April 2011

TitleNews

Official Publication of the
American Land Title Association

Deciphering Title to Native American Land

Turf Battle on a Checkerboard?

MAY 8 – 10, 2011 | THE COSMOPOLITAN OF LAS VEGAS | LAS VEGAS, NV

2011 BUSINESS STRATEGIES CONFERENCE

Flush with Opportunities

If you're looking to trump your competition, odds are you will hit the jackpot at this educational and networking conference, which will be held May 8-10, 2011 at The Cosmopolitan of Las Vegas. ALTA has developed a professional development program aimed to give you a winning hand in the market. The sessions will address these key areas:

- *Get the latest sales and marketing tactics to help grow your business.*
- *Learn new leadership and management techniques to make your office more productive.*
- *Create efficiencies within your operation to reduce expense.*
- *Check out the latest technologies to help meet your customers' demands and streamline your operation.*

CE and CLE credits will be available for most sessions.

HOTEL

The Cosmopolitan of Las Vegas
3708 Las Vegas Boulevard South
Las Vegas, NV 89109-2002
For Reservations call 702-698-7100 and let them know you are with ALTA. Rates: $159 per night (not including room taxes and fees)

AMERICAN LAND TITLE ASSOCIATION

Go to *www.alta.org/meetings* to register.

contents

TitleNews • Volume 90, Number 4

Features

Departments

calendar

ALTA MEETINGS & CONFERENCES

May 8	Agents & Abstracters Forum *Las Vegas, NV*
May 8 – 10	2011 Business Strategies Conference The Cosmopolitan *Las Vegas, NV*
September 18	Agents & Abstracters Forum *Baltimore, MD*
October 12 - 15	2011 ALTA Annual Convention Charleston Place *Charleston, SC*

STATE CONVENTIONS

May 1 - 3	Iowa
May 5 - 7	New Mexico
May 22 - 24	California
May 22 - 24	New Jersey
May 22 - 24	Pennsylvania
June 2 - 4	Virginia
June 2 - 4	Arkansas
June 5 - 7	Wyoming
June 16 - 18	Texas
June 23 - 26	New England *(CT, ME, MA, NH, RI, VT)*
July 7 - 10	Pacific Northwest *(ID, MT, OR, UT, WA)*
July 18 - 20	Michigan
July 21 - 22	Illinois
August 4 - 6	Kansas
August 11 - 12	Minnesota
September 8 - 10	North Dakota
September 11 - 13	Ohio
September 15 - 17	Dixie Land (AL,GA,MS)
September 15 - 17	North Carolina
September 15 - 17	Maryland
September 21 - 23	Nebraska

TitleNews

PUBLISHER
Kurt Pfotenhauer

EDITOR IN CHIEF
Jeremy Yohe

DESIGN/ELECTRONIC PRODUCTION MANAGER
Shawn Sullivan

TitleNews is published monthly by the American Land Title Association, Washington, DC 20036. U.S. and Canadian subscription rates are $30 a year (member rate); $100 a year (nonmember rate). For subscription information, call 1-800-787-ALTA.

Send address changes to *TitleNews*, American Land Title Association, 1828 L Street, N.W., Suite 705, Washington, DC 20036.

Anyone is invited to contribute articles, reports, and photographs concerning issues of the title industry. The Association, however, reserves the right to edit all material submitted. Editorials and articles are not statements of Association policy and do not necessarily reflect the opinions of the editor or the Association.

Reprints: Apply to the editor for permission to reprint any part of the magazine. Articles reprinted with permission must carry the following credit line: "Reprinted from *TitleNews*, the monthly magazine of the American Land Title Association."

AMERICAN LAND TITLE ASSOCIATION

Members Call Toll Free: 800-787-ALTA • Members Fax Toll Free: 888-FAX-ALTA
Visit ALTA Home Page: www.alta.org • E-mail Feedback to: service@alta.org

Breaking Economic Apartheid

You may recall that in 2009, world renowned economist Hernando de Soto provided the keynote presentation during our Annual Convention, offering insight into the value of the land transfer system where assets are documented, registered.

De Soto, president of the Institute of Liberty and Democracy, one of the most influential think tanks in the world, also discussed the immense value of the title insurance industry and how it enables the United States to create wealth.

His message about the need for a system of clear property rights was recently reinforced when protests erupted earlier this year in Egypt against the country's poverty, unemployment and government corruption. Egypt is a county that lacks the formidable system of property rights needed to allow credit and capital to flow and markets to work. Like other developing countries, Egypt struggles to document who owns what.

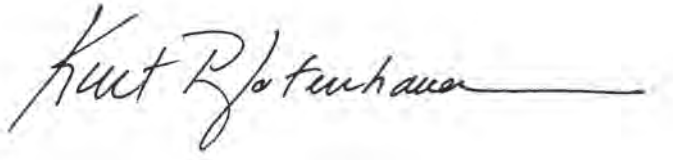
In 1997, the country hired de Soto's organization to study how much of Egypt's economy operated "extralegally," without the protections of property rights or access to normal business tools, such as credit, that allow businesses to expand and prosper. De Soto and his team presented a 1,000-page report in 2004 that found these interesting facts:

- Egypt's underground economy was the nation's biggest employer. (The legal private sector employed 6.8 million people and the public sector employed 5.9 million, while 9.6 million people worked in the extralegal sector.)
- 92 percent of Egyptians hold their property without normal legal title.

So why do so many Egyptians operate outside the legal economy? Like many other developing countries, de Soto said the legal institutions fail the majority of the people and make it difficult to legalize their property and businesses. As an example, de Soto found that to legally open a small bakery in Egypt would take more than 500 days. It takes 10 years to get legal title to a vacant piece of land. Can you imagine that happening in the United States?

As de Soto said during our convention two years ago, without clear legal title to assets and real estate, property cannot be leveraged as collateral for loans or to obtain investment capital to build more wealth. In the transfer of real estate, trust is built around the services the title insurance and settlement services industry provide to the transaction. There would not be a credit market if there were not trust, and there would be no credit market without the documentation of the transfer of property.

The service our industry provides is essential to our economy, and a key reason we take to the ballot box rather than the streets to effect political change.



– Kurt Pfotenhauer, CEO, American Land Title Association

You want a bank with a deep understanding of your business. A Title Industry expert led by knowledgeable relationship managers who can streamline your operations with customized services like a competitive deposit availability schedule and one of the latest wire transfer deadlines in the industry. For over 50 years, Union Bank® has maintained a consistent track record of helping Title Industry professionals succeed in today's world.

To put our Title Industry expertise to work for you, call us today.

Title Industry & Title 1031 Exchange:

John J. Murphy
Vice President &
Team Leader/Manager
949-553-4304

Sonya Aldama
Vice President &
Senior Relationship Manager
619-230-3034

Erin Wagner
Vice President &
Senior Relationship Manager
949-553-4305

Eric Brecher
Vice President &
Senior Relationship Manager
917-455-1551

Brad Kirk
Vice President &
Senior Relationship Manager
949-553-7062

Julia Sherouse
Assistant Relationship Manager
949-553-2558

UnionBank®
Invest in you®

FDIC Provides Guidance on Coverage for IOTA Accounts

When legislation signed into law last year extended unlimited Federal Deposit Insurance Corp. (FDIC) insurance for Interest on Lawyers Trust Accounts (IOLTA), many ALTA members asked if the same protection was afforded to Interest on Trust Accounts (IOTA).

According to the FDIC's counsel, this legislation only pertains to accounts opened by attorneys. However, there is different protection for IOTAs. The FDIC provides "pass-through" insurance coverage for custodial accounts. This means that the $250,000 insurance limit "passes through" the nominal account holder to the actual owner(s) of the funds, FDIC's counsel told ALTA. Coverage would be up to $250,000 for each owner. This means if there are funds from 10 closings in the account, each escrow can receive the $250,000 maximum protection. The standard insurance amount of $250,000 per depositor remains in effect through Dec. 31, 2013.

Though each owner's funds would be insured separately from the funds belonging to the other owners, each owner's share of the account would be aggregated with that owner's other deposit accounts (if any) at the same insured depository institution. In the aggregate, the owner's deposits at that bank would be insured up to the $250,000 limit.

"Pass-through" insurance coverage as described above is available if three requirements are satisfied. The requirements are:

- The deposit account records of the insured depository institution must reveal the custodial nature of the account. See 12 C.F.R. 330.5(b)(1). This requirement can be satisfied very easily by opening the account under an account title such as the following: "ABC Title Company as Custodian." Another acceptable title would be the following: "ABC Title Company/IOTA."
- Either the bank or the custodian or other party must maintain records as to the identities of the actual owners and the amount belonging to each owner. See 12 C.F.R. 330.5(b)(2). It's acceptable if these records are maintained by the title company. In the event of the failure of the insured depository institution, the FDIC could request such records from the title company.
- The alleged actual owners of the funds must legally be the owners. See 12 C.F.R. 330.5(a)(1); 12 C.F.R. 330.3(h). Actual ownership depends upon (1) the agreement(s) between the custodian and the alleged actual owners; and (2) any applicable state law. For example, in the case of escrow money held by an escrow agent pending the closing of a real estate transaction, the state real estate laws presumably would define who is the owner of the funds. If necessary, the FDIC would research such laws to verify the alleged ownership.

Next Agents & Abstracter Forum Slated in Las Vegas

The next Agents & Abstracters Forum, which provides an unparalleled opportunity for agents and abstracters to meet with peers and freely exchange ideas, experience and opinions on issues that affect businesses, will be held immediately preceding the Business Strategies Conference. If you register for the Business Strategies Conference, you can attend the Agents & Abstracters Forum for free. A block of rooms has been reserved at the Cosmopolitan of Las Vegas. The hotel is offering room rates as low as $159/night. To make reservations at the Cosmopolitan, call 702-698-7100 and let them know you are with ALTA.

Utilize Exclusive Tools to Provide Education about the Industry

The American Land Title Association provides members several exclusive tools to explain the important role the industry plays in the safe and efficient transfer of real estate and the service title professionals provide to the economic growth of the country.

Educational Article on Title Insurance to Submit to the Media

To help members reach out to local media, ALTA has developed an article titled "Title Insurance Vital to Protecting Homebuyers" that members can submit to newspapers to help combat misconceptions in the marketplace about the value of title insurance.

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.

Responding to Negative Defalcation Media Reports

Another tool provided by ALTA is a model letter to the editor to help members respond quickly to negative media coverage regarding defalcations. If an article or news story about defalcations surfaces in your local media, members are encouraged to submit the letter to the editor to highlight the efforts the title insurance industry takes to safeguard escrow money.

Both the article and letter to the editor can be found on the member benefits page at *www.alta.org/membership*.

I Am a Title Professional

As an additional instrument to help members explain the great service title insurance professionals provide to the economic growth of the country, ALTA has developed an "I Am a Title Professional" speech.

Many times, title professionals don't speak up about the industry's important role in the transfer of real estate. That is why ALTA has put together this short speech to help members educate others in what they do daily to make sure people have clear rights to homeownership – rights that help them to realize the American dream, create wealth and drive the nation's economy.

The speech can be found at *www.alta.org/campaign*.

MEMBER AMERICAN LAND TITLE ASSOCIATION TM

ALTA's Director of Meetings Nominated to Meeting Planners International Board

Cornelia Horner, ALTA's director of meetings, was recently nominated for a three-year term to the board of directors for Meeting Professionals International (MPI).

Horner joined ALTA in 2007, enhancing the quality of the association's conferences and meetings every year. She directs ALTA's Federal Conference and Lobby Day, Business Strategies Conference, Annual Convention and several other meetings, including the Large Agents meeting and the five Agents and Abstracters Forums.

"We are fortunate to have someone of Cornelia's caliber organizing and leading ALTA's conferences," said Kurt Pfotenhauer, ALTA's chief executive officer. "We are delighted but not surprised that her professionalism and acumen have been recognized by her peers."

MPI is the professional membership organization for corporate, association and independent meeting planners. MPI membership will vote on the nominations in June.

Horner is past president of the Potomac Chapter of MPI and is active with other charitable organizations. She is the only association planner nominated, as all other nominations came from corporate planning and the hotel industry.

Proposed House Bill Threatens National Flood Insurance Program

Although five and a half million taxpayers depend on the National Flood Insurance Program as their main source of protection against flooding, legislation has been introduced in Congress that would phase out the program by 2013.

The legislation, H.R. 435, was introduced by Rep. Candice Miller, R-Mich.

The bill would also end all remapping of the program mandated by prior reauthorizations of the program, thereby ending the agency's authority to charge more to current customers based on new maps mandated by the 2003 law that remains in effect.

The Federal Emergency Management Agency has been remapping America's aging flood plains for the last eight years, taking into account changes along waterways brought by development, storm pattern and natural processes.

The current program expires Sept. 30, 2011. The program has been extended five times, with several lapses, since the original reauthorization of the current program ended Sept. 30, 2008.

Congress has traditionally extended the program for long periods (one to five years) in order to provide stability and security for the marketplace. Unfortunately, Congress has recently only extended the program for short periods, from 30 days to six months.

ALTA was successful in pushing for an extension of the flood program last year and urges Congress to take proactive steps to enact a long-term extension.

More than 1,350 closings per day were affected by the lapses in the NFIP last year, according to the FEMA and the National Association of Realtors (NAR). Without flood insurance, no federally-related mortgage loans may be made in nearly 20,000 communities nationwide.

FHA Increases Mortgages Fees

The Federal Housing Administration (FHA) will increase its annual mortgage premium (MIP) by .25 percent on all 30- and 15-year loans issued on or after April 18, 2011. The upfront MIP will remain unchanged at 1 percent.

This increase applies to all mortgages insured under FHA's Single Family Mortgage Insurance Programs except:

- Title I Home Equity Conversion Mortgages (HECM)
- HOPE for Homeowners (H4H)
- Section 247 (Hawaiian Homelands)
- Section 248 (Indian Reservations)
- Section 223(e) (Declining Neighborhoods)
- Section 238(c) (Military Impact areas in Georgia and New York)

On average, FHA said new borrowers will pay approximately $30 more per month. Existing and HECM loans insured by FHA are not impacted by the pricing change.

ALTA Board Approves Endorsement Adoptions and Revisions; Decertifies Several Policy Forms

The ALTA Board of Governors approved recommendations to revise 12 existing endorsements, adopt four new endorsements and decertify several policy forms during a meeting on Feb. 3. Visit the Policy Forms page at *www.alta.org/forms* to download the new forms and learn more.

Here's the list of changes, new forms and decertifications:

- ALTA Endorsements in the 9 Series (Restrictions, Encroachments, Minerals)
- ALTA Endorsements in the 13 Series (Leasehold)
- ALTA Endorsements in the 14 Series (Future Advance)
- New ALTA Endorsement 31-06 (Severable Improvements)
- New ALTA Endorsements 32-06 Construction Loan – Loss of Priority, 32.1-06 Construction Loan – Loss of Priority – Direct Payment, and 33-06 Disbursement
- Decertification of Master Policy and Residential Loan Certificate

Deciphering Title to 'Native American' Land: Turf Battle on a Checkerboard?

Title agents must be aware of the various taxing authorities that can cloud titles to Native American land.

Many title professionals recognize that the "Indian" or "Native American" character of land, landowners and the communities in which those lands are situated may affect a government's power to tax. Most have heard that states and their political subdivisions, such as municipalities and counties, have a restricted ability to levy taxes in Native American land, but are unsure about the extent of those restrictions.
>>

By Lynn H. Slade and Greg L. Gambill

One area of uncertainty is whether certain lands and improvements may be assessed for state ad valorem or similar property taxes. Given the many different titles that may exist within Native American country, often forming a patchwork resembling a checkerboard, sorting out the taxing authority of the different entities that may claim the power should be of importance to the title professional looking for a cloud on title in Native American country. This article aims to inform title professionals about the considerations that may affect evaluating taxation in Native American land.

the legal attributes of tribally or individually owned Native American lands. Landholdings of the numerous tribes and their members may take one of perhaps a dozen different forms.

Tribal ownership, or ownership by tribal members, may be a factor affecting taxation. Other factors affecting taxation include the lands' relationship to any tribal reservation, and the precise nature of the ownership interest. While no neat generalization will hold, the "Indian" character of lands generally may affect taxation — if the lands are considered "Indian country"

> "Given the many different titles that may exist within Indian country, sorting out the taxing authority should be of importance to the title professional looking for a cloud on title."

Are We in Indian Country Yet?

"Indian country," while a colorful phrase, may have legal, geographic and cultural meanings. We employ it here to connote lands where the title professional should be alert to consider whether the Native American character of lands may affect which sovereign can tax the lands or activities on them. There are 565 federally recognized Native American tribes in the United States, all unique in some respect. Federal law makes no general distinction between classes of tribes; however, specific treaties, statutes, or executive orders may define more specifically under federal law. Though federal Native American land status by no means compels the conclusion that land-based taxation of Native American lands changes based solely on that factor, it is a convenient flag indicating when further analysis may be necessary.

Despite its geographically focused title, Indian country takes into account both the ownership of land and its location. Perhaps surprisingly, since 1948, Native American land has been defined for most legal purposes by the federal criminal code, 18 U.S.C. § 1151, and means:

a) *all land within the limits of any Indian reservation, notwithstanding the issuance of any patent, including rights-of-way running through the reservation,*
b) *all "dependent Indian communities;" and*
c) *"all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."*

A brief word about each category follows.

Reservations

The tax consequences of land ownership may be affected if the lands lie within the limits of an "Indian reservation." Determining whether lands have "reservation" status or boundaries may be less obvious than one might think, and many folks, including some officials, use the term imprecisely to refer to Indian lands or Indian-affiliated areas, even if no formal reservation remains. Reservations typically were areas reserved from non-Indian settlement for use by Native American tribes before the end of the 19th Century, whether by treaty, act of Congress or executive order. However, in the "allotment era" of the late 1800s and early 1900s, Congress became convinced that the reservations were impeding Native American's progress, and set about to break up the reservations and transfer communal tribal lands into "allotments" to be transferred to individual Native Americans. As a result, many reservations were modified by statutes or executive actions that diminished the size of or completely terminated or "disestablished" the reservation.

The Supreme Court has held that some "allotment era" statutes

A look at Native American land in the United States.
Source: *U.S. Dept. of the Interior and U.S. Geological Survey*

terminated the pertinent reservation, leaving Native Americans living on allotments outside reservation boundaries, but that Congress intended other reservation boundaries to remain, even when a statute transferred most of the land to non-Indians, leaving only scattered allotments, thus leaving a predominately non-Indian populace living within a continuing reservation. (*Solem v. Bartlett*, 465 U.S. 463; 1984). Although Congress shifted gears in the 1930s and abandoned the allotment policies, many reservations remain diminished or terminated.

While determining whether specific lands lie within reservation boundaries may entail detailed research, the most efficient approach for initially assessing whether lands fall within a reservation may be to consult with the Department of the Interior.

Allotments

The remnants of the allotment era of federal Native American policy are the thousands of allotment landholdings owned by individual Native Americans that still exist, usually in 40- to 160-acre parcels, and either held in trust by the United States or subject to a statutory restriction on alienation preventing their leasing or sale without approval of the Bureau of Indian Affairs (BIA). Often, allotted lands have been passed down to numerous heirs and Congress has enacted several statutes to facilitate land transactions among the numerous undivided interest owners, including the Indian Land Consolidation Act, 25 U.S.C. § 2218(b).

While most allotments are held in trust by the United States for the individual owners, called "allottees," some "restricted" Native American lands were created by fee patents to the allottee, though a statute made them subject to federal restraints on alienation requiring BIA approval of any conveyance. Most allotment statutes identified a specific time, such as 25 years, or milestones such

as the allottee's "literacy," when trust protections or restrictions on alienation would be lifted and the lands could be alienated and, consequently, taxed. However, Congress has extended the periods of restriction repeatedly, and many have now been extended indefinitely. When allotment lands are transferred out of "trust status" or freed of federal restrictions on alienation, immunity from taxation often ceases.

Dependent Indian Communities

The Supreme Court has defined "dependent Indian communities," as lands that are neither reservations nor allotments but, rather, lands that

1. have been set aside by the Federal Government for the use of Native Americans; and
2. are under federal superintendence.

The "federal set aside" requirement contemplates a specific federal action regarding the lands in question placing the lands in trust or imposing restrictions on alienation. The federal superintendence requirement means that it is the federal government and the Native Americans involved, rather than the states, which are to exercise primary jurisdiction over the land in question. A related category characterizes tribal lands held in trust status but not within reservation boundaries as "informal reservation" lands, still considered Indian country for some tax purposes (*Oklahoma Tax Comm'n v. Sac and Fox Nation*, 508 U.S. 114; 1993).

Effect of Indian Country Status: "Generally speaking, primary jurisdiction over land that is Indian country rests with the Federal Government and the Indian tribe inhabiting it, and not with the states." (*Alaska v. Native Village of Venetie*, 522 U.S. 520; 1998). However, the effect of Indian country is still in flux. In the Sac and Fox case, the Supreme Court indicated that Indian country status may determine state taxing authority; more recently, the Court has discounted the significance of Indian country status in considering a tribe's power to tax nonmember business that occurs on a reservation (*Atkinson Trading v. Shirley*, 532 U.S. 645; 2001). Nonetheless, lands located in Native American land within a state may be subject to different taxation, and other laws, than lands located outside of Indian country but within the same state.

Determining Title in Indian Country

Determining title to Indian lands, including leases and rights-of-way to or across them, may require review of BIA, state or county, and possibly tribal, records. The BIA's Regional Land Titles and Records Offices (the BIA-LTRO) are that agency's official repositories for documents reflecting title to or encumbrances on Indian lands. (For more information, title professionals should consult the federal regulations found in 25 C.F.R. Part 150.) All title documents regarding transfers or issuance of leases, rights-of-way, or permits on trust or restricted Indian lands "shall be submitted" immediately upon BIA approval to the appropriate BIA-LTRO. The regulations charge LTRO personnel with the responsibility to prepare "land title status reports," land status maps, and certification of land records and title documents. While state, county, or other local land records repositories are not "offices of record" for trust or restricted lands, they may contain instruments that provide notice to junior interest owners and records of divorce or estate proceedings that do not appear in BIA records, and those offices become repositories of record when restrictions are removed from

ALTA's Native American Lands Committee

The Native American Lands Committee keeps ALTA and its members apprised of new developments in the Native American lands area by monitoring legislation, regulation, case law and ongoing litigation to determine its general impact on title insurance and conveying. As more title insurers and title insurance agents become involved with tribal transactions including gaming, economic development and housing development, it is important to recognize that there are unique laws and regulations that apply to Indian tribes and Indian lands. It is relatively simple for a tribe to lease tribal lands to a tribally chartered entity and then for that entity to mortgage that leasehold interest as part of a financing project. (In some cases, Department of Interior approval is required.) As part of such transactions, a title insurance loan policy may be required to insure the mortgage of the leasehold. The need for prudent underwriting, compliance with established standards, and discussions with the title insurer is amplified when a transaction involves tribes and Indian lands.

Native American lands. State and local tax assessors often have up-to-date records regarding Indian lands that have been freed from restrictions on alienation and are therefore taxable.

Who Can Tax What Turf?

Taxation in Native American land may entail a plot-by-plot contest between competing sovereigns. Within any particular area, a variety of titles and ethnic identities may be present and may be participants in land transactions. The taxable nature of two adjacent parcels in Native American land may be completely different depending on the identity of the taxpayer and the history of the property involved. Determining which sovereign can tax any property or activity can present the title professional with a multi-step inquiry. The analysis that follows focuses on state versus tribal taxation, with a brief look at federal taxing authority.

State Taxation

States have broad jurisdiction to tax persons and property within each state's territorial boundaries, subject to constitutional limitations. State taxing jurisdiction, however, may be pre-empted by federal treaties or statutes validly enacted under a substantive federal constitutional power. Pre-emption refers to the doctrine derived from the United States Constitution's Supremacy Clause, and means that a federal law can supersede any inconsistent state (or tribal) law or regulation. In Indian country, the pre-emption doctrine and federal policies favoring tribal self-government without interference by the states can be obstacles to state taxation.

Non-Indians earning income or owning property within Indian country generally are subject to state taxes (*Ariz. Dept. of Revenue v. Blaze Construction*, 526 U.S. 32; 1999; tax on gross proceeds of construction contract); (*Pimalco v. Maricopa County*, 937 P.2d 1198; Ariz. Ct. App. 1997; tax on leasehold property interest). If non-members are subject to a state tax, so too are similarly situated "non-member" Native Americans, who are not members of the taxing tribe (*Washington v. Confederated Tribes of Colville Res.*, 447 U.S. 134; 1980). Unless the state tax conflicts with a federal statute or with strong federal policies, state taxation of non-Indians and non-member Indians generally is not pre-empted.

> "Within any particular area (of Native American land), a variety of titles and ethnic identities may be present and may be participants in land transactions."

The pre-emption limitations on state power to tax are most restrictive when the tax is imposed on tribes or tribal members within Indian country. The United States Supreme Court has rejected state taxation of tribal members' activities on fee lands, which were nonetheless Indian country by virtue of being located within the tribe's reservation boundaries (*Moe v. Confederated Salish & Kootenai Tribes*, 425 U.S. 463; 1976). Clarifying the importance of land or other Indian country status (*Okla. Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450; 1995), held that tribal members must pay state income tax unless the taxpayer Indian both lives and earns the taxed income on Native American country lands.

The prohibition against state taxation of Native Americans' trust or restricted property is so longstanding (*The Kansas Indians*, 72 U.S. 737; 1867), that it is seldom litigated unless specific statutory authority is advanced to authorize the tax is in issue, as the issue was presented in *County of Yakima v. Confederated Tribes & Bands of Yakima Indian Nation*, 502 U.S. 251 (1992). Tribes and tribal members within Native American country have thus been found to be immune from a variety of state taxes, including personal property taxes (*Bryan v. Itasca County*, 426 U.S. 373, 1976) and real property taxes on "restricted" Indian land (*United States v. Rickert*, 188 U.S. 432; 1908).

Although states generally cannot tax lands held in trust by the United States for tribes or individual Native Americans, three cases reflect the rule that states may tax real property owned in fee by tribes and individual Native Americans. The allotment statutes have been the focus of the Court on this issue. In *Goudy v. Meath*, 203 U.S. 146 (1906), the Court upheld county ad valorem

No more tears.
You have Old Republic Title.

Since its birth in 1907, Old Republic Title has been supporting the American Dream of property ownership, honoring our commitments and standing behind our obligations. Our unsurpassed ratings and exceptional service will assure you a bright future.

Since 1992, the Old Republic Title Insurance Group has held the distinction of being the highest rated title insurance group in the nation.

Strength and Stability for Over a Century

OLD REPUBLIC TITLE INSURANCE GROUP

612.371.3882 • oldrepublictitle.com

Underwriters in the Old Republic Title Insurance Group, Inc. are: Old Republic National Title Insurance Company, Mississippi Valley Title Insurance Company and American Guaranty Title Insurance Company.

property taxes assessed against an allottee after the allottee's land became alienable. In the County of Yakima case, the Court revisited the issue of ad valorem taxes, and determined that federal law rendering the lands alienable and susceptible to encumbrances rendered those lands subject to assessment and forced sale for taxes.

Finally, *Cass County v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103 (1998), involved a county's imposition of ad valorem property taxes on a tribe concerning lands that had been allotted in the past, were transferred into fee ownership, and later reacquired in fee by the tribe (but not yet placed into trust with the United States). The Court confirmed the state's power to tax, holding that the requirement that federal allotment laws express a "clear intent to tax" is satisfied if the statute rendered the lands in question freely alienable, even in the absence of express mention of taxation. Together, these cases stand for the proposition that Congress is presumed to authorize state taxation of real property when it renders land freely alienable; however, the Court has declined to extend that rationale to authorize other state taxes ancillary to the real property, such as excise taxes on the sale of land.

Tribal Taxation

The taxing power is an inherent part of the concept of sovereignty, and Indian tribes retain this power except when limited by federal law (*Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130; 1982). However, the Supreme Court recognized an important limitation on this and other tribal powers in Montana v. United States, 450 U.S. 544 (1981). In that case, the Court held that tribes have no inherent authority to regulate non-Indians on non-Indian fee land within reservation boundaries unless

1. non-members engage in "consensual" dealings with a tribe or its members; or non-Indian conduct threatens the integrity, security or health and welfare of the tribe.

The Court applied the *Montana* rule to reject tribal hotel occupancy taxation of a non-Indian trader doing business within the Navajo Reservation in *Atkinson Trading v. Shirley*, 532 U.S. 645 (2001), holding neither the trading post nor the hotel business had entered into a "consensual relationship," nor had they impacted tribal health and welfare in a manner satisfying the Montana test.

Federal Taxation

Addressing federal taxation here only in the most general terms, Congress has broad authority to enact legislation concerning Native Americans (*United States v. Lara*, 541 U.S. 193, 200; 2004). Federal laws taxing "all persons" apply to individual Native Americans under most circumstances, but federal tax laws are assumed not to be intended to infringe on the rights of Indians under treaties and Indian legislation, absent clear congressional intent to the contrary (*Squire v. Capoeman*, 351 U.S. 1; 1956). Because the text of federal law will control, addressing federal taxation of any particular activity involves a specific analysis of the federal tax law in question.

A Practical Primer

Analyzing whether taxes on land are valid in Indian country involves three preliminary determinations to be made after careful research:

- Is the taxpayer a "member Indian," i.e., a member of the tribe having primary authority over the lands or activities in question; a non-member Indian, i.e., a member of another tribe; or a non-Indian?
- Is the land or area of activity in question within formally recognized reservation boundaries of the tribe with primary authority over any tribal member involved?
- Is the land held in trust or restricted status for the tribe or an individual member of the applicable tribe?

However, a firm conclusion will depend upon applicable reservation history and pertinent statutes. It's recommended title professionals consult their legal counterparts who are familiar with applicable federal, state, and tribal laws for questions concerning taxing authority in Indian country. ■

Lynn H. Slade and **Greg L. Gambill** practice in the Indian Law Practice Group of Modrall Sperling Roehl Harris & Sisk, P.A., in Albuquerque, N.M. They devote substantial portions of their practices to representing businesses in transactions and litigation concerning doing business in Indian country.

Something happened in

1991

We recognized a need. We envisioned a solution. We established **RamQuest.**

1991 marked the beginning of a new era when RamQuest entered the market and began to set new standards for what title and settlement providers should expect from business partners.

As the premier provider of business solutions for title and settlement agents and the provider of the industry's only Total Solution, RamQuest offers much more than mere title and settlement production. RamQuest's Total Solution is both a software system and a business philosophy that reflects a progressive approach to business. By harnessing the power of ideas and goals for a modern title and settlement business and then incorporating them into one seamless operation, RamQuest's Total Solution enables businesses to move forward into a new realm of profitability in today's demanding market.

And today, RamQuest celebrates 20 years of service to the title and settlement industry as a business partner committed to excellence.

Experience 20 years of proven solutions.

Experience business excellence.

***Experience* RamQuest.**

20TH RamQuest™ Est. 1991

Visit ramquest.com or call 800.542.5503 to see more.

Title Agents of All Sizes Can Compete in Growing Short Sale Market

As delinquencies and mortgages with delinquencies continue to rise, agents may want to become versed in this transaction to enhance profitability and growth.

Title agents looking to find a growth market may want to consider becoming versed in handling short sales as more residential properties are being reported with negative equity and lenders are becoming eager to reduce foreclosure inventory.

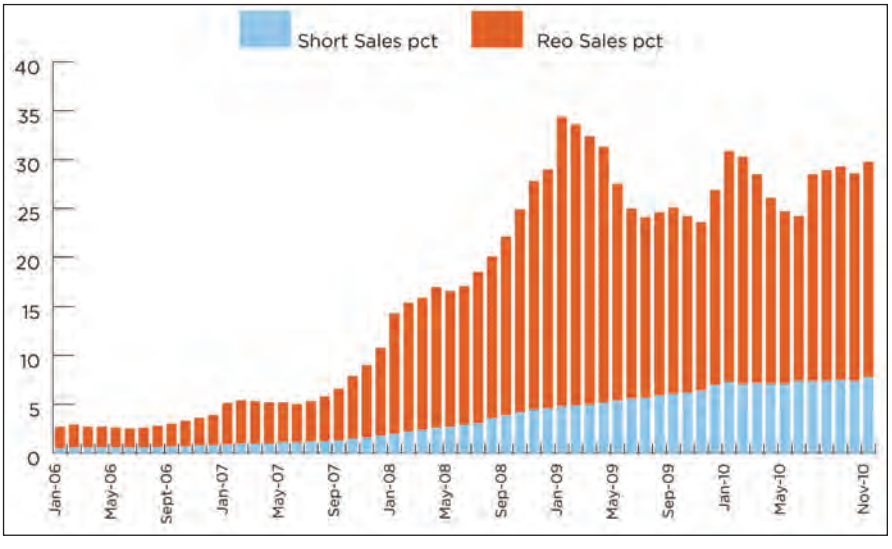
Chris Black, owner of Fort Myers, Fla.-based Winged Foot Title, said title agencies of all sizes can take advantage of the short sale market.

"I like to call short sales lien clearance on steroids," he said. "It's what we do on a daily basis. We are getting the lien holder, the mortgagee, to agree to release the mortgage lien so we can provide the product we are charged to provide."

Opportunities abound in this segment as delinquencies and negative equity have created two markets: REOs and short sales. While it's difficult to get business in the REO market, the short sale market is more accessible because it's locally driven.

"You don't need anything special or need a high-level corporate relationship or be college buddies with an asset manager at Wells Fargo to get the title work," Black said. "You just need contacts on the ground, such as real estate agents with short sale listings that need help."

Short sales may become a more viable option as it's been reported the number of mortgages with negative equity continues to rise. Fourth quarter data from CoreLogic reveals negative and near-negative (mortgages with less than 5 percent equity) equity mortgages account for 27.9 percent of all residential properties with a mortgage nationwide. About 23 percent of all residential properties with a mortgage are underwater, and an additional 2.4 million borrowers have near-negative equity. At the end of the fourth quarter, Nevada had the highest negative equity percentage with



Source: *CoreLogic*

65 percent of all of its mortgaged properties underwater, followed by Arizona (51 percent), Florida (47 percent), Michigan (36 percent) and California (32 percent).

With many speculating home prices will fall another 5 percent to 10 percent in 2011, CoreLogic says negative equity will rise another 10 percentage points.

Agents operating in high-density states shouldn't have any problem getting orders as real estate agents are scrounging to get short sale listings because it's a way to make some extra money. The REO bottleneck should increase the level and approval of short sale transactions as lenders will be more flexible to try to and get rid of pre-foreclosure inventory.

But agents operating in low density states can capitalize in this segment as well because "there's not a lot of experts doing this type of work," Black said.

In Florida, there are bankruptcy attorneys on every block, but in areas not affected by the severe negative equity, this isn't the case. This opens the door for an agent to become the local expert and grow market share.

With the Mortgage Bankers Association predicting an origination market less than $1 trillion in 2011, title agents will need to make a profit wherever they can. Capitalizing on the Florida short sale market helped Black increase his company's profitability.

"You will have to charge a higher fee to make up for the Herculean effort of lien clearance you will have to put in to get them done," he said. "It's labor intensive and you will have to hire more people if you want to do this in any volume."

While Florida has promulgated title insurance rates, Black said his company makes double the profit on a short sale compared to a regular purchase transaction on a $200,000 deal.

"If you can manage the people, that's a good number," he said.

Winged Foot Title does not charge any up-front fees, and collects nothing if the deal falls apart. However, in Florida you can charge closing services, and that's where Black increases the fee.

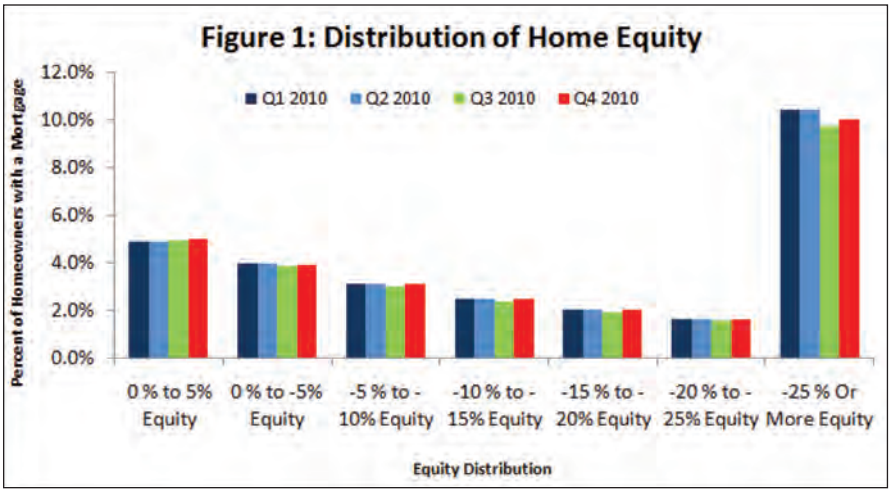
"The increased fee is not always an issue because the fee we charge is on the seller's side of the transaction," he said. "When we send the preliminary HUD to the lender, it has the fee on it and becomes part of the lender's calculus in their determination of what they need to net in the transaction at hand. You just need to be up front and tell the lender what you will charge."

As Black said, title companies hoping to conduct short sales will need to add staff. He said his company has a ratio of about 70 short sale files to one person. Diversifying compensation structures can also help. Black has some employees that are paid hourly, another who is part salary and receives a bonus when

Documents Needed from Seller for Short Sale

Here's a standard checklist of documents needed from the seller in order to begin the short sale process:

- Contract
- HUD-1/Settlement Statement
- Letter of Authorization
- Hardship Letter
- Two Years of Tax Returns or IRS Form 4506
- Financial Statement (Household P&L)
- Two Months of Pay Stubs
- Two Months of Bank Statements
- Listing Agreement



Source: *CoreLogic*

a short sale closes, while another employee is on complete commission.

Not interested in tackling short sales at first, Winged Foot Title delved into the short sale fray in December 2008 because Black noticed half the Florida market was REO or distressed. Short sales were the answer.

"It took about six months to come to fruition," Black said. "In June 2009, I looked at the books and these things started to close."

By 2010, the company was closing three times the number of short sales it handled in 2009.

"I know we are in a different market than others, but it could work on a smaller level as well," Black said. "It will take the right people, the right systems, and the right sales and marketing."

To handle the transaction, title agents will need to be highly organized as it's a document-intense process. Black said his agency gets hundreds of papers per short sale file, so an employee is needed who can handle the influx and dissemination of documents. Staff handling these transactions also must be disciplined.

"You will have the seller's agent, seller, buyer's agent and buyer all wanting updates," Black said. "If you don't have someone disciplined, they will get distracted and won't perform. We implemented systems where the people who work short sales don't take phone calls between 9 a.m. and 3:30 p.m."

When Black's company gets a short sale order, it will first perform a pre-search of the property to get a sense of what will be involved.

"There could be first and second mortgages and liens for unpaid condo fees," he said. "If it's a real mess, we want to explain that before we get too far in the game so the seller has the right expectations. If you don't set expectations clearly, you will get run over and won't be able to finish efficiently."

Document standardization is needed to manage transaction flow. At Winged Foot Title, each document is scanned and the company has developed simple

Federal Changes to Short Sale Programs May Fuel Volume

Recent changes to the federal government's Home Affordable Foreclosure Alternatives (HAFA) program could drive more activity in the short sale market in 2011. AMS Servicing reported that reducing HAFA eligibility requirements will increase short sale volume by 50 percent nationwide because as many as 91 percent of previously ineligible borrowers might now be eligible for the short sale program.

Other distressed homeowners may pursue the HAFA program if other federal foreclosure programs that provide assistance are eliminated. The House has passed or introduced bills to eliminate the Home Affordable Modification Program (HAMP), the Neighborhood Stabilization Program, the Federal Housing Administration's Short Refi program and the Emergency Homeowner Loan Program. The Senate, meanwhile, said it will block all legislation aimed at killing foreclosure programs.

HAFA was launched in April 2010 to provide an incentive to servicers and investors for pursuing short sales and deeds-in-lieu of foreclosure. The program was designed for homeowners who fell out of HAMP.

The Treasury eliminated rules that constricted HAFA eligibility. Among the changes, servicers are no longer required to verify a borrower's financial information (unless the borrower is less than 60 days overdue) or determine if the borrower's total monthly mortgage payment exceeds a 31 percent debt-to-income ratio. Servicers still must obtain a signed hardship affidavit.

In order to get more second-lien investors to clear short sales, the Treasury changed how servicers pay out to these holders. Before, the second-lien investor had to agree to accept 6 percent of the unpaid principle balance owed to them, up to $6,000. The new guidelines eliminate the 6 percent rule. Now, servicers on behalf of the investors determine the amount or percentage of the unpaid principal balance of the second lien to be paid to each holder.

The Department of Veterans Affairs (VA) also took steps that may spur short sale activity. The VA directed its mortgage servicers in January to provide $1,500 in relocation assistance to borrowers leaving their home after a short sale or a deed-in-lieu of foreclosure. The VA said it would reimburse servicers, but it would not be counted as part of the proceeds to the borrower. Servicers can only claim reimbursement up to the maximum guaranty the VA put on the loan plus the cost of reselling it as REO or short sale.

Surveys Show Lenders Slow Short Sale Process

Despite new rules for HAFA short sales that went into effect Feb. 1, two surveys indicate many real estate agents report it's still taking too long to close short sale transactions.

According to a survey released by Santa Barbara, Calif.-based property valuations company Equi-Trax, the majority of short sales are taking four or more months to complete. Of the survey's 626 respondents, 53.6 percent said that in their experience, on average, short sale transactions take four to six months.

More than 18 percent said the transactions take seven to nine months, 7.3 percent said the process takes 10 to 12 months and 2.6 percent said the process takes more than a year to complete. Only 18.2 percent said it takes three months or less.

An overwhelming 56.8 percent said the greatest challenge in completing a short sale is lenders, while 2.4 percent blamed challenges on the clients. About the same amount of participants (57.6) said lenders need to shorten the time they require to complete short sales. Around 14 percent of agents also said they feel borrowers need to be better educated about short sales.

A California Association of Realtors' survey came to the same conclusion that banks were dragging their feet when considering short sales. Nearly two-thirds of the 2,150 respondents to the survey said banks took longer than 60 days to respond to short sale offers and that fewer than three out of every five offers ultimately resulted in a sale.

nomenclature for files to make it easier to find them. Files also need to be accessible to employees and clients.

"On the submission side, if there is one thing that lenders demand, it's completeness," Black said. "Packages need to be finished. If they ask for documents A through F, and you don't send D, it won't work. You need to make it easy on them to help you."

Black added that it's vital to follow up and get acknowledgement the bank received the documents.

At the negotiation stage, the key is to confirm the accomplishment of certain benchmarks, such as making sure the broker price opinion has been ordered and received.

"One of the problems in this stage is the lender won't tell you what number came in," Black said. "Without an evaluation, you won't have anything to compare to the offer submitted by the seller."

Agents should also inquire about how long it will take to get a response and if the proposal has been submitted to the investor or to someone with authority to make a decision.

Agents should be mindful of foreclosure events. If operating in a judicial foreclosure state, it's important the bank makes a decision on the short sale proposal before any foreclosure sale.

"Once a foreclosure sale happens, you can't get it undone," Black said. "It used to be if you had a good short sale in the mix, it would postpone the foreclosure sale."

Once a lender issues an approval, a title agent will have some additional duties. In Florida, there's a standard short sale addendum that requires the seller to send a written notice to the buyer indicating the lender's approval. Title agents need a post-approval protocol. Although you may have a lender approval, what the lender agreed to accept to release the mortgage lien may not match the offer submitted.

If you submitted a HUD that had the lender netting $50,000, but the approval letter comes back indicating the lender will only accept $57,000, the deficit will need to be covered by someone.

"For that reason, we confirm the seller's acceptance of the letter before we do anything," Black said. "You need a system to get the seller's acquiescence to the terms of the approval letter. Once you get approval and can confirm the seller's acceptance, then it's back to business as usual. You may want to do a title update and make sure nothing has happened in the interim since you did the original preliminary search."

In marketing its services, Winged Foot Title focused on existing customers offering the mantra, "Let us help you do what you do best: Sell real estate."

"If a Realtor has a handful of short sales, it's difficult for them to take the random buyer to look at properties if your time is drained by working with short sales," Black said. "We tell them not to sacrifice their own business, let us do the work." ■

At a time when every second counts, we can help you make every second count for more.

Another reason why Stewart is the right underwriter for you.

In today's market, your business needs to run as efficiently as possible in order for you to be competitive. Stewart can provide you with the right tools to help reduce costs, claims and fraud; maintain RESPA compliance; improve productivity and communications; as well as enhance the customer experience. We will work with you to find the right combination of products and services to help you achieve a level of performance that can help maximize your profitability.

Stop by Booth #104 and #106 at the ALTA® 2011 Business Strategies Conference for more information on why Stewart is the right underwriter for you.

(800) STEWART stewart.com/tn/alta smarttechnology@stewart.com

stewart®

Technology provided by PropertyInfo Corp., a Stewart company.

Legislation in Several States Could Impact Cost, Ability to Access Land Records

Bills proposed in several states and a court ruling in another could have a significant impact on the title insurance industry's timely and cost effective access to public land records.

In Missouri, the state's Supreme Court rejected an appeal from the Missouri Land Title Association (MLTA) to hear a case that could cost the title insurance industry millions of dollars a year to purchase recorded documents and maintain title plants.

The MLTA filed an Application for Transfer to the Supreme Court after an appeals court rejected its appeal of a 2009 decision in Webster County that found that 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 documents would be limited as directed by this statute. The court ruled that recorders were not limited by the "Missouri Sunshine Law," but 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.

John Coghlan, an attorney with the Kansas City-based law firm Lathrop & Gage representing the MLTA, said the association may seek a legislative remedy that would confirm bulk sales of documents by a recorder's office are covered under the "Missouri Sunshine Law." To avoid the charge, he also said several title companies may want to band together and buy from one county and then share the documents.

As an example of how this could impact the industry in Missouri, 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). As it stands now, it would be possible for the recorder to decide to charge up to the statutory limit. There are roughly 11,000 documents, averaging three pages per document, filed in the county per month. If the county decides to charge $1 per page, it would cost $33,000 per month compared to $250.

Texas

Meanwhile in Texas, a proposed bill could have a severe impact on the cost to obtain public records in the state and eliminate availability of non-certified records. House Bill 627 would allow a district clerk's office to charge up to $1 per page for electronic, certified copies of any court record.

Leslie Midgley, chief executive officer for the Texas Land Title Association, said TLTA is monitoring the proposed legislation "as we do all bills dealing with access to public records."

Jay Sibley, chief executive officer of Title Data and chair of ALTA's Real Property Records Committee, said the bill poses a significant threat to the title insurance industry.

"Most metropolitan/county title plants are maintained using an electronic new case index acquired from the district clerk versus performing a manual take-off in the district clerk's office or keying the name index records from paper copies

of the new case index," according to Sibley.

Some district clerks automatically place an electronic certification stamp on all documents downloaded from their website. Because some district clerks only provide electronic copies of district court documents via their website, all copies retrieved from a district clerk's website could cost up to $1 per page if the bill became law. Sibley said this could open the door to counties eliminating the availability of non-certified copies.

This bill also has the potential of significantly raising examination costs when a district court matter such as a divorce, tax suit, etc., is found in the chain of title.

"Title companies typically order a copy of a civil court case document from a courthouse service, which typically downloads the copy from the district clerk's computer system with a nominal or a minimal charge," Sibley said. "If counties begin charging $1 per page it will become more expensive to examine court documents prior to issuing a commitment. This is a cost that cannot be passed on to the consumer."

The bill would take effect immediately if passed with a two-thirds vote of all members elected to each house. Otherwise, if passed, it would take effect Sept. 1, 2011.

Colorado

In Colorado, the industry is contending with legislation (House Bill 1080) that would prohibit the legal description of a property or the actual address of victims of domestic abuse and stalking from being posted online. A similar bill aimed at protecting similar information for police officers and other public officials failed to pass last year.

Chris Condie, president of the Land Title Association of Colorado, said the association is examining how the legislation could impact the industry.

Nebraska

In Nebraska, legislative bill 638 would provide requirements and restrictions for access and use of county records.

If passed, county recorders would not be able to sell records for a profit and records would not be made available for resale, or otherwise used for trade or commercial purposes except for:

- Publication or broadcast by the news media, a real estate trade association or multiple listing services operated by a real estate trade association shall not constitute a resale or use for trade or commercial purposes;
- Use of the information without resale by a licensed professional in the course of practicing the professional's profession shall not constitute use for trade or commercial purposes; and
- Resale at cost by a real estate trade association or multiple listing service operated by a real estate trade association shall not constitute a resale or use for trade or commercial purposes.

The bill also would require each county to provide the fees, if any, for access to or copies of the county's records and the procedures to be followed in requesting access to and obtaining copies of county records.

The Nebraska Land Title Association (NLTA) is monitoring the legislation, according to Nick Henderson, NLTA's president.

Sibley, who is president of Houston-based Title Data Inc., said it's been his experience legislators often introduce bills without considering the unintended consequences.

"Only through a review of all legislation, ideally by the members of a state's land title association, is it possible to identify the bills, which, intentionally or unintentionally, could harm our industry," he said. "For example, in Texas a number of us, acting in concert with the Texas Land Title Association, monitor open records legislation and collectively work to preserve the title industry's timely and cost-effective access to public land records." ■

"Only through a review of all legislation, is it possible to identify the bills, which, intentionally or unintentionally, could harm our industry."

WHY reQuire?

WHAT ARE OTHERS SAYING?

"We've been a reQuire customer for close to five years and couldn't be happier with the service they provide. Here at Trident Land Transfer, we view the tracking of Mortgage Satisfactions as a necessary part of the title insurance business. But, who has the resources to allocate to this task? When you leave it in the hands of reQuire Release Tracking, you know it is going to be taken care of. The service they provide means fewer Letter of Indemnity requests in the future and smoother settlements in the future. Their "Title Curative Services" are great for processors clearing title, as well, a huge timesaver. Want to hear a great story on how they cleared an old mortgage off record for us? Give me a call, I'll be glad to tell you."

Ken Kirkner, Vice President
Trident Land Transfer Company, Devon, PA

"Our company has been a reQuire customer since 2008. We have found reQuire's work to be accurate and expedient. The account representatives are aware of our account status when we call on them, and the support staff is knowledgeable, friendly, helpful, and on many occasions has gone out of the way to assist us in obtaining old curative documents. When our old reconveyance company went out of business without any notice, reQuire was there to pick up the pieces and assist us greatly. We recommend reQuire to anyone looking to obtain reconveyance documents quickly and efficiently."

Susie Free, Senior Paralegal
Universal Land Title, West Palm Beach, FL

meet us in VEGAS! may 8-10

"It's so nice to finally have a company take care of the tedious process of tracking down releases. reQuire is able to quickly accomplish what sometimes can be a very long process. This allows me more time to focus on current and new clients, instead of spending valuable time on follow-up work. The Website is very user friendly and I have always had a great experience with the staff. When called upon, reQuire's staff has even assisted me by tracking down mortgages that should have been released years ago!"

Sharon G. Plunkett, Attorney
Taggart, Rimes & Usry, PLLC, Ridgeland, MS

"We started using reQuire's release tracking services in November 2009. The services have proven to be both resourceful and beneficial in our efforts to obtain release of mortgages in order to close our files. Help in retrieving old unreleased satisfactions has been significant in helping us get files to the closing table. Support from your staff is courteous and prompt, we appreciate that in our industry."

Lynn Hightower-Moore, Vice President
Preferred Title Agency, Inc., Birmingham, AL

"reQuire has made a believer out of me! I had personally been working to obtain a release for quite some time and assumed that it just wasn't to be found. After some urging, late one afternoon I skeptically sent the file to the team at reQuire and put them to the test. I received a response from reQuire the next morning stating that the lender had been found, a copy of the satisfaction would be available within 48 hours, and an original certificate of satisfaction would be available in one week. From that moment, I have supported and promoted reQuire to as many agents as possible and will continue to do so!"

Andy Yingling, Underwriter Counsel
Fidelity National Title Group

NO COST.
NO RISK.

[r] reQuire
:: RELEASE TRACKING ::

GET STARTED TODAY **FAST**, **FREE** and **EASY!** Visit www.gorequire.com

5029 Corporate Woods Drive, Suite 225 • Virginia Beach, VA 23462 • P.757.552.0306 • F.757.552.0304 • www.gorequire.com

Ocean-front Property Rights Disputed in U.S., State Supreme Courts

Property rights involving beachfront properties are being disputed at the federal and state level as two separate rulings provide conflicting views.

In Florida, the U.S. Supreme Court ruled last year in a unanimous decision against ocean-front owners who argued beach replenishment projects unconstitutionally separated their property from the sea.

The land owners wanted compensation because they claim beach replenishment projects have lowered the price of their property by reducing their access to the ocean. The debate started about seven years ago when owners from Destin in the Panhandle claimed a beach replenishment project created a 75-foot wide barrier between their homes and the ocean. They claimed this lowered property values because the properties were farther from the water.

Under Florida law, before work begins on any public beach nourishment project, the state sets an Erosion Control Line (ECL), a static property line set at the mean high water mark prior to the project.

A group of property owners along the beach where the project took place sued in state court, arguing that the ECL took away their right to benefit from natural build-up of sand on the beach (accretion) and gradual recession of ocean waters (reliction), as well as a right to remain in contact with the ocean, which the property owners argued was independent of the right of access. After the Florida Supreme Court ruled that the ECL statute was not a taking, the owners

appealed to the U.S. Supreme Court, arguing that the Florida Supreme Court's decision was itself a taking of their littoral property rights.

In 2008, the Florida Supreme Court disagreed and ruled that the project balanced public and private interests and that the property owners didn't need to be compensated. Although there is a new public beach, the court ruled, the property owners haven't lost most of their key rights to view and use the ocean. In his dissent, Justice R. Fred Lewis wrote that the decision "butchered Florida law" in depriving waterfront property owners of their connection to the sea.

In court papers, 27 other states, from California and Washington to Mississippi and Maine, sided with Florida's state and local governments. Officials in those states said the suit filed by the residents is "ill conceived" and would "undermine the states" well-established and traditional authority to determine the scope of their own property laws.

In Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection, et al, the U.S. Supreme Court essentially gave the state of Florida free reign to alter the property boundary lines of ocean-front property owners and to turn all private ocean-front land into ocean-view property.

The Supreme Court turned to two provisions of Florida law in its decision. First, Florida common law gives the state, as the owner of submerged land, a right to fill that land and thus raise it above the water level. Next, as in a number of coastal states, Florida's common law establishes that sudden changes in the shoreline (avulsion) have the effect of fixing the property line between the state and the private landowner at the high water line prior to the sudden change. The U.S. Supreme Court agreed with the Florida Supreme Court that since a landowner's right to remain in contact with the sea can be interrupted by natural acts of avulsion, man-made avulsion (i.e., a beach nourishment project) should have the same effect. Because Florida law did not provide an explicit carve-out from the

avulsion rule for events caused by the state, the court ruled that the private landowners' right to gains from accretion and reliction was subordinate to the state's right to fill submerged land, and thus there was no taking. With respect to the right of contact with the water, the court ruled that no such right had been explicitly granted by Florida law, nor could it exist as an independent right without contradicting the avulsion rule.

Title insurance underwriters following the case said the ruling does not change interpretation of existing Florida law relating to accretion, avulsion, erosion and reliction.

Based upon the methodology for insuring titles in Florida, the case should not cause new title issues or claims for title insurers. Florida statute requires the establishment of an ECL that is located at the existing mean high water line when tidally influenced land is filled by the state for beach restoration. The location of this line is recorded in the public records. The ECL becomes the boundary between the state and the upland owner, and does not move once the land is filled unless the land later erodes landward of the erosion control line. In light of the statute, underwriters do not insure filled land seaward of the ECL as being owned by the upland owner. Underwriters have said they would not insure upland title to the erosion control line if the survey shows the erosion control line to be in the water.

Rolling Easements in Texas

Meanwhile in Texas, the Supreme Court recently heard a case brought by a California woman who owns beachfront rental houses in West Galveston, Texas. The Court ruled 6-2 protecting the property rights of beachfront property owners.

The Texas land commissioner wanted to remove the houses because he said they now encroach on the public beach. J. David Breemer, an attorney representing the homeowner told the court the state's policy of rolling easements had no basis in the Texas Open Beaches Act (Act) or any other state law. He said storms can't change property lines.

> "You don't expect the state to go outside common law to grant an easement where the public never walked before."

Assistant Solicitor General Daniel Geyser argued that the rolling easement is common law and is acknowledged by every Texas court that has addressed the issue.

Geyser claimed the homeowner knew the risks of the shifting lines when the property was purchased in 2005, six years after the land commissioner had placed them on a list of 107 houses that were seaward of the vegetation line and thus subject to removal. He claimed the property was already burdened.

The homeowner contended she wasn't told the houses were on the public beach until after Hurricane Rita pushed the vegetation line farther landward in 2005.

Justice Eva Guzman asked whether it was reasonable for the homeowner to expect the beach easement to change because of a storm.

"You don't expect the state to go outside common law to grant an easement where the public has never walked before," Breemer said. "If the grass moves, then you should just get sandy property."

Beyond the question of the rolling easement, the justices considered whether property owners would be entitled to compensation from the state beyond the amount offered to remove the houses from the beach.

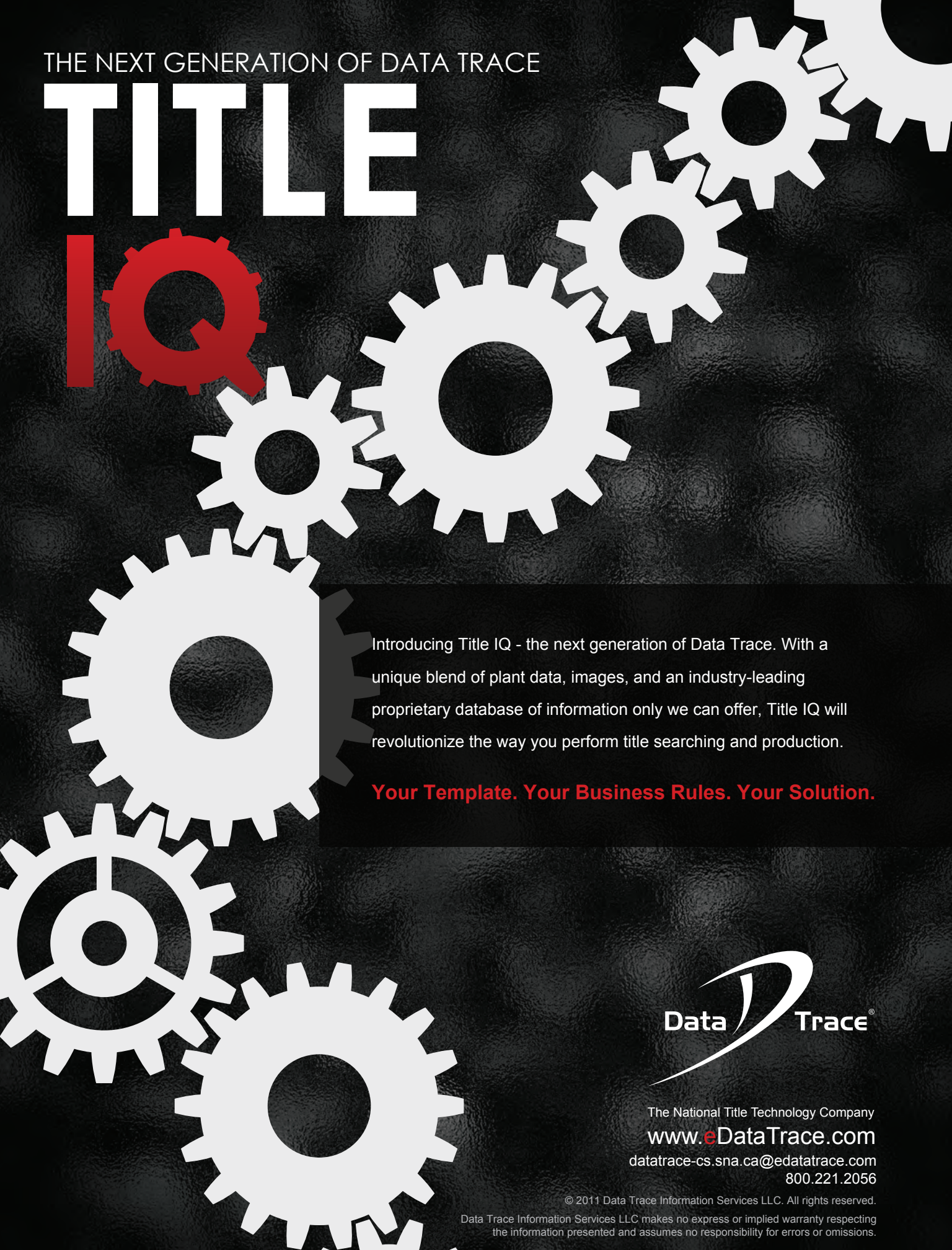
Justice Dale Wainwright seemed to reject the idea, saying that while the state claimed an easement, it didn't seize the title on the homeowner's property. In theory, she could benefit if the vegetation line later moved seaward.

The Court held (6–2) that the Act does not establish a rolling easement, at least to the extent that the state asserted – essentially siding with the plaintiff. The case was sent back to the Fifth Circuit.

The Texas law on beaches is one of the nation's strongest. Maine and Massachusetts allow landowners to close beaches for their exclusive enjoyment, while New Jersey defines state property as anything seaward of the mean high-tide line. ■

THE NEXT GENERATION OF DATA TRACE

TITLE IQ



Introducing Title IQ - the next generation of Data Trace. With a unique blend of plant data, images, and an industry-leading proprietary database of information only we can offer, Title IQ will revolutionize the way you perform title searching and production.

Your Template. Your Business Rules. Your Solution.

Data Trace®

The National Title Technology Company

www.eDataTrace.com

datatrace-cs.sna.ca@edatatrace.com

800.221.2056

First American Title Segment Reports Strongest Quarter Since 2006

First American Financial Corp.'s title insurance segment reported its strongest results since the fourth quarter of 2006 as the company released financial earnings for the fourth-quarter and full-year 2010.

The title division reported pretax income of $81.3 million during the fourth quarter of 2010, compared to earnings of $58.4 million during the same period in 2009. For the year, the title division reported $127.8 million, compared with $122.4 million in profits in 2009.

"When I look back, 2010 was a good year. I'm satisfied," said Dennis Gilmore, chief executive officer of First American Financial. "We had strong performance in our core businesses in a pretty volatile market. When I look forward to 2011, I think it's going to still be very volatile and I'd look for an opportunity for us to at least maintain our margins in 2011. Regardless of what the market throws at us, we're going to continue to drive efficiencies across this organization as aggressively as we can."

Commercial title, which continues to improve across most markets, achieved its strongest quarter since the peak year of 2007. The company's total commercial revenues of $97.7 million during the fourth quarter of 2010, was up 49 percent relative to the prior year's quarter.

"We think commercial business will remain strong through 2011, but expect the first quarter to be a little lighter," Gilmore said. "We didn't have one large deal that moved the number, but had a number of larger deals during the fourth quarter."

The loss provision in the current quarter was 5.4 percent of title insurance premiums and escrow fees, compared with 5.9 percent in the fourth quarter of 2009. The company paid $78.5 million in claims during the fourth quarter of 2010, down from $79.2 during the same quarter in 2009. For 2010, First American paid $314 million in claims.

When asked about rate increases, Gilmore said the company completed the bulk of its increases across the organization over the past 18 months.

"That effort will be ongoing but in a much smaller level than it was historically, but just as a normal course of business, we make sure our prices are adequate across our states and make sure that our returns are appropriate," he said.

Regarding agent splits, First American has made progress in certain key states over the past eight months. This effort to readjust splits will be ongoing.

"We'll look to adjust splits, deductibles, etcetera, where we think it's appropriate and where the returns need to change," Gilmore said.

Gilmore said First American believes there are key strategic markets and segments that are underrepresented that will provide growth opportunities over the next few years. He said the company has a few product gaps in its offering since CoreLogic was spun into a separate company last year.

"We've laid out an acquisition road map over the next two to three years," Gilmore said. "We've really identified three key areas we're focused on. First, for any type of opportunistic acquisition in the core title space that would be priced right, the returns would be adequate and we could get the necessary synergies; we'll be very interested in that. Second, we're focused on the default space right and our settlement service space."

First American

Efficiency Improvements Push Stewart to 2010 Profit

Improved operating efficiency in its core title operations helped improve financial results for Stewart Information Services Corp. during 2010.

The company reported a profit of $2.9 million during 2010, compared to a loss of $62.2 million in 2009. It reported a $16 million profit during the fourth quarter of 2010 versus a $9.8 million profit during the same period in 2009.

"We are pleased with the greatly improved performance of our affiliated operations which saw our leaner title organization structure produce higher profits and profit margin," said Stewart Morris Jr., president and co-chief executive officer. "Our primary focus is on sales growth and higher productivity from our utilization of the Regional Production Centers. In addition, the substantial completion and deployment of our newly developed Production Engine will reduce the time and cost of title production while delivering higher quality in the coming year."

Stewart's Regional Production Centers now account for 65 percent of all affiliated title searches and commitments for its direct title business, up from 47 percent in December 2009. In addition to reducing costs, the company expects the improved utilization of its most skilled people in these centers to reduce claims related to the search and examination process.

Losses from title policy claims decreased 18.8 percent for the year 2010 compared to 2009 but increased 10 percent in the fourth quarter 2010 compared to the fourth quarter 2009.

"We continue to refine our field policy issuance practices which we believe will lead to lower future claim levels," said Malcolm Morris, chairman and co-chief executive officer. "We are also focused on improving the overall quality of our agency network and increasing remittance rates from independent title agencies."

Stewart has renegotiated independent agency remittance agreements across the country with a goal of increasing the average overall remittance rate to near 20 percent. The company expects to see an overall increase in the average percentage remitted by independent agents from 17.1 percent in 2009 to 17.6 percent in 2010.

Stewart continued to closely manage employee costs in 2010, which resulted in a decrease in total employee costs of 2.9 percent from 2009. The company anticipates further reduction in employee costs in 2011 as it deploys a more efficient title production system and begins implementation of its new underwriter policy and claims management system.

stewart®

RamQuest Opens New Business Segment

RamQuest Inc. launched a new business segment, The Center for Business Excellence, which will be responsible for defining and demonstrating industry best practice standards and modeling methodologies for more progressive customer and prospect engagements. This new business segment will be managed by industry veteran Cathy Vass. In the new role of director of the Center for Business Excellence, Vass will lead RamQuest's efforts to construct best practice standards as the company continues to drive forward in the market, partnering with customers to help them do business more effectively and efficiently.

TSS Software Integrates with Fraud Monitoring System

TSS Software Corp. added RynohLive to its RealExpress platform, providing escrow account management and fraud protection for its customers.

Using this integration, TitleExpress escrow items may be automatically cleared, giving users a real-time view of their escrow activity, eliminating disbursement errors and possible fraud losses.

The RynohLive suite of products provides automated positive pay, fraud protection, automated three-way reconciliation, transaction alerting and advanced reporting.

Investors Title Reports Improved Financial Results in 2010

Higher levels of refinance activity and a reduction in claims and other expenses resulted in a 32 percent increase in net income for North Carolina-based Investors Title Co. during 2010 compared to the previous year.

The company reported net income of $6.4 million in 2010, compared to $4.8 million in 2009. For the fourth quarter, net income was $2.4 million versus $309,300 compared to the same period in 2009.

"We are pleased to report a substantial improvement in operating results for 2010," said Allen Fine, chairman of Investors Title. "Net premiums written in the second half of the year increased 41.7 percent over the first half from an increase in refinance activity as well as contributions from new agents. Our balance sheet and financial condition remain very strong, and we continue to enhance our competitive strengths and market position by emphasizing operational efficiency and the expansion of our agency base."

Due to refinance volume, the company reported a 53.7 percent increase in net premiums written during the fourth quarter of 2010. Operating expenses increased 28.9 percent to $18,641,944 versus the prior year period, primarily due to a 73.2 percent increase in commissions, commensurate with the increase in premium volumes and a greater contribution from agency business. Despite the increase in premium volume, the provision for claims decreased 31.2 percent versus the prior year period due to a recovery of approximately $600,000 as well as favorable claims experience related to prior policy years.

PropertyInfo Acquires Records Management Firm

PropertyInfo Corp., a Stewart company, announced the acquisition of substantially all the assets of RecordFusion including the CountyFusion software. These assets will be managed by PropertyInfo's Government Services division to expand its document management offerings and eRecording technologies.

Defalcation Hampers 2010 Financial Results for Regional Underwriter

EnTitle Insurance Co. reported an increase in title insurance premiums, but a significant defalcation resulted in a $3.6 million loss during 2010.

According to the company, title insurance premiums, and escrow and settlement services income rose to slightly more than $12 million for the full year 2010, or an increase of 79 percent from 2009. This comes on top of the 92 percent increase in operating income reported in 2009 as compared to 2008. For just the fourth quarter 2010, operating income was $3.9 million, as compared to $2.6 million reported in the fourth quarter 2009.

However, a $3.5 million defalcation by one of EnTitle's larger agents, Colorado-based Direct Title Insurance Agency Inc., negatively impacted income.

The company terminated its relationship with Direct Title after an audit in early January 2011 revealed shortages in the agent's escrow accounts.

Company Expands Rate Calculator Offering in Four States

Colorado-based TI Services LLC, expanded its TRACcalculator service outside of Colorado. Title companies in Florida, New Jersey, Pennsylvania and Texas can provide instant "Good Faith Title Estimates" to lenders for their GFEs and detailed title quotes to real estate agents and consumers, according to the company.

The TRACcalculator is designed to calculate title premiums incorporating applicable reissue and refinance discount programs, endorsements and title services, closing settlement services, estimated recording fees and applicable transfer taxes. In addition, the TRACcalculator can be customized to meet the needs of an individual title company, depending on state and local requirements, customary title practices and the use of multiple underwriters, according to the company.

Market Share by Family and Regional Underwriters: 2010 vs. 2009

Company Name	Total Premiums Written - 2010	Market Share	Total Premiums Written - 2009	Market Share	Increase/ Decrease in Premiums Written	Market Share
FIDELITY FAMILY						
Chicago Title Ins. Co.	1,641,750,581	17.08%	1,371,484,489	14.29%	270,266,092	2.79%
Fidelity National Title Ins. Co.	1,403,221,265	14.60%	990,713,917	10.32%	412,507,348	4.27%
Commonwealth Land Title Ins. Co.	535,986,145	5.58%	494,204,765	5.15%	41,781,380	0.43%
Alamo Title Ins. Co.	50,297,008	0.52%	50,485,887	0.53%	(188,879)	0.00%
Total - FIDELITY FAMILY	**3,631,254,999**	**37.77%**	**4,058,029,421**	**42.28%**	**(426,774,422)**	**-4.51%**
FIRST AMERICAN FAMILY						
First American Title Ins. Co.	2,369,361,728	24.65%	2,295,799,949	23.92%	73,561,779	0.73%
First Canadian Title Ins. Co.	117,871,950	1.23%	88,067,630	0.92%	29,804,320	0.31%
First American Title Ins. Co. of OR	39,483,887	0.41%	44,681,011	0.47%	(5,197,124)	-0.05%
First Title PLC (UK)	23,431,555	0.24%	18,292,418	0.19%	5,139,137	0.05%
Ohio Bar Title Ins. Co.	12,427,046	0.13%	11,514,276	0.12%	912,770	0.01%
Total - FIRST AMERICAN FAMILY	**2,567,756,952**	**26.71%**	**2,617,559,275**	**27.27%**	**(49,802,323)**	**-0.56%**
STEWART FAMILY						
Stewart Title Guaranty Co.	1,177,860,022	12.25%	1,225,795,322	12.77%	(47,935,300)	-0.52%
Stewart Title Ins. Co. of NY	124,694,025	1.30%	110,444,150	1.15%	14,249,875	0.15%
Stewart Title Limited (Aggregate Others)	11,188,370	0.12%	7,445,827	0.08%	3,742,543	0.04%
Stewart Title Guaranty de Mexico	1,534,308	0.02%	2,965,089	0.03%	(1,430,781)	-0.01%
Total - STEWART FAMILY	**1,315,276,725**	**13.68%**	**1,365,615,235**	**14.23%**	**(50,338,510)**	**-0.55%**
OLD REPUBLIC FAMILY						
Old Republic National Title Ins. Co.	1,026,516,851	10.68%	735,209,292	7.66%	291,307,559	3.02%
Mississippi Valley Title Ins. Co.	18,408,289	0.19%	19,535,407	0.20%	(1,127,118)	-0.01%
American Guaranty Title Ins. Co.	8,774,269	0.09%	4,746,644	0.05%	4,027,625	0.04%
Total - OLD REPUBLIC FAMILY	**1,053,699,409**	**10.96%**	**759,491,343**	**7.91%**	**294,208,066**	**3.05%**
FAMILY TOTALS	**8,567,988,085**	**89.12%**	**8,800,695,274**	**91.69%**	**(232,707,189)**	**-2.57%**
TOP 10 REGIONAL COMPANIES						
National Title Ins. of NY	295,497,797	3.07%	44,829,323	0.47%	250,668,474	2.61%
Title Resources Guaranty Co.	134,064,289	1.39%	117,042,859	1.22%	17,021,430	0.18%
Westcor Land Title Ins Co.	127,489,016	1.33%	91,982,132	0.96%	35,506,884	0.37%
North American Title Ins. Co.	74,415,424	0.77%	62,344,243	0.65%	12,071,181	0.12%
Investors Title Ins. Co.	56,665,339	0.59%	59,434,189	0.62%	(2,768,850)	-0.03%
Connecticut Attorneys Title Ins. Co.	52,391,004	0.54%	45,058,457	0.47%	7,332,547	0.08%
Alliant National Title Ins. Co.	49,970,663	0.52%	41,771,159	0.44%	8,199,504	0.08%
New Jersey Title Ins. Co.	37,486,540	0.39%	26,856,414	0.28%	10,630,126	0.11%
WFG Title Ins. Co.	25,660,577	0.27%	16,807,292	0.18%	8,853,285	0.09%
Southern Title Ins. Corp.	23,381,824	0.24%	30,015,499	0.31%	(6,633,675)	-0.07%
Security Title Guarantee Corp. of Balt.	22,196,637	0.23%	24,828,564	0.26%	(2,631,927)	-0.03%
Total - REGIONAL COMPANIES	**1,045,774,635**	**10.88%**	**797,774,593**	**8.31%**	**248,000,042**	**2.57%**
TOTAL - ALL COMPANIES	**9,613,762,720**	**100.00%**	**9,598,469,867**	**100.00%**	**15,292,853**	**0.00%**

Note: Individual numbers do not add up to Total number as not all underwriters are listed.
Source: *American Land Title Association* (Full results of the 2010 Market Share Analysis can be found at *alta.org*)

Fidelity Names Director of National Homebuilder and Developer Relations

The Fidelity National Title Group announced that Kenneth Phillips has been named senior vice president and director of national homebuilder and developer relations. In his new role, Phillips will be responsible for business development including growing and maintaining client relations, as well as expanding the organization's sales force and coordinating efforts of the Fidelity family of title companies. Phillips started his title career in 1997 as a major accounts representative for builder/developer operations in Riverside and San Bernardino, Calif. In 2002, he was promoted to the position of vice president - national homebuilder services and in 2005, he was named senior vice president and national sales manager.

Westcor Adds to Legal Team

Westcor Land Title Insurance Co. announced two additions to its legal department. Roger Therien, formerly of Fidelity National, was named southwest regional counsel, while Jim Kletke was named "of counsel" to the corporate team. Kletke will provide underwriting assistance in Maryland, Texas, and on a national basis, support of multi-state agents.

Stewart Names New Agency Services Manager for Connecticut, Rhode Island

Stewart Title Guaranty Co. announced the addition of Jim Czapiga as vice president, Connecticut and Rhode Island agency services manager. He brings to Stewart extensive multi-state agency sales and management experience, having served 15 years in the title insurance industry and agency services arena. Czapiga joins Stewart from another major underwriter, where he served over the course of his career as Connecticut commercial agency sales manager, Connecticut state manager, and ultimately Connecticut and Rhode Island region manager. Czapiga received his J.D. from Western New England College School of Law and a B.S. in finance from the University of Connecticut.

Stewart Names Senior Agency Services Manager for Central and Eastern Tennessee

Stewart Title Guaranty Co. added Ted Faust as senior agency services manager for Central and Eastern Tennessee. In this capacity, Faust will manage Stewart's independent agency network in those markets. Faust brings more than 20 years of sales and management experience in servicing and working with agencies throughout the mid South. A graduate of the University of Memphis, Faust has served in various management and sales capacities for another major underwriter. He has also been active in the Tennessee Land Title Association, having served on the board of directors as well as several committees.

San Diego-based Title Company Hires Industry Veteran as President

San Diego-based Corinthian Title Insurance Co. announced that Ronald Maudsley has joined the company as president. With more than 30 years of title industry experience, Maudsley will lead Corinthian's growth into new regional markets. Prior to joining Corinthian, Maudsley served as chief operations officer for United General Title Insurance Co. Before that, he spent 17 years with Fidelity National Title Insurance Co. where he served as executive vice president and chief operating officer. His background also includes nearly 12 years as a regional title operations manager with several national title companies.

Title Company Expands Staff in North Dakota

North Dakota Guaranty and Title Company, a provider in residential, commercial and mineral title information services, announced several additions to its staff.

Sarah Crutchfield joined NDGT's Bismarck office as an escrow officer. In the company's Minot office, Melissa Houston was hired as a title flow specialist, while Kimberly Whitish was named escrow specialist. In the Watford City office, Teri Wolff joined the team as an abstracter. Janet Zent was hired as title and location drawing specialist at NDGT's Dickinson office.

new members

ARKANSAS
Mitchell Sparks
Canaan Title Solutions LLC
Hardy

COLORADO
Dolores Melgosa
Bison Title Company
Lamar

CONNECTICUT
William V. Fogarty
Record Info, Inc.
Litchfield

FLORIDA
Barbara P. Burke
Real Estate Law Series
Maitland

Jenette Demarco
USA Title Solutions LLC
Redington Shores

Michael Trinkler
Michael A. Trinkler, P.A.
Pompano Beach

Kristin M. Weiss
Weiss Title Services LLC
Palm Harbor

GEORGIA
John C. Halcomb
Fairway Title Company
Cumming

Iris R. Hall
Petrotitles
Cumming

Oronda Smith
O.M. Smith Attorney at Law, P.C.
Union City

ILLINOIS
Felicia M. DiGiovanni
Spina, McGuire & Okal, P.C.
Elmwood Park

Kelly Hendricks
Hendricks Title Search
Mason

Thomas Hundman
Frontier Title Company, LLC
Bloomington

INDIANA
Diane Blackwell
Indiana Abstract & Title Co.
Monticello

INDIANA CONT.
Debbie Hall
Hoosier Hills Title Company
Bedford

Darice L. Kabisch
Renaissance Title Co., Inc.
Fort Wayne

KANSAS
Kris Hanzlicek
C.W. Lynn Abstract Co., Inc.
Salina

KENTUCKY
Richard L. Miller
RM Land Title Services
Versailles

Stanley R. Stamper
KY Abstract LLC
Lexington

LOUISIANA
Jeff A. LeSaicherre
Leader Title Company of Ponchatoula
Hammond

Leopold Z. Sher
Sher Garner Cahill Richter, et al
New Orleans

MASSACHUSETTS
Lorne McDougall
Edwards Angell Palmer & Dodge LLP
Boston

MARYLAND
Christopher Buck
Church Circle Title & Escrow, LLC
Annapolis

MICHIGAN
Sabrina Demott
Calhoun Title & Escrow Agency
Marshall

MINNESOTA
Steve Albers
C.U. Title Services, Inc.
New Brighton

MISSOURI
Vicki Henderson
Butler County Title Company, LLC
Poplar Bluff

Garrett Schwartz
Guardian Land Title, LLC
Cape Girardeau

MISSISSIPPI
Jerry D. Riley
Gulfport

NORTH CAROLINA
Daniel C. Gleason
Title Management Services LLC
Charlotte

Mark West
GW Title, LLC
Raleigh

NEW HAMPSHIRE
John Splendore
United Title And Escrow Services, LLC
Manchester

NEW JERSEY
Matt Wirths
Kenworth Title LLC
Chatham

NEW MEXICO
Michael Seelbach
GSV Title Company, Inc.
Ruidoso

OHIO
Shirley N. Manning
Advisors Alliance Title, LLC
Cincinnati

Dale Vandemark
Romey & Vandemark, Attorneys at Law
Lima

OKLAHOMA
Mathew Smith
Planning and Zoning Resource Corporation
Oklahoma City

Glen W. Smith
Smith Roberts National Corp
Oklahoma City

PENNSYLVANIA
Anne Brandow
Citywide Closing Services, LLC
Philadelphia

Louis Cesare
United One Resources, Inc.
Wilkes Barre

Paige Evak
CU Settlement Services, LLC
Springfield

PENNSYLVANIA CONT.

Michele Rist
T.A. of Limerick, LLC
Limerick

Abby Wendel
T.A. of Central PA, LLC
Harrisburg

TENNESSEE

Thomas Burgess
Title Centers of America, LLC
Crossville

TEXAS

Tom Abbate
Gibraltar Title Services
Spring

Cheryl Boyd
Texas Pioneer Title Agency
Allen

Wayne Butler
Western Abstract Company
Morton

TEXAS CONT.

Kimberly Dickerman
ConocoPhillips
Houston

Elleana Hooper
JMC Title of Texas, LLC
Katy

Lisa Kirby
Watermark Title
Plano

Janette Neely
B-D-R Title Corporation Of Texas, Inc.
Lewisville

Charlie Reagor
Texas Title Network, LP
Leakey

Sharon Shaw
Transtar National, Inc.
Plano

VIRGINIA

Sara Bolton
Pruitt Title, LLC
McLean

Royston Jester
Court Street Title Insurance, LLC
Lynchburg

Ann Miller
Member's Assurance Title Services, LLC
Chesapeake

Faisal Qureshi
London Title
Glen Allen

Christine Sanders
Law Offices of Christine Sanders
Falls Church

New Survey Will Help Explain Title Industry's Value

There's no doubt title insurance is misunderstood. While it's unfairly and commonly compared to property and casualty lines, there are significant differences.

To help make the distinction between the products, the American Land Title Association dusted off its Abstractor and Title Agent Operations Survey and made some updates to capture curative efforts performed by the industry.

When ALTA announced this latest endeavor, some thought it was done at the request of regulators. Although 11 previous studies had been conducted and published through calendar year 2008, the absence of a study for the calendar years 2008 through 2010, may have resulted in some misperceptions about the current study. Let me explain the value of the latest agent and abstracter survey.

Please be assured the recent ALTA study was conducted on behalf of ALTA members to benefit ALTA members. The overwhelming majority of the questions in the most recent ALTA survey were carried forward from the 2007 Abstractor and Title Agent Operations Survey. This study was published in January 2008 and was coordinated by Association Research Inc. The stated purpose of those surveys was to allow companies to track operating results, perform peer company analysis and evaluate changes in the industry.

With support from its Abstractor and Agent Research Committee, the 2010 ALTA survey, which will be published in 2011, was reinstituted and launched. The final date to submit a response was Feb. 28, 2011. To facilitate the ability of abstractors and agents to continue to track operating results and perform peer company analysis, the current survey that was coordinated by Demotech Inc., included the historical information collected in previous surveys. This was done to assure continuity of peer group information.

The National Association of Insurance Commissioners (NAIC) continues to push state insurance commissioners to adopt its model agent data statistical call, seeking specific expense data from agents. However, collection of risk mitigation and curative efforts performed by the industry is missing from the NAIC model data call. This is a key component critical to understanding the industry and the product provided to consumers.

To capture this critical information, ALTA's Abstractor and Agent Research Committee, with input from Demotech, added specific questions to the agent and abstracter survey related to the breadth and scope of curative efforts associated with residential sales transactions. This will prove helpful in ALTA's efforts to educate interested third parties (media, legislators and regulators) on the importance, as well as the pervasive nature, of curative efforts.

Joe Petrelli,
President, Demotech, Inc.

TIAC, the only E&O company owned and governed by title professionals is going stronger than ever after 20 years!

TIAC is also the only E&O program endorsed by ALTA and ALL the national title insurers. We're 20 years young and moving forward!

Join us for cutting edge coverage, stable rates, unparalleled claims and underwriting services, and the only E&O insurer paying policyholder dividends!

Call us today.

Your company. Your choice.

Title Industry Assurance Company, A Risk Retention Group.
7501 Wisconsin Avenue, Suite 1500 • Bethesda, MD 20814-6522
phone: (800) 628-5136 • fax: (800) TIAC FAX (842-2329)
www.cpim.com/tiac

TIAC

Celebrating 20 Years of Great Service

SOFTPRO®
CLOSING AND TITLE SOFTWARE

Software that Spells Success.

WITH SOFTPRO-WINNING IS EASY.

The Closing and Title game is challenging. As the industry leader in technology and functionality, LPS SoftPro develops award-winning software that will allow you to outsmart your opponent and increase your volume and revenue by reducing the time it takes to perform closings. Take a look at all of SoftPro's offerings that will help you **WIN THE GAME**:

Award-Winning Software and Support	Custom Data Entry Screens	Concurrent Licensing	Top-Rated by Auditors	Fraud Monitoring
Latest Technology	Largest Document Library with Access to Thousands of Free Forms	Integration with Closing Vendors	Customizable	Commercial Functionality
User-Friendly	Lowest System Requirements	25 Years Experience	Flexible Networking	Unlimited Buyers, Sellers, Properties and HUDs Per Order
			Scalable	

Call today for a **FREE 30 Day Trial**
Dial **800-848-0143** or visit us online at **www.softprocorp.com**

LPS® SoftPro
A LENDER PROCESSING SERVICES COMPANY