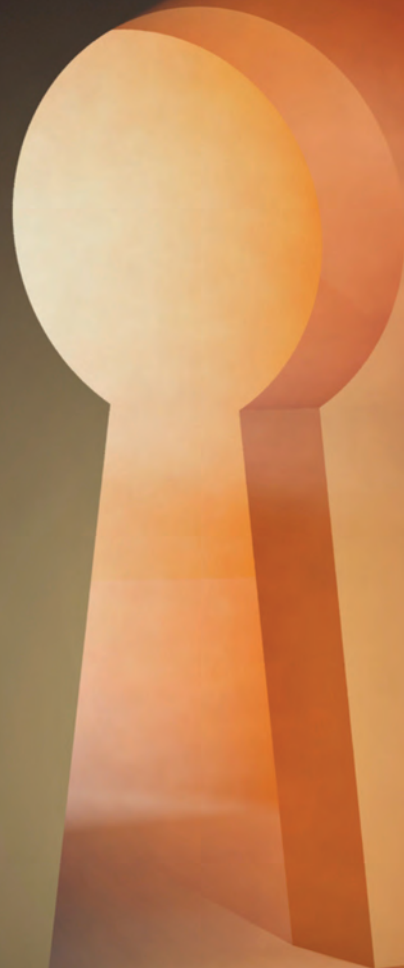


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American Land Title Association

TitleNews



Unlocking Your Competitive Advantage

ALTA provides several resources for members to differentiate themselves in the market

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ALTA Past President Marvin Bowling Jr. Passes Away

Marvin Bowling Jr. was a tennis player and avid golfer. He enjoyed travel and was a man of deep faith. He also was an old-fashioned title guy. Bowling, a past president of ALTA, passed away April 28 at the age of 84.

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July 16 - 18	Title Agents Executive Conference Park City, UT
September 18	Agents & Abstracters Forum Baltimore, MD
October 12 - 15	2011 ALTA Annual Convention Charleston Place Charleston, SC

STATE CONVENTIONS

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
September 22 - 23	Missouri
September 22 - 23	Wisconsin
September 22 - 23	Indiana
September 23 - 24	Arizona
November 2 - 4	Florida

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Title Industry Surviving Own Version of 'Hell Week'

The Navy SEALs, among America's most elite warriors, captured the world's attention last month with their raid inside Pakistan against the mastermind of the Sept. 11, 2001, terrorist attacks. The mission made many wonder what it takes to become a Navy SEAL.

Navy SEAL hopefuls go through a grueling six-month regimen, culminating with "Hell Week," in which candidates continually run, swim, train and get only a few hours of sleep. The aim is to simulate the extreme stress that fighters experience in battle. As motivated as they are, most can't take it. By the end of "Hell Week," 75 percent of would-be SEALs wash out.

So who survives Hell Week? What type of person emerges to be part of SEAL Team 6, which shot and killed Osama bin Laden? It isn't whom you'd expect.

According to the trainers, it isn't the muscle-bound guy who benches 300. It's also not the wanna-be leader who talks a good game but doesn't have the walk to match his talk. And surprisingly, it's often not the gifted athlete for whom finishing first always came easily. According to the SEALs, it's just as often the skinny guy who looks too weak to be a SEAL or the awkward, quiet guy who just doesn't seem at first glance to be cut from SEAL cloth.

That's because Hell Week is more about mental toughness than physical toughness, and you can't gauge the capacity to persevere by the size of a bicep. When the measure is survival, about pushing yourself physically and mentally beyond where you ever thought you could go, a different kind of leader emerges. They call them SEALs.

The title industry is in its own version of "Hell Week," although it's been a lot longer than a week. But mark my words; the seeds of tomorrow's success are sown in the soil of today's trouble. The fact that you are still in business, tells me that you are the survivors. If you can survive now, what will it feel like when the economic winds are finally at your back?

While ALTA members may not be fighting terrorists like the Navy SEALs, our members man another front line by maintaining the integrity of our country's land record system. Never doubt the importance of your mission of maintaining a civil society.

During these trying times, ALTA is here to lend support to members who have endured nearly four years of "hell." I encourage you to read our cover article to learn how ALTA membership gives you a competitive edge in the market, and to remember that the day is always darkest before the dawn.



A handwritten signature in black ink that reads "Kurt Pfothauer". The signature is written in a cursive, flowing style.

– Kurt Pfothauer
Chief Executive Officer, ALTA

Katie Andrews
Florida Agency Operations



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Here for you every day.

fntg.com/agency



Yes, we have the largest investment portfolio in the industry. And yes, our reserve for claim losses is more than the next three largest title insurers combined. But, it's the strength, expertise, and service of our people that really makes the difference.

If you know our people, you know they set us apart from the rest of the competition. If you don't know them, you should. Get to know our people and experience the difference they make. Get to know Fidelity National Title Group.

ALTA Files Brief in Massachusetts Foreclosure Lawsuit

The American Land Title Association filed an amicus brief with the Massachusetts Supreme Judicial Court in the case of *Bevilacqua v. Rodriguez* asking the court to clarify what impact a foreclosure deed has on a title in Massachusetts.

The *Bevilacqua v. Rodriguez* lawsuit is a follow up to the US Bank v. Ibanez decision, where the Massachusetts Supreme Judicial Court invalidated some foreclosures because the lender could not prove it held the mortgage. The ruling left open the question of what effect an improper foreclosure should have on the title of a third party who purchased the property at the foreclosure sale.

In *Bevilacqua v. Rodriguez*, the lower court held the plaintiff possessed no interest in the property when he purchased the land at a foreclosure sale because the foreclosure was improper under *Ibanez*.

ALTA believes obtaining an answer to the impact an improper foreclosure has on the title of a third party who purchased the property at the foreclosure sale should help title companies underwrite REO transactions in Massachusetts. In addition to posing the question, ALTA suggested that under existing Massachusetts law, *Bevilacqua* possesses some right to the land as either a bona fide purchaser or an assignee of the mortgage.

ALTA Completes Upgrade to Database Software

As part of ALTA's continued efforts to better meet member and customer needs, we upgraded our association management database software in April.

During the transition, our website was inaccessible for a few days. If you have questions or need help with login information, contact us at service@alta.org.

Call for ALTA Committee Volunteers Closes July 8

The old saying "the more you put into something, the more you get out of it" applies aptly to ALTA membership. ALTA is only as strong as the participation of its membership, and once again, we have a fabulous opportunity to continue cultivating support for our valued committee as ALTA's call for committee volunteers is now open.

If you have a special area of expertise (real property records, claims, international development or industry technology, for example), or if you have a special area of interest (such as membership, government affairs, public relations, research or employee and professional education, to name a few), there is a committee on which you can volunteer to serve. ALTA has 27 committees for you to consider.

The ALTA president-elect makes all committee appointments in the late summer for a term beginning after the Annual Convention in October. The

deadline to submit your name is July 8.

"When individuals attempt to take on large tasks on their own, success can seem daunting," said Christopher Abbinante, ALTA president-elect. "But when volunteers come together for a common good, we truly can make a significant difference. This industry is blessed with many talented and knowledgeable professionals. I urge everyone to offer your time to help strengthen our association and our industry."

Members frequently cite their active participation on ALTA volunteer committees as the place they've learned the most, and where they have had the opportunity to help shape the future of the title industry.

It is easy to volunteer. All you need to do is contact Taylor Morris at 202-296-3671 or tmorris@alta.org. You can see all of the committees and their responsibilities at www.alta.org/about/commserv.cfm.

Will New LO Rule Impact Payments to Affiliated Title Companies?

The Federal Reserve Board recently held a webinar to address concerns regarding its new Loan Originator Compensation rule that went into effect April 1.

A portion of the webinar addressed payments made to third-party service providers that are affiliated with a loan originator. A provision of the rule states that affiliates are treated as a single person. This has generated some questions about the impact on compensation for loan originators when they are affiliated with a title company. The main question is if a consumer pays a title premium to a title company affiliated with a mortgage broker, does that constitute compensation to the broker paid by the consumer? According to the Federal Reserve Board, the answer is no.

“Provided the third party service (i.e., the title premium) is a legitimate ancillary service to the transaction and provided the charge the third party receives is a bona fide and reasonable amount,” Federal Reserve staff said during the webinar.

The Federal Reserve indicated this is consistent with information about third

party charges. Because payment of a title premium is not part of originator compensation, it isn't subject to the rules.

The new Loan Originator Compensation rules are designed to protect mortgage borrowers from unfair or abusive lending practices that can arise from certain loan originator compensation practices. The new rules apply to compensation that is paid to mortgage brokers and the companies that employ them, as well as mortgage loan officers employed by depository institutions and other lenders. The rules also cover companies that originate and close loans in their own name using table funding from a third party.

The final rules, which apply to closed-end loans secured by a consumer's dwelling,:

- Prohibit payments to loan originators based on the loan's interest rate or other terms and conditions of the transaction, except the amount of credit extended.
- Prohibit any person other than the consumer from paying compensation to an originator in a transaction where the consumer pays the loan originator directly.

- Prohibit loan originators from “steering” consumers to consummate a loan not in their interest based on the fact that the loan originator will receive greater compensation for such a loan.
- Provide a safe harbor to facilitate compliance with the prohibition on steering. A loan originator is deemed to comply with the anti-steering rule if the consumer

is presented with loan options that include the following: the lowest interest rate for which the consumer qualifies; the lowest total dollar amount for points and origination fees; and the lowest rate for which the consumer qualifies for a loan with no risky features, such as a prepayment penalty, negative amortization or a balloon payment in the first seven years.

Flood Insurance Bill Passes House Subcommittee Vote

A revised bill that would extend the National Flood Insurance Program (NFIP) program for five years advanced out of the House Financial Services Committee's Subcommittee on Insurance, House and Community Opportunity.

Introduced by Rep. Judy Biggert (R-Ill.), chair of the subcommittee, HR 1309 would reauthorize the NFIP through Sept. 30, 2016, and attempt to reform the program's finances by moving rates toward actual costs, reducing the burden on taxpayers and increasing private sector participation in the flood insurance market.

ALTA supports the legislation, which the full

House will now consider. Senate approval is still needed.

“When the program is unable to issue new policies, closings can be delayed in flood prone areas. Some home purchase and mortgage contracts have “time is of the essence” clauses that require the transaction to close by a certain date or the seller/lender may terminate the contract and the buyer/borrower is liable for damages, including the loss of their earnest money deposit. These consequences are unacceptable and they can and should be prevented,” ALTA wrote in its letter to Biggert supporting her bill.

Final Agents & Abstracters Forum Slated in Baltimore

The final of five Agents and Abstracters Forums in 2011 will be held Sept. 18 in Baltimore at the Embassy Suites. The Forums allow agents and abstracters to meet with peers and freely exchange ideas, experience and opinions on issues that

affect business today. As an added benefit, Darryl Turner, CEO of the Darryl Turner Corp., will give a presentation on how to grow your business. Go to alta.org/meetings/smallagents for more information and to register.

Indiana, Montana, North Dakota Join List of States Banning Private Transfer Fees

Add three more states to the growing list banning private transfer fees (PTFs). Governors in Indiana, Montana and North Dakota signed legislation placing a ban on the dangerous fees, which steal home equity, lower home resale values and add another layer of difficulty to selling a home. The number of states restricting or banning PTFs is now 27.

In Indiana, Gov. Mitch Daniels took swift action to protect Indiana homeowners by signing HB 1541 (sponsored by Rep. Michael Speedy), while in Montana, Gov. Brian Schweitzer signed SB 146 (sponsored by Sen. Bob Lake), and in North Dakota, Gov. Jack Dalrymple signed SB 2149

(sponsored by Sen. Tony Grindberg). "The governor and legislature stood up for homeowners by protecting consumers from these predatory fees," said Paula Bachmeier, vice president of the North Dakota Land Title Association "This bill is an important step in enhancing consumer protections, safeguarding the real estate market and protecting our property rights system in North Dakota."

If you would like information on how to get legislation introduced in your state to ban PTFs, contact Nick Hacker at nick@alta.org.

ALTA Asks FHFA to Clarify Proposed Rule Banning Private Transfer Fees

The American Land Title Association submitted a comment letter thanking the Federal Housing Finance Agency (FHFA) for its proposed rule banning the GSEs from purchasing mortgages backed by collateral that is encumbered with a private transfer fee covenant.

ALTA also posed a few implementation questions to the agency, including:

- How will the Enterprises discover whether property is encumbered by a transfer fee?
- What processes will the Enterprises use to determine whether a transfer fee is exempt from this rule?
- Are the Enterprises permitted purchase mortgages on properties



encumbered by private transfer fee covenants in a state where the law is unclear about whether a private transfer fee is legal?

ALTA is hopeful the FHFA will finalize the rule by the end of summer.

More than 120 ALTA members responded to a grassroots alert, sending emails to the FHFA in support of the proposed rule.

ALTA Forms Approved in February Published as Final

The ALTA Forms Approved by the ALTA Board on Feb. 3, have completed the Comment Period and have been published in final.

Three forms have been altered slightly as a result of Comments received: Endorsement Form 9.3-06 (Restrictions

Encroachments Minerals), Endorsement Form 13-06 (Leasehold - Owner's), and Endorsement Form 13.1-06 (Leasehold - Loan).

Redlines showing comment period revisions are available, along with the final publication of all new forms, at alta.org/forms.

Unlocking Your Competitive Advantage

ALTA provides several resources for members to differentiate themselves in the market

In marketing, differentiation is the process of distinguishing one product or offering from others, to make it more attractive to particular customers. With a mortgage market expected to be less than \$1 trillion this year, and no improvement expected next year, finding a competitive advantage can be the difference between surviving these lean years or closing shop. Title agents know they have to scrape and fight for each and every order. While most will compete on service and price, there's another option that might not seem so obvious. >>

By Jeremy Yohe



Being a member of the American Land Title Association provides members with several tools to help companies distinguish themselves from non-members and capture precious market share.

Three significant resources that offer a competitive advantage are offered exclusively to members:

- **Standard Procedures and Controls:**
Developed by ALTA's Auditing Committee, this product is designed to provide audit guidelines for internal practices
- **Standard Security and Privacy Guidelines:**
These measures developed by ALTA's Technology Committee aim to protect private information
- **Principles of Fair Conduct:**
Developed in 2007 by ALTA in response to the GAO report, these principles represent the association's commitment to promote behavior within the title industry that serves the needs and interests of consumers.

"These are tools made available only through ALTA membership," said First American Title Insurance Company's Sandra Bell, chair of ALTA's Public Relations Committee. "These tools and protocols can help members build their businesses, differentiate themselves from their non-member competition and, as an added bonus, even streamline their processes."

Standard Procedures and Controls

Kevin Gauer, chief internal auditor for Old Republic National Title Insurance Co. and chair of ALTA's Auditing Committee said the Standard Procedures and Controls was created to act as minimum internal control procedures that

should be implemented within each title company to ensure the acquisition or transfer of property is handled with a maximum degree of efficiency, security and safety. These guidelines will help improve the title industry by imposing consistent and fair standards against which every company is measured.

"The goal was to develop standard audit guidelines acceptable to all underwriters to demonstrate to those outside the industry that we are taking more steps to improve the industry," Gauer said. "This is one more thing we can use to show the public that the industry is proactive at implementing controls."

Over the years, there was variation in enforcement of audit programs and auditors were left on their own to audit agents. The reason for this is that agency agreements say little about internal control. ALTA wanted to promote a foundation that stresses controls that give agents and auditors a baseline to work from.

The guide covers information about General Agency Administration and Control, Settlement/Closing Process, Escrow Accounting, Policy Production and Underwriting, Policy

Control and Administration, and Market Conduct.

"Auditors focus on risks – what can go wrong," said Gauer. "What prevents things from going wrong? The answer is controls. The Standard Procedures and Controls is exactly what auditors focus on. If you have this, you have a mirror of what an auditor's program will be."

Many members have already benefited from the Standard Procedures and Controls through increased business efficiency. By following best practices and streamlining the auditing process, agents can save time and money because managers know what's expected and can avoid monitoring unnecessary areas.

"If it's not included in the Standard Procedures and Controls, then it may be an area you don't need to focus on," Gauer said.

Not only can these guidelines help agents internally, they will help customers notice an agency that is organized.

"You can look at the Standard Procedures and Controls and use it as checklist on how to run your business," said Alfred Santoro, co-president of Esquire Title Services



in Parsippany, N.J., and chair of ALTA's State Legislative/Regulatory Action Committee. "Doing that will give you a more streamlined focus so you don't miss anything that's important. Knowing what's in your trust accounts seems simple, but I can tell you situations where a business owner was not preparing reconciliations on regular basis. They had a falling out with their partner, but he remained on the account. The partner ended up raiding the account for several hundred thousand dollars."

Without conducting regular reconciliations, an agent may get

An additional benefit of implementing these standards is that fraud investigation and litigation costs go down. It also makes life easier for agents and underwriters.

"It becomes a lot easier for someone else to see how things fit together because a quick identification of efficiencies reduces costs of an audit. If you have these controls in place, you should probably experience a reduction in audit frequency, which reduces expense," Gauer said.

Bell said these standards provide a distinct differentiator from non-

should work to adequately safeguard private information and protect their employees, clients and consumers. Beyond the federal legislation, 46 states have breach notification laws, which require businesses to notify customers if their personal information is stolen or exposed.

This information includes a person's name and coupled with their Social Security number, driver's license number, bank account number, credit card numbers or any financial account number. This is information that must be protected. If this information is lost, every person whose data was compromised must be contacted.

In response to these new laws, ALTA developed the Office and Security Privacy Guidelines to provide guidance on how to protect sensitive customer and company information. These guidelines should be considered as your company develops office security and privacy policies because violations to privacy legislation could prove costly, according to Grant Reese, Stewart Title Guaranty's director of information security & compliance.

"The idea behind these guidelines is that they are a simple set of procedures that anyone can follow that puts things in place to protect agents from the laws," Reese said. "The loss of one laptop can be devastating because you must figure out every customer that was on the computer and must notify every customer."

By utilizing this document, ALTA members can differentiate themselves by easily responding to lender inquiries, elevating customer service practices and putting customers at ease. It also can keep a title agency out of the news.

■ "When you're asked how a customer's money will be handled, and can answer that question clearly and definitively, it instills confidence in all parties at the table."

themselves into larger problems and may require speaking to criminal and civil investigators.

"This will impact business all the way through," Santoro said.

Integrating the Standard Procedures and Controls can result in significant cost savings. Expense related to fraud is enormous and eats up the small margin title agents have to begin with.

"The fewer times you touch a file, the more money you make. This is simple economics," said Josh Reisetter, president of Brookings County Abstract Co. in North Dakota. "Agents should be doing this and if not, are you giving a true service to your customers?"

ALTA members because they speak to the member company's integrity and commitment to quality.

"When you're asked how a customer's money will be handled, and can answer that question clearly and definitively, it instills confidence in all parties at the table," she said.

Office and Security Privacy Guidelines

Not only is it important that your customers be able to trust that their private data will be protected, but it is required by federal law. With the advent of state "Notification of Breach" laws and Federal legislation like the Gramm-Leach-Bliley Act and the Fair and Accurate Credit Transactions Act, all title operations

“If this information is compromised, people will be angry,” Reese said. “The best thing to do is implement some controls so you don’t end up in this situation.”

The average cost of a breach is \$239 per file, according to Reese. If a title agency loses 1,000 customer files, that could cost \$239,000, including an expense for a security investigation, finding the people whose data was lost, providing a year of credit monitoring for these people and any fines.

One area that gets tricky is with email. Several states including California, Colorado, Massachusetts, Nevada and Washington require emails to be encrypted when sending private information. In an informal poll, ALTA asked, “Does your organization have a policy requiring that email containing specified information be encrypted when sent externally?” According to the results, only 35 percent have an encryption policy in place.

“This is a big deal,” Reese said. “Title agents could be breaking the law and not even realize it, but there are some things in the Office and Security Privacy Guidelines to help you avoid this.”

Santoro said that he doesn’t keep a clean desk all the time, but does enforce a “clean-desk” rule around the office. He requires files to be kept behind closed, paneled cabinets. His agency uses their underwriter’s online system with most of its records kept offsite and backed up by the underwriter. Other data kept on site is encrypted, backed up and taken offsite on a regular basis.

“Having someone come into the office, such as a Realtor or another client, and see a clean office, they will become more confident in

Additional Tools Available Exclusively to ALTA Members

PERSONALIZED MARKETING VIDEO: During this difficult market, you need as many tools as possible to stand out from the pack. To differentiate yourself from the competition, ALTA has created a Personalized Marketing Video to help promote your services. Offered during our Annual Convention and Business Strategies conferences, members can record a short message about your company that will be included in a one-minute video promoting the benefits of title insurance. The video can be utilized in many ways to promote your company, such as posting it to your website and social media pages, and linking to it from your email.



EDUCATIONAL ARTICLE ON TITLE INSURANCE: 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 can also be adapted and sent to your customers to help them learn more about title insurance. The article can be found on the ALTA membership benefits page: alta.org/membership.

you as a service provider rather than if documents are all over the place,” Santoro said. “It gives you more credibility when things are organized.”

Some customers may challenge a title company to know what procedures are in place to protect private and sensitive information.

“Some smaller banks and credit unions send out questionnaires asking ‘what are you doing to comply with privacy laws?’ They want to know if you have a security program in place. If you show them these guidelines, they will go away.”

Efficiencies can be gained when an agent can cut out the lengthy process of filling out information for a local lender and provide a document such

as the Office and Security Privacy Guidelines.

“This is a proactive example of trying to keep information private,” Santoro said. “You may not get a pat on the back for this, but you want to avoid having the press come along and find these documents in the trash can. That’s publicity you don’t want.”

Santoro’s company has a simple-to-follow shredding policy, electronically scanning documents and a shredding company comes by every couple of weeks to shred documents.

It’s not just creation of efficiencies, but there will also be reputation loss if your agency gets caught in a story where private information was lost or stolen.

Principles of Fair Conduct

In 2007, ALTA launched “The Title Industry Consumer Initiative,” which details the association’s five-point strategy for improving industry oversight and educating and protecting consumers. The initiative was developed in response to the recommendations by the Government Accountability Office (GAO) in a report it issued in April 2007. A major component of the consumer initiative is the “Principles of Fair Conduct,” which state what ALTA expects of its members: to engage only in business practices that are lawful and consistent with a high standard of ethical

“These are things your customer probably hasn’t heard before. If they hear this, they will think there’s something special about this company.”

behavior, and to treat consumers in a fair and ethical manner.

“The Principles of Fair Conduct really ties everything together because our customers are demanding accountability, certification and verification in writing from us,” Kosin said. “The industry took a beating for a number of years ago and this provided a road map to correct some items.”

Kosin displays a framed copy of the Principles of Fair Conduct in his company’s lobby and includes the principles in lender approval packages and other marketing material. His company also includes the Principles of Fair Conduct in new employee packets so they are aware of expectations.

“If you do this at the beginning, it’s out there for everyone to see and it lets them know what you stand for,” he said.

Building Customer Trust

Items such as the Principles of Fair Conduct, Standard Procedures and Controls, and the Office and Security Privacy Guidelines all help secure customer trust – which could translate into more business.

Title agents can secure customer trust by educating them about their customs and practices. All of these tools provided by ALTA can be used to educate customers by letting

them know escrow accounts are reconciled on a daily basis, dormant escrow account balances are reviewed and there is a separation of duties in escrow accounting.

“These are things your customer probably hasn’t heard about before,” Kosin said. “If they hear this, they will think there’s something special about this company.”

“If you are talking to a loan officer or processor this may not matter, but if you are talking to a bank manager, a compliance officer or to someone that has some responsibility and accountability for the bank or mortgage company, they will be listening to you. They will be thinking ‘I haven’t heard these things

from a title company before.’ It will be music to their ears.”

Reisetter said regulators used to ask “What do you do?” Now, the conversation has switched to “How do you do it?”

“If you think about that, you’ve answered two major questions by using these ALTA documents, which show here’s how we do it safely and here’s how we do it with honor,” he said.

Santoro agreed that these tools differentiate his agency. When the Principles of Fair Conduct were released, his company used them in an advertisement in the *New Jersey Law Journal* that asked the question, “How does your title insurance company measure up?”

“Your clients care about this stuff,” Santoro said. “To have someone talk about the way we handle transactions and how we conduct business is something they haven’t heard before. We as an industry unintentionally devalued what we do. We try to make things that aren’t easy, easy. In some ways we do our jobs too well. It’s about time we are able to tell people how difficult it is what we do and how important what we do is.”

Kosin encourages title agents to wear their ALTA membership as a badge of honor. Member companies may not be the biggest or cheapest in the market, but they can take advantage of the various products ALTA provides.

“Using these tools is just good business sense in an uncertain world,” Kosin said. “If you can go to your customer and say your company adheres to the highest standards in the industry, adheres to strict audit standards, adheres to strict security standards, adheres to strict security and privacy guidelines, these practices will be welcomed by your clients.” ■



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Top 10 Recovery Markets

Here's a look at the top cities identified by Realtor.com where prices and property values have stabilized. Several title agents also provided additional thoughts on their respective market.

Realtor.com identified 10 local U.S. markets that are prime for a turnaround and are already experiencing a real estate recovery. Nationally, the country is witnessing improved employment, fewer foreclosures and stable inventory numbers, and the trends are even better in specific local markets. Prices and property values have stabilized in the following cities, which is why Realtor.com points to these towns as potential outliers in a housing market recovery.

1. Buffalo-Niagara Falls, N.Y.:

List prices are rising and the age of inventory is declining here, which is one of the few major markets experiencing this positive trend. List prices are higher than last month's national decline of 0.25 percent, and the median age of inventory is at 87 days—nearly half the national average. Total listings were stable year-over-year, rising just 0.84 percent.

2. Los Angeles-Long Beach:

The third most searched market during the first quarter of 2011, Los Angeles-Long Beach listings are spending only 70 days on the site, 90 days below the national median. Inventory trends here are beating the national comparisons, with a month-over-month decrease of about 8 percent and a year-over-year increase of 1 percent. List prices have decreased 8 percent compared to last March, but they are stabilizing month over month. The market still has a long way to go, with values still down 378 percent when compared to those during the housing peak.



3. Fort Myers-Cape Coral, Fla.:

If you're looking for a vacation home here, you'll be paying much more than you would have a year ago. Median list prices increased 24 percent this March, which was the highest median price increase across the country. The market has experienced a high number of distressed sales, much like the rest of Florida, and prices are still 60 percent off compared to 2006 highs. Inventory counts are lower than the national trend, though listings are spending more time on Realtor.com compared to the national average. Leigh Hassano, branch manager of Stewart Title Co. in Cape Coral, agreed the market in her area has been recovering slowly, although she has not seen an increase in the actual sales price of properties. She has added five people to her staff since December 2010 to accommodate for a nearly 60 percent uptick in new orders during the first quarter of 2011 compared to the same period in 2010. A significant portion of the business, 42 percent, is REO or short sale business.

4. Dallas:

This Texan town is the healthiest in the state, and was the sixth most searched market nationally last month. Values have decreased only about 10 percent here since the housing peak, and the market hasn't been hard hit with foreclosures or people affected by subprime mortgages. Also, median list prices

are down just 1 percent year over year, and the median age of inventory (100 days) here is much below the national trend.

5. Boston:

This East Coast market, which includes Worcester, Lawrence and Brockton, Mass., as well as southern New Hampshire, was the 10th most searched market in the nation last month, according to data released by Realtor.com. Since the housing peak of 2006, the Boston market has lost much less median value compared to the rest of the nation: 17 percent versus the national median of 31 percent. Demand for homes here is high, with the median age of inventory running 30 days below the national trend of 160 days. Also,

median list prices here are only down 0.26 percent year over year.



6. Washington, D.C. / Virginia Suburbs:

D.C. has been insulated from the worst of the recession due to its large federal work force, and the market's decline of 29 percent of value is less than the national median. Median list prices are up 4 percent year over year, outperforming the national trend of -0.25 percent. Listings are on the market for 87 days, half the national median, and down 25 percent from February. There's good news on the inventory front as well, as surplus has risen only 1 percent over March 2010. Washington, D.C., was the 16th most searched market in March, jumping two spots from February's search numbers. The number of government jobs tends to buffer D.C. from major market fluctuations.

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Todd Ewing, president of D.C.-based Federal Title & Escrow, said by looking around the northwest D.C. area, “You wouldn’t know there was a recession happening around the country.” Ewing, who opened his agency 16 years ago, said his agency is coming off two of its most successful years. To handle the business, Ewing hasn’t added staff; rather his company has invested in infrastructure and developed its own title production software.

7. Colorado Springs, Colo.:

Prices in Colorado Springs have fallen a mere 12 percent since the peak, while housing demand has risen along with the area’s population growth rate of 9 percent from 2000-2005. Median list prices were even with last year, though they ticked up 2 percent over February. With a median inventory age of 113, well below the national median and 11 percent lower than February’s median age, Colorado Springs rose a notch from 65th to the 64th most searched market from February to March.

8. Austin-San Marcos, Texas:

This Texas powerhouse is a national leader in job growth and an increasingly popular retirement destination, two factors which are leading to a warming in the metro housing market. Median prices climbed 2 percent in the past year, and the median inventory age leveled off at 90 days in March, well under the national median and down a whopping 23 percent over February. Inventory fell by 3 percent year over year, outperforming the national trend of a 9 percent year-over-year increase. Austin-San Marcos held down the 33rd most searched market slot in March. Brian Pitman,

president and COO of Independence Title in Austin, said the city has been growing and adding jobs, which continues to support the housing market. The Austin market also did not see the sharp price increases other parts of the country experienced, so values have remained strong in most segments. “We have continued to grow our business and our staff despite the challenges in the market the last few years,” Pitman said.



9. San Diego:

The San Diego market has been improving for more than a year, with the median age of listings in March at 79 days, roughly half the national median and nearly 16 percent lower than in February. Median list prices are down year over year, but up 1 percent month over month, and pointed in the right direction. San Diego was the 15th most searched market again in March, a position it has held for two months.

10. Philadelphia:

Prices have fallen 16 percent since the downturn began in 2007, but the inventory of homes has decreased by 3 percent over the same period. Median list prices are up 3 percent over February’s numbers, off just 0.4 percent from last year’s mark. The median age of listings in March was 144 days, below the national median of 160 days, and 7 percent lower

than in February. Philadelphia was the eighth most searched market on Realtor.com in March, moving up a slot from their ninth place showing in February. Francine D’Elia Wirsching, owner of Community First Abstract in Pennsylvania, said the best recovery is being noticed in the \$600,000 and under market, which is being helped by low interest rates. “Philadelphia’s recovery ranking might be higher if it were not for the four to five new Center City high-rise condominium buildings priced in the \$1 to \$5 million range that are out of reach for a vast majority of the buyers,” she said. Wirsching’s company has seen an increase in purchase transactions over last year and a decrease in refinance volume. While refinance volume is expected to continue to drop, Wirsching doesn’t anticipate any staff changes. “We are technologically very efficient in our operations and are able to handle an increase in volume as in last year’s refinance boom and at the same time continue to offer the same level of service to our clients when the market retracts,” she said. ■



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**Market share growth from 4th quarter 2008 to 4th quarter 2010.



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Title Insurance Veteran Inspires Hope in Book about Cancer Survivors

“Today’s Heroes: Surviving with Style,” which was released May 25, includes several stories about title insurance industry veterans who have survived cancer.

Motivated by his 4-year-old nephew, Richie White, who lost his battle to an aggressive brain tumor 20 years ago, lifelong title insurance veteran John Voso Jr., senior vice president of Old Republic National Title Insurance Co., wrote a book he says is about “hope and encouragement.”

“Today’s Heroes, Surviving with Style,” a compilation of stories from 23 cancer survivors, is meant to inspire people, said Voso, a Cleveland, Ohio, native whose family was profoundly affected by the death of Richie, in 1991.

Voso, who is chair of ALTA’s Title Insurance Political Action Committee, along with his family and his sister’s family (Linda, Rich, Christina and Nick White), continue to help others dealing with medical battles through the Richie White Pediatric Family Fund at the Cleveland Clinic, which will benefit

from sales of “Today’s Heroes.” Voso said the mission of the Richie White fund is “Making Children Smile.” Each year, the fund supports a summer picnic and Christmas party that brings great joy to families enduring the pain of sickness.

Richie underwent five brain surgeries and eight related surgeries in less than three years. Voso said Richie has been an “angel on my shoulder for the last 20 years.” There are bits of Richie’s story in the book.

“Cancer survivors will tell you there are people who get close to you and there are friends that go away and don’t want to talk about it,” Voso said. “When we lost Richie, it wasn’t something we were afraid to talk about.”

A former professional bowler who grew up in Cleveland’s working-class Collinwood neighborhood,



▲ Richie White

Voso always wanted to write a book. Emotionally stirred by the many people he has met through the Richie White sponsored events, his friends and the title industry, he decided to share the struggles and triumphs of cancer survivors.

“Everyone has a big idea in their life. I woke up one morning in January 2005 and thought I would compile a book about cancer survivors. I ended up authoring most of the stories, which was not part of the original idea,” Voso said when describing his book. “Ultimately, it is the survivor’s story with the Richie’s Fund and the children at the Cleveland Clinic as the beneficiaries.”

The people featured in the book range in age from 14 to 84 and live in several American states, including Florida, Hawaii, Illinois, Minnesota, Ohio, Pennsylvania and Washington. Voso interviewed most of them and



▲ John Voso



wrote their stories, but a few of the chapters are first-person accounts.

Included in the book are several stories about members of the title insurance industry who successfully battled cancer, including 2006 ALTA president Rande Yeager, who said, "I don't have a bucket list. Each day is exciting in its own way, and I wake up happy about what today will bring. Let's put it this way, cancer has not made me a weaker person."

One part of the book shares the story of Kelly Westbury, who survived breast cancer. As a gesture of solidarity, her 13-year-old son decided to shave his long hair.

"It's amazing how people respond to people who are sick," Voso said.

Voso met Kelly in 1999 when she joined First Merit Title Agency. Kelly's odds of survival seemed slim as her mother died from a brain tumor within a month after Kelly was diagnosed. She battled her cancer and

continued to run First Merit's title business. Kelly "survived with style" and now is involved with the Susan G. Komen Race for the Cure in the Akron, Ohio, area.

Voso also shared the stories of other title veterans, Michelle Torchia Kynkor (three-time survivor), Jan Hollenbeck, Michael Reed, Scott Pierce and Rita Vandengoorbergh (two-time survivor)."

"There are so many reality-changing perspectives from these folks. I could not share them all here. The effect that these people have had on my life and perspective is incredible. I am truly grateful to share these intimate stories," Voso said.

The author borrowed the "Surviving with Style" tag line from ovarian cancer survivor Sheryl Stanowick, who developed Cancer Survivors with Style, a line of comfort products for chemotherapy patients after she beat her illness.

"Every one of the survivors has their own style," Voso said. "Their way of surviving is a lot of patience, strength and a will to survive for their family, community and themselves. There is a lot of hope and encouragement in this book."

Don Yaeger, an author of four New York Times best-sellers, called Voso's book a "must-read." Yaeger spoke at ALTA's 2009 Annual Convention in Palm Beach, Fla., and a number of title conventions around the country sharing the 16 Characteristics of Greatness exhibited by winners. Yaeger is a cancer survivor and considers himself a member of "The Club."

"John Voso's 'Today's Heroes' tells powerful stories from some extraordinary members of The Club," said Yaeger, as a cancer survivor. "Reading their stories pulled me through a whole range of emotions. You will be inspired, you'll cry, you'll laugh." ■

"Today's Heroes: Surviving with Style"

The book, which was released May 25, can be purchased at richiewhitefund.com, where you can also find information for the Richie White Fund and where to send contributions to the Cleveland Clinic. Voso said he plans to compile an Italian cookbook, with proceeds also going to the Richie White Pediatric Family Fund. He can be reached at todayheroes831@aol.com or 216-408-8866.

ALTA Past President Marvin Bowling Jr. Passes Away

Marvin Bowling Jr. was a tennis player and avid golfer. He enjoyed travel and was a man of deep faith. He also was an old-fashioned title guy. Bowling, a past president of the American Land Title Association, passed away April 28 at the age of 84.

Bowling's legacy will be remembered as a leading authority on title insurance and a participant in the evolution of ALTA's policy forms. Bowling joined ALTA's Forms Committee in 1970, became chair in 1972, and served in that position for a decade. He later joined ALTA's Section Executive Committee and the Board of Governors in the 1980s before serving as ALTA president for the 1987-1988 year. He also was an honorary ALTA member.

Mike Currier served on the ALTA Board of Governors with Bowling and remembered him as a man with a tremendous sense of humor, attention to detail, a keen mind and as being the ultimate gentleman.

"Those that knew and worked with Marvin were blessed, as we all learned from him," Currier said.

At the Helm

Bowling led ALTA during a pivotal time. ALTA influenced drafting of the 1099 tax reporting requirements by the IRS, relating to residential and commercial transactions, including service provider and interest reporting as well. ALTA's input on the premium tax provisions of The Tax Reform Act resulted in a significant victory for the industry.

As ALTA president, Bowling testified before the House Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary regarding the Antitrust Damages Clarification Act.



▲ Marvin Bowling, Jr.

Also as ALTA president, Bowling cultivated a stronger relationship between ALTA and the state land title associations, finding various ways for both to assist each other.

"The state associations have been very helpful to ALTA in connection with lobbying at the grassroots level," Bowling wrote to members in the January-February edition of TitleNews. "They have lobbied members of Congress on their home grounds, reported important state legislation and passed helpful resolutions. There is a great deal of mutual assistance going on between the state associations and ALTA."

Leading the Forms Committee

Through his participation with the Forms Committee, Bowling participated in ALTA's major rewrite of both the owner's and loan policies beginning in the mid-1980s. It had been almost 20 years since ALTA had done a major revision of the language in its main policy forms.

This policy was drafted using "plain English" designed to pass a nationally recognized test (the Flesch test) created by Dr. Rudolf Flesch. This test gauged whether the policy language was likely to be read and understood by

the viability of proposed mortgage lending forms in various states. He seemed to be their 'go-to' guy in the title industry."

Robert Bozarth, of Fidelity National Title Group, compared Bowling to former Supreme Court Justice Lewis Powell, "not because they both attended Washington and Lee Law School and spent their working lives in Richmond, but because they had a very similar dedication to their arena in the law and standards of behavior."

"Marvin was always gracious and polite to those who worked with

consistent character, and integrity, patient mentoring, leadership and humility.

"I loved his sense of humor. If others had a dry sense of humor, Marvin's was arid," Johnson said. "I don't think it's an overstatement to say Marvin was a giant – in so many respects. He was a model husband, a devoted father and a genuine friend, respected and loved by all who knew him.

"From a working relationship standpoint, I thought of him as a lawyer's lawyer, a leader's leader, an intellectual's intellectual, a humorist's humorist," Johnson continued. He set the standard for ability, industry, leadership, integrity – and did so with a genuine modesty that came to him naturally. He was, indeed, the epitome of the southern gentleman."

Born in North Carolina, Bowling earned his bachelor's degree from Hampden-Sydney College before graduating from the Washington and Lee Law School.

He is survived by his wife of 60 years, Ann, and four children.

A memorial service was held May 2 at Bon Air Presbyterian Church in Richmond, Va. Donations may be made to Bon Air Presbyterian Church, or the charity of your choice. ■

■ "Marvin was always gracious and polite to those who worked with him, but would not be swayed by careless or unprepared discussion."

individuals with a certain grade level of education. This was the first ALTA policy to have a cover page that contained an "index" so the reader could more easily find information in the policy form.

John Goode, who participated on the Forms Committee, said Marvin's ability to chair a committee of 12 lawyers was interesting to watch.

"We would spend a morning airing comments, go to lunch and Marvin would then start writing on a board a supposed consensus version which he probably had in mind all along," said Goode, former chief underwriting counsel for Lawyers Title. "Fannie Mae and Freddie Mac's legal people would call Marvin with respect to

him, but would not be swayed by careless or unprepared discussion," added Bozarth, who also served on the Forms Committee with Bowling. "He had the best facility to lead subordinates to the right track with gentle nudges. When Marvin was amused, he would smile a little, if it was hilarious, he would chuckle."

On the Job

Bowling had a long career with Lawyer's Title Insurance Corp., serving in various roles including general counsel, president and chief operating officer. John Johnson, former Georgia state manager for Lawyers Title, worked alongside Bowling for many years. He recalled Bowling for his great knowledge,

We Want to Hear From You

If you would like to submit information about industry leaders that you think ALTA should consider for an article, send an email to Jeremy Yohe at jyohe@alta.org.

MBA Releases 2010 Commercial Real Estate Data Book

Commercial and multifamily real estate markets continued to stabilize in the fourth quarter, according to the Mortgage Bankers

Association's 2010 fourth quarter Commercial Real Estate/Multifamily Finance Quarterly Data Book. According to the report, the volume

of commercial and multifamily property sales picked up throughout 2010, with sales of apartments, industrial, office and retail properties

hitting \$106 billion for the year.

Here's a list of the top 10 Primary & Master Servicers in 2010:

<i>Company</i>	<i>Amount (in millions)</i>	<i>Number of loans</i>
1 Wells Fargo	\$451,089	39,125
2 PNC Real Estate/Midland Loan Services	\$337,367	79,720
3 Berkadia Commercial Mortgage LLC	\$194,930	26,119
4 Bank of America Merrill Lynch	\$126,627	10,789
5 KeyBank Real Estate Capital	\$118,882	11,462
6 GEMSA Loan Services LP	\$102,312	11,036
7 Prudential Asset Resources	\$65,073	5,794
8 Deutsche Bank Commercial Real Estate	\$52,263	2,597
9 NorthMarq Capital	\$38,552	5,470
10 TriMont Real Estate Advisors	\$28,385	1,365

E-recording Offered in All of Colorado's Counties

Colorado has become the first multi-jurisdictional state in which 100 percent of its 64 counties are e-recording. Hawaii also achieved the 100 percent designation with its state-based recording system.

"As the first state in the nation to actively pursue and successfully implement electronic recording of documents across all counties, Colorado has united with industry partners to provide an exceptional service to its citizens," says Scott Doyle, Larimer



County clerk and recorder, and president of the Colorado County Clerks Association.

With the number of counties that are e-recording across the nation nearing the 650 mark, more states are expected to join Colorado and Hawaii with 100 percent involvement.

TSS Adds Ernst Publishing Calculation Features to Cloud Solution

TSS Software Corporation announced a new integration with Ernst Publishing that provides SmartQuery II recording fee calculations for TitleSphere subscribers.

TitleSphere is TSS's Web-based solution with complete HUD-1 preparation. This integration allows TitleSphere subscribers to purchase query credits in the TitleSphere online store. These credits are used to obtain recording fee calculations from

Ernst Publishing directly in their orders.

"Ernst's Smart Query II comprehensive recording fee and transfer tax calculations give our TitleSphere subscribers instant access to fees in any jurisdiction in the United States," said Barbara Miller, TSS president and chief operating officer. "TitleSphere subscribers now have this functionality available without having to leave their solution."

Washington State Delays Implementation of New Rate Structure

The Washington State Office of the Insurance Commissioner (OIC) postponed the transition date requiring title insurance underwriters to file rates with the commissioner.

Last year, the OIC adopted new regulations requiring the filing and prior approval of title insurance rates beginning in 2012. Title insurers would have been required to submit rate filings to the commissioner by Sept. 1, for rates to be effective on Jan. 1, 2012. However, the OIC delayed implementation because underwriters indicated that a one-year snapshot of data would not be sufficient for determining rates. The OIC said the postponement of the transition date for filing the rates with the commissioner would permit insurers to obtain at least two years of data from their agents and from their own businesses.

One of the concerns the Washington Land Title Association and the American Land Title Association has shared with the OIC is that the rule requires title insurance agents to report premium, policy count



and expense data annually to its underwriter. This information would be used by the underwriter to help support its proposed rate, according to the OIC.

Agents believe providing this financial data to their underwriters would create an unfair competitive advantage. The WLTA and ALTA have discussed this issue and other problems regarding the rule with the OIC. Both associations will continue to work with the OIC to seek clarification to the rule and how it impacts agents.

Among the items that need to be addressed include the formation of a statistical bureau, which would allow agents to file financial data to a third party and keeping individual agent data confidential. Other items needing clarification include the type of data that is required, which is not in harmony with the data call being developed by the National Association of Insurance Commissioners, and the possibility of forming a rating bureau.

Florida Avoids Deregulation of Land Surveyors

The current regulatory and licensing system for surveyors will remain unchanged after the Florida Land Title Association (FLTA) and other interested stakeholders successfully lobbied against a bill that would have deregulated the industry.

Because of the industry's efforts, the Florida House Economic Affairs Committee cut out the massive deregulation from HB 5005.

Many FLTA members contacted their state representatives and senators sharing their concern about the proposal to deregulate Florida's surveyors. Alan Fields, executive director of FLTA, thanked everyone for their efforts.

"With a little hard work and dedication, we really can have an impact on our government," Fields said. "This experience should remind all of us in the broader real estate industry – title, surveyors, mortgage professionals and even Realtors – that the importance of what we do is not particularly well understood. We will continue to be diligent in monitoring what is going on, quick to respond to these proposals and continue in our efforts to educate our elected officials."

The title industry relies on the accuracy of surveys to remove the "standard" title exceptions and replace them with exceptions specific to the insured property.

RedVision Offers Foreclosure Certificate Product in New York State

Parsippany, N.J.-based RedVision, which provides title report production and real property research solutions, announced the company's latest product, New York Foreclosure Certificates.

This all-inclusive research product will provide title agents with the ability to free up in-house staff and provide their attorney clients with a

comprehensive product for lien filing.

RedVision's Foreclosure Certificate product is available in all 62 New York counties and includes the property examination, tax report and reading services. In addition to the standard deliverables, RedVision offers customized delivery in addition to filing services in all New York counties.

FBI Raids New York-based Title Company After it Shuts Down

The FBI raided New York-based Titleserv two weeks after the national title company that employed more than 160 suddenly closed.

An FBI spokesperson said agents went with a search warrant as part of an “ongoing investigation.” The search ended with agents leaving with boxes of records.

James Conway III, founder and CEO, issued this statement after the company closed its doors: “Titleserv and its professionals are working with Titleserv’s lenders, title companies and creditors

to provide for the flow of information in an effort to minimize disruption.”

According to its website, Titleserv operated in 47 states and in select international markets.

In November, the company reported sales increased more than 40 percent from the second to third quarters of 2010. In the same statement, Titleserv claimed sales in the third-quarter of 2010 increased 34 percent compared to the same period in 2009.



Florida-based Title Company Expands Footprint with Acquisition

Clearwater, Fla.-based Bay National Title expanded its footprint with the purchase of Criterion National Real Estate Solutions of Jacksonville, N.C. The acquisition provides an increase in both market share and intellectual capital for the Bay National team, the company announced.

The management team of Criterion has been retained by Bay National, including Craig Simpson and Jeremy Solomon.

“The Criterion team adds significant skills and national experience to the Bay National team, allowing us to rapidly expand our services nationally to meet the needs of our clients,” said Bay National CEO Evan Grimm. “In addition to this merger, Bay National’s recent licensing campaign means we can offer our clients a one-stop shop for all of their title insurance and settlement services needs nationwide.”

RamQuest Integrates with Digital Docs.net

Digital Docs.net, providers of Digital Closing Docs with Forever Marketing is now integrated with RamQuest’s Closing Market digital network. Closing Market is an application-to-application interface that electronically connects business partners allowing each to work from within their own software.

Using the Digital Docs.net integration, RamQuest’s Closing Market-enabled customers can maintain a presence with home buyers and sellers for as long as they own their home. In addition to facilitating digital delivery and access to all closing documents, this system offers the ability to automate relevant, targeted marketing messages to consumers on a monthly basis.



“Digital Docs has been well-received by our clients, and we anticipate an increase in the number of new clients as a result of its automated marketing system. But I think that the real key for us has been this new integration with Closing Market, so that we can utilize its benefits with minimal interruption of our normal process,” said Jonathan Holfinger, president/owner of Arrow Title Agency. “The efficiency and simplicity afforded by the integration to Closing Market and FileScanPlus is what really makes this a great marketing tool, because it is being easily adopted and accepted into our procedures by our staff.”

Data Trace Adds Title Plants in Eight Counties

Data Trace Information Services, a provider of data services to the settlement services industry, announced the addition of eight new counties to its collection of title plant databases.

The additional counties include Sandoval, N.M.; Santa Fe, N.M.; Putnam,

N.Y.; Warren, Iowa; Cass, Ind.; Morgan, Mo.; Somervell, Texas; and Hood, Texas.

Data Trace, through its geographically indexed title plants, enables settlement services companies to streamline the search of property and title-related information.



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new members

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Lyn Larsen
Elite Title Group, Inc.
Louisville

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Charles H. Bang
Winona County Abstract & Title Company
Red Wing

MISSOURI

Vicky Fox
Wright County Land Services, LLC
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Lafayette Title Company, Inc.
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David R. Hunt
Hunt Law Offices, P.C.
Starkville

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Hartline Land Services, Inc.
Conklin

NORTH CAROLINA

Mark West
West Title Agency, LLC
Raleigh

PENNSYLVANIA

Leslie Bracken
Haverford Settlement Services, LLC
Drexel Hill

C. Allen Lafferty
Premier Settlements, Inc.
Lancaster

Mark G. Wendaur, IV
Black Shale Land Services, LLC
Pittsburgh

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West Texas Abstract & Title Company, LLC
Midland

Monika Widjaja
Adobe Title, LLC
Dallas

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John Chaplin
Tyler Title Insurance Agency
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Brett B. Thompson
Duke Street Title, LLC
Virginia Beach

Carmen Turner
Appalachian Title Company, Inc.
Stuart

WISCONSIN

Charlene Larson
St. Croix Valley Title Services, Inc.
River Falls

Ellen M. Wagner
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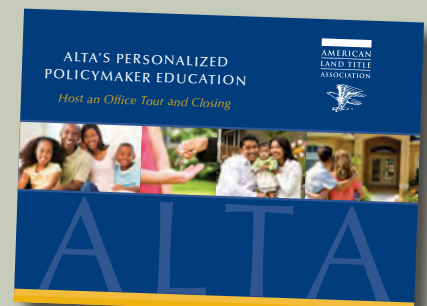
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Intrievex, Inc.
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Have You Scheduled a Tour of Your Agency?

It seems quite frequently, policymakers simply don't understand the important role the title insurance industry plays in an efficient real estate transaction. To help solve this problem, ALTA has created the Personalized Policymaker Education program. ALTA members are encouraged to reach out to their U.S. Senator, U.S. Congressman, state

legislator or regulator to ask them to come to your office to learn what the industry does to protect the real estate transaction. These visits to your office should take about an hour and should include a 30 to 45 minute office tour and a five to 15 minute drop-in on a closing. Contact Justin Ailes at jailles@alta.org for more information.



Foreclosure Climate Accentuates Importance of Title Insurance

Lawsuits claiming homeowners were improperly foreclosed upon are popping up across the country with a major theme focused on chain of title issues. In one landmark case earlier this year, *U.S. Bank v. Ibanez*, the Massachusetts Supreme Judicial Court upheld a 2009 ruling invalidating some foreclosures because the lender could not prove it held the mortgage. In another case in Massachusetts, a court held the plaintiff possessed no interest in the property when he purchased the land at foreclosure sale because the foreclosure was improper under *Ibanez*.

In my state, the Michigan Court of Appeals recently issued a ruling in *Residential Funding v Saurman & BofA v Messner* that challenges the validity of foreclosures by advertisement done in the name of MERS. The case ruled that MERS does not have standing to institute foreclosure by advertisement proceedings in Michigan because it is neither an owner of the indebtedness nor a servicing agent. As such, the court held that the foreclosure was void from the beginning.

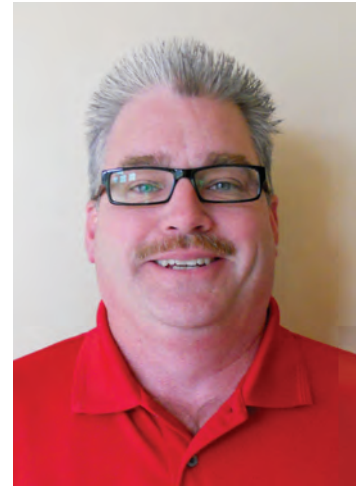
Several underwriters in Michigan issued bulletins indicating that properties where the foreclosure was done by and in the name of MERS are uninsurable at this time. If a property has already been sold out of REO and an owner's policy of title insurance was purchased by the REO buyer, generally the underwriters will continue to insure the property in subsequent transactions unless there is knowledge of a pending challenge to the foreclosure of the subject property.

Title agents are urged to work closely with their underwriter when handling a transaction involving MERS. Involving the underwriter early on will ultimately better serve the customer; because, the requirements to insure a particular property can be communicated as much in advance as possible. Communication with all parties involved is also essential since the deal may not be able to proceed or the closing may be delayed until the property is re-foreclosed.

As the news of the MCOA ruling spreads, anyone who purchased an REO property in the last several years may become concerned that the title to their land may be in jeopardy. I have heard reports from title agents that they are receiving calls from clients have purchased REO properties in recent years. They want to know if MERS was the foreclosing entity on the REO property and what will happen if somebody challenges their ownership. If MERS was the foreclosing entity, title agents should remind the client about the value of the owner's title insurance policy they purchased at closing.

Generally a property owner has nothing to worry about unless someone steps forward to challenge his or her title, provided that an owner's policy was procured and that policy did not except from coverage claims or loss predicated upon issues surrounding the conduct of the foreclosure proceeding and sale. In the event that their title is challenged, the property owner should file a claim on their policy with the underwriter. The property owner should also be reminded that in this type of claim situation the title insurance underwriter will defend their ownership and handle the legal defense if necessary.

This is a significant point that validates the importance of the work that ALL members of the ALTA do on a daily basis. It clearly demonstrates the value of title insurance in protecting the American dream of home ownership. I urge you to share this important message with all of your customers.



Timothy McDonnell,
President, Michigan Land Title Association

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