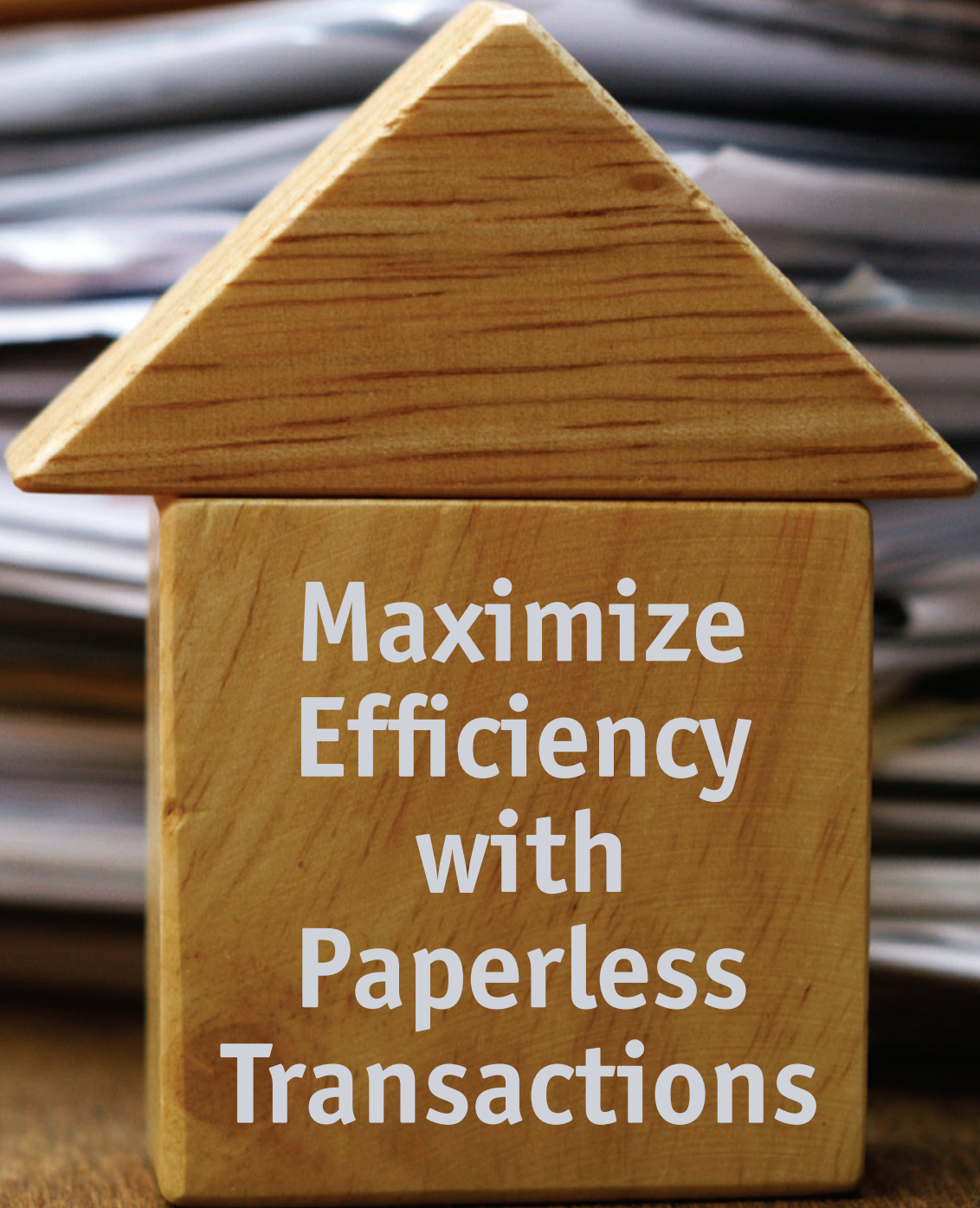


June 2012

Official Publication of the
American Land Title Association

TitleNews



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> contents

TitleNews • Volume 91, Number 6



10

COVER STORY

Maximize Efficiency with Paperless Transactions

By Jeremy Yohe

Title companies are urged to embrace electronic process as lenders and recorders push adoption.

Features

8

ALTA NEWS

New Short Sale Timeline for Fannie and Freddie Takes Effect in June

Beginning June 15, FHFA will require implementation of new short sale timeline requirements.

16

CONFERENCE HIGHLIGHTS

Fed Conference Attendees Meet with More Than 200 Members of Congress and Staff

A record number of 205 title insurance professionals converged in D.C., for ALTA's annual Federal Conference and Lobby Day.

21

RUNNING YOUR BUSINESS

Ensure You Have Proper Insurance to Protect Everyone's Funds

By Garry Wolff

Title companies can re-define quality service by providing proper coverages and safeguarding the transaction.

21

INDUSTRY NEWS

TILA/GFE Reform Top Lenders' Compliance Concerns

The Consumer Financial Protection Bureau has made designing a new disclosure form that combines the Truth in Lending Disclosure and Good Faith Estimate a top priority in 2012.

Departments

5

From the Publisher's Desk

7

ALTA News

24

Industry News

28

TIPAC Contributors

30

The Last Word

calendar

ALTA CONFERENCES

September 24	Agents & Abstracters Forum Richmond, VA
October 17-20	2012 Annual Convention Colorado Springs, CO

STATE MEETINGS

June 14-16	Texas
June 21-24	New England (CT, ME, MA, NH, RI, VT)
July 15-17	Michigan
August 1-4	Kansas
August 9-11	Pacific Northwest (ID, MT, OR, UT, WA)
August 10-11	Minnesota
September 9-12	New York
September 9-11	Ohio
September 12-15	Colorado
September 13-15	Dixie Land (AL, GA, MS)
September 13-15	North Carolina
September 19-21	Nebraska

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from the publisher's desk

CFPB Set to Unveil Proposed Rules for New Disclosures; Get Involved and Join the Title Action Network

A little over a year ago, the Consumer Financial Protection Bureau (CFPB) launched its Know Before You Owe program to fulfill their mandate under Dodd-Frank to propose new mortgage disclosures.

After several iterations of the initial Loan Estimate (which will replace the GFE and initial TIL) and Settlement Disclosure Form (which will replace the HUD-1 and final TIL), the CFPB is poised to release its proposed form and regulations next month.

It's been only two years since the industry adapted to the last round of RESPA reform. These new forms will greatly change the closing process and bring on additional expense once again. To make this mandated change as productive as possible, we need your input. You need to tell the CFPB how these new mortgage disclosure forms will impact your business, closings and the consumers they are meant to protect. After the Bureau releases its regulations there will be a 60- or 90-day public comment period. The CFPB has asked for anecdotal and specific evidence of why certain changes to the forms and regulations will negatively impact business and consumers. We encourage you to review the forms, do mock closings and analyze how your operation will be changed. You can send comments to the CFPB at TILA-RESPA@cfpb.gov.

Getting involved and telling regulators how their actions will affect business is vitally important. ALTA launched the Title Action Network in March to enhance its grassroots advocacy and make it easier for all industry members to connect with policy makers. We've received a great response and are already pushing toward 1,000 members. The Title Action Network is free to join and is for everyone in the industry—from business owners and managers to examiners and closers.

I'd like to thank the Minnesota and New York State land title associations for being the first state partners of the Title Action Network. In addition to being an instrument for federal advocacy, the Title Action Network serves as a tool for state associations to advocate on their issues. Policy makers respond to stories and messages from the people they represent. They want to hear from—and get to know—the people on the front lines. Title professionals get to see the many aspects of the real estate transaction process and sharing that knowledge is important to the legislative and regulatory process.

I encourage you to take a few minutes and sign up at www.alta.org/tan. Once you have joined, help ALTA grow the Title Action Network by inviting others in your office to join.

Together we can preserve the title industry's important role.



- Michelle Korsmo, ALTA chief executive officer





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Title Action Network Members Successful on Getting Flood Insurance Extension

Members of the Title Action Network successfully called on the U.S. Senate to extend the National Flood Insurance Program (NFIP) and avoid unnecessary delays to closings. On May 31, President Obama signed the reauthorization extending the program through July 31, 2012.

Advocacy by Title Action Members along with ALTA's voice in the "Flood the Hill" campaign was critical to getting the two-month extension. This small victory does not help the industry for long. The bill was agreed to with the understanding Congress would find a way to pass a five-year authorization before the new 60-day expiration.

If the NFIP expires, new mortgage transactions will not be able to be completed. The National Association of Realtors estimates that a lapse in authorization jeopardizes an estimated 1,300 sales each day or about 40,000 mortgage closings per month.

On May 8, ALTA participated in a "Flood the Hill" campaign urging Senators to reauthorize a long-term extension.

Other organizations participating included the National Association of Mutual Insurance Companies, National Association of Realtors, Mortgage Bankers Association, National Multi Housing Council, National Wildlife Federation, The Nature Conservancy, The Financial Services Roundtable, Consumer Bankers Association, American Insurance Association, Property Casualty Insurers Association of America, Reinsurance Association of America and National Association of Professional Insurance Agents.



CFPB to Hold Financial Institutions Liable for Vendor Violations

The Consumer Financial Protection Bureau (CFPB) issued a bulletin clarifying that financial institutions under Bureau supervision may be held responsible for the actions of the companies with which they contract. The Bureau will take a close look at service providers' interactions with consumers. It will hold all appropriate companies accountable when legal violations occur.

The bulletin states the Bureau's expectation that supervised financial institutions have a process for managing the risks of service provider relationships. The CFPB recommends that supervised financial institutions ensure that business arrangements with service providers do not present unwarranted risks to consumers. These include:

- *Requesting and reviewing the service provider's policies, procedures, internal controls, and training materials to ensure that the service provider conducts appropriate training and oversight of employees or agents that have consumer contact or compliance responsibilities;*
 - *Including in the contract with the service provider clear expectations about compliance, as well as appropriate and enforceable consequences for violating any compliance-related responsibilities;*
 - *Establishing internal controls and on-going monitoring to determine whether the service provider is complying with the law; and*
- The CFPB has said it is not likely ALTA members will be considered a vendor solely by conducting closings. Companies with national lender divisions will likely be impacted.

Broad QM Definition Urged to Help Consumers and Housing Market

ALTA joined a diverse group of lenders, housing professionals, consumer advocates and civil rights organizations in sending a letter April 16 to Consumer Financial Protection Bureau Director Richard Cordray urging for a broadly defined Qualified Mortgage (QM) that covers a wide range of traditionally safe products and underwriting criteria.

These rules are intended to protect consumers from the kind of risky loans that spurred the housing bust and ensuing financial crisis. A narrow definition of the impending Ability to Repay regulation could harm consumers and the housing market recovery, ALTA warns.

Because of the increased risk of liability for loans that are not deemed a QM, lenders are not likely to issue these non-QM loans

or will only issue them for an increased price. Despite this, some consumer groups are calling for weaker legal protections for lenders to ensure that borrowers who were put in predatory loan products can still bring lawsuits.

“Congress intended that all creditworthy borrowers—especially low- and moderate-income borrowers and families of color—should be extended the important protections of a QM,” the letter states. “A broad QM, which includes sound underwriting requirements, excludes risky loan features and gives lenders reasonable protection against undue litigation risk, will help ensure revival of the home lending market.”

ALTA also joined 22 real estate and mortgage finance trade associations

in a letter asking the CFPB to structure the QM rule as a legal safe harbor. Consumer groups are urging the CFPB to preserve consumers’ ability to bring lawsuits against lenders by making the QM a rebuttable presumption.

The letter argues that, “Structuring the QM as a safe harbor and focusing litigation and enforcement activity on whether the standards are met is the only means of ensuring that the largest number of borrowers possible will enjoy the safest and most affordable options for sustainable credit available

through the QM.”

Lenders are worried that a rebuttable presumption would create too much litigation for most lenders, but especially for small community lenders. This could lead to lenders further tightening standards and restricting access to credit for many qualified borrowers.

The Bureau is expected to finalize the QM rule sometime in the late spring or early summer.

For more information on this topic, contact ALTA’s Legislative and Regulatory Counsel Steve Gottheim at sgottheim@alta.org.

ALTA Adds Additional Resource to Industry Research

In addition to market share data and underwriter financial statements, ALTA is now providing a five-year history of state-by-state market share and a company-by-company comparison of Total Statutory Reserves and Total Schedule P Reserves.

The five-year history

tracks market share data from 2007-2011 in each state for every underwriter. Meanwhile, the Total Statutory Reserves and Total Schedule P Reserves lists reserves for every underwriter.

You can find the info here: www.alta.org/industry/financial.

New Short Sale Timeline for Freddie and Fannie Takes Effect in June

Beginning June 15, the Federal Housing Finance Agency (FHFA) will require Freddie Mac and Fannie Mae to implement new short sale timeline requirements. The new aligned timelines include the requirement that mortgage servicers review and respond to requests for short sales 30 calendar days from receipt of a short sale offer.

With the alignment, servicers will be required to do the following:

- review and respond to

requests for short sales within 30 calendar days from receipt of a short sale offer and a complete borrower response package;

- *provide weekly status updates to the borrower if the short sale offer is still under review after 30 calendar days;*
- *make and communicate final decisions to the borrower within 60 calendar days of receipt of the offer and complete borrower response package.*

ALTA Lobbyist Outlines Threats to Title Agents at SoftPro User Group Conference

Justin Ailes, ALTA's vice president of government and regulatory affairs, gave a presentation titled "Go Where There is No Path and Leave a Trail," during the 2012 SoftPro User Group Conference on March 8 in Orlando. Ailes shared industry concerns about three issues facing the title industry that could have serious consequences for title agents in 2012 and beyond. He also urged attendees to take action and briefed them on what ALTA is doing to advocate for the industry.

First, the Consumer Financial Protection Bureau (CFPB) will propose new mortgage disclosures to replace the current GFE and HUD-1 in July 2012. Depending on the final forms and regulations, there could be serious consequences for small businesses. "With the CFPB expected to publish the forms and proposed rules on or before July 21, ALTA is pressing the CFPB to make sure that liability is not increased for lenders, which would push them to take over more of the closing and settlement services functions that

ALTA members perform," he said. "We want the CFPB to produce a better disclosure form that reduces consumer confusion while making it easier and less costly for the industry to comply with the regulation." Second, the National Association of Insurance Commissioners (NAIC) is actively considering requirements for the industry to help prevent against escrow theft. Ailes said that regulators need to have a better understanding of the relationships between underwriters and agents. Ailes told the audience that he fears regulators could push agents out of the market by making underwriters strictly liable for the acts of their agents at closing or settlement.

"When escrow funds are stolen, consumers are harmed, business partners lose trust, and the credibility of the industry is damaged," he said. "This is an industry issue and underwriters and agents must develop solutions to improve the industry. This also is a focus of regulators, and ALTA will push to stay in front of this issue for our members."

Finally, in wrapping up

his presentation, Ailes discussed the status of legislation to reform Fannie Mae and Freddie Mac and how attendees can have a voice in the outcome of these government actions. "While ALTA believes a GSE reform bill will not move this Congress, this remains a discussion priority because the industry must continue to promote the idea

that title insurance is an important standard for underwriting collateral that should be maintained," Ailes said. "This will continue to improve our ability to include a statutory requirement for the purchase of title insurance when Congress finally begins to move a bill to reform Fannie and Freddie."



▲ ALTA President Chris Abbinante attended the Oklahoma Land Title Association Annual Convention in April. Following tradition, the ALTA president wore a Native American headdress.

Maximize Efficiency with Paperless Transactions

Title Companies Urged to Embrace
Electronic Process as Lenders,
Recorders Push Adoption

For more than a decade, title professionals have heard about the benefits of going paperless. Adoption of a paperless process has been slow for several reasons. Lack of education programs, fear of technology, resistance to change and conflicting state laws have all slowed adoption. There's also been the "chicken or the egg" mentality where the mortgage industry says it will convert as soon as county recorders are ready, while county recorders are waiting for more electronic transactions. >>

By Jeremy Yohe



“We all have to take the next step,” said Vicki DiPasquale, national sales manager for Simplifile. “The great thing about the title industry is, even though the lenders are figuring out what that next step looks like for them in regard to electronic mortgages and closings, it can start with paperless closings today. Title companies should be thinking about ways to take as much paper out of the process now, so when lenders begin the push to do more e-closings, they’ll be ready.”

Title professionals can improve workflow, save money, reduce costs and improve service by embracing paperless processing through simple technology. Efficiencies include preparedness for e-mortgages, reduced supply costs, increased employee efficiency, elimination of lost files, real-time auditing and reduction of fraud and risk.

Foundation for Paperless Transactions

More than a trend in land record document submission, e-recording is a government priority. While the GSEs have been looking at electronic closings since 2000, the foundation for paperless transactions comes from several pieces of federal and state legislation. Federal (E-SIGN) and state (UETA and URPERA) legislation has established the legal basis for secure electronic recording and hundreds of counties are e-recording today.

The Electronic Signatures in Global and National Commerce Act (E-SIGN) was enacted June 30, 2000, and provides that electronic signatures and records are just as good as their paper equivalents. It states that a contract or signature “may not be denied legal effect,

validity, or enforceability solely because it is in electronic form.”

The Uniform Electronic Transactions Act, which was passed in 1999, supports the validity of electronic documents and standardizes the differing state laws over such areas as electronic signatures. The legislation has been passed by 47 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. New York has adopted its own version.

Additionally, the Uniform Real Property Electronic Recording Act has been adopted in more than 20 states in an effort to remove any doubt about the authority of recorders to receive and record documents and information in electronic form.

To facilitate paperless transactions, the National Conference of Commissioners on Uniform State Laws (NCCUSL) revised its Uniform Law on Notarial Acts in 2010. This was done to modernize the law governing notaries public and clarify their responsibilities and duties. It also served to provide a stable infrastructure for the performance of notarial acts with respect to electronic records.

“Title, underwriting, escrow, recorders, servicing, secondary market—we are all in this together,” DiPasquale said.

Since the financial crisis and the need for better data, lenders started pushing harder for a consistent electronic process. “They know their business models must change,” DiPasquale said. Over the past two years, the Federal Housing Finance Agency (FHFA) has initiated several long-term improvements to the housing finance system that address shortcomings in the

current system. One of those is the Uniform Mortgage Data Program, which is aimed at standardizing and enhancing data quality, which benefits the entire mortgage industry.

The FHFA said common data definitions, electronic data capture and standardized data protocols will improve efficiency, lower costs and enhance risk monitoring. Standardizing data is a key building block of housing finance reform. In September 2011, appraisers were required to comply with a Uniform Appraisal Dataset (UAD), and as of July 23, 2012, loan delivery data must be provided in industry-standard Uniform Loan Delivery Dataset format. Currently, HUD-1 data points are not necessary, but will be required in a subsequent implementation phase, giving lenders additional time to plan for collecting the data and updating their systems as needed. For title companies to remain competitive, they will need to be able to integrate with the lenders technology to provide HUD-1 data in the required format once it’s required.

In February, the Federal Housing Finance Agency (FHFA) sent to Congress a strategic plan for the next phase of the conservatorships of Fannie Mae and Freddie Mac (GSEs). The plan includes a strategic goal of building a new infrastructure that promotes electronic documents. Two other initiatives could open the door to further adoption. The IRS plans to allow e-signatures on a form that gives lenders permission to review borrowers’ tax returns for income verification. The FHA is considering an electronic process for mortgages that incorporates e-signatures and matches policies in place at government-sponsored

enterprises Fannie Mae and Freddie Mac.

Continued Push for Adoption

Tim Conley, senior vice president of sales and marketing for SoftPro, said that eventually every piece of data from the appraisal to every line on the HUD-1 will be in a digital format so that data can be passed from one system to another and warehoused.

“I see title companies that have built a catastrophic paper environment, and the longer they wait, the harder it will be to move to a paperless process.”

“Thirty years ago, the processes in this industry were very manual,” Conley said. “If you have any task in your organization that is a manual process, technology companies are looking to digitize and automate that back-end task. What Fannie and Freddie are doing in the secondary market with requiring data elements from the lenders will greatly impact the title space.”

While DOS applications and Word Perfect were efficient for handing a typist a stack of paper and keying in a HUD-1, the programs aren't friendly to a multi-tasking environment. Software providers are looking to enhance the process and make everything much more streamlined.

“I see title companies that have built a catastrophic paper environment, and the longer they wait, the harder it will be to move to a paperless process,” Conley

said. “Those who have embraced the technology, are enjoying a competitive advantage, both in terms of streamlined operations and enhanced customer services,” Conley said.

Mark Monacelli, public records and property valuation director for St. Louis County, Minn., said the paperless environment has been a key driver for the evolution of the electronic document formats from

imaging to electronic records. He believes there will be a continuous transition to paperless mortgages (e-closings) over the next five to 10 years.

“We've all seen the news about foreclosures and fraud, and the government wanting access to information,” said Monacelli, who is past PRIA president. “It's changing now and will change more. Going paperless now prepares title professionals for e-closing transactions later. Paperless closing files require a change in how you think about closing office workflow.”

Doing Business with Digital Documents

In 1995, Utah passed the Digital Signature Act, becoming the first state to adopt digital signature legislation. Mike Kirby, president of GreenFolders, helped the state

perform a level-three digital e-recording in 1998, but he realized broad industry acceptance was a ways off.

That didn't thwart his desire to take paper out of the process. When Kirby operated a title company, he had nine title searchers and examiners. Admittedly, his company wasn't efficient.

“If you have multiple office locations, you can't collaborate effectively and you are stuck where the paper is located,” Kirby said. “We started allowing our employees to work remotely and we became more efficient. We started paying them on a transaction basis instead of an hourly rate.”

Kirby said an office that relies on paper will have manual processes, which requires organizational office equipment such as file folders and cabinets. This creates an environment where duplication is required and adds additional steps to the process.

“A workflow without paper can automate processes, replaces office equipment with computers and electronic organizational tools, and often reduce unnecessary steps in the process,” Kirby said.

The expense alone for paper in Kirby's organization was \$13,000 a month. By removing things such as file folders, labels, printers, copiers and toner, and storage facilities the savings is even greater.

“You take for granted how much these things cost,” Kirby said. “When my title company went paperless, I went from 18 copiers to three, from 40 laser printers to three and eight fax machines to three. How many people lease a copy machine? Look at that lease bill for a year. It's no wonder why companies such as Xerox

and Rico aren't pushing a paperless environment."

Most Adobe products have tools built into them giving users the ability to write, make annotations and keep track who has edited the document. This gives title companies the ability to allow multiple employees to work on the same document.

"We all have situations where we have six commitments in the field," Kirby said. "In the electronic environment, you can all work off the same commitment. Now all of a sudden, you can see what everyone's done and now you only have one copy."

As an example of the benefits of going paperless, Landtech Data Corp. recently updated its free eSign application for the iPhone and iPad, which allows signatures and text to be placed anywhere within PDF documents.

Documents can be transferred to Landtech eSign and back to a user's desktop via the iTunes App. With the built-in emailer, users have the ability to email signed documents from an iPad or iPhone, eliminating the paper process, said Benjamin Bell, vice president of LandTech.

Bell explained a practical use he experienced recently.

"I was submitting a corporate resolution for a loan and the bank needed two officers as signatories," he said. "I was at the bank by myself. I signed the resolution and then took my iPhone and snapped a picture. I emailed it to a person at the office and they quickly signed the resolution on their iPad and returned it via email to the bank's officer."

Kirby's advice to title companies is that if a document starts paperless,

leave it paperless. "Don't print it out and have to scan it back in," he said.

There seems to be a false perception where managers don't think employees can handle an electronic process. Kirby said people will adapt. Companies need to require them to go paperless. Another misconception is that shifting away from paper will be difficult. Kirby points out that

"In our efforts to reduce fraud and minimize claims, e-recording may be the single greatest tool."

Windows is paperless, "and it's no harder than that."

Aside from savings and efficiency, a paperless environment gave Kirby the ability to know what was happening in all of his offices through a centralized process. It also provided better transparency for audit controls that allow underwriters and state insurance department regulators to perform audits remotely.

"Going paperless gives you a better ability to interface or integrate with third-party services or providers," Kirby said. "If you can integrate with lenders and vendors right out of your application, that's amazing. That's one of the exciting things I see. There will come a time when you do it or you won't be on their list."

E-recording: The Last Step in the Process

According to the Property Records Industry Association, it took from the late 1990s until August 2006 to reach the 200 e-recording counties mark. That number has more than tripled in the ensuing five years as the number of counties accepting electronically recorded documents

increased 40 percent from April 2010 to September 2011.

In May, Arizona became the second multi-jurisdictional state with 100 percent of its counties e-recording. Pima County joined Arizona's 14 other counties when it began electronically recording documents. Colorado was the first multi-jurisdictional state to earn

the 100 percent designation, while Hawaii also claims 100 percent with its state-based recording system.

With the number of counties that are e-recording across the nation nearing 800, more states are expected to join Arizona, Colorado and Hawaii with 100 percent involvement. In December, Hennepin County, Minn., joined the e-recording ranks. Linda Larson, division manager for Old Republic National Title Insurance, is excited about the new way to do business with the county.

"One of the greatest internal challenges for title agents and underwriters today is the timely recording of documents," Larson said. "In our efforts to reduce fraud and minimize claims, e-recording may be the single greatest tool that has become available to our industry in recent years."

Previously in her career, DiPasquale worked for an underwriter. Part of her job was to work with agents that went out of business. A concern was what to do with all the paper files.

"We went to a storage unit for an agent and all the files were in the

Fire Destroys Title Company Office, but Not Ability to Conduct Business

At around 4 p.m. on April 24, June Potter smelled smoke coming from the first floor of the two-story commercial building. Reacting quickly, the manager for Knight Barry Title Group's office in Madison, Wis., evacuated the 25 employees.

Fortunately, everyone got out safely, but 75 firefighters couldn't prevent the three-alarm fire from destroying the entire building, including the Knight-Barry office.

While a fire of this magnitude may have crippled business for other title companies, the Madison crew (which is one of Knight Barry's largest-producing offices) didn't skip a beat.

"That night June came up with a plan and thanks to technology we were able to have all title examiners and researchers work from their homes," said Craig Haskins, executive vice president of Knight Barry Title.

Except for rearranging closings and reprinting closing documents, the office kept operating as other local title companies offered their conference rooms to conduct closings until Knight Barry found a new office.

"Aside from personal property that was destroyed, closings were able to continue," Potter said.

Traditional title companies have paper everywhere; however, Knight Barry operates in the cloud—meaning its documents are electronic and can be accessed online.

"We scan our files as soon they come in," Potter said. "Only the orders that we were working on and sitting on desks were lost."

The majority of money at Knight Barry is wired electronically, but some checks were lost, meaning they had to be re-created. Precautions were taken to make sure any checks not signed or disbursed by the company were cancelled.

"The fire destroyed our building and may have taken all our stuff, but it didn't slow us down and we were back up the next morning," Haskins said. "Knight Barry Title's office was still able to process the orders and handle the closings because of our web-based system."

Haskins offered some advice to others in the industry.

"Take pictures of your inventory and perform a fire drill," he said.



Dumpster," she said. "Social Security numbers and personal data were on the loan applications. In a paperless environment, they would have just handed us a disk. There are a lot of scary things that can happen with paper."

Additionally, Craig Haskins, executive vice president of Knight Barry Title Group, believes e-recording minimizes risk because it reduces the gap period from the time records are searched to when the sale is closed. Original documents can be returned to the parties moments after the closing and originals can easily be recovered since they remain in the agent's possession. If an electronic file is rejected by a register of deeds office, it can be submitted moments later instead of weeks or days later.

"There's a reduction in telephone calls, courier fees, duplication costs and post-closing errors, since all participants have access to the electronic originals," Haskins said. "An audit trail of every version of each document can be accessed in one central location."

Software to e-record runs on most standard computers and scanners today, and most title agents probably already have the technology they need in house.

"E-recording certainly expedites the recording process," Haskins added. "Recorded documents are available within minutes after being submitted in most cases. If you are doing business across the country, the time saved getting the documents to the courthouse and back can be worth several days. Depending on the specifics of an implementation, e-recording has the ability to reduce errors by reducing repetitive data entry." ■

Fed Conference Attendees Meet with More Than 200 Members of Congress and Staff

A record 205 title insurance professionals converged in D.C. for ALTA's annual Federal Conference and Lobby Day, which was held May 6-9 at the Hyatt Regency Capitol Hill.

The conference concluded May 9 as attendees met with 208 members of Congress and their staff. They shared concerns about the Consumer Financial Protection Bureau's (CFPB) efforts to create the new mortgage disclosures, GSE reform and the need for a long-term reauthorization of the National Flood Insurance Program (NFIP).

Among the meetings, 45 were with committee members and leadership, including discussions with the chairmen of both the Banking and Financial Services committees, staff of the Speaker of the House John Boehner, House Majority Leader Eric Cantor, House Minority Leader Nancy Pelosi and Senate Minority Leader Mitch McConnell.

Devon Irby, who is a licensed title examiner for H. B. Wilkinson Title Co., said participating in her

first Federal Conference helped her understand the issues impacting the title industry and what she can do as an individual to make the industry better. Besides the many meetings with members of Congress and their staff, Irby also had the opportunity to share some coffee during a one-on-one conversation with U.S. Rep. Gwen Moore (D-WI).

"Representative Moore truly wanted to know what is affecting our industry and we dove into the details of GSE reform and the effects it will have on the title business and the consumers it supports," Irby said "I would encourage anyone in the title industry to attend the annual ALTA Fed Conference. It's a fantastic experience filled with great information, conversation and learning."

Representing the Pennsylvania Land Title Association as its

president, Phil Janny also was attending his first Federal Conference and said the timing on the Hill was "perfect."

"I was able to meet my Congressional representatives with a clear and precise message of how the CFPB-proposed mortgage disclosures will affect the closing process," said Janny, who is a certified land title professional and title insurance agent for the law firm Plunkett & Graver P.C. "With the help of ALTA, I was prepared to explain how the broad-brush approach of the CFPB and the proposed changes to the forms I see on a daily basis, such as the TIL, GFE and the HUD-1, will create uncertainty in our industry."

During the Lobby Day, ALTA members told members of Congress and staff that it encourages the CFPB to follow several principles as it attempts to simplify mortgage disclosures. First, the CFPB should avoid burdening small businesses with high costs of implementing the forms. ALTA encourages the CFPB to adopt recommendations from the Small Business Regulatory Enforcement Act (SBREFA) panel. Based on the CFPB's most recent draft disclosures, ALTA estimates that costs to small business providers would increase as much as \$800 per employee in up-front implementation and a 20 percent increase in their yearly software maintenance fee. Because of the complexity of the form, small settlement providers

will be able to settle two fewer transactions a day.

ALTA also encourages the CFPB to promote fair competition, requesting that settlement agents continue to provide the settlement disclosure to consumers. Draft regulations released for informal public feedback will increase liability on lenders and force small banks and credit unions to pull out of the market. Even when small lenders remain, closings will shift away from local settlement agents to large, national vendors. Not only will local settlement agents be hurt by this inability to compete, but consumers will be harmed as well from the lack of consumer choice and competition that will lead to higher costs.

ALTA also believes the CFPB should encourage consumers to investigate products and services that protect their financial interests, like an Owners Title Insurance policy. Disclosures should not prejudice consumers against a product by indicating it is “not-required” or “optional.”

Regarding GSE reform, attendees encouraged members of Congress to scale the government’s presence back to its original and limited mission of providing “stability in the secondary market for residential mortgages.” ALTA also encouraged that the 30-year fixed-rate pre-payable mortgage and standards such as the requirement for title insurance be maintained.

Efforts to Create New HUD-1 Debated

The CFPB’s effort to create a new combined mortgage disclosure was the focus of a panel titled “A New HUD-1 Is Coming ... Will You Be Ready?” Panelists included Ben Olson

of the Consumer Financial Protection Bureau, Scott Olson who is former staff to Rep. Barney Frank (D-MA) and Ken Markison of the Mortgage Bankers Association. Justin Ailes, ALTA’s vice president of government and regulatory affairs, moderated.

Since launching its Know Before You Owe initiative, the CFPB has released nine iterations of the disclosure forms—receiving more than 27,000 comments in its website. Ben Olson emphasized that every comment is read by someone on the Bureau staff, even if no direct reply is sent in response. The Bureau is in the process of drafting the regulations now and will release its proposed form and regulations by July 21. Olson expects a 60- or 90-day public comment period.

After collecting feedback, the CFPB will re-evaluate and determine what needs to be changed and perform qualitative testing before conducting quantitative testing with a large number of consumers.

“We’ve heard of the challenges of updating software and training staff,” Ben Olson said. “We know you’ve just done this and we are sympathetic. We will solicit comments on the amount of time you need to comply with the new rules. We need to know the challenges you face.”

Several times during the panel, Ben Olson encouraged members to send comments to the CFPB and explain how the draft forms will impact business and consumers. ALTA members can email comments to the CFPB at TILA-RESPA@cfpb.gov.

GSE Reform

Industry experts speaking on a panel titled discuss “GSE Reform Panel: Future of Housing Finance” told attendees that Congress will not

take up reform of Freddie Mac and Fannie Mae this year.


The panel included Ron Hayne of the Independent Community Bankers of America, Jamie Gregory of the National Association of Realtors and Jim Johnson of the American Securitization Forum. Matt Tully, legislative director for Rep. David Schweikert (AZ), served as moderator.

When asked if they believed Congress would bring up housing finance reform again this year, all the panelists agreed: Not this year.

The reason is that there are too many other issues on the table, including a presidential election. Also, rules for the Qualified Residential Mortgage (QRM) and Qualified Mortgage (QM) must be finalized by the CFPB this year. The QRM refers to mortgages that will be exempt from the Dodd-Frank Act’s risk retention requirement. This requirement calls for a lender to retain no less than 5 percent of the loan amounts it securitizes. The QM requires creditors to determine that the borrower has a reasonable ability to repay the loan.

“We expect the QRM and QM provisions to be finalized in the fall and probably something out of Treasury regarding GSE reform in January or February and the debate will take off in March,” Gregory said.

Johnson said that when GSE reform is addressed again, it’s important to maintain the fundamentals of a system that have proven to work and provide safeguards to consumers, lenders and investors.

“There are elements that ensure a loan is safe and sound,” he said. “Title insurance is one of those elements.” 

conference highlights



Images from ALTA's 2012 Federal Conference & Lobby Day

Photos available at www.alta.org/meetings/federal





Discussions on efforts to create a new GFE and HUD-1, as well as reform of Fannie Mae and Freddie Mac, were the highlights of two panel discussions during the Federal Conference and Lobby Day. A record number of attendees also met with more than

200 members of Congress and their staff to advocate on behalf of the title industry. During the conference, ALTA honored Sen. Kay Hagan and Rep. Judy Biggert for their efforts to promote homeownership and understanding the value of title insurance.



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Ensure You Have Proper Insurance to Protect Everyone's Funds

Title Companies Can Re-define Quality Service by Providing Proper Coverages and Safeguarding the Transaction

BY GARRY WOLFF

In these days, every title order counts and everyone is vigorously competing for the next order, with many title companies claiming to provide their customers and the ultimate consumer with quality service.

So, what is quality service? It's understood that quality service can be viewed and defined in many ways; however, the underlying principle remains constant. Quality service is only achieved when a company meets or exceeds its clients expectations.

Now, due to the nature of the title industry's business—which includes closing/escrow services, the handling of substantial money and providing professional services—possessing the necessary business insurances that will adequately protect the title company and its clients. These should be fundamentally included when defining one's quality service.

If you question whether protection should be an element of quality

service, then please take a few minutes and ask several real estate professionals and consumers if they would mind doing business with a title company that didn't have the necessary business insurance to protect everyone's money and safeguard their real estate

transactions. What do you think their responses and expectations are going to be?

It was surprising to learn after reviewing "The First Title Agent Licensing Manual," published by Mandrien Consulting Group in 2011, that many states do not require a licensed title company to possess much, if any, form of business insurance. I was equally surprised after reading *The Title Report's* 2011 special edition "Voice Of The Title Agent," that many title companies actually do not possess the necessary business insurance needed to adequately protect themselves, their customers and the ultimate consumers. It was quite apparent that many title companies didn't understand the requirement to meet or exceed the expectations of their clients and the ultimate consumer



when they defined what “quality service” meant to them.

Such protection can be accomplished by acquiring an adequate amount of fidelity, crime, general business liability, professional liability and any other form of insurance that will provide sufficient protection to all parties to the real estate transaction. Remember that consumers are entrusting a title company with their monies and their

environment for the benefit of the ultimate consumer.

Developing a marketing strategy based on quality service must integrate a new dynamic of actually selling your services to a real estate professional who typically has no fiduciary responsibility in looking out for the consumer’s best interests when recommending a title company. When marketing your company’s quality service, it’s

Remember that consumers are entrusting a title company with their monies and their largest single financial investment being their home.

largest single financial investment—their home. Likewise, real estate professionals (i.e., real estate brokers and mortgage loan originators) are relying on a title company to protect their livelihood.

Now that you understand that quality service is inclusive of various financial and professional protections that everyone expects, let’s move our attention to a marketing strategy that will effectively communicate and promote your company’s quality service over your competition. It should be noted that the title industry’s current marketing paradigm utilizes the concepts of reverse competition and building relationships in developing most new business.

In fact, these marketing concepts generally do not foster a fiduciary

important to communicate effectively and promote the differences in a manner that will cause a real estate professional to question if everyone’s money is protected and if the real estate transaction is safeguarded to everyone’s benefit, including the real estate professional’s interests.

Your company’s marketing material and website should promote and show evidence of your business insurance, which should be used to create an obvious question and concern in the minds of real estate professionals so they will compare the differences with their recommended title company. In addition, your messaging should also promote your business insurance to your customers and the ultimate consumer in re-establishing the value of your company and the services provided by the title industry.

A word of caution: Be aware that many title companies may not carry the necessary business insurance and may try to stand behind the protections afforded by a Closing Protection Letter (CPL) issued by their underwriter, if the use of such CPLs are permitted by state law. In addition, some states may have a statutory guaranty fund established to protect the insured.

It should be noted that many CPLs and state guaranty funds may be limited in their protections/assurances and should not be relied upon as a substitute for the title company’s primary business insurance.

The title industry continues to be exposed to a financial nightmare of fraud, theft and agent defalcations. The industry is now aggressively trying to remedy the situation by educating title companies on how to better protect themselves. Likewise, the industry also needs to focus on how title companies can better protect their customers and the ultimate consumers by incorporating a re-defined version of quality service.

In summary, if your company already has the necessary business insurance in place that’s great. If so, go out and promote your quality service over the competition. If not, call up your insurance broker and get the necessary coverage so you too can offer quality service. ■



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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.

TILA/GFE Reform Ranks as Top Compliance Concern Among Lenders

In 2012, the Consumer Financial Protection Bureau (CFPB) made designing a new disclosure form that combines the Truth in Lending Disclosure (TIL) and Good Faith Estimate (GFE) a top priority. The pending reform ranks as lenders' greatest compliance concern, according to QuestSoft's fourth annual survey.

The combined TILA/GFE disclosure was cited by 48 percent of lenders as a high concern, with an additional 33 percent citing the reform as at least of medium concern. The survey, which polled 426 lenders on their level

of anxiety for regulatory changes, also found fair lending exams, continued refunds and losses from the Real Estate Settlement Procedures Act (RESPA) fee tolerances (40 percent highest concern) and Dodd-Frank rule making (42 percent highest concern) as top issues.

Leonard Ryan, president of QuestSoft said that the overwhelming number of Dodd-Frank laws remains a high concern due to the uncertainty of what specific rules will be implemented and their enforcement deadlines. RESPA fee tolerances were in the top three concerns for the second year in a row.

Old Republic Announces Q1 Financial Results

Old Republic International's title insurance group reported pre-tax income of \$9.4 million during the first quarter of 2012, compared to income of \$2.6 million during the same period a year ago.

During the first quarter, Old Republic opened 103,224 direct orders, compared to 91,222 direct

orders opened during the first quarter of 2011. The company closed 79,698 direct orders during the first three months of 2012, while closing 78,567 direct orders during the same period a year ago.

The company's claims ratio stood at 7.2 percent during the first quarter of 2012, down from 7.8 percent during Q1 2011.

First American Reports First Quarter Earnings

Open orders spiked 31 percent compared to last year while solid growth in commercial business helped push First American Financial's title insurance and services segment to its highest first-quarter pre-tax margin in six years.

First American's title insurance and services division reported income of \$60.8 million during the first quarter of 2012, compared to a loss of \$15.7 million during the same period in 2011. The pretax margin improved to 6.8 percent during the latest quarter from -1.8 percent a year ago at this time.

During the first quarter First American opened 377,200 direct orders while closing 261,300

orders. In its commercial line, the company opened 17,900 orders and closed 10,400 orders.

The provision for policy losses and other claims was \$52.2 million in the first quarter, or 7.2 percent of title premiums and escrow fees, down \$44.2 million compared with the same quarter of the prior year. Last year's results included a \$45.3 million reserve-strengthening adjustment in the company's Canadian operations. The current quarter rate of 7.2 percent reflects an ultimate loss rate of 6.2 percent for the current policy year and a net increase in the loss reserve estimates for prior policy years, primarily 2007 and 2008.

RamQuest Unveils 'Next Generation' Title Software Solution

RamQuest Inc. released RamQuest One, which is its new flagship solution built on the Microsoft .NET platform offering industry professionals a single automated, fully integrated, title, settlement and escrow accounting solution. With

the ability to customize the interface based on specific user roles, RamQuest One offers integrated document management, interactive reporting, enhanced online presence and a multitude of bank and third party integrations.

North American Title Adopts Fraud Protection Software

North American Title Insurance Co. (NATIC) has entered into a relationship with Segin Software, provider of the RynohLive escrow reconciliation and financial management software. NATIC will implement the software on its system and encourage its agents to do likewise. RynohLive features an integrated software bridge application package that combines escrow software and banking systems to provide automation for

the time-sensitive and demanding components of the real estate settlement industry.

“The agent-underwriter relationship is evolving quickly in today’s challenging environment,” said Emilio Fernandez, president of North American Title. “The RynohLive system allows our agents to have virtually real-time control of escrow funds and disbursements, which is a real-time cost savings to them.”

eLynx Tightens Requirements for Closing Agents

eLynx has strengthened the requirements for closing agents registering with the eLynx Electronic Closing Network (eCN). Closing agents must be registered in eCN to receive loan documents from lenders using eLynx’s delivery services. The new requirements give lenders better visibility into who is closing their loans and reduces the risk of fraud by unauthorized closing or escrow agents. When prospective closing agents register with eCN, they must provide risk mitigation information about themselves, their businesses and their roles

in the closing workflow. For example, companies that disburse escrow funds are required to identify the types of insurance and licenses they carry as well as banking account information. The new requirements also include:

- Streamlining the closing document pickup workflow to support specific business processes and support lender-specific risk mitigation efforts
- Incorporating additional integration with title underwriters to better manage document access and agent validation

Maine Supreme Court Ruling Impacts Access to Public Records

The Maine Supreme Judicial Court in March reversed a lower court’s decision in *MacImage of Maine LLC v. Androscoggin et al*, ruling unanimously in favor of six counties in a lawsuit regarding the bulk purchase of electronic records.

MacImage of Maine LLC, and its principal, John Simpson, had asked six Maine counties to provide digital copies of documents contained in the registries of deeds. According to the opinion, the recorded documents are already available to MacImage and the public for viewing in the registries and online, and also are available for individual copying. MacImage, however, seeks a bulk, digital delivery of all such documents and all indexes. The counties agreed to provide electronic copies of the

documents, but disputes over the fees that the counties may charge resulted in the litigation.

In November 2009, Simpson sued Androscoggin, Aroostook, Cumberland, Knox, Penobscot and York counties, alleging that the fees the counties wanted to charge for digitized documents were unreasonable. The price quoted by Penobscot County was \$1 per page for 4 million pages.

A superior court ruled in Simpson’s favor in early 2011, but the counties appealed the case to the Maine Supreme Judicial Court. After the counties appealed, legislation was passed that set the fees counties may charge for copies of records at registries of deeds. The Supreme Court based its decision on the legislation and not the original lawsuit.

Adeptive Partners With TurboDeed

Adeptive recently partnered with TurboDeed, a division of US Deeds Inc. The partnership allows users of ResWare to electronically submit orders to TurboDeed for preparation of deeds and

related transfer tax forms throughout the United States. After those forms are complete, they will be uploaded back into the ResWare platform.

Stewart Details First-Quarter Financials

Stewart Information Services Corp. reported a net loss of \$12.2 million for the first quarter 2012 compared with a net loss of \$10.3 million in the first quarter 2011.

Agency revenue during the first quarter was \$196.3 million, representing 56.4 percent of title operating revenue, compared to 57.9 percent for the first quarter 2011. Stewart reported it continues to pursue a network of high-quality, low claims risk agency operations, with emphasis on contribution to earnings rather than revenue. Stewart's direct

operations opened 103,300 orders during the first quarter, while closing 70,600 orders during the first three months of the year.

Title losses during the first quarter of 2011 were \$31.4 million. As a percentage of title revenues, title losses were 9.0 percent in the first quarter of 2012, compared to 9.4 percent during first-quarter 2011. Although Stewart is maintaining a higher than historically normal provisioning rate, losses incurred on known claims decreased 25.4 percent compared to the first quarter of 2011.

Commercial/Multifamily Originations up 55 Percent to \$184.3 Billion, MBA Reports

Commercial and multifamily mortgage origination volumes increased 55 percent in 2011, with mortgage bankers reporting \$184.3 billion of closed commercial and multifamily loans, according to the Mortgage Bankers Association's (MBA) 2011 Commercial Real Estate/Multifamily Finance: Annual Origination Volume Summation.

Fannie Mae, Freddie Mac and FHA were collectively the leading investor group for whom loans

were originated in 2011, responsible for \$57.6 billion of the total.

In terms of property types, multifamily properties saw the highest origination volume, \$77.4 billion, followed by office properties with \$34.4 billion of originations. First liens accounted for 93 percent of the total dollar volume closed. Lending for retail properties saw the largest percentage increase

among the major property types, followed closely by multifamily and industrial properties.

Fidelity Releases Q1 Results

An increase in order count and strong growth in commercial business helped push Fidelity National Title Group (FNT) to a strong first quarter of 2012.

FNT posted pretax earnings of \$129.5 million during the first quarter of 2012, compared to earnings of \$106.3 million during the same period in 2011. This is a pre-tax margin of 10.7 percent versus 8 percent in the first quarter last year.

FNT opened 651,100 orders during the first quarter, while closing 409,500 orders. In its commercial business, FNT opened 19,200 orders during Q1 2012, while closing 11,100 orders.

During the first quarter of 2012, the company

generated \$767.9 million in title premiums, \$354 million from direct operations and \$413.9 million from agents. Direct title premiums increased 10 percent from the same period a year ago. FNT said agency title premiums dipped as a result of a change in premium split in New York, which is now 80/20. Overall, FNT's premium split was 76/24 during the first quarter, compared to 77/23 during the first quarter of 2011.

During the first quarter, FNT paid \$104 million in title claims, up \$15 million over the first quarter of 2011; however, FNT reported full-year 2012 total title claims paid are expected to decline versus full-year 2011.

First American Forms Group Focused on Energy Transactions

First American Title Insurance Co.'s National Commercial Services Division has formed an Energy Group, which includes a specialized team of land title examiners, experienced attorneys, project coordinators and insurance underwriters dedicated to working exclusively on energy-related transactions.

"The complexities of the energy sub-market

challenge the national title insurer to develop specialized products and services," said Sally French Tyler, executive vice president and divisional president of First American Title Insurance Company's Centralized Businesses. "With the Energy Group, we've built a talented team of focused and experienced experts to meet this challenge."



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At the End of the Day – It's All About the Consumer

Five years ago, the Government Accountability Office (GAO) released its report calling for the title industry to improve transparency and help consumers better understand the product they are purchasing. Following the release of the GAO report in 2007, ALTA launched a consumer initiative for improving industry oversight and educating and protecting consumers. ALTA also developed a consumer website, homeclosing101.org, to provide education about title insurance and the closing process. Visits to the site continue to grow each year.

Last year, the Consumer Financial Protection Bureau (CFPB) was created and immediately focused on simplifying the mortgage disclosure forms to make them easier for consumers to understand. As you can see, there's a heavy focus on helping consumers and our industry must embrace this. Getting consumers to take interest, shop for title services and learn about the product has been slow, however. It's easy to simply say consumers don't care about what we do and don't want to learn, and then conclude, "Why do it, why change, why bring on additional expense?" But we must.

It is important that the title insurance industry continue to help homebuyers understand the product they are buying and the value title insurance provides them. We need to constantly seek better ways to communicate our value proposition and make our services more transparent to consumers.

Consumers don't understand our industry jargon and get confused when we start talking about endorsements, exceptions, curative efforts, liens and so on. They simply want the keys to their new home. To help bridge this communication gap, ALTA's Public Relations Committee—chaired by Sandra Bell—has developed a simple letter members can send to homebuyers.

The letter avoids technical terms and industry jargon, but simply tells the consumer that purchasing a home is an exciting time. Its message focuses on the benefits homebuyers receive from working with a title professional and purchasing an Owner's Title Insurance Policy.

I encourage you to modify the text and use it with your company letterhead. The text can also be used in an email if you communicate with consumers electronically. If you already send consumers a letter, that's fabulous. If not, this is a perfect opportunity to let your customers—consumers—know how our work brings them peace of mind.

The consumer is the ultimate end-user of our product. It's time we embrace this opportunity.

– Chris Abbinante, ALTA President





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