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American Land Title Association

Title News



Changes to Mechanics' Lien Laws

New Legislation Is Passed in North
Carolina and California, While Court
Ruling in Pennsylvania Causes Concern



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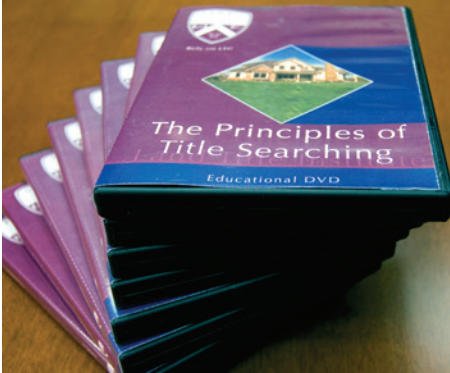
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from the publisher's desk

Presidential and Congressional Elections Could Be Swayed by Housing Issues

This is an important time for our country and the title industry. The industry is working on responding to the disclosure forms proposed by the Consumer Financial Protection Bureau. We are also very focused on finding solutions for the lending community's new requirements from the CFPB and the OCC for dealing with service providers, including title and settlement agents. It is also a time when policy makers pay close attention to the needs of the voters and the businesses in their districts.

Election season is one of the best opportunities (besides ALTA's Federal Conference) for you to establish yourself as a knowledgeable resource and thought leader on real estate and mortgage settlement. Take a moment to stop at a campaign event, introduce yourself to the candidate, and invite them to come see your operation and talk to your employees. It's good for you and it is good for the title industry to have elected officials know how things work in your community. And, when you do, give us a call and let us know how it went.

This year's presidential election provides an additional opportunity to get involved. ALTA is committed to engaging with decision makers and getting our members involved in the process at every level. ALTA hosted two successful title industry receptions during the party conventions: one at the Republican Convention in Tampa, Fla., and one at the Democratic Convention in Charlotte, N.C. Joining Justin Ailes, Cornelia Horner and myself, were ALTA President Chris Abbinante, President-elect Frank Pellegrini, dozens of ALTA members, coalition association members, as well as members of Congress and their staff. It was great to talk with everyone about their views on the housing industry.

Interestingly, President Obama and Republican candidate Mitt Romney rarely speak about their stand on housing issues. While the candidates are quiet on their housing stance, a recent survey reveals that housing issues and candidate positions on housing will play a major part in the ballot-casting decisions of American voters in the 2012 election. Of the issues addressed in the Move Inc., survey, nearly 80 percent of respondents view housing to be an important and integral part of the country's economic recovery, while close to 75 percent of those polled believe that conditions for purchasing a home a year from now will either be the same as they are now or worse. The government's influence and role in handling housing issues was another question posed by the survey. Ultimately, the poll revealed a split in opinion regarding the government's impact on housing with one in three saying that the role should stay the same, one in five voting for an increase and two out of every five Americans favoring a decrease in control.

Next year, there will be many important issues to address, including the reform of Fannie Mae and Freddie Mac, RESPA/TILA rulemaking and enforcement coming from CFPB. Engaging in the process and getting to know your elected officials is important to ensure the title industry continues to play its vital role in the real estate settlement process. To stay on top of these issues, sign up for the free Title Action Network at www.alta.org/tan.



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



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ALTA Board Approves Adoption of Two New Endorsements, Revision to Residential Limited Coverage Junior Loan Policy

The ALTA Board of Governors approved recommendations to adopt two new endorsements and revise the Residential Limited Coverage Junior Loan Policy (and associated JR Endorsements) during a meeting on June 21.

The newly approved endorsements are the ALTA Endorsement 30.1-06 (Commercial Participation Interest) and the ALTA Endorsement 32.2-06, Construction Loan – Loss of Priority – Insured’s Direct Payment.

A comment period for these forms concluded July 27. These forms bear a publication date of

Aug. 1, 2012. Note that the comment period for the U.S. Policy Form, approved by the Board on Feb. 21, 2012, has been extended to accommodate the need to update Department of Justice regulations. The prospective publication date for the U.S. Policy has been changed to Dec. 3, 2012.

You may download and review the forms in the “Recently Approved Forms - For Comment” section in the Policy Forms Online at www.alta.org/forms. Forward comments or concerns to Kelly Romeo, ALTA staff liaison for the Forms Committee, at kromeo@alta.org.

CFPB Proposes Rules for High-cost Mortgages

In addition to releasing its proposed rule for its mortgage disclosures on July 9, the Consumer Financial Protection Bureau (CFPB) proposed a rule that expands what is considered a “high-cost mortgage” and provides more protections to consumers who take out those loans.

The proposed rule would implement Congress’ expansion of the Home Ownership and Equity Protection Act (HOEPA) with respect to mortgages with high interest rates, fees or prepayment penalties. The CFPB’s proposal would:

- Ban potentially risky features. For mortgages that qualify as high-cost based on their interest rates, points and fees or prepayment penalties, the proposed rule would generally ban balloon payments (a large, lump sum payment usually due at the end of the loan) and would completely ban prepayment penalties.
- Ban and limit certain fees. The CFPB’s proposed

rule would ban fees for modifying loans, cap late fees and restrict the charging of fees when consumers ask for a payoff statement (a document that tells borrowers how much they need to pay off the loan).

- Require housing counseling for high-cost mortgages. The proposed rule would require consumers to receive housing counseling before taking out a high-cost mortgage. In addition, the CFPB’s proposal would implement TILA counseling requirements for first-time borrowers taking out certain mortgage loans that permit negative amortization. The proposal would also implement an amendment to RESPA to generally require that a list of housing counselors or counseling organizations be provided to all mortgage applicants. Deadline to comment on the proposal was Sept. 7, 2012. The CFPB will review and analyze the comments before issuing final rules in January 2013.

Register Online for the Annual Convention and Save

The 2012 Annual Convention, which is being held Oct. 17-20 at the Broadmoor in Colorado Springs, Colo., is right around the corner. Check out page 18 for a preview of all the activities.

Meanwhile, register online at www.alta.org/annual and save \$50.



Accounting Board Drops Litigation Disclosure Requirement Proposal

On July 9, the Financial Accounting Standards Board (FASB) voted to drop its proposal to require companies using Generally Accepted Accounting Principles—usually just publicly traded companies—to provide more detailed disclosure of expected litigation losses.

“Based on feedback received from a wide range of constituents on two exposure drafts over a period of four years, the board concluded that existing loss contingency disclosure requirements are adequate,” the FASB said in a statement following a 5-2 vote to drop the proposal.

“As a result of the increased scrutiny of loss contingency disclosures in recent years, the board concluded that improvements to financial reporting are more likely to be achieved through robust compliance than through additional standard setting.”

FASB proposed the requirements more than four years ago. In 2010, FASB revised the proposal to eliminate the maximum-exposure requirement,

but corporations were concerned about the increased level of disclosure. Of the 339 comments FASB received in response to the 2010 proposal, 289 opposed it. FASB said 19 of the 46 commenters in support of the proposal were plaintiffs’ lawyers.

Under current rules, a company must disclose in its financial statements any litigation for which there is a “reasonable probability” of a loss. If the possibility of loss is “reasonably possible,” the estimated loss or range of loss should be disclosed. This vague definition has been a tension point between public companies, investors and shareholder attorneys over the past three decades.

While this is a positive outcome for publicly traded ALTA member companies, there also is a downside. The main reason that FASB dropped the proposal is that the SEC has begun stepping up enforcement of these litigation disclosures in companies’ public filings.

CFPB Report Shows Mortgage Issues Dominate Consumer Complaints

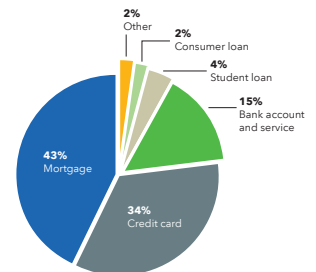
The Consumer Financial Protection Bureau (CFPB) released its semi-annual report highlighting the Bureau’s work in the first half of 2012.

In the report, the CFPB provides a breakdown of the 55,300 consumer complaints it has received since July 21, 2011. The CFPB reported that 44 percent of the complaints involved mortgage issues, followed by credit cards (34 percent), bank accounts and services (15 percent), student loans (4 percent) and consumer loans (2 percent).

Of the mortgage complaints, the CFPB reported 54 percent involved borrowers who had problems with loan modifications, debt

collection or foreclosure; 25 percent were problems with making payments, such as loan servicing and escrow accounts; 8 percent involved applying for a loan; and 4 percent involved the signing of the agreement, which included the settlement process and costs. The remaining 7 percent of the complaints involved other issues.

Consumer Complaints Received by CFPB



Source: CFPB

Download the 2011 Title Insurance Industry Data Book

ALTA has sponsored the collection of financial and market share data for the title insurance industry since 2003 for the purpose of producing various compilations of family and industry statutory financial data and various market share reports. The book

is organized into three sections: Market Share, Statistical Analysis and Selected Pages from an Industry Composite, NAIC Form 9 Statutory Report. These have been and continue to be posted to the ALTA website at www.alta.org/industry/financial.cfm.

2012-13 Nominations for ALTA Board and Executive Committees

ALTA's Nominating Committee is pleased to present the list of nominations for the 2013 ALTA Board of Governors, as well as the Abstracters and Title Insurance Agents Executive

Committee and the Title Insurance Underwriters Executive Committee. Nominations will be voted on during the 2012 Annual Convention, being held Oct. 17-20 in Colorado Springs, Colo.

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One-year term: Peter Birnbaum (*Chicago, Ill.*)
One-year term: Steven Day (*Jacksonville, Fla.*)
One-year term: Rich Patterson (*Rocky Hill, Conn.*)

ALTA Holds Webinars to Inform Industry About Proposed Regulations and Mortgage Disclosures

Since the Consumer Financial Protection Bureau released its 1,099-page proposed rule to go with a new Loan Estimate and Closing Disclosure that will replace the current TIL, GFE and HUD-1 disclosures, ALTA has held several webinars to help inform the industry about the proposal.

Nearly 2,000 industry professionals have participated on the presentations to learn how the proposed forms and regulations could impact business and work flow. Joining ALTA CEO Michelle Korsmo

and ALTA lobbyists have been ALTA RESPA Task Force members Don Wold (chair) of Old Republic National Title Insurance Co., Leslie Wyatt of SoftPro and Ruth Dillingham of First American Title Insurance Co., as well as ALTA members Francine D'Elia Wirsching of Community First Abstract and Shari Schneider of Title Resource Group.

To listen to past presentations, go to www.alta.org/cfpb. To get involved, join the Title Action Network at www.alta.org/tan.

Send Us Your News

Have information to report about your company? Send it to Jeremy Yohe at jyohe@alta.org and we will consider it for TitleNews.

Also, if you have photos of your employees that are newsworthy, send those as well and we may post them on our Facebook page.

Changes to Mechanics' Lien Laws

New Legislation Is Passed in North Carolina and California, While Court Ruling in Pennsylvania Causes Concern

During the colonial period in America, developing land and building homes were challenging, as supplies and materials were expensive and difficult to obtain. In addition, while access to land was fairly easy, finances to develop the land were difficult to obtain. To aid expansion and development, Thomas Jefferson introduced the Mechanic Lien Act to the Maryland legislature in 1791. Just one year later, a similar law passed in Pennsylvania. In no time, every state had its own lien law. >>

By Jeremy Yohe



The mechanics' lien laws turned out to be an enormously important piece of legislation for the developing country, according to Scott Wolfe Jr., an attorney and founder of Zlien, a nationwide mechanics' lien and preliminary notice filing service based in New Orleans.

"Without it, it's hard to conceive how the nation would have developed so rapidly and successfully," Wolfe added. "Assuring builders that they would have an ownership interest in the developed land itself gave them the security to move forward with projects, and gave owners the flexibility to do so without intervention and regulation by financing groups."

While originally applicable to only states and towns, the laws soon included agricultural regions and then entire states. As the mechanics' lien laws were used, problems were exposed and the legislation was quickly refined. At first designed to simply protect builders contracting with the owner, protection for subcontractors and suppliers followed when builders fraudulently left those parties unpaid. Additionally, the original laws lacked complexity of any sort, allowing a builder to acquire a lien automatically and without notice, and to maintain it seemingly forever.

"This was quickly made more complex by notice requirements and time limitations," Wolfe said. "As anyone in today's construction industry certainly knows, lien laws are no longer lacking in complexity."

In several states, changes to mechanics' lien laws have been made while in another state a court ruling will have a significant impact for the title insurance industry.

North Carolina

An example of how a mechanics' lien law became dated came to fruition in North Carolina earlier this year. In June, the Fidelity Family of underwriters, followed by First American, announced it would curtail mechanics' lien coverage in the Tar Heel state where there was a broken priority. The state's dated mechanics' lien law did not have a notice provision that afforded protection to the purchaser, its lender or title

■ "As anyone in today's construction industry certainly knows, lien laws are no longer lacking in complexity."

insurer. Inevitably, the industry was relying on the party who should pay the lien claimants to inform them who they are. This has led to a spike in claims over the past several years.

Meanwhile, the North Carolina Land Title Association attempted several times over the past four years to secure a legislative fix by submitting different pieces of legislation. None made it to the General Assembly floor for consideration until this summer. On July 12, North Carolina Gov. Beverly Perdue signed legislation supported by the NCLTA that updated the states mechanics' lien law.

"The North Carolina legislature took an important and necessary step to protect innocent purchasers of real property with recently completed, in-process or immediately contemplated construction, and lenders giving mortgages on those properties, from

hidden mechanics' liens," said Ryan Wainio, president of NCLTA and vice president for Investors Title Insurance Co. "Prior to the enactment of Senate Bill 42, contractors and suppliers who provided labor or materials to a property, if unpaid by the seller, were able to file liens on that property and lawsuits against the innocent purchasers and lenders seeking a sale of the property to pay the seller's debts. These liens and suits could be filed weeks, months or even

years after closing.

"The only deadline was filing the claim of lien within 120 days of the last furnishing to the property. Innocent purchasers and lenders had no way to identify these potential lien claimants under previous law—thus, the reference to 'hidden liens,'" Wainio added.

By the same token, the contractors and suppliers had no effective mechanism to communicate to a potential purchaser or lender that they were providing labor or materials to the property. These liens and the ensuing litigation had plagued North Carolina businesses, purchasers and lenders for decades.

Senate Bill 42 introduces a new concept to North Carolina called the "Lien Agent," which must be a title insurance company or title agent registered with the North Carolina Department of Insurance

and authorized to do business in the state. The title industry has been concerned about the risks created by hidden liens when there is recent or contemplated construction.

Effective April 1, 2013, North Carolina's mechanics' lien law will require contractors and suppliers who may seek payment to provide written notice to a Lien Agent in order to preserve all the lien rights that they now possess, according to the South Carolina-based law firm Nexsen Pruet PLLC. If the potential lien claimant does not follow the new requirements associated with the Lien Agent, its lien rights could be terminated or subordinated to others' interests. The legislation will require the designation of a Lien Agent for all private projects where the total cost of the improvements is \$30,000 or more, except existing single family residences. The owner will choose the Lien Agent from a list maintained by the Department of Insurance. Wainio said the NCLTA's original legislative proposal had provided that title insurers, title agents, banks and licensed attorneys were eligible to serve as Lien Agents. However, the legislature determined that it was advisable to limit the number of potential Lien Agents, to subject them to regulation by the N.C. Department of Insurance and to set the maximum fee that can be charged for serving as a Lien Agent at \$25 for residential dwellings and \$50 for all other properties.

In order to claim a lien on property that is superior to the interest of a purchaser or lender, contractors, subcontractors and suppliers are required to send a one-page form to the Lien Agent announcing their presence on the job. A closing attorney will request from the Lien

Agent a list of parties who have filed these notices prior to closing on a purchase or loan transaction and the interests of any party that has filed a notice with the Lien Agent will be considered and addressed as necessary at closing.

"In the coming months, the NCLTA and its members are committed to putting a lien agent system in place that will provide a simple and efficient filing system and a user-friendly interface for parties needing to search for these filings,"

■ "North Carolina has long needed a mechanics' lien law that protects subcontractors and suppliers ... while at the same time protecting innocent purchasers and lenders from the fear of lawsuits that arise because of hidden liens."

Wainio said. "North Carolina has long needed a mechanics' lien law that protects subcontractors and suppliers who work hard to improve property while at the same time protecting innocent purchasers and lenders from the fear of lawsuits that arise because of hidden liens. The enactment of Senate Bill 42 achieves both of these objectives. A purchaser, lender, closing attorney or title insurer will now be able to discover the existence of potential lien claimants who may make claims on the real property after closing and ensure their potential claims are addressed at or prior to the time of closing."

Pennsylvania

In Pennsylvania, a recent 2-1 decision by the Superior Court of Pennsylvania in *Commerce Bank/Harrisburg, N.A. v. Kessler* will have an enormous impact on the Pennsylvania lending industry as it relates to open-end construction mortgages, according to attorneys with the law firm Dickie, McCamey & Chilcote P.C.

The focus of the appeal was the applicability of the 2006 amendments to Pennsylvania's Mechanics' Lien

Law, which made significant changes to the statutes governing priority of liens and lien waivers. One such change made contractor and subcontractor lien waivers against public policy for non-residential projects. Additionally, the amendments supposedly granted open-ended mortgages priority over mechanics' liens, which represented a significant change from the prior law under certain circumstances. Specifically, under the pre-amendment law, a subcontractor could back-date its lien to the date when work was "visibly commenced" on the property. If that date predated the open-end mortgage,

the subcontractor would be granted priority.

“With regard to the issue of priority, the purpose of the amendments was to make mechanics’ liens subordinate to ‘bank liens’ so as not to freeze lending,” said Brant T. Miller, a shareholder of Dickie, McCamey & Chilcote. “The decision defies the purpose of the 2006 amendments relating to priority and, in many circumstances, places that priority in jeopardy under normal and customary lending practices in Pennsylvania.”

In *Kessler*, the Superior Court addressed the priority of liens between the holder of an open-end mortgage and the project contractor. The construction contract in the case was entered into prior to the effective date of the amendments and the open-end mortgage post-dated the amendments. Under the pre-amendment Mechanics’ Lien Law, absent a lien waiver, the contractor would have had priority over the holder of the open-end mortgage because work had visibly commenced prior to the recording of the open-end mortgage. However, due to the amendments, the priority of the liens was at issue.

In the lower court, the contractor successfully argued that his lien had priority due to its contract predating the effective date of the amendments. The contractor argued that to apply the amendments to his contract would be to apply a statute retroactively in violation of Pennsylvania law. The lender disagreed with this position and argued that applying the amendments were not affecting the contractor’s contractual rights, but were changing the contractor’s statutory rights, which could be freely changed by

the legislature. The Superior Court agreed with the lender and held that because the contractor “obtained” his lien under the Mechanics’ Lien Law as amended, it was bound by the provisions.

After seemingly making a major decision in favor of the lender, the Superior Court reversed course and affirmed the lower court based on other grounds. The contractor argued that even though the amendments applied, the open-end mortgage at issue did not comply with the statutory requirements in order to gain priority. The section at issue grants priority to “[a]n open-end mortgage as defined in 42 Pa.C.S. 8143(f), the proceeds of which are used to pay all or part of the costs of completing erection, construction, alteration or repair of the mortgaged premises secured by the open-end mortgage.” The parties stipulated that portions of the proceeds of the open-end mortgage were used to pay for tax claims, closing costs, satisfaction of an existing mortgage and to satisfy other judgments and liens.

Though both parties agreed that certain money spent did not go toward “completing erection, construction, alteration or repair,”

the lender argued that because Section 8143(f) also contained the definition of the word “indebtedness,” that paying for expenses included within that definition should be permissible. This position was supported by the argument that the definition of “open-end mortgage” included the word “indebtedness” and, therefore, the definition of “indebtedness” should be considered. The Superior Court disagreed and held that because indebtedness was not specifically referenced by the legislature, it could not be considered. As such, the Superior Court held that because not every dollar of the open-end mortgage went to “completing erection, construction, alteration or repair of the mortgaged premises secured by the open-end mortgage,” the contractor had priority over the open-end mortgage.

While there are still remaining issues relating to the amendments and the applicability of Section 1508(c), Miller said this holding makes clear that paying certain costs at the time of closing that would otherwise be properly included in an open-end mortgage, such as those costs described in *Kessler*, removes the open-ended mortgage from the



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protected class. Moreover, in an unrelated matter, an argument has been made that *Kessler* also prevents the payments of soft costs related to construction. Though this issue is not addressed directly by *Kessler* and strong arguments favor inclusion of these costs, based on the holding in that matter, it is unclear whether the court will deem these costs permissible.

“Unless the decision is reversed through a rehearing *en banc* or by the Pennsylvania Supreme Court, this is the law in Pennsylvania,” Miller said. “Accordingly, it is important for all Pennsylvania lenders to immediately examine their outstanding open-end mortgages and determine whether they are at risk. Going forward,

lenders entering into a project will have two choices.”

First, Miller suggests they can ensure that the open-end mortgages pay for nothing other than the costs allowed by the Mechanics’ Lien Law as amended. This may be difficult because, inherently, an open-end mortgage allows for many other costs to be covered. Second, a lender may be forced to essentially shut down a project, pay off all of the contractors, remove all equipment from the project site, close the new loan and then start a new second project after the mortgage has been recorded, Miller added. Although difficult and costly, due to the strict requirements imposed by the recent Superior Court opinion, this may be the safest alternative.

“Though cast as an opinion on statutory interpretation, this recent opinion seemingly flies in the face of Pennsylvania lending practices and leads to more questions than it does answers,” Miller said. “Due to the amount of dollars that are often involved in these types of transactions, this opinion should be immediately contemplated and analyzed by Pennsylvania’s lending institutions.”

Miller believes this decision also has significant ramifications for the title insurance industry because the industry is now a risk to insure any construction loan that pays for anything above and beyond pure hard construction costs.

“It is clear that after *Kessler*, open-end mortgages that cover

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acquisition costs cannot be insured without exception for mechanics' lien claims," he said. "The recent Superior Court opinion also calls into questions whether loans that pay for soft construction costs would be granted priority over mechanics' lien claims. Until this issue is resolved, insuring these types of loans without exceptions for mechanics' liens comes with a substantial risk."

California

While some states are pure strict jurisdiction states, there appears to be a national trend leaning toward more liberal construction, with courts in Washington and most recently in Pennsylvania overturning years of precedent.

In the past, California has not been a jurisdiction that construed mechanics' lien claims very strictly, but new legislation that took effect July 1 appears to legislatively require courts to uphold mechanics' lien claims whenever possible, said attorney Scott Wolfe. Senate Bill No. 189, which revised, supplemented and/or replaced California's laws regarding mechanics' liens, stop notices and payment bonds, enumerates a specific and limited list of things that can invalidate a mechanics' lien.

California CLE provider Continuing Education of the Bar (CEB) provided the following summary on the substantive changes:

- The term "stop notice" will become "stop payment notice," and the term "original contractor" will become "direct contractor." They retain the same functions as before the amendments effective July 1.
- A design professional may record a mechanics' lien for providing work authorized for a work of

improvement, subject to specified conditions. Also under SB 424 (adding CC §8319; see Stats 2011, ch 127), also effective July 1, 2012, a design professional may convert a recorded design professional lien to a mechanics' lien if certain requirements are met.

- Under CC §8200(e)(2), any claimant who has a direct contractual relationship with the project owner must give a preliminary notice to the construction lender. This claimant class includes the prime or general contractor.
- Under CC §9200(b), if work has ceased continuously for a 60-day period (rather than a 30-day period under the former law), the deadline for calculating service of a stop notice to a public entity is calculated from the 60th day rather than the 30th day.
- Although California courts of appeal have disagreed about whether a prevailing party may recover attorney fees in litigation over progress payments owed to the contractor, under CC §8800(c) (replacing CC §3260.1(b), effective July 1, 2012), the prevailing party on claims for wrongful withholding of progress payments is entitled to costs and reasonable attorney fees.
- Under CC §8064, an owner may give a notice or execute or file a document under the mechanics' lien law on behalf of a co-owner if the owner acts on the co-owner's behalf and includes in the notice or document the name and address of the co-owner on whose behalf the owner acts.

Arizona

Arizona's mechanics' lien law provides that a lien is authorized whenever work is furnished at the "instance" of the owner or the owner's agent. A tenant who acts as the owner's agent can expose the owner to a mechanics' lien claim. Arizona case law establishes that a lease requiring and approving tenant improvements renders a tenant such a qualifying agent of the owner.

The Arizona Court of Appeals was confronted with this scenario in *Wang Electric Inc. v. Smoke Tree Resort LLC*. In this case, the property owner argued it was not exposed to a mechanics' lien for its tenant's improvements because the lease agreement with the tenant contained a clause that "explicitly provided that 'no mechanics' or other lien for any ... work or materials [furnished to REM of Lincoln] shall attach to or affect [Smoke Tree's] interest in the [p]remises and represented that the sole relationship between Smoke Tree and REM was as landlord and tenant."

The question became whether this explicit contract language could circumvent Arizona's jurisprudence. The court ruled owners cannot contract around lien exposure from tenant improvements. The court of appeals explained: "This disclaimer, however, contravenes the legislature's policy expressed in A.R.S. § 33-981(A) to permit liens against an owner's interest in property when work is performed or materials furnished at the instance of the owner or its agent." Because the lease establishes that REM served as Smoke Tree's agent for purposes of the lien statutes, the disclaimer cannot serve to invalidate Wang Electric's lien, the court ruled. ■

Stay Ahead of the Curve by Attending the 2012 Annual Convention

Join Us Oct. 17-20 at the Broadmoor in Colorado Springs, Colo.

With proposed mortgage disclosures that will replace the HUD-1 and GFE, an increased focus of how escrow funds are handled and a presidential election, there's plenty of change that title professionals must keep informed about. There's no better opportunity to get up to speed on market changes than at this year's Annual Convention.

General Sessions

In July, the Consumer Financial Protection Bureau (CFPB) released regulations for its proposed mortgage disclosures, which will replace the Good Faith Estimate and HUD-1. ALTA has invited Richard Cordray, director of the CFPB, to speak during a general session on Oct. 19 to discuss the Bureau's priorities for the proposal and address changes that it could bring to the settlement and title industry. Attendees will want to attend to understand how the closing process and the settlement agent's role in the transaction could change with the new forms.

"The rule and proposed forms, which will once again alter the closing process, will be a main discussion at the convention," said Chris Abbinante, ALTA's president.

■ "You'll want to be part of this timely conversation so you can prep your company for the coming changes."

"You'll want to be part of this timely conversation so you can prep your company for the coming changes."

Once again, Fannie Mae Chief Economist Doug Duncan will provide analysis on the mortgage and housing markets. Moderate economic growth is expected throughout the remainder of 2012, but fiscal issues in Europe and a decelerating trend in hiring could produce a massive drag on the U.S. economy. In contrast,

the housing market has performed relatively well in the current environment supported by record affordability and low rates. What does this all mean for the industry heading into 2013? Duncan, who will follow the CFPB discussion on Oct. 19, will explain why there's cautious optimism for the housing market.

"Doug always provides well-researched information to help attendees prepare their future business plans," said Michelle Korsmo, ALTA's chief executive officer. "We are excited to have him return and provide his smart yet witty analysis."

Adding uncertainty to the market is the upcoming 2012 presidential election. Ronald Brownstein, editorial director and columnist for the *National Journal*, will provide an inside look at the race for the White House during the general session on Oct. 18.

"With the 2012 presidential election teetering on a knife's edge, the economy's performance in the months ahead may well decide if

Great Tours and Events Planned

Situated on 3,000 acres of lush parkland in the Rocky Mountains, the Broadmoor offers a variety of inspiring outdoor activities that celebrate the natural beauty of this unique region from fly fishing and hiking to white water rafting and horseback riding. Here's a look at some special tours and events ALTA has planned.

WEDNESDAY, OCT. 17

Pikes Peak Cog Railway

8:15 a.m.-1:15 p.m. • Price: \$95

Take an unforgettable trip to the 14,110-foot summit of Pikes Peak. You can sit back, relax and take in the splendors of Colorado as the highest cog railway in the world takes you through hidden valleys, past groves of quaking aspens and over the tundra at timber line. Once on the summit, you will see the same unparalleled vistas which inspired Katherine Lee Bates to write "America the Beautiful."

THURSDAY, OCT. 18

United States Air Force Academy & Garden of the Gods Tour

1 p.m.-4:30 p.m. • Price: \$80

The USAFA is set against the Rampart Range of the Rocky Mountains, providing a beautiful setting for this 18,000-acre property that houses more than 4,000 cadets. During the Academy tour, you will see the Visitors Center and an authentic B-52 that served a tour in Vietnam, along with the world-famous Academy Chapel. Leaving the Academy, you will head southwest to the Garden of the Gods, one of the most breathtakingly scenic spots in the entire state of Colorado.

FRIDAY, OCT. 19

One-Mile Fun Run/Walk

6:30 a.m.-7:30 a.m. • Price: \$15

In addition to training your mind at the education sessions throughout the day, start Friday morning by training your body on a quick one-mile run or walk through the grounds of the Broadmoor.

Wolf Encounter

1:00 p.m.-5:00 p.m. • Price: \$155

Experience the thrill of meeting wolves by taking a scenic drive into the mountains for a visit to a wolf sanctuary. A guide will introduce you to animals in their outdoor environment. After the tour, you will be invited to experience for yourself how playful and affectionate wolves can be, and those who wish to may spend a brief time petting and playing with the wolves.

7th Annual Michael F. Wille Memorial TIPAC Golf Tournament

1 p.m.- 6 p.m.

Suggested Contribution: \$350

The Broadmoor's East Course is ranked among the best golf courses in the country. Since the large trees can alter your shots and the putting greens difficult to read, the best tip we can offer for those taking on this open course is to remember that putts break away from the mountains. The East Course has been home to many major tournaments; most recently, the famous course served as the host to the 2008 U.S. Senior Open and the 2011 U. S. Women's Open Championship.

SATURDAY, OCT. 20

Horseback Riding

1 p.m. - 4:30 p.m. • Price: \$185

This mountain horseback ride offers a beautiful trek through the scenic Pikes Peak National Forest. Knowledgeable guides will escort guests along beautiful trails that cross old mining claims, and provide a variety of mountain views from deep forest to panoramic vistas overlooking the Front Range.

TIPAC United States Olympic Training Center Tour

1 p.m.-4:30 p.m.

Price: \$125 TIPAC Donation

Colorado Springs is home to the U.S. Olympic Committee and one of three Olympic Training Centers in the country. Upon arrival at the Visitors Center, you will watch a brief inspirational film that highlights some of the greatest moments in Olympic history. You will then take a guided tour of the complex with a USOC Ambassador, who will provide you with entertaining and educational insights into the Olympic movement and what it really takes to send American athletes to the Olympic Games. The Olympic pool, the largest indoor shooting range in the Western hemisphere and the weightlifting/wrestling gymnasiums are just a few of the venues showcased. Leaving the OTC, you will head to the Garden of the Gods for a tour featuring some of the most beautiful scenery in Colorado.

President Obama wins re-election,” Korsmo said. “Attendees will have the opportunity to get the inside scoop to hear analysis on the candidates’ policies and the impact each could have on the economy.”

To help companies prepare for all the changes occurring in the market, ALTA has scheduled business thought leader Jason Jennings to round out the general sessions on Oct. 20. The best-selling author will share the lessons learned from leaders and organizations that have successfully reinvented and transformed themselves and increased sustainability.

“With proposed mortgage disclosures that may change the

theft. To keep members abreast of these dynamic changes, ALTA has dedicated a track of professional development sessions focused on the future of the industry.

Among the sessions, you’ll learn current issues in regulation impacting the title industry, different options available to prevent escrow theft, development of a model agency contract, the Dodd-Frank Act and how its requirements will impact the settlement services space and how the CFPB’s proposed regulations and mortgage disclosures will impact business. ALTA also has sessions focused on the needs of attorney agents. CE and CLE credits will be available for many sessions.

presentation titled “How to Achieve Uncommon Results,” in which he will share nine secrets how title companies can achieve growth.

“No company grows beyond the levels of its leaders and team players,” Turner said. “I’ll share several traits of personal development that are required to grow any title agency or direct operation.”

In another session impacting title agents, David Townsend of Agents National Title Insurance Co., will discuss how to negotiate errors and omissions, and fidelity bond coverage. Townsend will explain what coverages mean, why premiums go up, how the use of third-party searches for title work impact coverage. He also will explain how to maximize coverage and minimize cost.

In addition to other business operation sessions, First American Financial’s Bernie Cowens will discuss Security in the i-Age.

New tools and applications require innovative thinking to address risks in the i-Age. Attendees of this session will learn about the risks associated with the shift toward consumer computing via mobile and smart devices in the workplace and receive strategies and tips to effectively address these challenges.

“The proliferation of mobile computing devices, smartphones and related technologies presents both an exciting business opportunity and unique security challenge to an organization,” Cowens said. “No longer is IT the sole provider of technology and applications to the workforce. Employees, customers and even new business models demand the latest mobile technology.” ■

“We have created an excellent program honed on giving you the tools to remain competitive and manage your company for the future.”

closing process and the continued conversation about how best to protect escrow funds, title professionals must start thinking about adjusting business models to meet future market demands,” Abbinante said. “This will be a great conversation on how to ‘reinvent’ your company.”

Education Sessions

In addition to changes at the closing table, there’s a shift in who is responsible for the acts of others and who can handle escrow funds. Regulators are pushing the industry to do more to prevent escrow

“Despite all these changes on the horizon, we are excited about this year’s meeting and believe we have created an excellent program that will provide you the tools to remain competitive and manage your company for the future,” Abbinante said. “Change is coming whether we like it or not. The only way to face it is to train and be prepared. Whether you’re looking for smarter technology, invaluable networking opportunities or just plain good ideas, ALTA’s Annual Convention is the place to make it happen.”

Darryl Turner of The Darryl Turner Corp., will offer a



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ALTA Partners with NJLTA for Successful Title 101 Training with Regulators

Program Provides Explanation of Title Insurance, the Process of Issuing Policies and Differences from Other Insurance Lines

On May 24, ALTA Past President Anne Anastasi and 11 members of the New Jersey Land Title Association (NJLTA) conducted a successful Title 101 presentation for 49 staff members of the New Jersey Department of Banking and Insurance (NJDBI).

Title 101 is a program for the title industry to present to state insurance regulators to explain the fundamentals of title insurance, the process used to issue title insurance policies and the differences from P&C insurance.

“The goal is to describe each step in the title-avoidance process from the search through the closing and the issuance of the policy,” Anastasi said. “Once it is understood that we spend a great deal of time and money discovering, negotiating and curing items that if unattended, would turn into claims in the future, they begin

to understand how different we are from other lines of insurance. They also start to realize that our claims percentages do not tell the whole story.”

Regulators from the NJDBI said the presentation was informative and helpful in understanding the industry.

The regulators really got engaged in the discussion, asking several questions about the differences in escrow and title agent licensing. The discussion also turned to escrow theft and the efforts of the industry to protect these funds.

Anastasi said she enjoyed watching the faces of the attendees as they started to realize how much work goes into performing a search, the exam, the curative process and the closing.

“It was a real eye-opening experience for them and a proud moment for the New Jersey Land Title Association,” she added. “I encourage other land title associations to provide this training to their regulators as well.”

Helping reinforce the amount of work needed to produce a policy with the regulators, Joe Grabas of Investors Title Agency in Edison,



A Joe Grabas of Investors Title Agency explains the search process during the Title 101 training.

Bring Title 101 to Your State

So far, ALTA has conducted Title 101 in 27 states, with additional presentations scheduled in Michigan and Tennessee. The training also was conducted by ALTA past president Anne Anastasi Association at this year's Property Records Industry Annual Convention, which was held Aug. 29.

Legislators and regulators need to hear our industry's story. Do your part to help educate decision makers.

To schedule a Title 101 training session, contact Steve Gottheim, ALTA's legislative and regulatory counsel, at sgottheim@alta.org.

of each document in the stack to properly detect the items that needed clearance and curative action, and then a final risk assessment prior to preparation for the title closing.”

Grabas said the regulators had many interesting and specific questions after the presentation and that general reaction was very cordial and post-meeting feedback extremely positive.

American Title Insurance Co., touched on the claims process and provided a very appropriate analogy.

“Claims are like driving a car with GPS when it tells you to turn into the wilderness, where no road exists,” he said. “There is no road map for the claims handling process because each one is unique.”

Usignol said the presentation offered the opportunity for real

■ “Claims are like driving a car with GPS when it tells you to turn into the wilderness, where no road exists. There is no road map for the claims handling process because each one is unique.”

N.J., explained the different searches necessary in the state. To illustrate the amount of documents that need reviewed, he stacked all of the paper from each search as he explained them.

“By choosing some of the more complex searches and data that title insurers encounter on a daily basis and compiling them into one unified matter—such as common name searches, condominium master deeds, chancery abstracts, corporate reports, Covenants of Restrictions, Developer Agreements and easements—we were able to create a physical manifestation of the amount of work that goes into title research and underwriting,” said Grabas, adding that the pile of paper stood about 18-inches tall. “We stressed the point that it is the title examiners job, their duty as defined by law, to review all ‘four corners’

“I believe that we have succeeded in strengthening an already considerable bridge that we have mutually built over the years between the New Jersey title industry and the department. The New Jersey Title 101 program reinforced communication and education.”

Nancy Koch, New Jersey state counsel for Old Republic National Title Insurance Co., provided a story of how “naked satisfactions” (when there’s no corresponding deed or mortgage associated with the discharge) can cause issues and result in claims.

While Beth Ann Way, vice president of Fidelity Title Abstract Co. in Cherry Hill, N.J., provided comments on what title professionals do at the closing table, Laurence Usignol, state counsel for First

face time with people, as opposed to interactions over the phone or through email.

“The value and importance of the human touch cannot be underestimated, even though the pressing demands of modern business often preclude such opportunities,” he said. “The seminar gave the regulators the chance to ask us about our business, and my colleagues took advantage of the questions to explain what we do, how we do it and why we do it. I think it was clear that the representatives from the New Jersey Department of Banking and Insurance gained many insights into our business, and that can only make them and us more productive and efficient.” ■

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'Big 4' Report Strong Q2 Earnings

National Underwriters All Post Profit During Latest Quarter

Record housing affordability and mortgage rates helped propel all four of the national underwriter families to strong second-quarter results as refinance orders surged and seasonal resale volumes improved.

Fidelity National Financial's title division posted pretax earnings of \$192.1 million during the second quarter of 2012, up from the \$143.7 million in pretax earnings the company reported during the second quarter of 2011. First American Financial's title segment reported \$118.4 million in pretax income, which is up from \$60.8 million during the second quarter of 2011. Old Republic International reported its title insurance business generated pretax income of \$22.5 million during the second quarter of 2012, compared to pretax income of \$5.5 million during the same period a year ago. Stewart Information Services Corp. posted \$31.2 million in pretax earnings during the second quarter of 2012, up from \$5.7 million during Q2 2012.

Joe Petrelli, president of Demotech Inc., said second-quarter 2012 and year-to-date operating results and

profitability are likely to be somewhat uneven when comparing results of the national, publicly traded underwriters versus the privately held regionals.

"The publicly traded underwriters are larger and likely benefited from the surge in commercial and multi-family transactions, while the regionals remained highly dependent on residential transactions," Petrelli said. "Similarly, the larger title underwriters have information services and other support operations that have benefited from the uptick in refinance and sale activity."

Fidelity

The company's pretax margin in its title business of 14.4 percent is the highest since 2005. George Scanlon, FNF's chief executive officer, called the result impressive "considering we are operating in a market in 2012 that is 40 percent the size of the 2005 originations market.

"The severe market correction has compelled us to drive more efficiencies and agility into our operational structure and positions us for expanding margins as the market and mix of transactions eventually improves," he added. "This quarter

clearly demonstrates the operating leverage in our title business. While refinance volumes are grabbing the headlines, we also saw a 7 percent increase in purchase orders in the second quarter versus the prior year period."

During the second quarter of 2012, Fidelity's direct operations opened 667,500 orders compared to 514,000 opened orders during the same period a year ago. Meanwhile, the company's direct operations closed 459,300 orders during the second quarter of 2012 compared to closing 353,200 orders during Q2 2011.

Fidelity generated \$427.5 million in premiums from its direct operations during second-quarter 2012, while its agency channel produced \$518.5 million in premiums. This compares to \$357 million from direct operations and \$484.7 million from agency operations during second-quarter 2012.

Fidelity's commercial business generated revenue of \$98.3 million and grew by 4 percent compared to the second quarter of 2011.

"We saw across-the-board improvement in our direct agency and commercial operations," Scanlon said. "While the overall real estate market remains challenged, we are proud of our results in the ongoing efforts of our employees to deliver high-quality services in a cost-efficient manner."

Fidelity paid \$101.3 million in claims during the second quarter

of 2012. This is down from \$147.5 million during the same period a year ago.

First American

First American also experienced its best results since 2005 as it reported a title margin of 11.7 percent.

“The cost-efficient and scalable operations we built over the last several years enabled us to demonstrate significant operating leverage in the quarter,” said Dennis Gilmore, chief executive officer at First American Financial.

Direct premiums and escrow fees totaled \$424.1 million during the second quarter of 2012, up 27 percent from the second quarter of 2011. Meanwhile, agent premiums were \$400.4 million, up from \$348.4 million from the same period a year ago.

“Second-quarter open orders were up 36 percent year-over-year, primarily driven by strong refinance activity,” Gilmore said. “We also saw an increase in resale and commercial transactions in the quarter. Given first-half results and a strong order pipeline, we are on track to deliver on our goal of an 8 to 10 percent title margin for the full year 2012.”

During the second quarter of 2012, First American’s direct operations opened 411,200 orders while closing 289,300. This compares to 302,400 opened orders and 215,600 closed orders during the second quarter of 2011. Personnel costs were \$299.3 million in the second quarter, up 11 percent compared with the second quarter of 2011. This increase was primarily due to higher incentive-based compensation driven by improved revenues and profitability.

First American reported it paid \$71.9 million in claims during

second-quarter 2012, down from \$80.3 million during the same period a year ago. First American’s provision for policy losses and other claims was \$54.8 million in the second quarter, or 6.6 percent of title premiums and escrow fees, up \$14.6 million compared with the same quarter of the prior year. The current quarter rate of 6.6 percent reflects an ultimate loss rate of 5.9 percent for the current policy year and a net increase in the loss reserve estimates for prior policy years.

Old Republic

According to Old Republic, its net premiums and fees earned during the latest quarter were \$403.4 million, up from \$327.1 million during the second quarter of 2011. The company reported the increase stemmed from a combination of factors.

“Key among these has been market share gains emanating from title industry dislocations and consolidation during the past three years, and greater levels of refinancing activity in more recent times,” the company said in a release. “Year-over-year expense ratio comparisons benefitted from continued rationalization of the expense structure to accommodate current and future growth expectations.”

Old Republic’s claims ratio was 7.3 percent during Q2 2012, compared to 7.7 percent during the same period a year ago. The company said the claims ratio was lower as “claim frequency and severity abated somewhat.”

Stewart

Matthew Morris, Stewart’s chief executive officer, said the culmination of back office operations consolidation, focus on increasing

remittance rates, high-quality independent title agencies and declining title claims all played a role in the strong results from the second quarter.

“We are encouraged by the results of our strategic initiatives and believe that we are now beginning to reap the benefits of more scalable operations,” Morris said. “We are mindful, however, of industry projections that call for a decline in mortgage originations in the fourth quarter and continue to simplify and align our operations to better adapt to market fluctuations.”

Opened title orders in Stewart’s direct operations posted an increase of 23.1 percent from the second quarter 2011. During the second quarter of 2012, Stewart’s direct operations opened 111,400 orders while closing 79,100. During the same period in 2011, the company’s direct operations opened 90,500 orders and closed 66,800 orders.

Independent agency revenues increased 17.4 percent from the second quarter 2011. The remittance rate from independent agencies was 17.6 percent during the second quarter of 2012 compared to 17.1 percent during the same period a year ago.

As a percentage of title revenues, title losses were 8.7 percent in the second quarter 2012 compared to 9.2 percent in second-quarter 2011.

“Since we began the process of rationalizing our network of independent agencies in 2008,” Stewart reported. “Our average annual remittance per independent agency has increased approximately 75 percent, while the number of independent agencies in our network has fallen by half.” ■

First-Quarter 2012 Underwriter Premium Summary

Company Name	Premium Written Direct	Premium Written Non-Affiliated Agency	Premium Written Affiliated Agency	Total Premiums Written	Market Share
FIDELITY FAMILY					
Chicago Title Ins. Co.	80,637,263	164,218,460	121,053,561	365,909,284	15.72%
Fidelity National Title Ins. Co.	23,951,805	153,415,405	100,963,046	278,330,256	11.96%
Commonwealth Land Title Ins. Co.	14,231,863	65,001,365	39,423,472	118,656,700	5.10%
Alamo Title Ins. Co.	-	3,007,258	8,176,539	11,183,797	0.48%
Total - Fidelity Family	118,820,931	385,642,488	269,616,618	774,080,037	33.26%
FIRST AMERICAN FAMILY					
First American Title Ins. Co.	99,524,081	348,694,822	136,506,570	584,725,473	25.12%
First Canadian Title Ins. Co.	23,022,150	-	-	23,022,150	0.99%
First American Title Ins. Co. of LA	21,284	9,078,373	-	9,099,657	0.39%
First American Title Ins. Co. of OR	8,433,379	647,627	-	9,081,006	0.39%
Total - First American Family	136,329,070	362,454,157	136,506,570	635,289,797	27.30%
OLD REPUBLIC FAMILY					
Old Republic National Title Ins. Co.	14,934,847	258,511,602	35,382,606	308,829,055	13.27%
American Guaranty Title Ins. Co.	1,345,250	3,337,882	634,522	5,317,654	0.23%
Mississippi Valley Title Ins. Co.	67,189	4,944,531	-	5,011,720	0.22%
Total - Old Republic Family	16,347,286	266,794,015	36,017,128	319,158,429	13.71%
STEWART FAMILY					
Stewart Title Guaranty Co.	27,333,943	145,695,403	75,506,286	248,535,632	10.68%
Stewart Title Ins. Co. of NY	5,025,458	34,784,993	50,789	39,861,240	1.71%
Total - Stewart Family	36,246,663	180,480,396	75,557,075	292,284,134	12.56%
FAMILY TOTALS	307,743,950	1,195,371,056	517,697,391	2,020,812,397	86.83%
INDEPENDENT COMPANIES					
National Title Ins. of NY	1,486,534	4,429,347	71,222,682	77,138,563	3.31%
Westcor Land Title Ins. Co.	-	41,585,437	8,573,081	50,158,518	2.16%
Title Resources Guaranty Co.	432,236	26,904,616	21,552,432	48,889,284	2.10%
North American Title Ins. Co.	-	4,677,016	15,961,296	20,638,312	0.89%
WFG National Title Ins. Co.	2,270,240	15,901,365	1,205,803	19,377,408	0.83%
Investors Title Ins. Co.	4,876,695	10,122,824	-	14,999,519	0.64%
Connecticut Attorneys Title Ins. Co.	-	13,272,578	-	13,272,578	0.57%
Alliant National Title Ins. Co.	-	12,495,541	-	12,495,541	0.54%
Security Title Guarantee Corp. of Balt.	-	9,737,367	-	9,737,367	0.42%
WFG Title Ins. Co.	1,008,566	7,990,043	-	8,998,609	0.39%
Total - Independent Companies	16,465,672	163,794,014	126,259,552	306,519,238	13.17%
TOTAL - ALL COMPANIES	324,209,622	1,359,165,070	643,956,943	2,327,331,635	100.00%

Note: Individual numbers do not equal the total as not all underwriters are not listed
For complete market share data go to www.alt.a.org/industry/financial

First-Quarter 2012 State Market Share Summary

	State	Premium Written		% Increase/ Decrease
		3/31/2012	3/31/2011	
1	California	\$348,275,263	\$307,072,647	13.4%
2	Texas	286,593,329	246,232,912	16.4%
3	Florida	177,667,399	159,349,254	11.5%
4	New York	174,039,884	164,967,165	5.5%
5	Pennsylvania	100,378,752	110,217,321	-8.9%
6	Arizona	77,230,724	77,713,322	-0.6%
7	New Jersey	73,414,240	76,492,988	-4.0%
8	Ohio	69,182,502	73,924,351	-6.4%
9	Virginia	63,812,393	63,396,311	0.7%
10	Illinois	60,507,071	53,461,297	13.2%
11	Colorado	59,286,531	57,662,337	2.8%
12	Michigan	56,055,509	68,102,492	-17.7%
13	Canada	51,316,600	48,176,127	6.5%
14	Washington	51,262,918	54,427,073	-5.8%
15	Massachusetts	50,143,271	53,478,720	-6.2%
16	Oregon	43,534,747	38,441,805	13.2%
17	Maryland	41,488,510	44,631,707	-7.0%
18	Georgia	41,075,828	37,072,612	10.8%
19	Utah	36,034,168	37,495,430	-3.9%
20	Nevada	28,653,416	40,317,389	-28.9%
21	Wisconsin	26,780,621	29,535,451	-9.3%
22	Louisiana	26,058,064	22,769,475	14.4%
23	Minnesota	25,874,995	29,150,763	-11.2%
24	Tennessee	25,727,728	25,209,145	2.1%
25	North Carolina	25,242,053	23,286,969	8.4%
26	Connecticut	23,448,115	25,232,396	-7.1%
27	Indiana*	22,131,702	20,586,947	7.5%
28	Idaho	20,242,718	19,157,152	5.7%
29	South Carolina	18,769,893	18,952,469	-1.0%
30	Alabama	17,736,236	16,986,538	4.4%
31	Hawaii	16,449,265	13,829,663	18.9%
32	New Mexico	16,348,602	15,862,833	3.1%
33	Oklahoma	13,862,447	11,837,734	17.1%
34	Kentucky	13,481,435	13,389,938	0.7%
35	District Of Columbia	13,078,469	13,187,813	-0.8%
37	Nebraska	11,282,338	12,428,549	-9.2%
38	Montana	10,853,185	9,940,142	9.2%
39	Missouri	10,186,497	12,565,607	-18.9%
40	Arkansas	9,721,615	9,344,031	4.0%
41	Kansas	9,356,311	10,031,996	-6.7%
42	Delaware	9,085,601	6,701,341	35.6%
43	Mississippi*	8,044,358	7,164,727	12.3%
44	Alaska	7,201,529	8,731,391	-17.5%
45	New Hampshire	7,015,693	7,860,646	-10.7%
46	Maine	6,824,742	6,526,263	4.6%
47	Rhode Island	5,225,066	5,283,146	-1.1%
48	Wyoming	4,879,849	5,145,647	-5.2%
49	South Dakota	4,459,171	4,388,616	1.6%
51	West Virginia	3,627,664	4,240,371	-14.4%
52	Vermont	3,022,688	3,123,084	-3.2%
53	Iowa	2,578,941	2,943,120	-12.4%
54	North Dakota	2,177,889	2,059,321	5.8%
59	Totals	2,310,728,535	2,230,086,544	3.6%

* One company in that state is estimated

Note: Individual numbers do not equal the total as all jurisdictions are not listed

Katie Andrews
Florida Agency Operations



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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.

Federal Judge Tosses Suit Accusing Title Company of Age Discrimination

In a June 6 ruling, a federal judge dismissed a case alleging a title company in Texas fired a woman because she refused to dye her hair.

In the U.S. District Court Southern District of Texas Houston Division, Judge Gray H. Miller approved Capital Title of Texas' motion for summary judgment and threw out Sandra Rawline's lawsuit alleging age discrimination.

"The court finds absolutely no evidence that Rawline's age was a motivating factor for her discharge," Miller wrote in this ruling. "Any reference to Rawline's hair color occurs only in the context of her overall disheveled appearance and offers no support for Rawline's allegation that Capital Title intentionally discriminated against her because of her age."

Rawline served as branch manager for the title company for nearly six years from Oct. 7, 2003 until Aug. 18, 2009, when she was terminated. According to court documents, Rawline's customers complained

about her rudeness, tardiness, temper and use of "choice words" in her dealings with them.

On Aug. 13, 2009, her supervisor had warned her about her lack of professionalism and once suggested she try "wearing clothes that are more appropriate for the workplace" and "maybe getting her hair trimmed and dyed," the ruling said.

A day after this conversation, Rawline came into work late, smelled like alcohol, wore inappropriate clothing and allegedly refused to close a transaction scheduled for that day. Rawline was terminated for refusing to conduct the closing, according to the lawsuit.

After filing a complaint with the U.S. Equal Employment Opportunity Commission and obtaining a right to sue letter, Rawline filed her original complaint against Capital Title of Texas on June 23, 2011, alleging age discrimination due to her refusal to dye her grey hair and because she was allegedly replaced by a younger woman.

Capital Title of Texas filed a counterclaim on Feb. 15, 2012, alleging defamation and business disparagement. The next day, the title company filed its motion for summary judgment, claiming

Rawline was terminated for good cause.

Ruling in favor of Capital Title of Texas, the judge said that Rawline's "statement that she was discharged because of her age was false."

Federal Appeals Court Dismisses Suit Alleging Kickbacks

In a July 3 ruling, the 2nd U.S. Circuit Court of Appeals dismissed a putative class action lawsuit alleging that title insurance companies sold title insurance at improperly inflated rates as a result of illegal kickbacks in violation of the Real Estate Settlement Procedures Act (RESPA).

In *Galiano v. Fidelity National Title Insurance Co.*, the court ruled that if a consumer is going to allege a kickback scheme, they must have some facts (such as dates, times, actors, etc.) to support the claim.

The plaintiffs purchased title insurance from the defendants in connection with their purchases of New York property. The lawsuit included several title insurance companies, all of which

are members of the Title Insurance Rate Service Association (TIRSA). Rates in New York are established and regulated by the New York Insurance Department, which reviews loss experience and financial data submitted by individual insurers and rate service organizations which are licensed by the Insurance Department.

TIRSA annually submits data from its members and prepares the New York Title Insurance Rate Manual, which is submitted to the insurance department for approval and sets forth collectively fixed rates, which are based on: value of property insured, cost of insuring risk associated with issuing the policy, costs associated with examination of records and agency commissions.

Near North National Title Acquires Indiana-based Agency

Near North National Title LLC announced that it has purchased Hamilton Title Security LLC, a longstanding Indiana title agent. Hamilton Title provides a full range of title and escrow services to firms and individuals involved in complex, single- and multi-state commercial, industrial and residential real estate transactions.

Near North is a market leader in the Chicago market. It plans to heavily invest in Hamilton's technology to give Hamilton's clients access to online ordering and processing, data protection and electronic delivery of services required for settlement.

"We are excited to be able to have such a capable group of professionals join our team," said Dan Fowler of Near North. "We plan to immediately add jobs to our Carmel, Ind., office and invest for the long term. Hamilton's

law firm, bank, realtor, builder and mortgage broker customers will quickly see and feel our dedication to customer service and benefit from access to our team of experts."

Hamilton's business, located in Carmel, will continue under the day-to-day management of a seasoned team of highly capable and long-time employees. President Bill Olsen, along with his now deceased brother, Bob Olsen, formed Hamilton 30 years ago. The Olsens, along with brother David, built Hamilton into a leading provider of title and escrow services in Carmel and the greater Indianapolis metropolitan markets.

"Hamilton is very excited that our customers and employees will benefit from Hamilton being a part of the Near North Title group of companies," said Bill Olsen.

Alaska Launches Electronic Recording

The Anchorage District Recorder's Office has begun electronically recording land record documents such as deeds, mortgages and reconveyances on a limited

basis. Over the next several months, additional recording districts will begin e-recording. The recorder's office is working with Simplifile to provide this new service.

Bank of America Alerts Title Companies of Short Sale Scam in Florida

Bank of America recently sent an alert to title companies in Florida about a short sale scheme involving properties on which the lender is a holder of a note secured by a mortgage or deed of trust. In its alert, Bank of America said that the perpetrators send approval letters to title companies that mimic legitimate approval letters from Bank of America, including the bank's logo, formatting and language.

In response to this issue, B of A has updated its existing short sale approval procedures. On all transactions for which the original principal amount of the loan exceeds \$500,000, all B of A approval letters will contain the following

statement: "Bank of America appreciates all of your efforts and cooperation in this matter. If you have any further questions, please contact our Short Sale Customer Care Department at 1-866-880-1232, Option 1."

The letter from B of A goes on to say that if that number is called, the lender will verify the following information with the title employee who calls:

- Loan Number
- Property address
- Closing deadline date
- Original borrower's name
- Approved buyer's name;
- Short Sale price and amount and
- Net proceeds amount to B of A.

FHFA Establishes Additional Anti-Fraud Measure for Fannie, Freddie

The Federal Housing Finance Agency (FHFA) announced an initiative to complement current fraud reporting by Fannie Mae, Freddie Mac and the Federal Home Loan Banks to ensure the regulated entities are not exposed to unnecessary risk from doing business with individuals or businesses with a demonstrated history of fraudulent conduct.

The Suspended Counterparty Program initiative requires Fannie Mae, Freddie Mac and the Federal Home Loan Banks to notify FHFA whenever an individual or company, including ALTA members, with whom they do business is adjudicated to have engaged in fraud or other financial misconduct.

GreenFolders Integrates With Settleware's On Demand e-Sign Service

Settleware has integrated its On Demand e-Sign service with the GreenFolders office management system.

GreenFolders' office management system provides users with the capability to manage work flow processes better by providing tools to collaborate, share, work on, mark up and store files and documents electronically. With the addition of Settleware's On Demand e-Sign service, GreenFolders users will be able to take a document from creation through execution and on to final storage in an entirely electronic format—eliminating the need for paper.

“With our ongoing commitment to improving workflow and eliminating paper-based processes, Settleware was a logical and synergistic addition to the GreenFolders platform,” said Mike Kirby, president of GreenFolders. “By utilizing their e-Sign technology, our customers will be able to further capitalize on the cost savings and efficiencies derived from working in a truly electronic environment.”

Users of GreenFolders Version 3.4.2 will have immediate access to Settleware's electronic signature services.

Adeptive Integrates Data Trace's Automated Title Product into the ResWare Platform

Adeptive announced that Data Trace Information Services' TitleIQ is now integrated with Adeptive's ResWare Platform.

Data Trace Information Services is a provider of automated title and tax data to the real estate settlement services industry and TitleIQ is its automated title product.

The integration allows users of ResWare

to submit orders electronically to Data Trace's proprietary Title IQ platform. Title IQ offers an automated search package (including title plant data and images) and an automated extraction service, both of which are generally delivered within four hours. TitleIQ combines data from proprietary sources and Data Trace's geographic title plants.

Attorney for South Carolina-based Law Firm Honored by Army Reserve

Rogers Townsend shareholder and executive committee member Michael Graham has received the Meritorious Service Medal from the U.S. Army Reserve. The honor is bestowed upon service members who have distinguished themselves by outstanding non-combat achievement.

An Iraq War veteran, Graham is also the recipient of a Bronze Star for his deployment in 2007-2008. In addition, he has been selected for promotion to the rank of major. His non-combat roles have included filling a command judge advocate slot while serving as the chief of the administrative law section, and serving on the general officer support team for the Judge Advocate

Readiness Mobilization and Integration Council (JARMIC).

Graham's military career led him to an assignment at the Pentagon and to his selection as a finalist for the Reserve Officer Association's MG Strom Thurmond Award for his service.

He was presented the Meritorious Service Medal on June 10, 2012, by Col. William Britt, commander of the 12th Legal Operations Detachment.

Graham leads Rogers Townsend's Title Services Department and manages more than 50 title professionals in North and South Carolina, including abstractors and a staff of title reviewers and title insurance professionals.

Medallion Analytics and ISGN Partner to Offer HUD Prep and Post-Closing Automation Tools

Medallion Analytics, a mortgage technology company that provides compliance and control across the entire loan origination and settlement process, and ISGN Corp., a provider of end-to-end technology solutions and services to the U.S. mortgage industry, announced that its Medallion HUD Prep

and Medallion Post-Close Audit solutions will be integrated with ISGN's Gators Settlement Services and Vendor Management System. The Gators system allows appraisal and settlement companies to automate and streamline their entire process from order entry to final product fulfillment.

E-recording Counties Top 800 Mark

The number of counties that are electronically recording documents reached the 800 mark on June 30, according to Kay Wrucke, president of the Property Records Industry Association (PRIA) and recorder in Martin County, Minn.

“Between September 2011 and June 2012, the number of counties committing to the e-recording process increased by 14.3 percent,” said Larry Burtness, Washoe County (Nevada) chief deputy recorder and PRIA Technology Committee co-chair. “As

the PRIA e-recording standards continue to mature, the number of counties leveraging this technology continues to expand.”

According to PRIA’s tracking system, it took from the late 1990s until August 2006 to reach the 200 e-recording counties mark. That number has now more than quadrupled in the ensuing six years.

“It’s exciting to see so many counties embracing this technology and, along with the technology, the PRIA standards,” Wrucke said.

Second Quarter Commercial/Multifamily Mortgage Originations Up 25 Percent from Q2 2011

Commercial/multifamily mortgage origination volumes during the second quarter of 2012 were up 25 percent from second quarter 2011 levels and up 39 percent from the first quarter of 2012, according to the Mortgage Bankers Association’s (MBA) Quarterly Survey of Commercial/Multifamily Mortgage Bankers Originations.

That increase was driven by increases in originations for retail and hotel properties. The increase included a 56 percent rise in the dollar volume of loans

for retail properties, a 22 percent increase for hotel properties, a 19 percent increase for multifamily properties, a 15 percent increase for office properties and 11 percent increase in health care property loans. These gains offset a 5 percent decrease in industrial property loans

Among investor types, the dollar volume of loans for commercial bank portfolios increased by 58 percent over last year’s second quarter. There was also a 50 percent increase in loan volumes for Fannie Mae and Freddie Mac).

Wife of Former ALTA President Mike Currier Passes Away

Linnie Currier, the wife of former ALTA President Mike Currier, passed away July 16. Mike, who resides in Carlsbad, N.M., served as the 1994-95 ALTA president.



Anne Anastasi, who was recruited years ago by the Curriers to become more involved in ALTA, said she’s never met a man who loved his wife more than Mike loved Linnie.

“Known to be kind and caring, Linnie had a sense of humor that was never unkind toward others,” said Anastasi, who served as ALTA president from 2010-2011. “She was a strong, sensible business woman who suffered no fools. The right way was the only way Linnie would do things.”

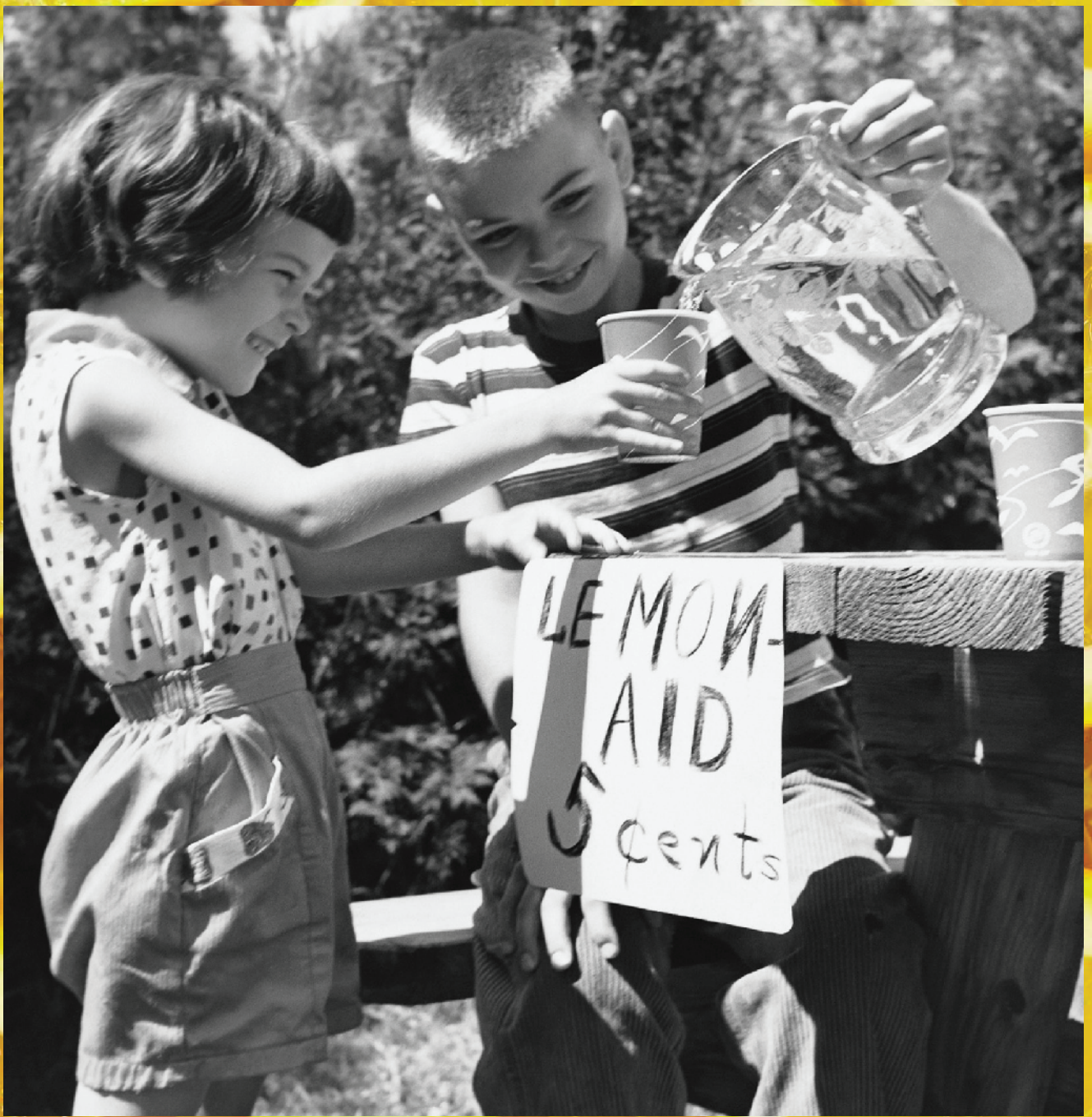
Anastasi said Linnie’s parents, Bill and Genie Davis, were grounded, down-home folks who set the same example that Linnie passed on to their daughter, Missi. Known to do the jitterbug with Mike during ALTA conventions, one of Linnie’s greatest pleasures over these past two years was the planning and celebrating of her daughter’s wedding, Anastasi said.

A memorial service was held July 21 at First United Methodist Church in Carlsbad.

ATG Title, Pioneer Technology Group Announce Consumer Benefit and Green Initiative

ATG Title, a national provider of real estate closing services, has partnered with Pioneer Technology Group, developers of YourDox, to provide a secure “green” solution for buyers, sellers and borrowers that

protects their papers and also allows secure access to documents in the future. The ATG Dox archive also allows homeowners to add any other important documents for safekeeping.



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

First American Names Florida State Counsel

First American Title Insurance Co. named Leonard Prescott IV in the company's underwriting department in Florida as state counsel and vice president. In his new role, Prescott oversees the activities of Florida's underwriting department and develops and presents

educational programs for First American's Florida-based title insurance agents. Prescott previously served as underwriting counsel for several large title insurance companies, where he primarily focused on examining and underwriting complex commercial transactions.

North American Title Names Midwest Regional Underwriting Counsel

North American Title Insurance Co. appointed Michael Waiwood as its new Midwest regional underwriting counsel. Waiwood is responsible for developing and implementing NATIC's Midwest underwriting standards, guidelines and procedures and keeping them in line with the overall standards set forth by the chief underwriting counsel. His primary role includes

working with and supporting independent North American Title Insurance agents with underwriting guidance and risk mitigation in title issues throughout the Midwest. Waiwood has 35 years of experience in the industry as an agent and underwriter. He established the Ohio Title Insurance Rating Bureau, where he sat as president from 2000-2003.

Entrust Solutions Names State Counsel for Georgia

Entrust Solutions, a title insurance servicing company known for its back-office solutions, expanded its footprint in Georgia by adding Shelley Elder as its Georgia state counsel. Elder, a former title company owner, is admitted to practice law

in Georgia and Virginia. The addition of Elder follows on the heels of the company's new Nexus Program, which allows small to medium-sized agents and attorneys a platform to conduct real estate closings with little risk.

reQuire Adds to Management Team with Plans to Expand in Midwest

reQuire LLC, a release tracking company, announced that Donna Anderson has joined its account management team to head reQuire's expansion into Ohio, Michigan and Indiana. Anderson comes to reQuire as an industry veteran having worked most recently with a leading title insurance software company and

a bank that focused on obtaining and retaining title company business. She has been in the title and real estate industry since 1989 when she began working as a conveyancer. A licensed real estate agent from 1990 through 2007, Anderson also managed a five-office title company from 2001 to 2006.

Stewart Names Group President of International Operations

Stewart Information Services Corp. has named Steve Lessack group president of international operations. Lessack is responsible for all of Stewart's foreign title operations. Stewart's international offices in Australia, the Caribbean, Canada, Europe and

Latin America offer title guaranty, title insurance and escrow services in countries around the world. A 30-year industry veteran, Lessack previously owned and operated an independent agency in New York, which was later acquired by Stewart.

Stewart Title of California Announces New Division President

Stewart Title of California Inc. announced the appointment of Steven Rosansky as division president of Stewart Title of California for Orange and San Diego counties. He will be responsible for

guiding the profitable expansion of services throughout this area of Southern California. Rosansky previously served as vice president with Asset Preservation Inc., Stewart's 1031 exchange-qualified intermediary subsidiary.

New Members

ALASKA

Chris Hough
Kachemak Bay Title Agency
Homer

ALABAMA

David Houtsma
Southeastern Title & Escrow, LLC
Montgomery

CALIFORNIA

Scott Gizer
Early Sullivan Wright Gizer & McRae LLP
Los Angeles

COLORADO

Dennis Cline
Avalanche Title & Escrow, LLC
Lakewood

CONNECTICUT

Allison Bracchi
Allison Bracchi
Stamford

John A. Zinolli Jr.
Rockwood Abstract, LLC
Cobalt

Kimberly Ann Guido
Ultimate Title & Closing Services, LLC
Oxford

FLORIDA

Jeff Raynor
All Florida Land Title Company
Juno Beach

Desiree Ownby
First Coast Title and Escrow, Inc.
Orange Park

Angel Wagner
Priority Title Services, Inc.
Miami

Roger Rogers
Pro Title & Abstract, Inc.
Naples

Jillian P. Young
Title House Partners, LLC
Orlando

FLORIDA CONT.

C.L. Wood
TLJ Title Company, LLC
dba Customers First Title Company
Miramar Beach

GEORGIA

Gregory Riley
Riverstone Title, LLC
Buford

Terry Richardson
Terry Richardson
Savannah

William E. Wilson Jr.
William E. Wilson, Jr. Abstractor
Ringgold

ILLINOIS

David Walker
Greater Metropolitan Title LLC
Vernon Hills

John P. Gibbons.
John P. Gibbons
Edwardsville

Daniel R Heise
Plymouth Title Guaranty Corp.
Oak Brook

Huntly Gordon
Ravenswood Title Company, LLC
Chicago

INDIANA

Sherrie W. Snider
Fort Wayne

KENTUCKY

Russell Ford
Mattingly Ford Title Services
Louisville

LOUISIANA

Gregory P. Touchet
Lafayette

Chad Reynolds
Legacy Title, LLC
Baton Rouge

Deryle A. Bourgeois
Southern Title, Inc.
Harvey

MARYLAND

Antoinette Jarboe-Duley
Antoinette M Jarboe-Duley
Upper Marlboro

Bizhan Beiramee
Beiramee & Cohen, P.C.
Bethesda

Robert Goldman
Diamond Title Insurance Corporation
Rockville

Lisa C. Norris
Freedom Title & Escrow, LLC
Mechanicsville

William M. Smart
William M. Smart Co.
Upper Marlboro

MICHIGAN

Allan Dick
Best Homes Title Agency, L.L.C.
Farmington Hills

MINNESOTA

Wendy Ethen
Guaranty Title, Inc.
Minneapolis

MISSISSIPPI

Danny Crotwell
Stewart Title Company
Brandon

NORTH CAROLINA

State Title Corp
Raleigh

NEW JERSEY

Rosemary Fedak
e-Title Solutions
Hamilton

NEW YORK

Paul Sarcona
Accurate Land Abstract, Inc.
Staten Island

OHIO

Jim Burger
Capital Research, Inc.
Columbus

Marsha Griebel Graham
Citizens Land Title Company
Circleville

City Title Company Agency of Erie County, Inc
Sandusky

David Shade
Shade, David C., Esq. DBA Delaware Title Agency
Delaware

OKLAHOMA

Daniel W. Walker
SCA Title, LLC
Sallisaw

Tom Kivell
Smith Brothers Abstract & Title Co., Inc.
Tulsa

TENNESSEE

Greg Brown
Abstractors Network Solutions, LLC
Cleveland

Clifford Bouldin
Clifford Bouldin & Associates
Spencer

Glenn Macbeth
Gateway Title Services, LLC
Murfreesboro

TEXAS

Sherry Lightfoot
Camino Real Abstract & Title, LLC
El Paso

Jeanne B. Leach
J.B. Leach & Associates, PLLP
Houston

UTAH

Robert Lopez
Highland Title Agency, Inc.
Salt Lake City

VIRGINIA

Beverly Dunston
Dominion Title & Escrow Corp.
Gloucester

Sharon S. Perkins
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Chesterfield

Tamara A. Howard
Howard, Tamara A.
Yorktown

William R. Gleason Jr.
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Midlothian

WISCONSIN

Paul E. Duerst
County Land & Title LLC
Schofield

Mark Gillitzer
Guaranty Title And Abstract Company, LLC
Prairie Du Chien

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Alejandro Martinez Bustos
Strategical Realties and Legal Solutions, S.C.
Mexico City

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Kenneth P. Ferreyro, Esquire Escrow
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Richard Glass
R.T. Glass & Associates
Carmichael

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Elizabeth Anderson
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Alison Moses
Moses, Alison
Orlando

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Ponder Solomon Law Group, PC
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Chuck Croxton
1st Farm Credit Services
Normal

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Looking Glass Group
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William Trozzo
Trozzo, Lowery & Weston, LLC
Cumberland

NEW JERSEY

Andrew Liput
Secure Settlements, Inc.
Parsippany

OHIO

Pamela Riley
First American Title Insurance Corp
Dover

SOUTH CAROLINA

Evan Mulch
True Phase Solutions
Spartanburg

Emeritus Member

FLORIDA

Giselle Franco
Franco, Giselle, P.A.
Miami

ALTA Members Prove They Are Olympians

Several records were set during the 2012 Summer Olympics in London. Among the notables, Michael Phelps became the most decorated Olympian as the swimmer captured his 22nd medal.

Just days after the Games started, ALTA set its own record. For the third consecutive year, ALTA has achieved all-time record membership, which now stands at more than 4,060 member companies.

It's fantastic to see professionals in the title insurance industry investing in association membership. With this increased support from our members, we strengthen the advocacy for everyone involved in the land title insurance industry. Through strong membership, we can promote an industry that legislators, regulators and other policymakers have come to know and respect.

ALTA boasts a diverse membership base, with the majority of members being small-sized title companies that rely on the benefits provided by ALTA to succeed in the marketplace. This is especially remarkable because ALTA membership has increased more than 90 percent over the past decade despite the down market the past five years.

While attaining record membership is a significant milestone, it should be noted that ALTA not only attracts new members, it also retains a high percentage of members. This serves to illustrate that professionals in the title insurance industry value the advantages of being an ALTA member.

Providing educational opportunities remains a priority for ALTA, which offers a diverse menu of options to assist members in providing consumers and lenders the highest quality of service possible. Continuing education opportunities are available through ALTA's Land Title Institute and from the numerous ALTA meetings held throughout the year.

The trade association prides itself in having highly trained members that facilitate the safe and efficient transfer of property that is so vital to the health of our economy. ALTA constantly promotes the value of title insurance and explains how the diligent work of its professional members protects the interests of consumers, investors and lenders in real property.

Gold medals go out to the entire Membership Committee, including ALTA Membership Manager Taylor Morris, for their efforts in driving the membership numbers. Gold medals also go out to ALTA's members for realizing the value of a strong association—because together we can achieve great things. Just ask the women's U.S. gold-medal winning soccer team!



– Jim Stipanovich, chair of ALTA's Membership Committee

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