

August 2012

Official Publication of the
American Land Title Association

TitleNews



**CHANGES
AHEAD**

Out with the Old

CFPB Proposed Rule and
Mortgage Disclosures Will Replace
HUD-1, GFE and TIL;
Could Change Closing Process



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Editorial Director & Columnist, National Journal*



Richard Cordray *(invited)*
*Director, Consumer Financial
Protection Bureau*



Doug Duncan
Chief Economist, Fannie Mae



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LAND TITLE
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ALTA CONFERENCES

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

STATE MEETINGS

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

JOIN TODAY



Join the Title Action Network for free today at www.alta.org/tan

TitleNews

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Taking a Vacation Takes Work, Preparation

Each day at the ALTA office, the staff is emailed an office itinerary that includes a daily thought. Recently, we had one from former tennis great Arthur Ashe that said, “One important key to success is self confidence. An important key to self confidence is preparation.” I couldn’t agree more. We all have varied levels of confidence for the tasks in front of us, but preparation can help in all situations providing the confidence necessary to execute well. Another key to success is a rested mind. The mind turns to thoughts of rest, especially in the midst of a blistering summer. I’m sure many of you attempt to juggle work and relaxation when on vacation—Blackberry or iPad in one hand and a refreshing beverage in the other as you sit on the beach watching the kids play. Taking a break from the daily grind is essential to recharging the batteries and keeping productivity at an optimal level.



So how do you take a “real” vacation? You prepare.

First, according to executive coaching experts, prepare your staff. Start with making sure your employees are capable of making important decisions. This requires making sure they have the information they need to do their jobs—and maybe parts of yours, as well. This could include reviewing instructions on how to handle phone calls and emails from current and potential customers. The key is to make everyone feel in control. Second, manage customer expectations. This could be the most unnerving aspect of vacation planning. Ensure customers that the same level of work will be done during your absence, let them know who will handle tasks and that you can be reached in an emergency. Third, plan around slow periods. Obviously, you don’t want to leave the office when order volume is high. I know that summer months are the busy months in the title industry, so our vacation time may be slightly different than most. Use your metrics and evaluate the best times to get away. In addition, set a schedule. Some people eliminate communication with the office completely. More often, however, they set aside times when they check email or make calls. I’ve found it productive to carve out time twice a day to check messages.

So, get to work going on vacation. But before you go, read this month’s cover story, which digs into the Consumer Financial Protection Bureau’s proposed rule on the new mortgage and closing disclosures. The article is a good primer on the major changes and how it may impact ALTA members, plus recaps ALTA’s advocacy efforts on your behalf. We need your comments and feedback as we prepare our response. Watch out for more information in my weekly Advocacy Update, TitleNews Online and future conference calls and webinars. Most importantly, join the Title Action Network at www.alta.org/tan to receive notices directly. We’ve got a lot of work to do on this front. Maybe that vacation will have to be postponed!

A handwritten signature in black ink that reads "Michelle Korsmo". The signature is fluid and cursive, written in a professional style.

- Michelle Korsmo, ALTA chief executive officer

Katie Andrews
Florida Agency Operations



OUR PEOPLE.

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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.

Morris Jr. Joins ALTA Board of Governors

ALTA's Board of Governors is pleased to announce the appointment of Stewart Morris Jr. to its 11-member board.

"Stewart brings a valuable perspective to the challenges facing the land title industry and we are fortunate to have him join our board to help guide ALTA's strategic vision and goals," said Chris Abbinante, president of ALTA. "His experience, knowledge and dedication will be essential as the association addresses issues impacting the title industry and strives to better serve consumers."

Morris Jr., who has nearly 40 years of industry experience, is vice chairman of Stewart Information Services Corp. He previously served as president and co-CEO of Stewart Information Services and president of Stewart Title, which he joined in 1973. Morris Jr. was elected vice president of Stewart Title in 1975, and was named president of Stewart Title and chairman of Stewart Title



Guaranty Co. in 1991.

"It is an honor to serve an association committed to protecting the needs and interests of consumers by supporting homeownership and property rights," said Morris Jr., who fills the board position vacated by Mike Skalka. "I look forward to working closely with the entire board as we pursue the many challenges facing the economy and our industry."

Morris Jr. graduated with a Bachelor of Arts degree from Rice University in 1971 and received a Master of Business Administration from the University of Texas in 1973.

FHA Withdraws \$1,000 Debt Rule that Could Have Delayed Closing

The Federal Housing Agency withdrew a rule that would have forced potential homebuyers to settle ongoing credit disputes of more than \$1,000 before getting financing, according to an alert sent to lenders.

On July 1, borrowers wanting to take out an FHA-insured loan would have potentially experienced a closing day delay of three months or more if they had debt totaling or exceeding \$1,000. The policy would have required that consumers either pay off their debts or make a minimum of three months' payments before qualifying for an FHA loan.

On April 3, the FHA issued Mortgagee Letter 2012-3 announcing the requirements for borrowers with individual or multiple disputed credit collections.

This guidance went into effect on April 1 for a week before the FHA delayed the rule until July. Now, with the rule being withdrawn, any loans written to fit the guidelines in the week between April 1 and April 8 will not be deemed in violation of HUD requirements.

The agency is asking stakeholders for feedback and expects to publish clearer language on its credit dispute policy in the near future.

Forget Your ALTA Login and Password?

Retrieving your ALTA login and/or password is simple and easy. Just enter your email address at www.alta.org/PortalTools/RequestReminder.cfm.

ALTA will send your login and password information right away. Contact service@alta.org or call 800-787-2582 if you need additional assistance.

Supreme Court Upholds the Constitutionality of the Health Reform Law

In a 5-4 decision on June 28, the Supreme Court upheld the constitutionality of the Affordable Care Act (ACA). In his majority opinion, Chief Justice John Roberts rejected the government's argument that the individual mandate provision requiring all Americans to purchase health coverage was a proper exercise of the Constitution's Commerce Clause. However, the majority accepted the government's alternative argument that the mandate's imposition of a tax on people who do not buy insurance is constitutional under Congress's taxing power. The decision upheld the expansion of eligibility for Medicaid, but overturned provisions denying funding to states that don't expand eligibility.

With the ruling, the law's popular reforms already in effect will remain intact, including the ability of young adults to stay on their parents' policies and the reduction in Medicare Part D co-pays.

"As ALTA reported previously, starting in 2013, the ACA will impose

a new 3.8 percent tax on investment income—defined as interest, dividends, capital gains and net rents—only on taxpayers with more than \$200,000 of Adjusted Gross Income (\$250,000 on a joint return)," said Michelle Korsmo, ALTA's chief executive officer. "Contrary to the large number erroneous and misleading documents going around on the Internet, this is not a transfer tax on real estate sales."

The ACA does not eliminate the \$250,000/\$500,000 capital gains exclusion on the sale of a principal residence. Rather, if a person with high income sells his or her property and earns more than \$250,000/\$500,000 on the sale, the seller would be required to pay both normal capital gains taxes on the transaction and the new 3.8 percent tax. In addition, ALTA members will not be responsible for collecting this tax; rather, taxpayers will have to self-report the gain on their annual returns.

40 States Now Ban Private Transfer Fees

Kentucky and Alaska became the latest states to pass legislation banning private transfer (PTF) covenants. The Bluegrass State's governor signed HB 533 into law on April 11. The legislation went into effect immediately. The Alaska Land Title Association was also successful in getting passage of S 122.

In March, the Federal Housing Finance Agency (FHFA) issued a final rule limiting Fannie Mae, Freddie Mac and the Federal Home Loan Banks from

investing in mortgages encumbered by certain types of PTFs. The FHA said the final rule does not apply to private transfer fees that directly benefit the property, such as homeowner associations, condominiums, cooperatives and some tax-exempt organizations. With limited exceptions, the rule applies only prospectively to private transfer fee covenants created on or after the date of publication of the proposed rule, Feb. 8, 2011.

Agents Forum in Richmond, Va. Moved to Sept. 24

The Agents and Abstractors meeting being held in Richmond, Va., will be held Monday, Sept. 24, instead of Sunday, Sept. 23.

Highlighting the meeting will be a presentation titled "Title Agents and Abstractors Professional Liability Claims and Coverage." Rich Curd of Capital Professional Insurance Managers Inc. will provide an overview of the types of E&O claims, the average size of claims, the emerging exposures increasing agent/abstractor exposure, typical E&O

policy terms and conditions and what factors to consider when buying E&O coverage. There also will be a roundtable discussion addressing major issues impacting business.

A block of rooms has been reserved at the Wyndham Virginia Crossings Hotel. They are currently offering room rates as low as \$129 per night. To make reservations, call 888-444-6553 and let them know you are with the ALTA.

Register at www.alta.org/meetings/smallagents.

VLTA Partners With Title Action Network

The Virginia Land Title Association's (VLTA) Executive Committee passed a motion June 26 allowing the association to support and promote the Title Action Network, which is an energized movement of title professionals promoting the industry's value and protecting homeownership rights.

"We've already begun the process of promoting the Title Action Network to all industry professionals in Virginia," said Karenlee Oreo, VLTA's executive director. "We thank ALTA for introducing this easy-to-use tool that will enable our association to engage our membership in our legislative efforts."

The Minnesota and New York state land title associations also are state partners. The Title Action Network has more than 1,100 members.

"We are grateful for the leadership these associations are providing to the development of the Title Action Network as the industry's grassroots group," said Michelle Korsmo, ALTA's chief executive officer. "By working together with members of both associations, we are able

to build a broader coalition of people to have a more effective voice in the legislative process."

The title industry's advocacy efforts will be enhanced as additional states come aboard. The Title Action Network provides states with advanced communications tools for grassroots advocacy at the state legislative level. As partners of the Title Action Network, state associations help recruit new members and push forward a consistent agenda on the local, state and national levels.

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 process and sharing that knowledge is important to the legislative process, the industry and businesses.

If your state would like to partner with the Title Action Network, contact Steve Gottheim, ALTA's legislative and regulatory counsel, at sgottheim@alta.org. To join the Title Action Network, to go www.alta.org/tan.

Congress Passes Five-Year Extension of National Flood Insurance Program

Congress on June 29 approved a long-term reauthorization of the National Flood Insurance Program (NFIP) as part of a package of bills including reauthorization for highway and transportation funding and lower student loan interest rates. This marks the culmination of one of ALTA's policy priorities for the year. ALTA will continue to monitor this legislation as it is implemented. The president is expected to sign the bill into law this week.

ALTA worked with a coalition of industry groups to press this issue on Capitol Hill, but helping to encourage Congress to pass this legislation were the members of Title Action

Network. Without the Network members telling their elected officials in Congress about the drastic impact a lapse in the NFIP would have on real estate closings and the economy as a whole, this vote never would have occurred. It is a true testament to the power Network members have to influence legislation to benefit the entire industry. If you have not already signed up for the Title Action Network, please take 60 seconds and do so today at www.alta.org/tan. If you have any questions about flood insurance, reach out to ALTA's director of government affairs, Jessica McEwen, at jmcewen@alta.org.

Technical Correction Made to ALTA Endorsement 9.8-06

The ALTA Forms Committee announced a technical correction to ALTA Endorsement 9.8-06 Covenants Conditions and Restrictions – Land Under Development – Owner's Policy (04-02-12).

Section 4.c. of the Endorsement published on April 2, 2012, contained a

reference to Section 3.d. which does not exist in the Form. The reference has been updated to refer correctly to Section 3.c. The effective date of the Form will not change.

The corrected Form and a correction redline have been posted at www.alta.org/forms.

Out with the Old

CFPB Proposed Rule and Mortgage Disclosures Will Replace HUD-1, GFE and TIL, Could Change Closing Process

For more than 30 years, federal law has required lenders to provide two different disclosure forms to consumers applying for a mortgage. The law also has generally required two different forms at closing or shortly before closing on the loan. The Dodd-Frank Act mandated the Consumer Financial Protection Bureau (CFPB) to combine the overlapping federal disclosure forms required by REPSA and TILA. In an effort to help consumers make informed decisions when shopping for a mortgage and avoid costly surprises at the closing table, the CFPB on July 9 released a 1,099-page proposed rule to go with a new Loan Estimate and Closing Disclosure that will replace the current Truth-In-Lending (TIL), Good Faith Estimate (GFE) and HUD-1 Settlement Statement (HUD-1) disclosures. >>

By Jeremy Yohe



**CHANGES
AHEAD**

The CFPB’s proposal took into consideration 10 rounds of testing with industry and consumers and feedback from the public on multiple prototype forms over an 18-month period. ALTA’s RESPA Taskforce has worked closely with the CFPB, and while ALTA was successful on several fronts, there are pieces of the proposal that could alter the closing process and threaten settlement agents’ role in the transaction.

“ALTA and its members support the Bureau’s efforts to create mortgage disclosures that will make consumers better informed when shopping for a mortgage and more knowledgeable regarding what they are paying for when they get to the closing table,” said Michelle Korsmo, ALTA’s chief executive officer. “Consumers need to feel more confident when purchasing a home and businesses need to be able to compete on a level playing field. We will continue to work with the Bureau to find ways to improve this rule.”

The proposed rule applies to most consumer mortgages, but does not apply to home-equity lines of credit, reverse mortgages, or mortgages secured by a mobile home or by a dwelling that is not attached to land.

The proposed rule also does not apply to loans made by a creditor who issues five or fewer mortgages in a year.

Here’s a summary of what’s changed and a review of how it could impact ALTA members.

However, the lender also remains responsible for the accuracy of the form.

On the Loan Estimate, the Bureau will require lenders to list owner’s title insurance as “optional” when it will be paid by the buyer, however it has

“The Bureau chose to pass the buck on the most important thing they could do to protect consumers, which is ensuring that an independent, third-party conducts the closing.”

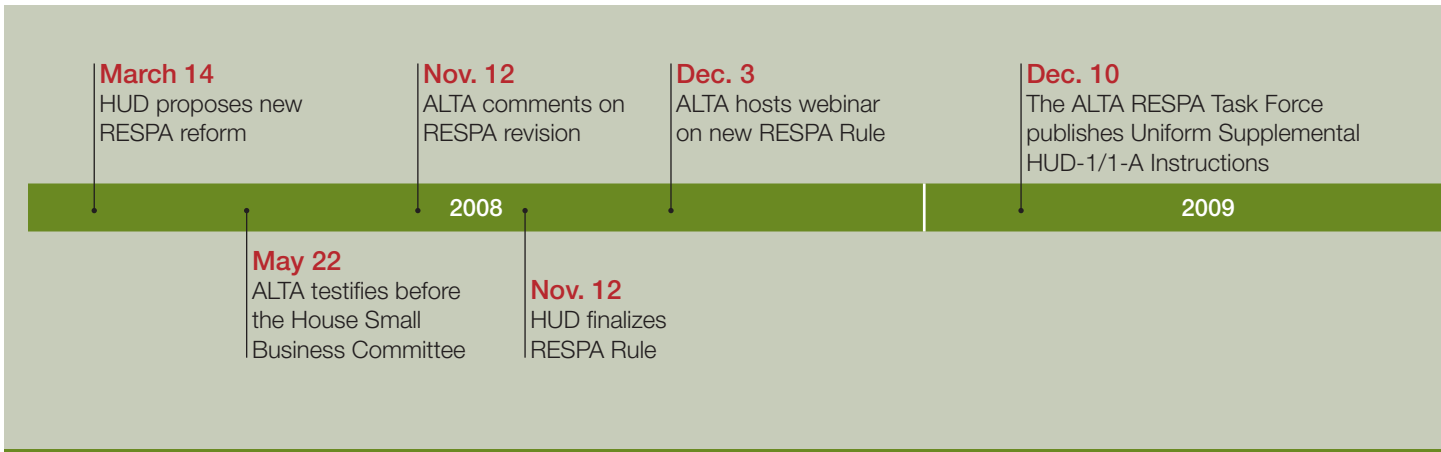
New Form: Loan Estimate

According to the proposal, borrowers would receive a three-page Loan Estimate within three days of applying for a mortgage. This form would replace the GFE and the early TIL. The Loan Estimate form also incorporates new disclosures required by Congress under the Dodd-Frank Act. The lender may rely on a broker to provide the Loan Estimate form.

abandoned the more prejudicial phrase of “not required.” For transactions in which the seller will pay for owner’s title insurance, the line will not have to include the phrase “optional.”

“While ALTA is not thrilled, this is better than initial drafts,” Korsmo said. “ALTA will continue to push the Bureau to list the product as ‘owner’s title’, without any additional modifiers. However, we are not optimistic they

Timeline of RESPA Mortgage Disclosures



Page 1 of Closing Disclosure

Closing Disclosure This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.

Closing Information		Transaction Information		Loan Information	
Date Issued	9/10/2012	Borrower	John A. and Mary B. 123 Anywhere Street Anytown, ST 12345	Loan Term	30 years
Closing Date	9/14/2012	Seller	Steve C. and Amy D. 321 Somewhere Drive Anytown, ST 12345	Purpose	Purchase
Disbursement Date	Epsilon Title Co. 12-3456	Leader	Ficus Bank	Product	Fixed Rate
Agent	456 Somewhere Ave Anytown, ST 12345			Loan Type	<input checked="" type="checkbox"/> Conventional <input type="checkbox"/> FHA
Property	180,000			TVA	<input type="checkbox"/>
Sale Price				Loan ID #	123456789
				MIC #	000654321

Loan Terms	2	Can this amount increase after closing?
Loan Amount	\$162,000	NO
Interest Rate	3.875%	NO
Monthly Principal & Interest <small>See Projected Payments Below for Your Total Monthly Payment</small>	\$761.78	NO
		Does the loan have these features?
Prepayment Penalty		NO
Balloon Payment		NO

Projected Payments	3															
Payment Calculation	<table border="1"> <thead> <tr> <th></th> <th>Years 1-7</th> <th>Years 8-30</th> </tr> </thead> <tbody> <tr> <td>Principal & Interest</td> <td>\$761.78</td> <td>\$761.78</td> </tr> <tr> <td>Mortgage Insurance</td> <td>+ 82.35</td> <td>+ —</td> </tr> <tr> <td>Estimated Escrow Amount Can Increase Over Time</td> <td>+ 206.13</td> <td>+ 206.13</td> </tr> <tr> <td>Estimated Total Monthly Payment</td> <td>\$1,050.26</td> <td>\$967.91</td> </tr> </tbody> </table>		Years 1-7	Years 8-30	Principal & Interest	\$761.78	\$761.78	Mortgage Insurance	+ 82.35	+ —	Estimated Escrow Amount Can Increase Over Time	+ 206.13	+ 206.13	Estimated Total Monthly Payment	\$1,050.26	\$967.91
	Years 1-7	Years 8-30														
Principal & Interest	\$761.78	\$761.78														
Mortgage Insurance	+ 82.35	+ —														
Estimated Escrow Amount Can Increase Over Time	+ 206.13	+ 206.13														
Estimated Total Monthly Payment	\$1,050.26	\$967.91														
Estimated Taxes, Insurance & Assessments <small>Amount Can Increase Over Time See Details on Page 4</small>	<table border="1"> <tr> <td>\$356.13 a month</td> <td> This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association <small>See page 4 for escrowed property costs. You must pay for other property costs separately.</small> </td> <td> In escrow? YES YES NO </td> </tr> </table>	\$356.13 a month	This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association <small>See page 4 for escrowed property costs. You must pay for other property costs separately.</small>	In escrow? YES YES NO												
\$356.13 a month	This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association <small>See page 4 for escrowed property costs. You must pay for other property costs separately.</small>	In escrow? YES YES NO														

Cash to Close	4
Cash to Close	\$14,272.35
	Includes \$9,729.54 in Closing Costs (\$4,694.05 in Loan Costs + \$5,035.49 in Other Costs - \$0 in Lender Credits). See details on page 2.

CLOSING DISCLOSURE PAGE 1 OF 5 - LOAN ID # 123456789

- 1 **Loan Details:** Shows transaction information.
- 2 **Loan Terms:** Shows the basic terms of the loan and whether they may increase or change.
- 3 **Projected Payments:** Shows affordability information, including how and when principal and interest payments can change over time, the estimated taxes and insurance for the property, and the total monthly payment, including if taxes and insurance payments are escrowed or excluded from the loan payment.
- 4 **Cash to Close:** Shows additional affordability costs, including cash required to close and components of the closing costs.

will call owner's title 'advisable' or 'recommended,' as the Bureau has said they see it as the industry's job to promote its products. Other fees that will also be listed as 'optional' include appliance warranties and credit life insurance."

According to the proposal, any owner's title insurance premium in a jurisdiction that permits simultaneous issuance title insurance rates is calculated by using the full owner's title insurance premium, adding any simultaneous issuance premium for issuance of lender's coverage, and then deducting the full premium for lender's coverage. Cost of an owner's title insurance policy will be always labeled with "Title -" at the beginning, and labeled "(optional)" at the end when designated borrower-paid at or before closing.

New Form: Closing Disclosure

The Bureau also has proposed a five-page Closing Disclosure to replace the current HUD-1 and revised TIL disclosure. The rule contains detailed instructions as to how each line on the Closing Disclosure form would be completed. The Closing Disclosure also contains additional

Jan. 1
HUD RESPA Rule becomes effective

July 21
President Obama signs Dodd-Frank into law. Provision requires the Consumer Financial Protection Bureau to integrate TILA mortgage disclosures and RESPA's Good Faith Estimate and HUD-1 Settlement Statement

November 2010
ALTA letter to HUD seeking guidance on GFE/HUD-1

2010

July 13
ALTA RESPA Task Force Updates Uniform Supplemental HUD-1/1-A Instructions in an editable PDF file format

November 2010
ALTA suggestion to correct issues surrounding line 1101

Page 2 of Closing Disclosure

Closing Cost Details					
Loan Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
A. Origination Charges	\$1,802.00				
01 0.25 % of Loan Amount (Points)	\$495.00				
02 Application Fee	\$300.00				
03 Underwriting Fee	\$1,097.00				
04					
05					
06					
07					
08					
B. Services Borrower Did Not Shop For	\$234.55				
01 Appraisal Fee	to John Smith Appraisers Inc.				\$405.00
02 Credit Report Fee	to Information Inc.		\$29.80		
03 Flood Determination Fee	to Info Co.	\$20.00			
04 Flood Monitoring Fee	to Info Co.	\$31.75			
05 Tax Monitoring Fee	to Info Co.	\$75.00			
06 Tax Status Research Fee	to Info Co.	\$80.00			
07					
08					
09					
10					
C. Services Borrower Did Shop For	\$2,655.50				
01 Post Inspection Fee	to Pests Co.	\$120.50			
02 Survey Fee	to Surveys Co.	\$85.00			
03 Title - Insurance Binder	to Epsilon Title Co.	\$650.00			
04 Title - Lender's Title Insurance	to Epsilon Title Co.	\$500.00			
05 Title - Title Search	to Epsilon Title Co.	\$800.00			
06 Title - Settlement Agent Fee	to Epsilon Title Co.	\$500.00			
07					
08					
D. TOTAL LOAN COSTS (Borrower-Paid)	\$4,694.05				
Loan Costs Subtotals (A + B + C)	\$4,664.25	\$29.80			
Other Costs					
E. Taxes and Other Government Fees	\$85.00				
01 Recording Fees	Deed: \$40.00 Mortgage: \$45.00	\$85.00			
02 State Transfer Tax			\$950.00		
F. Prepaids	\$2,138.24				
01 Homeowner's Insurance Premium (12 mo.)	to Insurance Co.	\$1,209.96			
02 Mortgage Insurance Premium (mo.)					
03 Prepaid Interest	\$17.44 per day from 9/14/12 to 10/1/12	\$296.48			
04 Property Taxes (6 mo.)	to Any County USA	\$631.80			
05					
G. Initial Escrow Payment at Closing	\$412.25				
01 Homeowner's Insurance \$100.83 per month for 2 mo.		\$201.66			
02 Mortgage Insurance per month for mo.					
03 Property Taxes \$105.30 per month for 2 mo.		\$210.60			
04					
05					
06					
07					
08 Aggregate Adjustment		-\$0.01			
H. Other Costs	\$2,400.00				
01 Real Estate Commission to Alpha Real Estate Broker			\$700.00		
02 Real Estate Commission to Omega Real Estate Broker			\$700.00		
03 Title - Owner's Title Insurance	to Epsilon Title Co.	\$1,000.00			
04 HOA Capital Contribution	to HOA Acce Inc.	\$500.00			
05 HOA Dues Oct. 2012	to HOA Acce Inc.	\$150.00			
06 Home Inspection Fee	to Engineers Inc.	\$750.00		\$750.00	
07 Home Warranty Fee	to XYZ Warranty Inc.		\$450.00		
08					
I. TOTAL OTHER COSTS (Borrower-Paid)	\$5,635.49				
Other Costs Subtotal (E + F + G + H)	\$5,635.49				
J. TOTAL CLOSING COSTS (Borrower-Paid)	\$9,729.54				
Closing Costs Subtotals (D + I)	\$9,699.74	\$29.80	\$2,800.00	\$750.00	\$405.00
Lender Credits					

- 1 **Loan Costs:** Lists the costs that are associated with the loan, including the lender's charges and required services. These costs are grouped by services for which the consumer can or cannot shop for their own service providers. Also identifies who paid the costs and when.
- 2 **Other Costs:** Lists the costs that are not determined by the lender, including taxes, insurance premiums, and optional services. Also identifies who paid the costs and when.
- 3 **Total Closing Costs (Borrower-Paid):** Calculates the closing costs for the borrower, factoring in any lender credits.

new disclosures required by the Dodd-Frank Act and a detailed accounting of the settlement transaction.

The proposed rule says the lender must give consumers the Closing Disclosure at least three business days before the consumer closes on the loan. Generally, if changes occur between the time the Closing Disclosure form is given and the closing, the consumer must be provided a new form. When that happens, the consumer must be given three additional business days to review that form before closing. However, thanks in part to the efforts of the RESPA Task Force, the Bureau is proposing a number of exceptions to the three-day requirement for some common changes, according to Dan Wold, chair of the Task Force.

These include changes as a result of last-minute negotiations between the buyer and seller, such as results from a property walkthrough; changes that amount to less than \$100 total; changes (such as recording fees) that cannot be known until after closing; technical errors; and amounts paid by the lender to cure a tolerance violation.

"ALTA is asking members to review this particular part of the rule and provide additional feedback on what

May-October CFPB develops Loan Estimate to replace TILA's Early Truth in Lending Disclosure and RESPA's Good Faith Estimate.

May 18

CFPB issues first draft of application stage (GFE) mortgage disclosure

June 27

ALTA letter to CFPB on first draft of application stage mortgage disclosure

July 11

ALTA testifies before Congress on mortgage origination

July 29

CFPB issues third draft of application stage (GFE) mortgage disclosure

Sept. 12

CFPB issues fourth draft of application stage (GFE) mortgage disclosure

2011

May 17

ALTA participates in a CFPB-hosted joint trade association meeting on the first draft of application stage (GFE) mortgage disclosure

June 27

CFPB issues second draft of application stage (GFE) mortgage disclosure

July 21

RESPA enforcement authority transfers from HUD to CFPB

Aug. 18

ALTA participates in a CFPB-hosted joint trade association meeting on the third draft of application stage (GFE) mortgage disclosure

Page 3 of Closing Disclosure

Calculating Cash to Close			
	Estimate	Final	Did this change?
Total Closing Costs (I)	\$8,054.00	\$9,729.54	YES - See Total Loan Costs (II) and Total Other Costs (II)
Closing Costs Paid Before Closing	\$0	-\$298.00	YES - You paid these Closing Costs before closing
Closing Costs Financed (Included in Loan Amount)	\$0	\$0	NO
Down Payment/Funds from Borrower	\$18,000.00	\$18,000.00	NO
Deposit	-\$10,000.00	-\$10,000.00	NO
Funds for Borrower			NO
Seller Credits	\$0	-\$2,500.00	YES - See Seller Credits in Section L
Adjustments and Other Credits	\$0	-\$927.39	YES - See details in Sections K and L
Cash to Close	\$16,054.00	\$14,272.35	

Summaries of Transactions			
BORROWER'S TRANSACTION		SELLER'S TRANSACTION	
K. Due from Borrower at Closing \$189,784.74		M. Due to Seller at Closing \$180,085.00	
01 Sale Price of Property	\$180,000.00	01 Sale Price of Property	\$180,000.00
02 Sale Price of Any Personal Property Included in Sale		02 Sale Price of Any Personal Property Included in Sale	
03 Closing Costs Paid at Closing (I)	\$9,699.74	03	
04		04	
05		05	
06		06	
07		07	
08		08	
Adjustments for Items Paid by Seller in Advance		Adjustments for Items Paid by Seller in Advance	
09 City/Town Taxes to		09 City/Town Taxes to	
10 County Taxes to		10 County Taxes to	
11 Assessments to		11 Assessments to	
12 HOA Dues 9/14/12 to 9/30/12	\$85.00	12 HOA Dues 9/14/12 to 9/30/12	\$85.00
13		13	
14		14	
15		15	
16		16	
L. Paid Already by or on Behalf of Borrower at Closing \$175,512.39		N. Due from Seller at Closing \$115,562.39	
01 Deposit	\$10,000.00	01 Excess Deposit	\$10,000.00
02 Borrower's Loan Amount	\$162,000.00	02 Closing Costs Paid at Closing (I)	\$2,800.00
03 Existing Loan(s) Assumed or Taken Subject to		03 Existing Loan(s) Assumed or Taken Subject to	
04		04 Payoff of First Mortgage Loan	\$100,000.00
05 Seller Credit	\$2,500.00	05 Payoff of Second Mortgage Loan	
06		06	
07		07	
08 Rebate from Epsilon Title Co.	\$750.00	08 Seller Credit	\$2,500.00
09		09	
10		10	
11		11	
12		12	
13		13	
Adjustments for Items Unpaid by Seller		Adjustments for Items Unpaid by Seller	
14 City/Town Taxes 7/1/12 to 9/14/12	\$262.39	14 City/Town Taxes 7/1/12 to 9/14/12	\$262.39
15 County Taxes to		15 County Taxes to	
16 Assessments to		16 Assessments to	
17		17	
18		18	
19		19	
CALCULATION		CALCULATION	
Total Due from Borrower at Closing (K)	\$189,784.74	Total Due to Seller at Closing (M)	\$180,085.00
Total Paid Already by or on behalf of borrower at Closing (L)	\$175,512.39	Total Due from Seller at Closing (N)	\$115,562.39
Cash to Close From <input checked="" type="checkbox"/> To Borrower \$14,272.35		Cash From <input checked="" type="checkbox"/> To Seller \$64,522.61	

1 Calculating Cash to Close: Like the Loan Estimate, this section lists the elements that make up the Cash to Close, including any deposit and credits. Also lists the amounts from the Loan Estimate and the final costs to show changes and briefly explains why the change occurred or where more detail about the change is located on the disclosure.

2 Summaries of Transactions: A carry-over from the HUD-1 revised to have more plain language, it summarizes the distribution of funds.

other exemptions may be necessary to ensure that this rule doesn't unnecessarily delay closings," Wold added.

Technical issues regarding electronic- or regular-mail delivery of the Closing Issue can impact timing.

"If you are closing on a Thursday and mailing it out, then you would have to have everything in the mail the prior Thursday," Wold said. "It will be a significant task between the lender and settlement agent regardless of who provides the form. There will be information shared back and forth between both parties."

Impact on Settlement Agents

Currently, settlement agents are required to provide the HUD-1, while lenders provide the revised TIL disclosure. The Bureau proposes two alternatives delivering the Closing Disclosure form to the consumer. Under the first option, the lender would be responsible for delivering the Closing Disclosure form to the consumer. Under the second option, the lender may rely on the settlement agent to provide the form. However, under the second option, the lender would also remain responsible for the accuracy of the form. The costs

Oct. 5
ALTA RESPA Task Force conference call with CFPB staff

Nov. 8
ALTA email to CFPB on fifth round of application stage (GFE) mortgage disclosure

Dec. 5
ALTA letter to CFPB on first round of Settlement Disclosure to replace HUD-1

Dec. 23
ALTA letter to CFPB on second round of Settlement Disclosure to replace HUD-1

2011

Sept. 22
ALTA letter to CFPB offering input on how to improve disclosures and consumer understanding of fees

Nov. 7
ALTA participates in a CFPB-hosted joint trade association meeting on Settlement Disclosure to replace HUD-1

Nov. 22
CFPB releases first draft of Settlement Disclosure to replace HUD-1

Dec. 6
ALTA RESPA Task Force meets with CFPB staff

Page 4 of Closing Disclosure

Additional Information About This Loan

Loan Disclosures 1

Assumption
 will allow, under certain conditions, this person to assume this loan on the original terms.
 will not allow assumption of this loan.

Demand Feature
 Your loan
 has a demand feature, which permits your lender to require early repayment of the loan. You should review your note for details.
 does not have a demand feature.

Late Payment
 If your payment is more than 15 days late, your lender will charge a late fee of 5% of the monthly principal and interest payment.

Negative Amortization (Increase in Loan Amount)
 Under your loan terms, you
 are scheduled to make monthly payments that do not pay all of the interest due that month. As a result, your loan amount will increase (negatively amortize), and your loan amount will likely become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
 may have monthly payments that do not pay all of the interest due that month. If you do, your loan amount will increase (negatively amortize), and, as a result, your loan amount may become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
 do not have a negative amortization feature.

Partial Payment
 Your lender will
 accept payments that are less than the full amount due (partial payments). Partial payments will be applied:

 not accept partial payments.
 If this loan is sold, your new lender may have a different policy.

Security Interest
 You are granting a security interest in
 456 Somewhere Ave., Anytown, ST 12345

 You may lose this property if you do not make your payments or satisfy other obligations for this loan.

Escrow Account 2
For now, your loan
 will have an escrow account (also called an "impound" or "trust" account) to pay the property costs listed below. Without an escrow account, you would pay them directly, possibly in one or two large payments a year. Your lender may be liable for penalties and interest for failing to make a payment.

Escrow		
Escrowed Property Costs over Year 1	\$2,473.56	Estimated total amount over year 1 for your escrowed property costs: Homeowner's Insurance Property Taxes
Non-Escrowed Property Costs over Year 1	\$1,800.00	Estimated total amount over year 1 for your non-escrowed property costs: Homeowner's Association Dues You may have other property costs.
Initial Payment	\$412.25	A cushion for the escrow account you pay at closing. See Section G on page 2.
Monthly Payment	\$206.13	The amount included in your total monthly payment.

will not have an escrow account because you declined it your lender does not require or offer one. You must directly pay your property costs, such as taxes and homeowner's insurance. Contact your lender to ask if your loan can have an escrow account.

No Escrow

Estimated Property Costs over Year 1	Estimated total amount over year 1. You must pay these costs directly, possibly in one or two large payments a year.
Escrow Waiver Fee	

In the future.
 Your property costs may change and, as a result, your escrow payment may change. You may be able to cancel your escrow account, but if you do, you must pay your property costs directly. If you fail to pay your property taxes, your state or local government may (1) impose fines and penalties or (2) place a tax lien on this property. If you fail to pay any of your property costs, your lender may (1) add the amounts to your loan balance, (2) add an escrow account to your loan, or (3) require you to pay for property insurance that the lender buys on your behalf, which likely would cost more and provide fewer benefits than what you could buy on your own.

CLOSING DISCLOSURE PAGE 4 OF 5 - LOAN ID # 123456789

1 **Loan Disclosures:** Includes several current and newly-required disclosure statements.

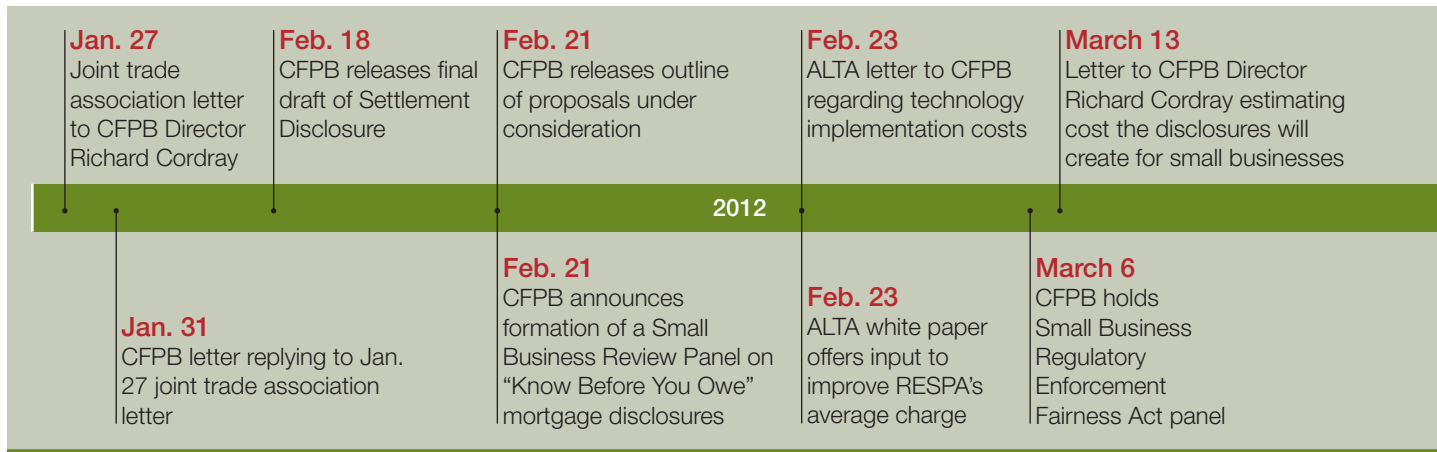
2 **Escrow Account:** Provides details about the escrow account and an estimate of costs due if there is no escrow account.

to creditors and settlement agents under this alternative, according to the CFPB, would depend on how creditors and settlement agents go about fulfilling the joint requirement. The Bureau seeks comment as to which alternative is preferable.

If the requirement leads to delayed or canceled closings, this would impose costs on covered persons as well, the CFPB said in its proposal. Such closing delays could result in loss of revenue for transactions that fall through due to a delay. The proposed rule may also create legal and reputational risks for creditors or settlement agents that are unable to close loans as planned, according to the CFPB.

“There’s no safe assumption that business as we know it today will be retained. Everything is being restructured,” said Justin Ailes, ALTA’s vice president of government affairs. “While lenders have indicated they don’t want to take over the settlement process, we have to assume that some of the regulations may force their hands.”

In developing the proposed rule, the Bureau also considered an alternative under which the settlement agent would have sole responsibility for providing the Closing Disclosure to



Page 5 of Closing Disclosure

Loan Calculations 1		Other Disclosures 2	
Total of Payments. Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.	\$292,420.88	Appraisal If the property was appraised for your loan, your lender is required to give you a copy at no additional cost at least 3 days before closing. If you have not yet received it, please contact your lender at the information listed below.	
Finance Charge. The dollar amount the loan will cost you.	\$123,997.58	Contract Details See your note and security instrument for information about - what happens if you fail to make your payments, - what is a default on the loan, - situations in which your lender can require early repayment of the loan, and - the rules for making payments before they are due.	
Amount Financed. The loan amount available after paying your upfront finance charge.	\$156,964.47	Liability after Foreclosure If your lender forecloses on this property and the foreclosure does not cover the amount of unpaid balance on this loan, <input checked="" type="checkbox"/> state law may protect you from liability for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and be liable for debt remaining after the foreclosure. You may want to consult a lawyer for more information. <input type="checkbox"/> state law does not protect you from liability for the unpaid balance.	
Annual Percentage Rate (APR). Your costs over the loan term expressed as a rate. This is not your interest rate.	4.441%	Refinance Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.	
Total Interest Percentage (TIP). The total amount of interest that you will pay over the loan term as a percentage of your loan amount.	69.468%	Tax Deductions If you borrow more than this property is worth, the interest on the loan amount above this property's fair market value is not deductible from your federal income taxes. You should consult a tax advisor for more information.	
Approximate Cost of Funds (ACF). The approximate cost of the funds used to make this loan. This is not a direct cost to you.	1.63%		

3 **Questions?** If you have questions about the loan terms and costs on this form, contact your lender. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at www.consumerfinance.gov/learnmore.

Contact Information 4					
Name	Lender	Mortgage Broker	Real Estate Broker (B)	Real Estate Broker (S)	Settlement Agent
	Ficus Bank		Omega Real Estate Broker Inc.	Alpha Real Estate Broker Co.	Epsilon Title Co.
Address	4321 Random Blvd, Somecity, ST 12340		789 Local Lane, Sometown, ST 12345	987 Suburb Ct, Someplace, ST 12340	123 Commerce Pl, Somecity, ST 12344
NMLS/ License ID			Z765436	Z61456	Z61616
Contact	Joe S.		Samuel G.	Joseph C.	Sarah A.
Contact NMLS/ License ID	12345		P16415	PS1461	PT1234
Email	joesmith@ficusbank.com		sam@omegare.biz	joe@alpha.biz	sarah@epsilontitle.com
Phone	123-456-7890		123-555-1717	321-555-7171	987-555-4321

5 **Confirm Receipt**
By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature _____ Date _____ Co-Applicant Signature _____ Date _____

CLOSING DISCLOSURE PAGE 5 OF 5 - LOAN ID # 123456789

- 1 **Loan Calculations:** Consolidates six new and previously required calculations.
- 2 **Other Disclosures:** Includes several current and newly-required disclosure statements.
- 3 **Questions:** Lists both the lender and the CFPB website as sources of information about the loan.
- 4 **Contact Information:** Groups contact information as an easy reference.
- 5 **Confirm Receipt:** Allows for consumer signatures to document receipt of the disclosure.

the consumer. However, the Bureau is concerned that settlement agents do not have access to much of the information regarding loan terms that must be included in the Closing Disclosure. In addition, in response to industry feedback, the Bureau considered an approach that would bifurcate the Closing Disclosure into TILA-required and RESPA-required disclosures. However, the Bureau is concerned that such an approach would be confusing for consumers, would be impracticable and result in additional regulatory burden because of the amount of overlap between TILA and RESPA disclosures, and is inconsistent with the Dodd-Frank Act requirement to integrate the disclosures.

“The proposed rule has some positives, but there are some places where CFPB really missed the boat. It’s clear that CFPB recognized they needed to provide industry with clear and definitive guidance for this rule to be successful. That is a solid step forward,” Korsmo said. “But regrettably, the Bureau chose to pass the buck on the most important thing they could do to protect consumers, which is ensuring that an independent, third-party conducts the closing.”

2012

<p>March 20 ALTA participates in a CFPB-hosted joint trade association TILA/RESPA roundtable</p>	<p>April 12 ALTA letter to CFPB staff regarding accuracy of GFES</p>	<p>April 16 Joint trade association letter to CFPB commenting on the Feb. 21 overview of proposals under consideration</p>	<p>June 21 ALTA President Chris Abbinante testifies before Congressional Subcommittee</p>	<p>July 12 ALTA Hosts Conference Call With 300+ Members to Discuss Proposed Rule</p>
<p>March 20 ALTA participates in a CFPB-hosted joint trade association TILA/RESPA roundtable</p>	<p>April 12 Letter to CFPB on third round of draft settlement disclosure to replace HUD-1</p>	<p>April 16 Joint trade association letter to CFPB urging the consumer bureau to “get it as right as they can”</p>	<p>June 7 CFPB staff holds roundtable in D.C. with more than 30 ALTA members to discuss issues with forms</p>	<p>July 9 CFPB Issues Proposed Rule for Integrated Mortgage Disclosure Form</p>
				<p>Nov. 6 Public comment period closes</p>

Standard Form

Representing the biggest win for the industry, the Bureau heeded the warnings of the RESPA Task Force and proposed that a standard form be used in all RESPA transactions. This will save significant costs for the industry.

Based on consumer testing results, the Bureau believes that the purposes of more effective advance disclosure of settlement costs are better achieved if all lenders provide disclosures in a standardized format. The Bureau seeks comment on the advantages, such as cost-saving benefits, and disadvantages of requiring a standard form for the Closing Disclosure for federally related mortgage loans and model forms for other credit transactions.

“Having multiple forms in the marketplace would confuse consumers and result in title and settlement companies having to create forms for different lenders,” Wold said. “The programming requirements and training for each settlement agent would have been a tremendous burden.”

Line Numbers

Not only has the CFPB proposed new forms, but the line numbering system on the HUD-1 has been ditched. The Bureau said it tested several different prototype formats for disclosing actual closing costs on

What You Can Do

The deadline to provide feedback to the CFPB is Nov. 6, 2012, for most of the proposal. Comments regarding changes to the calculation of the finance charge and annual percentage rate, and the delay of the effective date for certain disclosures required by the Dodd-Frank Act are due by Sept. 7, 2012. The Bureau also is seeking comment on when this final rule should be effective.

- To keep up-to-date about the rule and for information on how to take action, join the Title Action Network at www.alta.org/tan. As you review the rule and the new forms, consider how it will impact your business and consumers.
- Send feedback to ALTA at respacomments@alta.org so that we can incorporate them into ALTA’s official comments to the CFPB. When providing feedback, give specific examples of how this will impact consumers and the industry, along with suggested changes to improve the rule and forms.

More Information

For more information about the CFPB’s proposal and to view all of ALTA’s advocacy efforts regarding the mortgage disclosures, go to www.alta.org/cfpb. If you have questions or need more information, contact any of ALTA’s government affairs team:

- Justin Ailes, ALTA’s vice president of government and regulatory affairs, at jailles@alta.org
- Jessica McEwen, ALTA’s director of government affairs, at jmcewen@alta.org
- Steve Gottheim, ALTA’s legislative and regulatory counsel, at sgottheim@alta.org

the Closing Disclosure, including prototypes that were similar in format to the current HUD-1 with a similar three- and four-digit line numbering system, and other prototypes that more closely matched the Loan Estimate. According to the CFPB,

consumer participants performed better at identifying closing costs when using a format that closely matched the Loan Estimate.

During the Small Business Review Panel, ALTA members requested line numbers from the current HUD-1

First & Second Quarter CFPB reviews public comments	Projected year when industry must begin using new mortgage disclosure forms * Estimated
2013	2014
Second & Third Quarter CFPB expected to issue final RESPA/TILA regulation and forms	

be retained, stating that using the revised line numbers in the prototype integrated Closing Disclosure would significantly increase programming costs. Mary Schuster, a member of ALTA's RESPA Task Force, said the line numbering change could be a programmer's nightmare.

"The core line numberings and groupings did not change during the last RESPA Reform," Schuster said. "The proposed Closing Disclosure groups fees by categories and are not tied to one spot on the form."

Schuster used the 700 line—which is for the real estate agent's commission—on the HUD-1 as an example of how this will cause problems. This percentage is computed by the software and populated onto the line. However, because there's not

a fixed spot on the proposed form, the ability to automate the calculation will be lost.

"Settlement agents will lose efficiency. This creates an opportunity for mistakes and will make closing more difficult because fees can be anywhere on the form," Schuster said. "We need to provide thorough comments on the impact this could have."

The Bureau seeks comment on whether the use of line numbers will lower software-related costs on the industry, and the exact amount of the savings given the rest of the changes in the integrated closing disclosure contemplated by the proposal.

Tolerances

Similar to existing law, the proposed rule would restrict the circumstances in which consumers can be required to pay more for settlement services than the amount stated on their Loan Estimate. Unless an exception applies, charges for the following services could not increase: (1) the lender's charges for its own services, (2) charges for services provided by an affiliate and (3) charges for services for which the lender does not permit the consumer to shop.

Also unless an exception applies, charges for other services generally could not increase by more than 10 percent. The rule would provide exceptions, for example, when: (1) the consumer asks for a change, (2) the consumer chooses a service provider

Protect Your Industry's Future

- The Title Action Network is an energized movement of title insurance industry professionals promoting the industry's value and protecting homeownership rights.
- From state houses to Washington, D.C., elected officials make decisions that impact our industry, our customers and consumers.
- That's why it's vital to speak with one voice about the role we play.
- It's easy and free to join.

Join today, take action and invest in the industry's future.

Go to www.alta.org/tan

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that was not selected by the lender, (3) information provided at application was inaccurate or becomes inaccurate or (4) the Loan Estimate expires. When an exception applies, the lender generally must provide an updated Loan Estimate within three business days.

The Bureau reported it is aware of concerns that HUD's 2008 RESPA Final Rule is both too lax and too restrictive, and also that the rule is difficult to understand. The proposed rule attempts to address these concerns by balancing the objective of improving the reliability of the estimates creditors give consumers shortly after application with the objective of preserving creditors' flexibility to respond to unanticipated changes that occur during the loan process. Specifically, the proposed rule applies the zero-tolerance category to a larger range of charges, including fees charged by an affiliate of the creditor and charges for services for which the creditor does not permit the consumer to shop. A service provider would be considered "selected by the creditor" if consumers are required

to choose only from a list of service providers prepared by the creditor (i.e., if consumers are not permitted to shop for their own provider).

"This increased liability will most likely force lenders to limit the number of settlement agents that they conduct business with for fear that it will be necessary to limit their liability for tolerance violations," said ALTA President Chris Abbinante. "We urge the CFPB to work with us to ensure that settlement agents still provide the settlement statement and conduct the closing."

The Bureau said it considered narrowing the exceptions permitting increases in settlement charges in order to restrict the ability of a creditor to charge more for its own services or for third-party settlement services than the creditor initially estimated. However, the Bureau is concerned that this approach could prevent creditors from increasing settlement charges to reflect justifiable increases in costs.

The Bureau said it understands that the proposed rule may result in increased use of affiliated service providers, so that creditors can more

directly control changes in settlement costs, which could have a negative impact on independent providers. Some have argued that the negative impact on independent providers could lead to reduced competition for settlement services and ultimately higher costs. The Bureau said it is unaware of any evidence that the ultimate increase in costs is likely to occur.

Alternatively, the proposed rule may encourage creditors to allow consumers to choose settlement service providers that are not on a list provided to the consumer (although in this case the creditor would be required to provide consumers with a list of settlement service providers that the consumers could use, if they so choose), so that the zero tolerance requirement would not apply. This would appear to benefit independent service providers, or at least be neutral relative to current practices, the CFPB said in its proposal.

Under the new rule, if a lender allows a consumer to shop for a settlement service, the lender will be required to provide the consumer with



A CEO Michelle Korsmo is joined by ALTA staff Justin Ailes, Steve Gottheim and Jessica McEwen during a July 12 conference call with more than 300 ALTA members to discuss the proposed rule and mortgage disclosures.

a written list identifying available providers of that service and clearly state that the consumer may choose a different provider for that service. The Bureau proposes standardized forms for the provider list with disclaimers about consumers' ability to shop.

“ALTA and its members support the Bureau's efforts to create mortgage disclosures that will make consumers better informed when shopping for a mortgage and more knowledgeable regarding what they are paying for when they get to the closing table.”

All-in APR

The Bureau is planning to eliminate the many exemptions to the annual percentage rate (APR) calculation for residential mortgages. Under this plan, title fees, lender's premium and closing agent fees would be included in the APR. The owner's title premium would still be excluded.

“The CFPB is trying to make the APR more consumer-friendly so it can be used to shop,” said Steve Gottheim, ALTA's legislative and regulatory counsel. “The CFPB is not concerned what impact this could have on the title industry's fees. The Bureau is not out there to protect our business model, but doing what they feel is best for consumers. We need to provide feedback on why title fees should not be included in the APR.”

Implementation Cost

The Bureau estimates the total one-time costs of reading the relevant sections of the Federal Register, revising systems to provide the new disclosures and training personnel for the Bureau respondents to be

approximately \$30.9 million, which corresponds to approximately 574,600 hours. Annualized over five years, this is an annual cost of \$6.2 million. In calculating the total burden of providing Loan Estimates and Closing Disclosures, the Bureau assumes that Loan Estimates will be provided in response to applications for mortgages and Closing Disclosures will be provided three business days before mortgages are consummated. The Bureau further estimates entities will reissue, on average, two Loan Estimates per loan originated.

When the industry went through RESPA changes in 2010, ALTA's vendor partners reported that the comparatively smaller changes by HUD's rule cost each software company approximately \$800,000 to \$1 million to implement. Based on a

conservative estimate, this round of changes is expected to cost closer to \$2-2.5 million per software company. ALTA estimates settlement companies will pay \$800 per employee for upfront implementation and training and see a 20 percent annual increase in software fees.

“More troublesome, because of the complexity of this new form, it is estimated that closing staff at small settlement providers will be able to close two fewer transactions per day,” Abbinante said. “This represents a 25 percent reduction in productivity for most settlement agents.”

Cost Analysis

The integrated Loan Estimate and the Closing Disclosure, however, would result in certain one-time costs to revise software and compliance systems, according to the CFPB. Overall, the Bureau estimates that the total one-time costs of complying with the proposed Loan Estimate and Closing Disclosure would be roughly \$100 million.

While the CFPB is proposing two alternatives for delivery of the Closing Disclosure to the consumer, the Bureau assumes creditors will bear the costs of revising software and compliance systems. If, instead, settlement agents bore those costs, the costs would likely be similar, although borne by different parties, the CFPB said in the proposed rule.

The Bureau requests comment on this approach to estimating costs, including whether settlement agents would incur costs that are substantially different from those incurred by creditors if they were responsible for providing the disclosures. ■

Mobile Applications That Enhance Communication and Deliver New Business

Several Companies Already Provide On-the-Go Tools but Offerings Expected to Grow

Of all the new and emerging technologies out there today, none have captured as much attention or generated as much widespread excitement as mobile applications. With over half of all cellular subscribers now using a smartphone, and 20 percent of the population owning an iPad or other tablet, it is no surprise that vendors in the title and settlement industry have begun to jump into the mobile arena.

Currently, most of the title and settlement mobile applications fall into three categories: property research, communication and data access, and vendor management. Since technology evolves rapidly, vendors are already creating innovative new applications outside these categories that bear watching.

The first subset of applications, property research tools, are ideal for real estate agents and mortgage lenders who do not operate out of a fixed office.

Several of the major title insurance underwriters offer these kinds of

mobile tools. These include Title 1-2-3 from Fidelity, AgentFirst from First American and Property Profiles from Stewart's PropertyInfo division. All of these applications are available on both iPhone and Android devices, with Fidelity and First American offering Blackberry versions as well.

These applications allow a user to search for a property using a variety of criteria, such as street address, parcel number, or owner name. Fidelity's Title 1-2-3 application even has a feature that uses the GPS capabilities of the device to provide a list of properties in the user's immediate area.

Once a property's information is accessed with one of these applications, the user can view characteristics such as ownership and tax information, legal description, a property map and comparable sales. All of the applications mentioned also allow the user to email a property profile from the mobile device.

While the property research mobile applications are mainly aimed at real

estate agents and lenders, underwriters and software vendors have created another class of applications that appeal to all participants in a real estate transaction. These are the communication and data access tools.

Most of the offerings in this category were built to expand access to existing web-based portals. These applications allow some or all of the participants in a transaction to view order information from a smartphone or tablet, send information to other parties and receive real-time notifications when important events occur, such as the delivery of a title insurance commitment.

Three such mobile tools are RamQuest's Closing Market Mobile, PropertyInfo's SureClose and Old Republic's OR Mobile application.

RamQuest introduced its Closing Market Mobile iPhone application in October 2010. It allows users of RamQuest's Closing Market platform to search for and view order details, including buyers, sellers, property information, and the status of outstanding requests to third-parties, such as appraisers and title insurance underwriters.

Additionally, RamQuest's application taps into some smartphone-specific capabilities by allowing the user to call or email contacts directly from the application, view documents using scrolling and "pinch-to-zoom," and displaying a map of the property location.

According to RamQuest, the application also works on the iPad

device. An Android version of Closing Market Mobile is under consideration.

PropertyInfo, a division of Stewart Title Company, released a similar application for the iPhone in May 2010 that provides transaction access to users of its SureClose transaction management platform. A version for Android phones was subsequently released.

Feature-wise, the PropertyInfo application is similar to the RamQuest offering. It also allows users to view a list of files, drill into order details, and call or email a contact from within the application.

Another underwriter, Old Republic, has released an application called OR Mobile that allows similar order access and capabilities from an iPhone or iPad.

Perhaps the most compelling of the current batch of mobile applications are the vendor management tools. These applications allow professionals such as notaries and appraisers, whose jobs are mobile by nature, to receive and accept (or reject) bids and complete work entirely from a smartphone or tablet.

One such tool is an iPhone application from ISGN that allows its network of appraisers to receive, accept and process real-estate appraisals entirely from a mobile device. The application features a series of screens that allow appraisers to enter all necessary property details, including room-by-room descriptions and notes on the condition of the property. Appraisers can also take pictures directly from the application. Once the on-site appraisal is complete, the user has the option to send the appraisal information from the mobile device to a partner to complete any necessary paperwork.

Another company, National Loan Closers, is developing similar technology to match the needs of title

Check Out These Useful Mobile Apps

While ALTA has created a smartphone application for its major conferences, ALTA's Technology Committee has tested and recommended other apps to help members with productivity.

PRODUCTIVITY

- **Dropbox:** Remote anytime access to your files (documents, pictures, etc.). www.dropbox.com
- **Documents To Go:** Microsoft Office Suite app. www.dataviz.com/DTG_home.html
- **LogMeIn:** Remote access to your full desktop. secure.logmein.com
- **NotesPlus:** Virtual notepad with handwriting, note taking, shape drawing and sound recording. notesplusapp.com
- **RDP:** Remote desktop connection for Windows. www.microsoft.com/mac/remote-desktop-client

agents with NCL's nationwide network of notaries. The company plans to release a mobile application in late 2012 that will complement its existing Closingboard solution.

Using Closingboard, notaries can choose to be notified when opportunities to perform a closing arise. By setting notification criteria such as price, location and times available, notaries can find out about the exact closings they wish to pursue without being bombarded with unwanted requests.

The Closingboard application allows notaries to accept or reject the assignment, check in when they arrive

at the closing location and mark the work as complete.

Since appraisers and notaries are mobile, tools that allow them to bring in and complete new business while they are on the go will certainly give them an advantage and help grow business.

While most of the title- and settlement-related mobile applications fall into the previously-mentioned categories, vendors continue to invent ways to introduce smartphones and tablets into the daily workflow.

One such vendor is Ernst Publishing Company, which has developed a mobile application that calculates potential settlement costs. Ernst's client companies can customize the application to use a combination of their own proprietary cost calculations along with standard closing cost data that Ernst provides. Once customized, client companies can affix their own branding logos to the application and make it available to their customers.

Another innovative vendor is LandTech Data Corporation. Its new LandTech eSign application for the iPhone and iPad allows users to scan, receive and sign documents directly from a mobile device—eliminating the need for printing and faxing of paper documents.

Without a doubt, mobile applications are getting the most attention from the public of any new technologies. I expect that many more vendors will introduce compelling new mobile applications in the near future. ■



Steve Acker is owner of Closergeist LLC, a technology development firm in Roanoke, Va. He can be reached at steve@closergeist.com.

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U.S. Supreme Court Dismisses First American v. Edwards

Dismissal Likely Will Have Wide-reaching Effects, According to K&L Gates

The U.S. Supreme Court on June 28 dismissed the *First American Financial Corp. v. Edwards* lawsuit, which tested whether consumers can bring class action lawsuits under the Real Estate Settlement Procedures Act (RESPA), even if they never suffered some actual injury.

The case, which was argued in November 2011, came to the U.S. Supreme Court from the U.S. Court of Appeals for the Ninth Circuit. Without elaborating, the Supreme Court justices dismissed the case in a brief order that said “The writ of *certiorari* is dismissed as improvidently granted.” In effect, this means the court said it should not have accepted the case.

The Ninth Circuit’s ruling stands and the case will be remanded back to the district court for discovery and trial.

“By dismissing *First American Financial Corporation v. Edwards*, the U.S. Supreme Court has left the issue to be worked out in the trial court,” said Michelle Korsmo, ALTA’s

chief executive officer. “The decision to dismiss leaves the issue of the necessity of injury to bring a class action suit yet to be resolved.”

Background

In 2006, Denise Edwards purchased a home in Cleveland. Her settlement agent, Tower City Title Agency LLC, referred her to First American Title for the purchase of title insurance. In 2007, Edwards filed a class-action complaint against First American in the Central

District of California. She claimed that First American’s “Captive Title Insurance Agreements” had violated Section 8(a) of RESPA because First American had paid \$2 million to Tower (in the form of both an excessive price for First American’s ownership interest in Tower, and an additional cash payment) in return for exclusive agency referrals.

Despite the fact that, under Ohio law, all title insurers are required to charge the same premium, so that there was no claim of overpayment, Edwards sued claiming that the business relationship between First American and its agent violated RESPA. The suit alleged the agreement constituted the payment of a thing of value in exchange for business referrals and constituted an improper fee-splitting structure. First American argued that Edwards lacked standing because she did not allege that the charge for title insurance was higher than it would



have been without the exclusivity agreement. Edwards argued that she had standing under RESPA whether or not an actual overcharge occurred.

First American filed a motion to dismiss the complaint for lack of subject matter jurisdiction, arguing that the plaintiff had failed to plead any injury as required by Article III of the U.S. Constitution and lacked standing to sue under RESPA

that the statutory language does not limit liability to instances where the plaintiff is overcharged and that the mere existence of the illegal kickback arrangement constituted an injury in fact for standing purposes. In other words, as the district court said, a consumer has a right to engage in a transaction free from the taint of any referral fees. The court held that RESPA provided the plaintiff a

the mere conclusory assertion of a statutory violation to get into court. Others sided with Edwards, arguing that the private right of action is a continuing deterrent to illegal referral fee arrangements. ALTA had filed an amicus brief in support of First American. In its brief, ALTA write: “A buyer who has suffered no increase in the cost of her title insurance policy and no decrease in the quality of service associated with the policy may, according to the decision, bring suit—even a massive class action—for the sole purpose of collecting an unwarranted bounty. If permitted to stand, the decision below will pointlessly raise the cost of doing business in the industry, hobbling small businesses and counterproductively raising the price of title insurance services for the everyday consumer the law seeks to protect.”

“The court’s dismissal will likely have wide-reaching effects, not just on lawsuits under RESPA, but in connection with any federal statutes that do not require a showing of actual harm.”

because she suffered no harm.

The district court denied First American’s motion, holding that RESPA effectively grants a consumer the “right to be free from referral-tainted settlement services” and that a violation of such right is a “statutory injury” that creates standing.

On appeal, the Ninth Circuit agreed with the district court and held that the damages provision in RESPA gives rise to a statutory cause of action regardless of whether an overcharge occurred. Citing the RESPA prohibition of the payment of any fee, kickback or thing of value in exchange for business referrals, the court held that whenever a violation occurs, the defendant is liable to the person who was charged for the settlement service in an amount equal to three times the amount of any charge. The court reasoned

statutory cause of action and that the plaintiff had standing to pursue her claims. First American then brought its motion all the way to the U.S. Supreme Court.

The U.S. Supreme Court granted cert to determine the question of whether a purchaser of settlement services has standing to sue under RESPA in the absence of injury under Article III, § 2 of the U.S. States Constitution. Interested third parties filed more than 30 *amicus curiae* (friend of the court) briefs, with each author taking a side. In many instances, briefs were filed by entities unrelated to the real-estate-related industries. For example, a number of entities, including Facebook and Toyota, filed *amicus curiae* briefs siding with First American and urging the court to require more than

Dismissal

Phil Schulman of K&L Gates in Washington, D.C., said that while the Supreme Court did not offer any further explanation, it will generally dismiss a petition in this manner when it has decided against any further review of the case. For example, when *certiorari* initially was granted as the result of a mistake or after oral argument the Supreme Court concludes that the case did not raise a clear-cut constitutional issue, and the court believes that it should not have accepted the case in the first place, Schulman added.

“The court’s dismissal likely will have wide-reaching effects, not just on lawsuits under RESPA and other federal consumer protection statutes, but in connection with any federal statutes that do not require a showing of actual harm,” Schulman said. ■



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Title Insurers Form Reinsurance Alliance with Lloyd's of London

Five title insurance underwriters have formed a reinsurance alliance with Lloyd's of London.

The alliance, which is called the American Title Reinsurance Alliance (ATRA), was formed in order to ensure that the participating companies have a secure source of reinsurance for large transactions on favorable terms. The companies participating in ATRA are: Agents National Title Insurance Co., which is based in Columbia, Mo.; Alliant National Title Insurance Co., which is based in Longmont, Co.; Attorneys' Title Guaranty Fund of Colorado, which is based in Denver; CATIC, which is based

in Rocky Hill, Conn.; and Security Title Guarantee Corporation of Baltimore. It is anticipated that other insurers will be joining the alliance, according to Lloyds of London.

"We are pleased to have entered into this relationship with Lloyd's," said Rich Patterson, president of CATIC. "This program enhances our ability to insure large transactions while reducing our exposure to loss. In addition, it allows us to obtain reinsurance on very favorable terms. This will enable us to be more competitive for multi-million dollar transactions."

Colorado Launches New Online UCC Filing System

Colorado has launched a new online commercial lien filing system, according to Colorado Secretary of State Scott Gessler. The previous online system was not sophisticated enough to handle all types of lien filings. Paper submissions

required more time and resources for both customers and Secretary of State staff. The new online system will accommodate all types of lien filings. With the launch of the new system, all UCC forms will be filed online.

Fitch: U.S. Title Insurance Industry Capital Position to Improve Modestly in 2012

Fitch Ratings' 2011 U.S. title industry's risk-adjusted capital (RAC) ratio for year-end 2011 was flat at 144 percent compared to 143 percent in 2010 and remains below its 15-year average of 167 percent. However, Fitch estimates a relatively modest improvement in the industry's capital position in 2012, as measured by the RAC ratio.

"Fitch anticipates that several catalysts for growth including reduced housing inventory, historical low interest rates and government programs such as the Home Affordable Refinance Program (HARP 2.0) could increase mortgage originations and ultimately industry surplus," said Gerry Glombicki, director at Fitch Ratings and title insurance sector head.

Data Trace Completes Coverage for All 15 Arizona Counties

Data Trace Information Services, a provider of data services to the settlement services industry, has completed title plants in Arizona's Pima and Santa Cruz counties and now maintains geographically indexed databases in all 15 Arizona counties.

This follows Data Trace's earlier announcements that it also provides title plant coverage for all counties in California and Florida. Data Trace manages title plant databases in more

than 400 counties in 30 states.

"The completion of title plant coverage for all counties in California, Florida and now Arizona is a true testament to our strength as a title plant provider," said Amanda Price, vice president of marketing and product management for Data Trace. "By continuing to expand and add geographic regions to our database, we help our clients to simplify and streamline their title production processes."

New Fraud Scheme Targets Title Agency Corporate Names

The Florida Land Title Association (FLTA) recently reported information provided by Stewart Title about a new fraud scheme in South Florida targeting title companies. According to a Stewart Title bulletin, corporations have been established with names similar to those of licensed title insurance agents. The corporate name is modified slightly with the addition of “services,” “group” or “corporation” for example, to allow for incorporation with the state division of corporations.

Once registered, the fraudulent companies are able to obtain a federal tax identification number and open up bank accounts. Stewart reported it has found that these entities do not have fixed office locations and commonly use cell phones as their office phone.

“The imposters create documents purporting to be title insurance commitments, using commercially available software, and provide lenders with fraudulently created insured closing service letters,” the bulletin stated. “We have discovered the existence of these schemes through

claims made by defrauded lenders as well as reports from our agents who have discovered imposter agents. Your efforts to maintain the integrity of your agency’s corporate identity is crucial in our efforts to fight agency identity theft.”

In the bulletin, Stewart lists several things agents can do to thwart this fraud:

- Be aware of communications received from buyers, sellers, vendors, lenders, brokers or any other parties relating to a closing that you have not been asked to handle. This may seem like an innocuous request since many times a closing simply has not yet been referred to you, or your office was the proposed recipient of the closing and the file has been moved to another closing agency. However, these calls are also the primary method to catch this type of identity theft.
- Many times a party to the imposter’s closing will try to contact the imposter, but find your contact information in a phone book or in a vendor’s or lender’s

database and call you about the imposter’s closing. You will need to train your staff to be cognizant of this specific type of phone call and if one is received, you will need to gather as much information as possible from the caller about the imposter agency. It is imperative the parties are made aware that your office is not handling the closing.

- Make use of positive pay and strict guidelines as to who is authorized to make

withdrawals and continual diligence/oversight with respect to the transactions occurring in your escrow account.

- Regular review of records maintained by the Secretary of State relating to your corporate name may be appropriate. ALTA and FLTA encourage those who believe they have been targeted in this type of “corporate identity theft” scheme to contact their underwriter immediately.

Agents Get Productivity Boost from the Integration of First American’s AgentNet and SoftPro

SoftPro, a national provider of closing and title software, has integrated First American Title Insurance Company’s AgentNet into the SoftPro 360 business exchange platform. AgentNet is a Web portal for title agents that offers a suite of time-saving tools designed to streamline their business processes.

With the SoftPro 360 integration, First American agents now have a fast, easy way to increase business efficiency, eliminate

redundancies and gain unprecedented control over mission-critical information.

“There’s no longer a need to switch back and forth between the two platforms,” explained Joyce Weiland, president of SoftPro. “Authorized agents can now generate approved First American Closing Protection Letters and policy jackets directly from ProForm, as well as order and track the wide variety of related products and services available through the SoftPro 360 network.”

Texas Land Title Association Names 2012 Title Person of the Year

Celia Goode-Haddock, chairman of the board and CEO of University Title Co., was named Title Person of the Year at the Texas Land Title Association's (TLTA) Annual Conference in Fort Worth on June 15. University Title is an ALTA member company.

The Title Person of the Year is the highest honor TLTA bestows. The recipient is chosen by the sitting TLTA president and is awarded at each Annual Conference.

"We are honored to present Celia with this prestigious award," said Leslie Midgley, executive vice president and CEO of TLTA. "Celia has been a constant champion for our association and the title industry in Texas. The contributions she has made as part of our association leadership are too many to name and we are privileged to have her among our ranks."

Goode-Haddock has been an active TLTA member for a number of years. She served on the TLTA board of directors in 1990, but was recently called back into duty for another term. She has also served on many TLTA Committees, including the



Federal Issues, Legislative and Finance committees.

"For the past 40 years of my life I have been blessed to work in the title insurance industry. My passion is to help people achieve their dream of property ownership," Goode-Haddock said. "Over the years, I have developed many friendships locally and statewide because of my participation in this career. This is my life and what my children grew up knowing. For them to show up and surprise me was one of the best gifts I could receive."

Other notable past winners of the award include Celia Flowers (2010-11), who is a member of ALTA's RESPA Task Force; Jack Rattikin III (2004-05), who is a past ALTA board member; and Jim Gosdin (1997-98), chair of ALTA's Forms Committee.

RedVision Launches New Gators Integration Technology

RedVision, a provider of title report production and real property research solutions, announced integration capabilities with ISGN Corporation's flagship settlement services and vendor

management system, Gators. Through the new integration, the browser-based Gators platform is equipped to import title data directly from RedVision's title research platform, TitleVision.

Indiana Title Company Acquires Agency Operations from Regional Underwriter

Metropolitan Title of Indiana recently acquired the title agency operations of Dreibelbiss Title Insurance Co.

Effective June 1, the two Dreibelbiss Title offices in Fort Wayne merged with Metropolitan Title.

Metropolitan Title of Indiana is a regional agency with operations covering central and northern Indiana including operations in Fort Wayne. Metropolitan Title is the consolidation of companies with a similar history to Dreibelbiss Title including the operations of York Title & Escrow in South Bend, Johnson Wert Title Company in Kokomo, Smart Mitchell Abstract in Lafayette and Fort Wayne's Columbia Land Title. Columbia Land Title was started by Margaret Sklenar, a partner of Metropolitan Title.

"We believe that combining the strengths of Dreibelbiss Title's reputation and extensive information systems to Metropolitan Title's commitment to leading-edge technology and customer service tools benefits both Dreibelbiss' and Metropolitan Title's customers today and in the foreseeable future," Sklenar said.

Dreibelbiss Title, a licensed underwriter in Indiana, recently stopped issuing new policies. The company generated \$78,000 in premiums in 2011, compared to \$181,000 in 2010. Dreibelbiss Title was founded in 1886 by John Dreibelbiss and was the oldest title agency operating in Allen County.

"We are pleased with the merger," said Eric Stine, general manager of Dreibelbiss Title.

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Proposed Mortgage Disclosures Could Be Game Changer

As the independent, third party at the closing table, we should always embrace opportunities to bring more transparency to the closing process. However, the Consumer Financial Protection Bureau's (CFPB) plan to integrate mortgage disclosures could bring significant changes to our industry once again, even though the current RESPA rule was rolled out less than two years ago. For better or worse, the CFPB's proposal could require broad revisions in systems and operations for the entire industry to adopt the new forms, implement changes in disclosure requirements and comply with timeline mandates for advance disclosure.

With 1,099 pages of the proposed rule to wade through, it's too early to make any formal comments other than to emphasize the volume of management challenges hitting our industry. Clearly we should all support anything that improves disclosure to consumers. It is the responsibility of each of us over the next few months of the comment period to review completely and discuss the proposed rule to make sure it is accomplishing its objectives to help consumers given its massive impact upon residential mortgage and settlement practices.

In reviewing the new disclosures, you'll notice a remarkable difference in presentation. After digesting the drastic change in the look of the forms, you should also know that the CFPB's proposal for delivery of the Closing Disclosure could significantly change the closing process. You can read more about that in the cover article, but the two alternatives being considered are different from what we're used to. Option one requires the lender to deliver the Closing Disclosure to the consumer. Under option two, the lender may rely on the settlement agent to provide the form. However, regardless of the option chosen, the lender remains responsible for the accuracy of the form. A potential danger here lies in the unintended result that closings in the future will be performed by lenders themselves.

This is the biggest unanswered question and the issue on which ALTA and its members will have the most work to do. While the jury is out on whether these forms are simpler and will help consumers understand loan features and comparison shop, it is vital that we give feedback to the CFPB.

Please review the proposed rule and forms. Let the CFPB know of any additional exemptions that should be applied to the three-day delivery rule of the Closing Disclosure. Let the CFPB know that the loss of line numbering on the current HUD-1 will result in a significant increase in software expense and training. The deadline to submit comments to the CFPB is Nov. 6, 2012. You can also send comments to ALTA at respacomment@alta.org. We must take action now. To keep up-to-date about the rule and take action, join the Title Action Network at www.alta.org/tan.

In the meantime, ALTA will continue to provide information to members through conference calls, webinars and TitleNews. While the rules of the game may change, we must ensure that we continue to be key players as independent third parties at the closing table. Consumers deserve it.

– Frank Pellegrini, ALTA president-elect



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