December 2013

TitleNews

Official Publication of the
American Land Title Association

Changing the Competitive Landscape in a QM World

ALTA Defends Value, Pricing of Title Insurance as Groups Use Debate on 3% Points and Fees Cap to Attack Industry

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March 12–14	Business Strategies Conference *Omni Nashville*
May 5–8	Federal Conference *Washington, DC*
October 15–18	Annual Convention *Seattle, WA*

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TitleNews

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TitleNews is published monthly by the American Land Title Association. United States and Canadian subscription rates are $30 a year (member rate); $100 a year (non-member rate). For subscription information, call 800-787-ALTA.

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

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

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Reflecting on the Past to Prepare for the Future

As we move toward a new year, we inevitably find ourselves both reflecting on the past and thinking about the future. Business leaders are people of action — always thinking of the next opportunity and how to grow their business. I find great value in evaluating past experiences and learning from what worked and what didn't work.

At ALTA, we take pride in defending the industry and providing tools to help all of our members find success in the market. Highlighting 2013 was the rollout of ALTA's Best Practices framework. The Best Practices and associated products will go a long way in helping members meet client needs and regulatory requirements. We thank everyone who helped with this Herculean effort, especially the Best Practices Task Force and the ALTA Board of Governors.

During the past year, the association achieved some great results. For the fourth consecutive year, we set a new membership record and now have over 4,700 member companies. Thank you for supporting your trade association. ALTA's Title Industry Political Action Committee once again set a new record, collecting nearly $420,000 from 680 contributors. Title professionals continue to understand the value of a strong grassroots system as the Title Action Network has more than 6,000 members. Thank you TIPAC donors and TAN members. Additionally, we had nearly 900 attendees at this year's Annual Convention. Thank you attendees, speakers, sponsors and exhibitors for your participation. Please read the convention recap starting on page 18.

These achievements put us in position to maintain success and growth in 2014. Looking ahead, ALTA is focusing on providing resources to help members implement the CFPB's final rule for integrated mortgage disclosures. We have a strong relationship with CFPB staff and participated in the Bureau's Boston field hearing where the rule was announced in November. If you have questions or are seeking information about the rule, please go to *www.alta.org/cfpb*. We've created a blog (*blog.alta.org*) and have recruited industry experts to provide guidance and help members with compliance.

Implementation of the new rule will be challenging. There is also trepidation about new mortgage rules for lenders will impact lending volume when they go into effect in January. To learn more about the CFPB's QM rule, check out the cover article on page 10.

There is no doubt 2014 will be a year of challenge. We are prepared to help you face these challenges with new tools, webinars, education courses and guides. Your ALTA staff is always looking for new ideas and feedback from members about how ALTA can help you prepare for the changes confronting the industry. By reflecting and preparing, we can help ensure 2014 will be another great year for the industry and our members!

Michelle L Korsmo

- Michelle Korsmo, ALTA chief executive officer

HUD Updating FHA Single-Family Handbook

The Department of Housing and Urban Development is developing a new FHA Single-Family Housing Policy Handbook and is inviting feedback. The handbook lays out existing HUD regulations and requirements and serves as a source for its single-family housing policy.

The new handbook will be developed over several months.

The first phase posted for feedback on the HUD website covers the Application through Endorsement process for Title II forward mortgages. The deadline to provide feedback on these sections was Nov. 29, however, over the coming months the FHA will be completing the remaining sections that will span the end-to-end process for doing business with FHA Single Family.

For more information or to provide feedback, go to HUD's resource webpage at *www.hud.gov*. Then follow this path: Program Offices, Housing, Single Family, SF Handbook Policy Drafting Table.

ALTA will work with our members and our partner trade associations to provide feedback to HUD. If you have any questions about the handbook, contact Steve Gottheim, ALTA's legislative and regulatory counsel, at *sgottheim@alta.org* or 202-261-2943.

CFPB Released Final Rule for Integrated Mortgage Disclosures

The Consumer Financial Protection Bureau (CFPB) on Nov. 20 released its final rule to combine overlapping federal disclosure forms required by the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA). The CFPB announced the final rule rule during a field hearing in Boston. ALTA CEO Michelle Korsmo testified during the hearing.

A new Closing Disclosure will replace the HUD-1 and revised TIL disclosure, while a Loan Estimate will replace the GFE and early TIL.

The CFPB announced an implementation date of Aug. 1, 2015.

On Nov. 21, ALTA held a webinar to evaluate the final rule's impact on the industry. Participating were

- *Michelle Korsmo, ALTA*
- *Steve Gottheim, ALTA*
- *Ben Olson, Buckley Sandler*
- *Ruth Dillingham, First American*
- *Mary Schuster, op2 and RamQuest*
- *Leslie Wyatt of SoftPro.*

ALTA will provide additional webinars for membership in the coming months. For more information and to watch a recording of the Nov. 21 webinar, go to our blog at *blog.alta.org*.

Reminder: ALTA Website to Undergo Updates in December

ALTA's website will be unable to process transactions from Dec. 24-31 as upgrades are implemented.

All store transactions—such as meeting registration, membership dues payments, license payments and store product purchases—will be unavailable.

Other member services requiring logins also may be affected. Look for updates in *TitleNews Online.*

ALTA Responds to Senate Banking Committee Questions on GSE Reform

In October, ALTA responded to an array of questions from the Senate Banking Committee on housing finance reform. Chairman Tim Johnson (D-S.D.) and ranking member Mike Crapo (R-Idaho) circulated the questions to industry and consumer groups to elicit feedback as the Senate begins drafting its own bipartisan reform bill. Johnson and Crapo are hoping to have a preliminary bill written by the end of the year.

While the committee put forward a laundry list of far-reaching questions about GSE reform, ALTA responded to a handful of questions related to underwriting standards and the call for the creation of new or improved mortgage information databases and registries.

If you have any questions about GSE reform, please contact Justin Ailes, ALTA's vice president of government and regulatory affairs, at *jailes@alta.org* or 202-261-2937.

ALTA Board Adopts Eight New Endorsements, Two Policy Forms Revisions

The ALTA Board of Governors approved recommendations to adopt eight new endorsements and revisions to two policy forms during a meeting on Oct. 10. The forms are currently in an industry comment period and are subject to change.

Pending review of comments, these forms bear a prospective publication date of Dec. 2, and may be downloaded for review at *www.alta.org/forms*. Any prior version(s) of revised forms which may exist were archived and decertified Dec. 2.

New forms include:

- *ALTA Endorsement 11.2-06 (Mortgage Modification with Additional Amount of Insurance)*
- *ALTA Water Endorsement Series*
- *ALTA Endorsement 42-06 (Commercial Lender Group)*
- *ALTA Endorsement 43-06 (Anti-Taint)*
- *ALTA Endorsement 44-06 (Insured Mortgage Recording)*

Revised forms include:

- *ALTA Expanded Coverage Residential Loan Policy*
- *ALTA Homeowner's Policy*

ALTA Comments on Proposed Financial Accounting Standards for Insurance

In a letter sent in November to the Financial Accounting Standards Board (FASB), ALTA provided comments on proposed changes to the accounting standards for insurance.

ALTA believes Generally Accepted Accounting Principles (GAAP) for title insurance have served well over the years and should be maintained.

Under the proposal, instead of recognizing premium revenue and setting aside claims liability based on actuarial estimates, the industry would defer revenue (and profit) over a number of years in accordance with the insurers' release of risk. In addition, other changes would require title insurers to break up policies into management-determined portfolios as opposed to the current practice of reporting gross premiums and expenses. Industry experts worry that this approach will be costly to implement, make industry financial statements less transparent and comparable and thus be more burdensome for investors and regulators to understand the industry.

ALTA has worked with FASB on this since 2011. If you have questions about the letter or FASB, contact Steve Gottheim, ALTA's legislative and regulatory counsel, at *sgottheim@alta.org* or 202-261-2943.

ALTA Partners with Charitable Organization for Holiday Season

For the third consecutive year, ALTA has partnered with Children's Law Center (CLC) and its Holiday Hope Drive to provide gifts to underprivileged children in the Washington, D.C., area. Volunteer Santas "adopt" a child or children for the season and shop for two items from a wish list, and provide a full set of clothing including shoes and a gift card for the family. Last year, through ALTA's efforts and other "Santas," more than 750 children received gifts through the Holiday Hope Drive. ALTA provided gifts for a family of four last year.

We'd like to hear how your company gave back during the holidays. Share your story by emailing Jeremy Yohe at *jyohe@alta.org* and will highlight your efforts in TitleNews. If you have a video, that's even better—we can include it in the digital edition.

@altaonline

Last year, ALTA began promoting 12 Days of Title on our social media accounts. For 12 days in December we focus each of our posts on some of the best aspects of the land title industry. This is the time of year to celebrate accomplishments, remember the past and plan for the future. Be sure to check out our Facebook page (*facebook.com/altaonline*) and Twitter account (*@ALTAonline*) to participate this year. If you have an accomplishment or memory that you would like us to include for 12 Days of Title, please email *social@alta.org*.

Creating a Social Media Culture

There's a saying that goes "if content is king, culture is checkmate." This rings especially true when implementing a social media strategy in your company or organization. Creating a culture that embraces social media is possible with a little effort. Many companies operate in silos, which do not allow much interaction between various departments. As you develop a social media content strategy (for help on this, see *TitleNews*, September 2013) be sure to consider all departments in your organization. Coordinate a planning session to ensure you have buy-in from everyone in your organization. Consistently mention the success of posts from the most active departments during staff meetings or conference calls. Showing the value of a department's input can go a long way in creating a company culture. For more information, or to submit your own tip, email *social@alta.org*.

No-Shave November

The men of ALTA participated in No-Shave November last month to raise funds and awareness for men's health issues including prostate and testicular cancers. In addition to raising money and creating awareness, the six participating ALTA men had fun updating their changing faces on the ALTA Facebook page. Did you participate in No-Shave November? Send us a photo with your name and company to *social@alta.org* and we'll post it on Facebook!

Share the ALTA Blog!

As you've probably heard, ALTA has launched a new blog. Part of the blog's mission is to help educate our members about the Consumer Financial Protection Bureau's new integrated mortgage disclosures. You can access the blog at *blog.alta.org* for helpful tips, analysis and implementation ideas about this new regulation. When you find a post that is particularly helpful, be sure to share it on your own social media accounts for others in the land title industry to read as well. The blog also allows users to ask questions so don't be afraid to ask about anything as the industry works together toward compliance.

Changing the Competitive Landscape in a QM World

ALTA Defends Value, Pricing of Title Insurance as Groups Use Debate About 3% Cap on Points and Fees to Attack Industry

Leading up to the mortgage crisis, many mortgages were made to consumers without regard to the consumers' ability to repay the loans. In 2008, the Board of Governors of the Federal Reserve System adopted a rule under the Truth in Lending Act prohibiting creditors from making higher-priced mortgage loans without assessing consumers' ability to repay the loans. Creditors have had to follow these requirements since October 2009. >>

By Jeremy Yohe

Then in 2010, Congress adopted similar Ability-to-Repay (ATR) requirements for virtually all closed-end residential mortgage loans by passing the Dodd-Frank Wall Street Reform and Consumer Protection Act. Congress also established a presumption of compliance with the ATR requirements for a certain category of mortgages, called Qualified Mortgages (QM). In January 2013, the Consumer Financial Protection Bureau (CFPB) adopted a rule that implements the ATR/QM provisions of the Dodd-Frank Act. After amending the rule three times during 2013, the rule is set to take effect Jan. 10, 2014.

While the main debate surrounding the QM rule has been how it will impact mortgage lending and consumers' access to credit, the Ability-to-Repay requirement has caused a debate around the use of affiliated businesses as well. Dodd-Frank provides that a loan deemed a QM may not have points and fees in excess of 3 percent of the loan amount. As currently defined by Dodd-Frank and in the CFPB's final regulation to implement the ability-to-repay requirements, "points and fees" will include (among other charges):

1. fees paid to affiliated (but not unaffiliated) title companies
2. amounts of homeowner's insurance held in escrow
3. loan level price adjustments; and
4. payments by lenders to correspondent banks and mortgage brokers in wholesale transactions.

Generally speaking, this will affect title and settlement companies affiliated with lenders with and/or lenders that engage in third-party origination.

The 3 percent limit on points and fees for QMs may cause some lenders to restructure their current business or pricing models in order to remain below the threshold.

While inclusion of affiliated title fees in the 3 percent cap has sparked debate about lender-affiliated companies, many title professionals believe the argument shouldn't focus on business models. It's argued that the inclusion of title fees—whether affiliated or not—in the 3 percent cap would do a disservice to the title industry because it would fail to recognize all the up-front work title professionals perform before a title policy is issued. While the cost of credit should be transparent to consumers, inclusion of title charges in the 3 percent cap on points and fees won't impact a homebuyer's ability to repay a loan, many argue.

Since ALTA's members are on both sides of the issue, ALTA is not advocating for or against the bill. At the same time, the association's leadership has clearly said ALTA will continue to serve as a resource to our members—regardless of their position on the bill—and to Congress.

Debate on the Hill

During a House Financial Services Committee hearing earlier this year, Rep. Bill Huizenga (R-Mich.), pressed CFPB Director Richard Cordray about the decision to count affiliated title company fees towards the 3 percent cap on points and fees.

Cordray testified that there have been abuses where consumers were steered to affiliated title companies in return for payments. However, the CFPB director added that affiliations can create "efficiencies and synergy."

"We did our best to write the rule within an understanding of those polar opposition views of affiliates—both of which have some validity," Cordray testified.

Huizenga argued that the QM rule penalizes large and small companies that can deliver title insurance more efficiently.

In May, Huizenga introduced a bipartisan bill (H.R. 1077), along with Reps. David Scott (D-Ga.), Ed Royce (R-Calif.) and William Lacy Clay (D-Mo.) that would exempt affiliated title company fees from the 3 percent QM cap. In September, a bipartisan group of representatives from the House Financial Services Committee introduced H.R. 3211, the Mortgage Choice Act. Instead of proceeding with H.R. 1077, the new bill removes provisions regarding lender-paid compensation to mortgage brokers and loan level price adjustments charged by Fannie Mae and Freddie Mac. H.R. 1077 focused on removing affiliated title fees from the 3 percent cap. The new bill is sponsored by Huizenga and has 25 co-sponsors. A Senate version of the bill—S. 1577—was introduced in October by Sen. Joe Manchin (D-W.Va.) and has six co-sponsors. Gregory Meeks (D-N.Y.) is the lead House Democrat sponsor.

In a 2012 letter to several federal regulators, William Emmerson, Quicken Loans' chief executive officer, explained why he felt including affiliated title fees in the 3 percent points and fees calculation would create disadvantages for some companies. Quicken Loans is based in Huizenga's home state of Michigan.

"At Quicken Loans, we made the choice to establish an affiliated title and appraisal services provider for the sole purpose of helping to provide the consumer a better mortgage experience," Emmerson said. "We agree that a level playing field is the best way for all lenders to

Myth v. Fact

In a letter to Congress, ALTA set the record straight on several misstatements made by consumer groups about title insurance.

Myth: *Almost the entirety of a title insurance premium goes to commissions, not insurance coverage.*
Fact: According to the national rating agency A.M. Best, expenses incurred as part of the title-search process typically make up 85 percent or more of the title premium, reflecting the loss-prevention nature of title insurance. Most of the title insurance premium goes to prevent consumers from losing their homes through challenges to their title. In other words, title agents work to protect consumers against claims caused by something that happened in the past, so they underwrite each individual consumer's homeownership based on legal documents unique to the title of each home. This type of underwriting work means that, over the long term, title insurers pay fewer claims than other insurers, but their operating expenses to underwrite the policy are much higher.

Myth: *Title insurance is overpriced.*
Fact: Title insurance, including pricing, is stiffly regulated by state insurance commissioners. By statute, title insurance prices cannot be excessive, inadequate or unfairly discriminatory. The cost for title insurance is a one-time fee, as opposed to other lines of insurance that charge a monthly, quarterly or annual premium. When you consider the size of the asset protected by title insurance and amortize the payment for as long as the consumer owns their home, title insurance is among the best values of costs associated with a real estate closing.

Myth: *Consumers cannot shop for this product.*
Fact: Consumers can shop for title insurance and consumers have the right to shop for title insurance. This consumer right is protected by federal statute in the Real Estate Settlement Procedures Act (RESPA). The title insurance industry supports and encourages consumer choice. To help consumers shop, the industry created *www.homeclosing101.org*, which is designed to help consumers navigate the homebuying process including identifying local title and settlement companies with whom they can shop.

Myth: *States don't adequately regulate the market.*
Fact: State departments of insurance regulate title insurance and coordinate through the National Association of Insurance Commissioners' (NAIC) Title Insurance Task Force. This national system of state-based regulation of title insurance includes oversight of title insurance including: company licensing, producer licensing, product regulation, financial regulation, market regulation and consumer services. Title insurance is also governed by the Real Estate Settlement Procedures Act (RESPA) and regulated by the Consumer Financial Protection Bureau (CFPB) under the Dodd-Frank Act.

Myth: *There is minimal evaluation as to the appropriateness of fee increases.*
Fact: State insurance departments require considerable information to approve title insurance premium rates. In fact, some states conduct public hearings to determine the appropriateness of rates. Title insurance premium rates are based on these considerations:

1. cost of searching public records
2. cost of examining the status of title to the consumer's home
3. cost to resolve issues or clear defects to title
4. payment of claims
5. depending on the state, the cost of closing
6. allowance for a reasonable profit

be competitive, and for consumers to be able to compare apples-to-apples when shopping for a mortgage loan. As an example, the cost for title insurance to the consumer does not vary from title agent to title agent whether there is or is not an affiliation because agents are bound by their underwriter's filed rates."

ALTA Defends Value of Title Insurance

The debate over the 3 percent cap has given consumer and labor groups to attack the title insurance industry and make misstatements about pricing and how the industry is regulated. In a letter to Congress urging members to oppose H.R. 3211, Americans for Financial Reform made claims that lenders steer borrowers to overpriced title insurance, that title insurance prices are vastly inflated and that states don't adequately regulate the market.

The letter said that consumers "essentially cannot, shop for this product." The letter goes on to say that the "opaque pricing and sales system for title insurance leaves borrowers without information or leverage to get a better price. As a result, higher prices can be charged with most of the insurance fee going to the sales agent." Additionally, the letter says the "file and use" process followed in many states "allows insurers and lenders to push prices up at their own discretion, filing fee hike requests with regulators and then using them with homeowners."

ALTA responded by sending a letter to Congress refuting the false information. The letter reminded policymakers that:

- Title insurance, including pricing, is highly regulated by state insurance commissioners.
- By statute title insurance prices cannot be excessive, inadequate or unfairly discriminatory.
- The cost for title insurance is a one-time fee.
- Most of the title insurance premium goes to prevent consumers from losing their homes through a challenge to their title.

In summary, the letter stated "We expected critics to use this debate to reopen public scrutiny of the industry, claim that kickbacks are paid to lenders and real estate agents, attempt further measures to limit the title insurance and real estate settlement costs charged to consumers and increase CFPB's regulation of small businesses. While ALTA is not lobbying for or against the bill, we wanted to make sure that policymakers possess accurate information about title insurance as they determine their positions."

> CFPB Director Richard Cordray testified that there have been consumers steered to affiliated title companies in return for payments. However, he added that affiliations can create "efficiencies and synergy."

Trades Get Involved

Meanwhile, other trade associations have questioned the rationale to include fees paid to a lender's affiliate in the points and fees calculation.

"Some lenders choose to affiliate with title and other service providers to ensure that services are efficient, charges are as estimated and the consumer experience from loan application to closing is seamless, predictable and positive for the consumer," said Debra Still, chair of the Mortgage Bankers Association.

Concerns that lenders may augment their fees through the charges of affiliated companies are not valid, according to Still. Title insurance premiums, and in many cases fees for title services, are regulated at the state level. Forty-two states and the D.C. require that title premiums be set by the state, approved by the state or filed with the state. Additionally, the search and exam fees are included in the title premium in 19 states.

"There is no reason for Congress to deny consumers the ability to use affiliated service providers or make it more expensive to do so," Still added.

Jerry Reed, chief lending officer for Alaska USA Federal Credit Union, said the 3 percent cap may prove problematic for some credit unions. He pointed out that as the loan amount decreases, certain fees cannot decrease as they are fixed and not dependent upon the size of the loan.

"The smaller the loan amount, the easier it is for fees to constitute a higher percentage of the total loan. This is especially true as the fees are currently defined as including loan originator compensation, and affiliate fees," Reed said. "Many credit unions work with affiliated title companies, for example, to provide the lowest costs for members on title insurance products. However, since affiliated title company fees under the current rule would be included in the points and fees calculation, it may appear to a consumer that an estimate from a non-affiliated title insurance provider is less expensive than the title insurance under the credit union's affiliate arrangement."

The CFPB did revise rules to provide relief to small financial institutions in regard to points and fees, but Reed feels the Bureau did not go far enough.

"If the Bureau wants to provide borrowers with an easy way to compare a mortgage loan APR between providers in their market then this proposed change will not accomplish that objective," he said. "It will mislead borrowers by not being able to compare APR rates between affiliated and non-affiliated companies."

The National Association of Realtors (NAR) also has lobbied for a change to the points and fees definition. As a result of the definition, many loans made by affiliates, particularly those made to low- and moderate-income borrowers, would not qualify as QMs, according to Gary Thomas, president of NAR.

"Consequently, these loans would be unlikely to be made or would only be available at higher rates due to heightened liability risks," he said. "Consumers would lose the ability to choose to take advantage of the convenience and market efficiencies offered by one-stop shopping."

It has been argued that the CFPB has the authority to fix this problem. The Bureau has partially addressed some of the original concerns with the counting of loan officer compensation toward the 3 percent cap. However, as the CFPB noted in its final rule and hinted at during testimony, the Bureau does not believe it has the authority to fix the issue of affiliate charges. This is why many trade associations are pushing Congress to pass legislation.

Thomas said owners of affiliated businesses can earn no more than a proportionate return on their investment under the Real Estate Settlement Procedures Act (RESPA).

RESPA also prohibits referral fees or any compensation at all for the referral of settlement services.

"As a result, there is no steering incentive possible for individual settlement service providers such as mortgage brokers, loan officers or real estate professionals," he said.

Since the Bureau now enforces RESPA, Thomas said the agency has all the power necessary to prosecute kickback situations and other violations.

"Instead of applying a double standard to affiliates, the Bureau should use its RESPA authority to ensure that both affiliated and unaffiliated companies of all sizes comply with RESPA," he added.

No QM Delay Expected

In November, more than 100 House Republicans and a handful of Democratic lawmakers sent a letter to Cordray asking for the CFPB to delay the rule by another year to give smaller lenders more time to comply. The letter warned that the rule could inhibit the flow of credit if it takes effect in January.

Cordray, however, said the Bureau does not intend to delay the effective date of the QM rule, adding that the changes required under Dodd-Frank have been apparent since the passage of the law.

"It's not as though our QM rule has altered the status quo," Cordray said. "Change was coming. It was embedded in the statute."

It should be noted, though, that Cordray has reiterated the CFPB's intention to be reasonable in enforcement when a company makes a good faith effort to comply with the new rules.

"Our oversight of the new mortgage rules in the early months will be sensitive to the progress made by those lenders and servicers who have been squarely focused on making good-faith efforts to come into substantial compliance on time—a point that we have also been discussing with our fellow regulators," Cordray said. ■

Basic Guide: What is a Qualified Mortgage?

Starting Jan. 10, 2014, lenders must assess a borrower's ability to repay for virtually all closed-end residential mortgage loans. All Qualified Mortgages (QM) are presumed to comply with this requirement. As described below, a loan that meets the product feature requirements can be a QM under any of three main categories.

Mandatory product feature requirements for all QMs

- Points and fees are less than or equal to 3 percent of the loan amount (for loan amounts less than $100k, higher percentage thresholds are allowed)
- No risky features like negative amortization, interest-only, or balloon loans (BUT NOTE: *balloon loans originated until January 10, 2016 that meet the other product features are QMs if originated and held in portfolio by small creditors*)
- Maximum loan term is less than or equal to 30 years.

Three main categories

1. General definition category of QMs
   Any loan that meets the product feature requirements with a debt-to-income ratio of 43 percent or less is a QM.
2. "GSE-eligible" category of QMs
   Any loan that meets the product feature requirements and is eligible for purchase, guarantee or insurance by a GSE, FHA, VA or USDA is QM regardless of the debt-to-income ratio (this QM category applies for GSE loans as long as the GSEs are in FHFA conservatorship and for federal agency loans until an agency issues its own QM rules, or January 10, 2021, whichever occurs first).
3. Small creditor category of QMs
   If you have less than $2B in assets and originate 500 or fewer first mortgages per year, any loan you make that meets the product feature requirements and that you hold in portfolio is a QM as long as you have considered and verified a borrower's debt-to-income ratio (though no specific DTI limit applies).

EXTRA NOTE: Even if a loan is not a qualified mortgage, it can still be an appropriate loan. According to the Consumer Financial Protection Bureau, lenders can originate any mortgage (whether or not it is a QM) as long as they make a reasonable, good-faith determination that the consumer is able to repay the loan based on common underwriting factors. Lenders may continue to rely on sound, tested underwriting guidelines that they have used in the past to make loans that have generally performed well, as long as information that is considered is documented.

Jeremy Yohe is ALTA's director of communications. He can be reached at *jyohe@alta.org*.


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Nearly 900 Title Professionals Attend ALTA Annual Convention

Energy and Optimism Fill Halls as Attendees Learn about Implementation of Best Practices, Integrated Mortgage Disclosures, Economic Outlook

A year of sustained economic growth resulting in stronger financial results for the title industry coupled with the beautiful setting of The Breakers in Palm Beach, Fla., translated into a productive and energetic Annual Convention. Nearly 900 title professionals were in attendance, participating in informative sessions, taking advantage of networking opportunities and learning the latest industry offerings from a variety of vendors.

ALTA Chief Executive Officer Michelle Korsmo opened the first general session on Oct. 10 by sharing how the association has focused on developing tools to help ensure members have what they need to turn market challenges into opportunities.

"We've been going through a lot over the past few years and there are many challenges ahead," Korsmo said. "But, ALTA and this industry have done what American's always do. We keep fighting, looking for solutions and working for a better tomorrow."

First, Korsmo explained that ALTA has emphasized its advocacy efforts at the federal level and with state regulators, while improving communications with the state land title association partners. She then turned to regulatory pressure on lenders to ensure the companies they work with also comply with consumer financial laws.

"Essentially, the CFPB (Consumer Financial Protection Bureau) is using banks as a regulator," she added. "Traditionally, bank regulators are concerned about the bank as an institution. They are looking at the safety and soundness of the banks. The CFPB is responsible for actions of the banks that affect consumers at the household level. This is why we need to be serious about our compliance efforts."

To help members compete in the market and highlight compliance of policies and procedures, ALTA rolled out its "Title Insurance and Settlement Company Best Practices" and associated tools such as the Assessment Procedures, Certification Package, Assessment Workbook and policy-building tool.

"The response from industry participants has been tremendous," Korsmo said. "There are many aspects of the Best Practices that are difficult and cause real concern for companies of every size, but especially for the smaller companies who have been the heart of this industry for a century. Because of this, we've provided tools and built a framework so ALTA members can show customers the written policies in place to help ensure compliance with financial laws."

'Feelin' Stronger Every Day'

After taking the stage to Chicago's song "Feelin' Stronger Every Day," Frank Pellegrini offered several anecdotes about why ALTA and the industry is poised for continued success. Pellegrini chose the Chicago song because it described how he felt about ALTA and its members as he completed his year as ALTA president. The opening lyrics go: "I do believe in you, and I know you believe in me."

"In an industry like ours that is dependent on providing a sound product that our customers can trust, we must believe strongly in what we do and how we do it," Pellegrini said. "We must believe unequivocally in the value of our work. And we must believe in each other as we strive daily in every county and parish across America to help make people's dreams come true."

Pellegrini said implementing all aspects of the Best Practices may not be easy, but because of the regulatory environment, increasing demands from customers and evolving consumer expectations, it is crucial title professionals run their operations with unquestionable standards.

Wrapping up his speech, Pellegrini said that he does not doubt the industry will remain resilient and agile, adjusting to constant market, regulatory and legislative changes.

"I do believe in you, and I hope you have felt reason to believe in me over the past year," Pellegrini said. "As a law student back in the days when Chicago was a young band, I never dreamed that I would have the honor and privilege to serve in a leadership position in an industry that is so vital to the American economy. I am proud of the work we do, and I am truly confident that we will continue to make a real difference in people's lives, every day."

Build Genuine Relationships to Maximize Success

During a general session on Oct. 12, Tommy Spaulding, a renowned speaker on leadership, provided an inspiring discussion on why building genuine and authentic relationships will maximize the success of members' businesses and even their personal lives.

"The quality of our relationships determines whether we simply reach a goal or inspire greatness," Spaulding said. "The success of any organization is grounded in the formation of sustainable relationships."

To drive home his point, Spaulding shared several personal stories ranging from his struggles with dyslexia and getting through high school and college to eventually becoming chief executive officer of Up With People, an American education organization whose stated mission is to bridge cultural barriers and create global understanding through service and a musical show.

Two of Spaulding's friends are title professionals and he learned about the business through conversations with them. In a service-driven industry, Spaulding said, it's the relationships with customers that determine success. "Like it or not, your business is a commodity," he said. "Products may be different, but at the end of the day you are a commodity. What differentiates you? How you win and keep business are the relationships you build."

He encouraged attendees to think about the most important people in your business, to write down their names and to ask how well you know them and how well they know you.

"You need to have a genuine spirit and be authentic," Spaulding said. "Building deep relationships matter and will help you transition from having transactional relationships to transformational relationships. When you open your heart, it not only transforms your business, but also your life."

Dream Bigger—Communicating to Inform and Inspire

The heart of ALTA's Best Practices is about providing the highest quality service to customers. But how do companies get their employees to follow the implemented policies and procedures?

During the Oct. 12 general session, Jeff Noel of the Disney Institute offered strategies on how messages should be crafted so employees will not only listen to but hear what they are being told. Attendees learned how Disney's training process keeps it positioned to maintain a competitive edge and how its effective organizational communication reinforces the company's culture.

Noel discussed the elements that go into Disney's employee selection, training and engagement program, and shared the "O4E" concept followed at Disney. The "O" stands for over-managing, while the "E" stands for engagement. The first step in Disney's approach to selection, training and engagement, is that a successful culture must be developed by design. It must be well-defined, clear to all and be goal-oriented.

"Disney's consistent business results are driven by our over-managing certain things that most companies under manage or ignore," he said. "This is a key source of what differentiates us. We have learned to be intentional where others are unintentional."

Because culture is defined by how people behave, the best employee is the one who most perfectly aligns with your desired behavior, Noel said.

"Leaders must set the tone," he added. "Are you the thermostat or the thermometer?"

After hiring an employee, Noel said training is critical to achieve desired behaviors and outcomes more than most companies imagine. Often in the busy world, companies forget the messages they send to employees.

"All employees at Disney are custodial workers," Noel said. "Their first job is to make our customers happy, their second role is to pick up trash and their third job is to do what we hired them for. Everyone trains for skill. You need to move past training for compliance and train for commitment. You want to train people to want to go the extra inch whether they get paid for it or not." ■

2013 Annual Convention Photos

To view photos, go to: *www.flickr.com/photos/altaonline*

ALTA Announces 2014 Major Conferences

Mark your calendars for ALTA's major meetings in 2014:

Business Strategies Conference
March 12-14, Omni Nashville,
Nashville, Tenn.

Federal Conference & Lobby Day
May 5-8, Grand Hyatt
Washington, D.C.

Annual Convention
Oct. 15-18, Westin Seattle,
Seattle, Wash.

2013 Annual Convention Digital Edition Extras

To view photos, go to: *www.flickr.com/photos/altaonline*

President's Reception, Day 1 & Day 2; including the Exhibit Showcase Opening

Day 3 & Day 4; including the "Good Vibrations" Closing Reception and Dinner

ALTA Awards Honorary Memberships

Anne Anastasi and Joe Bonita were honored with honorary memberships to the American Land Title Association during the 2013 Annual Convention in Palm Beach, Fla. Honorary memberships are bestowed by ALTA's Board of Governors for performance of distinguished and meritorious service to the association or to the land title industry. Check out these video tributes honoring Anastasi and Bonita.

Opening General Session

Check out video from the opening general session of ALTA's 2013 Annual Convention as ALTA CEO Michelle Korsmo, and Frank Pellegrini, ALTA's immediate past president, talk about the state of the association and the industry.

Best Practices Can Help Lenders Meet OCC Risk-management Guidance

ALTA Releases Tool to Craft Best Practices Policies and Procedures

The Office of the Comptroller of the Currency (OCC) issued updated guidance to national banks and federal savings associations for assessing and managing risks associated with third-party relationships.

According to the guidance, banks are expected to practice effective risk management regardless of whether the bank performs the activity internally or through a third party.

"A bank's use of third parties does not diminish its responsibility to ensure that the activity is performed in a safe and sound manner and in compliance with applicable laws," the OCC guidance said.

The OCC reported that banks continue to increase the number and complexity of relationships with both foreign and domestic third parties, such as:

- outsourcing entire bank functions to third parties, such as tax, legal, audit or information technology operations
- outsourcing lines of business or products
- relying on a single third party to perform multiple activities, often to such an extent that the third party becomes an integral component of the bank's operations
- working with third parties that engage directly with customers
- contracting with third parties that subcontract activities to other foreign and domestic providers
- contracting with third parties whose employees, facilities and subcontractors may be geographically concentrated
- working with a third party to address deficiencies in bank operations or compliance with laws or regulations

The OCC is concerned that the quality of risk management over third-party relationships may not be keeping pace with the level of risk and complexity of these relationships. The OCC has identified instances in which bank management has:

- failed to properly assess and understand the risks and direct and indirect costs involved in third-party relationships.
- failed to perform adequate due diligence and ongoing monitoring of third-party relationships.
- entered into contracts without assessing the adequacy of a third party's risk management practices.
- entered into contracts that incentivize a third party to take risks that are detrimental to the bank or its customers, in order to maximize the third party's revenues.
- engaged in informal third-party relationships without contracts in place.

To help lending institutions supplement their risk-management programs, ALTA developed its "Title Insurance and Settlement Company Best Practices" framework. The Best Practices highlight policies and procedures the industry uses to help ensure a positive and compliant real estate settlement experience.

"Today's risk-management guidance released by the OCC is another example of the value of the ALTA Best Practices framework for lenders trying to manage risk related to third-party relationships," said Michelle Korsmo, ALTA's chief operating officer. "As our lender clients work to develop their own risk management systems, the land title industry continues to lead by example. The Best Practices framework will continue to be a responsive tool to meet market needs."

ALTA's Best Practices framework includes guidance on seven pillars, Assessment Procedures, Certification

Package, Assessment Workbook and Policy and Procedure Creation Guidance.

The Assessment Procedures can be used by title professionals to help lenders decide if a third-party service provider meets different categories of the Best Practices. A Certification Package also is available and can be used by title professionals to warrant and attest to lenders that they have implemented ALTA's Best Practices.

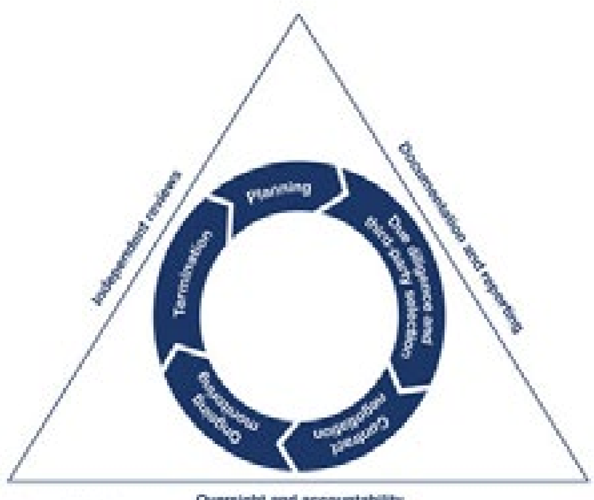
In its guidance, the OCC said an effective third-party risk management process follows a continuous life cycle for all relationships and incorporates planning, due diligence and third-party selection, contract negotiation, ongoing monitoring and termination. In addition, a bank should perform the following throughout the life cycle of the relationship as part of its risk management process:

- **Oversight and accountability:** Assigning clear roles and responsibilities for managing third-party relationships and integrating the bank's third-party risk management process with its enterprise risk management framework enables continuous oversight and accountability.
- **Documentation and reporting:** Proper documentation and reporting facilitates oversight, accountability, monitoring and risk management associated with third-party relationships.

ALTA's Best Practices framework helps members provide the documented policies and procedures that are followed to protect transactions. In October, ALTA released its Best Practices Policy and Procedure Creation Guidance to help members draft formal written policies for the Best Practices.

"This is the centerpiece of ALTA's Title Insurance and Settlement Company Best Practices," said Michelle Korsmo, ALTA's chief executive officer. "The purpose for any policy or procedure document is to be simple, consistent and easy to understand. ALTA has developed a template to serve as a standard format and aid in the process of formalizing Best Practices."

The Policy and Procedure Creation Guidance includes detailed instructions and tips on how to draft procedures that fit a company's practices, an example of what written policies and procedures should look like, as well as a template.



Source: OCC

"Having a set of written policies and procedures are a critical element for any organization as they provide guidance and direction to the staff, help ensure consistency in operations and assist in training new personnel," said Rob Chapman, ALTA's president. "The model creation tool will help guide agents as they create written procedures necessary to adhere to Best Practices."

A policy statement is important as it sets the company's direction on what needs to be accomplished. The procedures are the sets of instructions describing how policies will be implemented.

"Procedures should have sufficient detail that employees will readily understand how to comply with the policy mandates and how to carry out specific tasks," Korsmo said.

She added that policies and procedures should be written in clear, concise language, be understandable to employees, lenders and customers, and be clear in the objectives.

ALTA's Best Practices Workbook can be used to help identify policies and procedures that title and settlement companies should adopt, as well as any gaps in existing policies and procedures. ALTA members can discern this information by using the Action Items Report found with each chapter of the Workbook. ALTA has provided a Workbook for each pillar of the Best Practices.

"The policy building guide used in conjunction with the Workbook, Assessment Procedures and Certification Package provide members with a powerful set of tools enabling them to highlight the policies and procedures exercised to protect lenders and consumers," Chapman said. "Providing professional service to consumers and lenders is a core function of the land title insurance industry and the Best Practices framework provides a national standard to safeguarding the real estate transaction." ■

Workgroup Announces New Loan Signing Standards for Notaries

A special committee of major lenders and title companies called the Signing Professionals Workgroup (SPW) announced the creation of best-practice standards for notaries handling loan signings.

The committee, which is chaired by Sam Zaki, managing director of sales for First American Mortgage Services, will implement the new Certified Signing Specialist Standards over the coming months and anticipates the rollout will be completed by mid-2014.

To achieve Certified Signing Specialist status, notaries will be required to meet the following standards:

- Adherence to the 10 guiding principles of the Certified Signing Specialist Code of Conduct, which cover signer privacy protection, professionalism, unauthorized advice, services and advertising guidelines as well as reporting illegal or suspicious activity.
- Using a standardized signing script that outlines how a signing should be conducted, how questions can be answered without providing unauthorized advice, and when it may be necessary to contact the lender or title company.
- A passing score on an annual exam covering the signing script, knowledge of loan documents and best practices outlined in the Code of Conduct. Exams will be administered over the coming months by SPW-approved providers after the committee establishes a vendor review process and licenses qualified companies.
- Passing a rigorous annual background screening including searches in state, local and federal records.
- Maintaining notary errors and omissions insurance of $25,000.

DataMotion Provides Email Encryption Services to FNTG's Settlement Agents

DataMotion, a provider of cloud-based email encryption services, partnered with Fidelity National Title Group (FNTG) to provide email encryption services to its settlement agents.

Under the agreement, FNTG agents can take advantage of discounted rates for DataMotion SecureMail, SecureMail Gateway and SecureContact encryption services. As a result, FNTG settlement agents can effectively address the American Land Title Association's "Title Insurance and Settlement Company Best Practices" and other compliance concerns, while protecting against data breaches and the associated fines, liability and reputation damage.

FNTG supports the Best Practices for title insurance and settlement companies outlined by ALTA, including the recommendation for the use of secure delivery methods for transmitting non-public personal information (NPI).

"We have been and continue to be committed to helping our agents adopt ALTA Best Practices by seeking out the best partnerships in the industry," said Erika Meinhardt, president of Fidelity National Title Group's National Agency Operations. "Through our exclusive agreement with DataMotion, our settlement agents now have access to an industry-leading, easy-to-use, and affordable email encryption service that helps them meet the ALTA standards to secure all non-public personal information."

SecureMail, SecureMail Gateway and SecureContact are suitable for organizations of all sizes, the companies said in a release. Each of these services provides compliance-grade encryption and built-in tracking for all email messages sent, received and opened, allowing organizations to be in compliance with current federal laws.

National Institute of Standards and Technology Issues Cybersecurity Framework Draft

Directed by an executive order from President Barack Obama in February, the National Institute of Standards and Technology (NIST) released a preliminary framework draft outlining standards, best practices and guidance to help companies manage cybersecurity risk.

The NIST, which was closed during the partial government shutdown, was supposed to issue the preliminary framework by Oct. 10.

The NIST said the framework complements an organization's existing business or cybersecurity risk management process and cybersecurity program. Companies can use their current processes and leverage the framework to identify opportunities to improve cybersecurity risk management. Alternatively, an organization without an existing cybersecurity program can use the framework as a reference when establishing one.

"The framework, developed in collaboration with industry, provides guidance to an organization on managing cybersecurity risk, in a manner similar to financial, safety and operational risk," the NIST said in the draft document. "The framework is not a one-size-fits-all approach for all critical infrastructure organizations. Because each organization's risk is unique, along with their implementation of information technology and operational technology, the implementation of the framework will vary."

The framework is composed of three parts:

1. Framework Core: A compilation of cybersecurity activities and references that are common across critical infrastructure sectors. The core presents standards and best practices in a manner that allows for communication and risk management across the organization from the senior executive level to the implementation/operations level. The framework core consists of five functions—identify, protect, detect, respond, recover—which can provide a high-level, strategic view of an organization's management of cybersecurity risk.
2. Framework Implementation Tiers: The tiers demonstrate the implementation of the framework core functions and categories and indicate how cybersecurity risk is managed. These tiers range from partial (Tier 1) to adaptive (Tier 3), with each tier building on the previous tier.
3. Framework Profile: The profile conveys how an organization manages cybersecurity risk in each of the framework core functions and categories by identifying the subcategories that are implemented or planned for implementation.

The third pillar of ALTA's "Title Insurance and Settlement Company Best Practices" addresses the adoption of a written privacy and information security program to protect non-public personal information.

ATGF Offers Statewide Title Searching for Colorado Agents

Attorneys Title Guaranty Fund Inc. (ATGF) announced a new initiative with expanded title researching capabilities to all 64 counties in Colorado. The service is provided by Mile High Title Research and will be delivered via ATGF's EPIC (Electronic Policy Issuance Capability) platform.

The ability to request and receive a title search report (TSR) directly in EPIC can streamline the title agent's workflow and reduce error rates throughout the process, the company said in a release. The TSRs fulfilled by Mile High are guaranteed to meet ATGF underwriting guidelines. In addition, ATGF and Mile High are able to offer preferential pricing, statewide coverage, rapid return times and a comprehensive, bundled report package.

"With this initiative, Colorado consumers and lenders have yet another reason for complete confidence in a title insurance policy from ATGF," said Eric Morgan, president of ATGF. "ATGF is committed to providing high-quality services for our community of independent title agents to cement their important role in real estate transactions."

Vendor Management Association Closes Doors

Pittsburgh-based Title Appraisal Vendor Management Association (TAVMA) announced on its website that it was ceasing operations.

Thanking all the companies that supported the association, TAVMA attributed the closure to the financial crisis and industry consolidation.

"Like most mortgage industry trade associations, TAVMA's membership was hard-hit by the 2008 housing bust and subsequent economic malaise, leading many firms to curtail their financial support to one or a few key organizations," TAVMA said on its website. "TAVMA was further adversely affected by consolidation of competitors in the settlement services industry, which began in the early 2000s, and continues today.

The announcement said the organization maintains its 501(c)(6) non-profit status, continues to review strategic options and may decide to return in the future in a new configuration.

PRIA Board Approves Models of E-recording Paper for Publication

The Board of Directors of the Property Records Industry Association (PRIA) has approved for publication an updated white paper, "Models of eRecording," which was produced and submitted by PRIA's Business and Technical Requirements Work Group under the guidance of the Technology Committee.

The paper examines the evolving nature and definition of the characteristics of land record documents submitted for electronic recording, which were initially defined and characterized by Carl Ernst in 2000. First described as "levels," the term "models" has become predominant as e-recording has matured. Restricting discussion of e-recording to three distinct models, as was initially the case, quickly yielded to a continuum of models to accommodate emerging processes, solutions and system enhancements. The paper analyzes how the continuum of e-recording makes the models relevant to the adoption of e-recording today and how the future of e-recording may evolve into a natively paper versus a natively electronic environment.

TIAC's Underwriting Manager Offers Cyber/Privacy Risk Insurance Program for Title Professionals

Responding to the alarming increase in the frequency and severity of cyber breaches, viruses, hacks and numerous other cyber threats, the Title Industry Assurance Company's (TIAC) underwriting manager, Capital Professional Insurance Managers (CPIM), recently introduced a special cyber/privacy risk insurance program for title professionals nationwide.

There are a significant number of federal laws impacting the protection of personal information. In addition to federal requirements, 46 states and D.C., all have enacted privacy laws that require notification of potential and actual breaches of personally identifiable information/non-public personal information (NPI). The financial impact of a data breach on a business can grow exponentially with the cost of mandatory notification, credit monitoring and other compliance requirements of these laws.

Title insurance and escrow agencies have additional unique cyber/privacy exposures and should strongly consider purchasing cyber/privacy risk insurance to protect their businesses and assets. While the cost is not high, the consequences of being without this protection can be devastating.

Premiums and coverage vary across the insurance marketplace, however, CPIM is able to shop the marketplace and provide title professionals with competitive options.

SoftPro Completes One Millionth Business Exchange Transaction

SoftPro, a provider of title, closing and escrow software, announced that its SoftPro 360 business exchange platform has reached its one millionth transaction.

SoftPro 360, a free tool for SoftPro users, enables users to order services and receive orders back from third party vendors, without ever leaving their SoftPro software.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Genesis Abstract

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Making Direct Connections from Outside the Beltway

Identifying and capitalizing on the relationships ALTA members have with members of Congress is key to the success of the association's advocacy efforts. In order to enhance the effectiveness of this effort, our "Grasstops" initiative has been renamed "Direct Connections" or "DC," which has a mission of identifying, communicating and educating ALTA members who have relationships/connections with U.S. senators or representatives.

In the long-term, Direct Connections' goal is to call on this group of connected members when the industry confronts issues. Capitalizing on these associations helps ALTA's lobbyists to gain access to members of Congress, which allows them to explain the value our industry provides. Initially, the focus of Direct Connections was on members of the Senate Finance Committee and the House Banking Committee. However, we have found that our members are connected to other policymakers throughout Congress, which only strengthens our industry moving forward.

Direct Connections is off to a strong start. Throughout 2013, emails have been sent to members of ALTA. After reaching out to all of the states, we are happy to report 193 direct connections—54 of which are to senators and 139 that are to representatives. More than 100 additional ALTA members have volunteered to cultivate these relationships. Undoubtedly these numbers will continue to grow as we further develop our processes.

At this point, Direct Connections has decided to contact each ALTA member involved and identify the relationships that exist with Congressional members. Through conference calls, training and mentoring these individuals, we will further strengthen these connections.

As ALTA's membership continues to grow, and as our base of attorney agents and Title Action Network members increases, we will have more opportunities than ever to grow our number of connections.

Please take some time to review your own personal relationships with members of Congress, and encourage your employees, coworkers and competitors to do the same. This is a campaign that affects all of us; a united front will continue to ensure our story is told in Washington, D.C., and at the state and local level. If we don't do it, nobody will.

If you would like to be a part of Direct Connections or want more information about the initiative, please contact Madeleine Nagy at *mnagy@alta.org* or Wayne Stanley at *wstanley@alta.org*.

- John Voso Jr., Old Republic National Title Insurance Company

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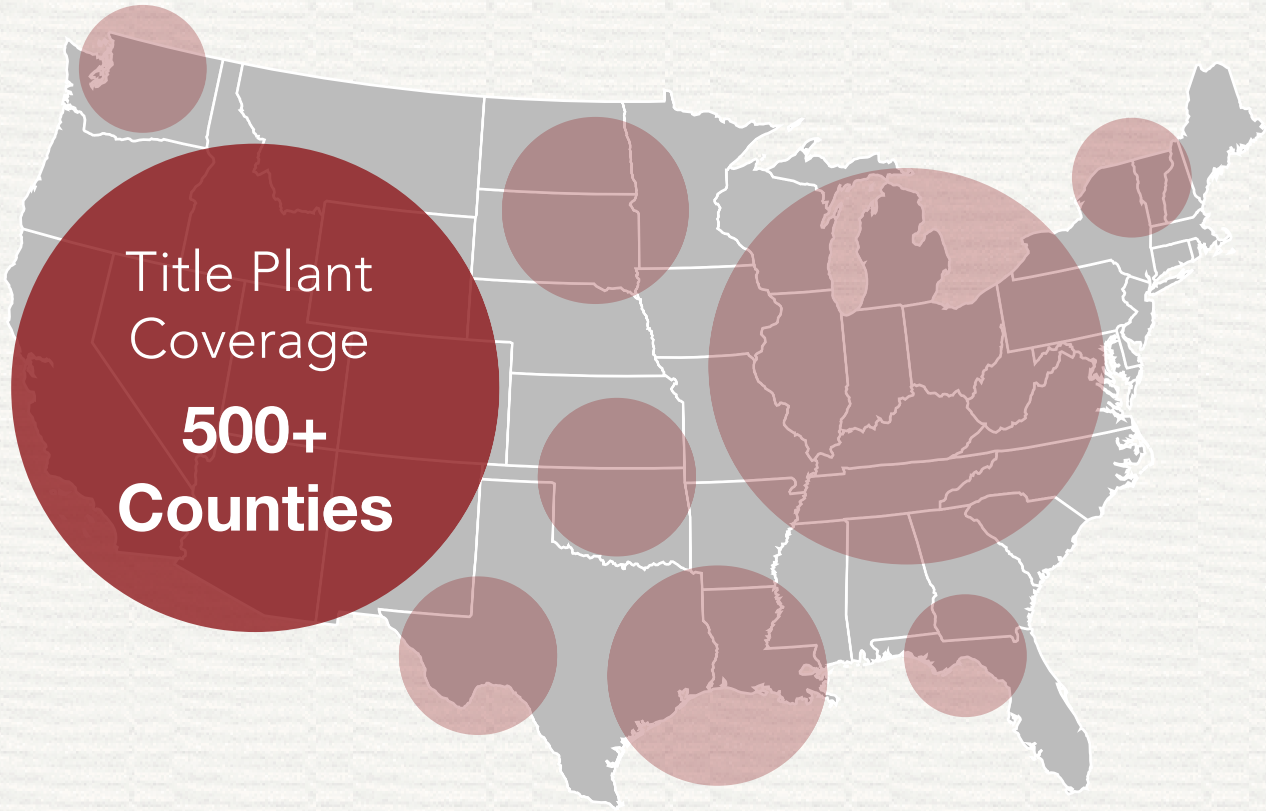

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