hard to detect even with virus or malware systems on your computer. Agents are reminded to take the time to analyze computer security and internal procedures because a \$200,000 loss

could force many small agencies out of business.

To help ALTA members of all sizes safeguard sensitive customer and company information, ALTA's Technology Committee has developed the "Office Security and Privacy Guidelines."

"The protection of Non-public Personal Information (NPI) is vital to the success of any title company," said Andy Maloney, chair of ALTA's Technology Committee. "It's essential for your customers to trust their private data will be protected."

NPI is personally identifiable information provided by a customer on a form or application, information about a customer's transactions, or any other information about a customer which is otherwise unavailable to the general public.

Social Security Numbers, Driver License Numbers and Financial Account Numbers are always considered NPI. All of this is information that title companies should protect.

These protections are also required by federal law. With the advent of State "Notification of Breach" Laws and Federal legislation like the Gramm-Leach-Bliley Act (GLB) and the Fair and Accurate Credit Transactions Act (FACTA), all title operations should work to adequately safeguard NPI and protect their employees, clients, and consumers, according to Mark Littlejohn, chief information security officer for Stewart Title Insurance Co.

In terms of compliance, the key rules under GLB include the



ALTA OFFICE SECURITY
AND PRIVACY GUIDELINES

ALTA

Financial Privacy Rule, which governs the collection and disclosure of customers' personal financial information by financial institutions. It also applies to companies, regardless of whether they are financial institutions, who receive such information. The Safeguards Rule requires all financial institutions to design, implement and maintain safeguards to protect customer information. The Safeguards Rule applies not only to financial institutions that collect information from their own customers, but also to financial institutions – including title companies – that receive customer information from other financial institutions.

“When Gramm-Leach-Bliley passed in 1999, that hit home,”

Littlejohn said. “Before, many of the privacy laws only affected government and financial institutions. This specifically listed insurance companies. Since then, many states have jumped in with privacy laws.”

States such as California, Texas and Massachusetts get specific about what data must be encrypted and what data can be transmitted and shared.

Beyond helping title companies develop a system to thwart virus attacks, Maloney said the “Office Security and Privacy Guidelines” offers a plan to help title companies meet state privacy laws. The document offers guidelines for protecting physical documents, electronic documents, server and personal computer security,

portable storage and disposing of non-public personal information. It is available exclusively to ALTA members and can be found under the Communications and Publications section on the Member Benefits page.

“You mostly see retail chains and banks in the news, but crooks are going after any kind of financial data,” Littlejohn said. “It’s only a matter of time before these guys realize title companies have all of this valuable information and we must prepare for that.”

It’s not just the large companies that should have safeguards in place, he added.

“Companies of all sizes should have some guidelines in place, including the mom-and-pop shops,” Littlejohn

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said. "There are many agents who don't realize what they could be on the hook for."

To begin developing a plan, a title company should first identify and locate all NPI in the company's possession and control. Next, according to Maloney, a company should document policies, processes and procedures for collection, storage, protection and disposal of private information.

Physical Security

Title companies should adopt a clean-clean desk policy to make sure NPI is not accidentally disclosed. Employees should close files when away from desks and lock all documents, portable devices (such as laptops, netbooks, handheld mobile phones and devices) and electronic media (such as USB/Thumb drives, CDs, DVDs, memory cards, tapes and diskettes) containing sensitive data in a desk, file cabinet or secure room overnight.

Regular Mail and Faxing

Title companies should always use sealed envelopes to send NPI via inter-office mail. Littlejohn suggested using registered mail services such as FedEx or UPS to send private information to external parties. Use the signature services of FedEx and UPS to require a recipient signature, either at the place of delivery or at a package pickup location.

"As an added precaution, it's good to follow up to ensure documents containing NPI safely reached their destination," Maloney said.

Electronic Security

Access to sensitive private information should be restricted to employees that have a valid business

Additional Anti-Virus Tips

Dick Reass, president of RynohLive, offers several suggestions for title agents to protect their computer systems and prevent virus attacks:

- Initiate wire transfer payments only under dual control, with a transaction originator and a separate transaction authorizer.
- Use tokens for all online transactions to provide an additional layer of authentication.
- If possible, carry out all online banking activities from a stand-alone, hardened and completely locked down computer system from which e-mail and web browsing (beyond the secure online banking site) is not possible.
- Be suspicious of e-mails purporting to be from a financial institution, government department or other agency requesting account information, account verification or banking access credentials such as usernames, passwords, PIN codes and similar information.
- Opening file attachments or clicking on web links in suspicious e-mails could expose the system to malicious code that could hijack your computer.
- Install a dedicated, actively managed firewall, especially if they have a broadband or dedicated connection to the Internet, such as DSL or cable. A firewall limits the potential for unauthorized access to a network and computers.
- Limit administrative rights on users' workstations to help prevent the inadvertent downloading of malware or other viruses.
- Install commercial anti-virus and desktop firewall software on all computer systems.
- Free software may not provide protection against the latest threats compared with an industry standard product.
- Ensure virus protection and security software are updated regularly.
- Ensure computers are updated regularly, particularly the operating system and key applications with security updates. It may be possible to sign up for automatic updates for the operating system and many applications.
- Consider installing spyware detection programs.
- Recommend clearing the browser cache before starting an online banking session in order to eliminate copies of web pages that have been stored on the hard drive. How the cache is cleared will depend on the browser and version. This function is generally found in the browser's preference menu.

need to access the data. Tight control should be maintained over user login and password credentials. If possible, access should be disabled after unsuccessful login attempts, Littlejohn advised. Passwords should immediately be changed and

access blocked when an employee is terminated.

E-mail

Maloney said title companies should never send e-mail that contains NPI in the body text or subject

line. Instead, omit or obscure the NPI, especially when replying or forwarding messages.

“Private information may be sent via encrypted e-mail or in password-protected attachments if the password is sent separately,” Maloney said. “You should delete older, unnecessary e-mail to reduce exposure if a computer is hacked, lost or stolen.”

Web Sites

Encryption with Secure Sockets Layer (SSL) or Transport Layer Security (TLS) protocols must be enabled for any Web site that collects sensitive information. Check for the padlock icon at the bottom right of the browser window or look for “https” instead of “http” in the address bar.

“You should never enter private information into third-party Web sites that you do not completely trust,” Littlejohn said. “Always check the address bar to ensure that you have not been directed to a look-a-like web site. It’s also advised to never use public file stores or transfer utilities such as LeapFILE, FindMyFile or SendSpace for any files containing private information.”

File Servers

Access to directories, file shares, databases, and critical applications containing private information should be restricted to those with legitimate business purposes.

“Non-public information should never be stored on publicly accessible file shares,” Littlejohn said. “It’s important to ensure that server backups are encrypted and taken offsite by an approved tape storage vendor.”

Personal Computers

To protect private information on computers, title agency employees should always log off and lock computer screens when away for more than five minutes. Strong passwords should be created by using eight-plus characters including numbers, symbols, upper and lowercase letters. Frequent password updates also should be required.

“User login and password information should never be shared by employees,” Littlejohn said. “Passwords should immediately be changed if you think someone has discovered them.”

Portable Storage

Only encrypted portable devices and electronic media should be used to store sensitive information. As with personal computers, strong passwords should be used on company-owned portable devices and electronic media. Maloney said non-public information should never be stored on personally owned devices such as iPods, cameras, or mobile phones.

Disposal

When disposing of or donating a computer or other electronic media, title companies should wipe all hard drives and other electronic media.

“Hard drives may be found in servers, desktop computers, laptops, scanners, copiers, and other office equipment,” Littlejohn added. “Portable devices may also have hard drives as well as electronic media components like flash cards.”

Copy machines can pose a significant risk to the security of personal information. The concern is that some copy machines may retain scanned information, which can be

viewed by others. Since 2002, nearly every copy machine has been built with a hard drive that stores images of every document scanned, copied or e-mailed by the machine. This can be a pot of gold for identity thieves because some copy machines retain scanned information, which can be viewed by others. Since 2002, nearly every copy machine has been built with a hard drive that stores images of every document scanned, copied or e-mailed by the machine. ALTA suggests you contact your photocopy vendor if you have concerns.

It’s advised that title companies use a cross-cut or “confetti” shredder to destroy all documents containing private information instead of throwing it in a trash can or recycle bin.

“Agents should dispose of all unnecessary documentation received from lenders, realtors, customers, or others as soon as legally allowable,” Littlejohn said.

In the event that private information is lost or disclosed to an unauthorized third party, staff should be instructed to immediately contact their supervisor, information security or legal personnel.

“It doesn’t require much technology and can be as simple as what they have in the office now and use day-to-day,” Littlejohn said. “Most of the information in the guidelines is about manual procedures. While these guidelines describe practices that should be implemented within each title company to ensure security in real estate transactions, they are not intended to be a substitute for legal advice as state laws and regulations vary.” ■

Disclosing Fees for Closing Protection Letters/Insured Closing Letters on HUD-1

The issuance of a Closing Protection Letter/Insured Closing Letter (CPL) is handled in a variety of ways among states.

The CPL is typically delivered by the title insurance agent for the insurer, but the fee (if any) for the CPL is usually paid directly to or fully remitted by the title insurance agent to the title insurer.

In some states, a single fee may cover all parties, in others a separate fee must be paid for each covered party, while in others no fee is charged at all. Additionally, the parties who are covered and the terms of the coverage vary from state to state, while in some states the issuance of a CPL is completely prohibited under monoline provisions if that state's department of insurance deems the CPL to be a casualty product. What is easy to see is that treatment of the CPL varies widely among the states that allow it.

To answer the question, how the fee for the CPL is best disclosed on the HUD-1, it must first be determined whether the CPL fee is

considered a part of the title insurance premium under state law.

According to ALTA's RESPA Task Force, the fee for a CPL is not considered to be part of the title

■ To determine disclosure of the CPL fee, first discern if it's part of the title insurance premium.

insurance premium under state law, it should be shown on Line 1109 or a subsequent line in that series outside the column with that fee rolling up into the Line 1101 total for "title services."

If the fee for a CPL is considered to be a part of the title insurance premium under state law, it should

be included in the premium figures shown on Line 1103 and/or 1104 as applicable according to state law.

The dilemma is how to determine which of those two lines the fee for the CPL should be added, based on whether it is or is not considered to be a part of title insurance premium. In making that decision, one should consider whether state law dictates who pays the fee and whether a separate fee is payable for each covered party.

Even more complicated is determining how to deal with separate fees for lender and buyer/borrower coverage, as well as seller coverage. It would only make sense that the fee for seller's coverage would be shown on a blank line in the 1100 series in the column for the party paying the

fee, according to state law. Don't forget to ensure that the fee for the seller's coverage is added to Line 1108 (Underwriter's Portion of the Total Title Insurance Premium).

While most software packages should be capable of adding Lines 1103 and 1104 together and dividing that figure based on the title insurance

agent's contractual arrangement or state law, as applicable, it is doubtful that the addition of another fee placed on a generic line has been factored into that equation. Be sure to do the appropriate systems research on this matter as well.

While HUD has not specifically addressed the disclosure of a CPL fee in the FAQs which it has issued to date, you may refer to the following FAQs, which are found in the HUD-1 – 1100 Series starting on Page 51 of the April 2, 2010 FAQs:

1) Q: What are title services?

A: The term "title services" includes:

1. Any service involved in the provision of title insurance, including but not limited to: title examination and evaluation

- preparation and issuance of commitment
- clearance of underwriting objections
- preparation and issuance of policies
- all processing and administrative services required to perform these functions (e.g. document delivery, preparation and copying, wiring, endorsements, and notary); and

2. The service of conducting a settlement.

17) Q: If state law requires further itemization of title service or title insurance related fees such as a commitment fee or fees for endorsements to a title insurance policy, how should these fees be listed on the HUD-1?

A: If state law requires further itemization of title service or title insurance related fees than required under RESPA, those fees may be itemized on blank lines in the 1100 series on the HUD-1 with the charge

HUD Discusses Disclosure of Sales and Use Taxes on GFE/HUD-1

In its latest roundup, HUD addresses disclosure of the New York sales and use tax on information services (such as abstracts of title and other public record searches) purchased by title companies on the GFE and HUD-1/1A. It also addresses disclosure of services obtained in prior transactions on the GFE and HUD-1; and disclosure of verifications of employment or deposit charges on the GFE.

Sales and use taxes for information services

According to HUD, sales and use taxes paid by a title company for the information services that the title company purchases may not be separately itemized on the GFE or the HUD-1/1A. Sales and use taxes on information services provided to title companies are included in the charge for title services listed in Blocks 4 and 5 on the GFE and on Line 1101 of the HUD-1/1A, in accordance with the instructions for completing the GFE and the HUD-1/1A.

Services obtained in prior transactions

HUD also has received a number of inquiries concerning disclosure on the GFE and HUD-1/1A of services such as an appraisal or a survey that were paid for in a prior transaction.

HUD says that if a loan originator knows at the time of application that the loan originator will use an existing appraisal or survey that was paid for in a prior transaction, the loan originator must list the appraisal or survey in Block 3 and disclose \$0.00 as the charge for that service.

According to HUD, if a loan originator includes an estimate of a charge for a service on the GFE, but then uses an existing work product that was paid for in a prior transaction, then the service is not entered on page 2 of the HUD-1/1A and the GFE estimate of the charge for that service is not included on the comparison chart on page 3 of the HUD-1/1A. For more on this please see the July, 2010 edition of the RESPA Roundup.

listed outside the borrower's column. Endorsements to a title insurance policy may also be listed in Lines 1103 and 1104 as applicable, with the charge listed outside the borrower's column.

19) Q: Is the amount listed in Line 1108 on the HUD-1 the amount the title underwriter receives as determined by state law?

A: The amount listed in Line 1108 on the HUD-1 discloses the title

underwriter's portion of the total title insurance premium, Owner's and Lender's title insurance premium and their related endorsements. The manner in which this amount is determined has no bearing on the requirement of disclosure.

Please check with your state underwriting counsel and/or state Department of Insurance for further clarification of state-specific law as it relates to CPLs. ■

J.D. Power Survey Shows Time from Application Approval to Closing Taking Longer

Driven by an increase in length of time from application to approval, the average timeline of the mortgage origination process has increased for a third consecutive year, while customer satisfaction has declined, according to the J.D. Power and Associates 2010 U.S. Primary Mortgage Origination Satisfaction Study. The study measures customer satisfaction in four key factors of the mortgage origination experience: the application and approval process, satisfaction of the loan officer and/or mortgage broker, the closing experience and contact.

Quicken Loans ranks highest among primary mortgage lenders with a score of 826, and performs well in all four factors. MetLife Home Loans (808) and PNC/National City Mortgage (776) follow Quicken Loans in the rankings.

The 2010 U.S. Primary Mortgage Origination Satisfaction Study is based on responses from 3,401 consumers who originated new mortgages. The study was fielded between July and August 2010.

The study finds that the time from application to approval has increased to 27.5 days in 2010 from 20 days in 2009. As a result, the time frame for the entire origination process has increased to 52.1 days in 2010 from 46.9 days in 2009. Consequently, overall satisfaction has decreased in 2010.

“While the revised Real Estate Settlement Procedures Act (RESPA) guidelines appear to have streamlined and shortened the time from approval to closing, the unintended consequence is that the application to approval time frame has lengthened and become more complicated,” said David Lo, director of financial services at J.D. Power and Associates. “Ultimately, this longer timeline has a negative impact on overall satisfaction, although there are specific best practices that may mitigate the negative perceptions.”

The study finds the practices most closely associated with high levels of satisfaction are:

- *Providing proactive updates on the status of the loan*
- *Providing a welcome acknowledgment after an application is submitted*
- *Avoiding asking for the same information more than once*
- *Closing on the promised date*
- *Clearly explaining loan options and ensuring that the customer understands*
- *Clearly explaining the entire process from application to approval*

The study also found that usage of the online application channel continues to increase. Nearly 20 percent of customers now go online to start the mortgage application process, up from 14 percent in 2009. Similarly, only 29 percent of customers start the mortgage application process in person, while 33 percent did so in 2009. Fewer customers in 2010 say that they met with their loan officer or mortgage broker in person during the mortgage origination process — 50 percent, compared with 57 percent in 2009.

“Customer preference and, more importantly, perceptions, continue to increase with the online direct channel,” Lo said.

Report Finds Small Builders Produce Majority of New Homes

Small home builders are the mainstay of the nation’s housing industry, including a sizable number of self-employed mom-and-pop operations, according to a new study by economists at the National Association of Home Builders. The study notes that the small builders and tradesmen

who produce 65 percent of the nation’s new homes “compete in a fierce marketplace that challenges their economic survival. A much higher share of small businesses both enter and fail in the residential construction industry when compared to all U.S. firms,” according to the report.

Washington, D.C. Starts Regulating Title Rates, Requires Licensing of Attorney Agents

Legislation to regulate title insurance rates in Washington, D.C., went into effect Jan. 1, 2011.

Passed Sept. 24, 2010, the Budget Support Act of 2011 gives the D.C. Department of Insurance, Securities and Banking (DISB) the ability to regulate rates to insure property title against challenges. Maryland and Virginia have similar regulatory structures. The bill also requires licensing of attorney agents.

The D.C. Land Title Association worked closely with the DISB during this process, according to Ricardo A.

Lasso, Esq., immediate past president of the District of Columbia Land Title Association.

“While we believe that the law is not perfect, we support it,” he said. “We believe that it is a good idea to have regulation. The new regulation resembles in many aspects title insurance regulations in neighboring jurisdictions.”

Lasso added that D.C. is a very interesting jurisdiction because it has many competitors located outside of the district that are unfamiliar with many of the idiosyncrasies with the city.

“Regulation will result in better prepared title professionals working in the region,” Lasso said. “Under the new regulation, title insurance rates need to be approved but each title insurance underwriter is not required to have the same rate as other competitors.

D.C. was one of the few jurisdictions that did not regulate rates. Others include Arkansas, Illinois, Indiana, Massachusetts, Mississippi and Oklahoma.

The law applies to both commercial and residential property but does not affect other settlement

fees title companies can charge within the District.

Alaine Belongia Donovan, the current president of the DCLTA, said, “the association continues to work through several inconsistencies and problem areas in the act.”

Steve Gottheim, ALTA’s regulatory and legislative council, testified in September before the Committee on Public Services and Consumer Affairs. He provided an overview of title insurance, how title insurance differs from other types of insurance and how states regulate title insurance.

Wayne County, Mich. Launches Rate Calculator, Includes Input from Michigan Land Title Assoc.

The Wayne County Register of Deeds recently created an online calculator in an attempt to help consumers shop title insurance rates.

The site’s rate calculator asks consumers to enter the sales price and loan amount. It then provides basic pricing information for some of the title insurance companies that are licensed to do business in Michigan.

MLTA President, Timothy McDonnell, said Wayne County Register of Deeds

Bernard Youngblood incorporated many of MLTA’s suggestions, including linking to educational sites such as HUD, ALTA’s www.homeclosing101.org site and the MLTA.

MLTA is encouraging all underwriters to verify that the information related to their company on the Wayne County website is accurate.

The MLTA does have a few issues with the site. McDonnell said the majority of residential title insurance business conducted in Wayne

County is processed by independent title insurance agencies; however, the website has no listing of Wayne County-based title agencies. The “Find An Agent” tool posted on the site is linked to a Michigan Office of Financial and Insurance Regulation website. This tool is designed to find a licensed producer not a licensed title agency.

“Finally, the website makes the implication that the lowest price equates to the best deal,” McDonnell



said. “There are many factors to consider when purchasing any type of insurance. Price is one of those factors; however, financial stability of the underwriter, ability to pay claims and other services available to the consumer must also be factored into the analysis.”

RamQuest Celebrates 20th Anniversary

RamQuest Inc., a business solutions provider for the title and escrow industry and developer of the Closing Market digital network, is marking a milestone of 20 years of service to the title and settlement industry. Since its inception in 1991, RamQuest has delivered a full suite business solutions to the industry and has set a new standard.

“Over the last twenty years, RamQuest has remained strong despite the many changes in the economic climate,” said

Mark McElroy, president and CEO of RamQuest. “I credit our success to two things. First, the focus we place on enabling our customer’s business through innovation and education, giving them distinct advantages in the markets they serve. And, second, that we continually look for ways to optimize our operation in every single aspect of our business. This serves both our customers and our company very well.”

Stewart Opens Regional Production Center in Idaho

Stewart Title has opened a new regional production center in Nampa, Idaho, for enhanced title search services.

The center is located in the existing Nampa Stewart Title office, and is a satellite office to its Northwest regional production center in Vancouver, Wash.. The new center will serve Idaho’s Treasure Valley, as well as parts of Oregon and Washington.

Stewart Title group president, production centers Rand Zimmerman said this center allows the company to provide

centralized title search services as well as an improved customer experience with virtually paperless transactions, through the use of Stewart’s proprietary technology, SureClose.

Zimmerman said clients will have access to online transaction information through Stewart Online, which is powered by SureClose. Lenders will be able to receive quotes via Stewart’s Lender Express Quote.

Michigan Increases Single-Risk Limit

Michigan Gov. Jennifer Granholm signed legislation on Dec. 21 that increases the Michigan single-risk limit from 10 to 50 percent of surplus. The new law is effective immediately.

According to the legislation, no portion of a title insurance risk or hazard that has been reinsured by an insurer licensed to do title insurance business in this state shall be included in determining the limitation of risk prescribed in this subsection.

This change applies to insurers that obtained a certificate of authority authorizing the transaction of title insurance in Michigan before the effective date of the act.

An insurer that obtained a certificate of authority authorizing the transaction of title insurance on or after the effective date of the act may not expose itself to

any loss on any one title insurance risk or hazard in an amount exceeding 10 percent of its paid-up capital and surplus unless the title insurer meets all of the following:

- Has a most recent A.M. Best financial rating of at least an A- or has a comparable rating as assigned by a nationally recognized statistical rating organization approved by the commissioner.
- Has been licensed and operating in this or another state for at least five years and has reported a net income for at least three of the last five years.
- Has capital that exceeds 2 times the minimum paid-up capital and surplus requirements in Michigan.

The Michigan Land Title Association played a significant role in getting this important legislation passed.

FDIC Announces Hotline for Small Businesses

The Federal Deposit Insurance Corp. created a dedicated, toll-free hotline for small businesses owners to make inquiries with FDIC officials or to register concerns about the availability of credit.

The small business hotline is operational Monday through Friday, 8 a.m. to 8 p.m., EST. The toll-free number is 1-855-FDIC-BIZ (1-855-334-2249).

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ALTA Offers Something for Everyone

There are many facets to ALTA membership. Actually, there are too many to squeeze in this space, so as a small agent, I want to focus on one specific benefit. You may be surprised to know that small agents comprise nearly 90 percent of ALTA membership.

For many years, there has been a group of large agents that meets twice a year to discuss all sorts of topics related to their title operations and the title industry. I had the opportunity to attend one of their meetings and was very impressed. Here was a group of my people, title agents, discussing a variety of topics related to the title industry. I came away with a lot of great ideas. I'm not a large agent, but attended as a guest so my exposure to the group would be a one shot deal, and I understood why. Although large agents and small agents can talk title problems all day, issues each face in their daily operations are far different. An office with 100 employees has different problems than an office with 15 employees.

A few years later, I approached ALTA staff with the idea of starting a small agents group and they were very receptive. At that year's Annual Convention, small agents filled a room to capacity and the Agent and Abstractor Forum was born. Since that time, several meetings have been held throughout the Midwest. This year, ALTA has expanded the Forum and scheduled five regional meetings. The first was held in Nashville last month. {Check page 9 for a schedule of the remaining meetings.

The Small Agent and Abstractors Forum meetings are designed with small agents and abstractors time and money kept in mind. The meetings are held at a quality, but affordable location close to an airport. Since many small agents can't be away from the office during the workweek, the meetings are held on weekends and start with a casual dinner Saturday night where attendees pay individually for their meal. The official meeting starts Sunday morning and concludes around 4 p.m.

The meeting format is a round-table discussion where attendees can offer input on a list of topics ranging from operations, human resources, technology, sales and marketing, to the hot topics of the day. The discussion has helped foster a wide range of ideas being shared. Everyone I talk to says they take away a new strategy to implement in their office on Monday. As an added incentive to attend, sales and marketing expert Darryl Turner will speak at the remaining Forums to offer tips to grow revenue.

ALTA membership has a lot to offer. For me, the biggest member benefit is the Small Agents and Abstractors Forum. I bet it will be yours, too. If you are not getting e-mails about these meetings, make sure ALTA has your contact information, including your e-mail address. I hope to see you at an upcoming Agents and Abstractors Forum!



– Michael Nichols, president of The Jones Abstract & Title Company Inc.

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