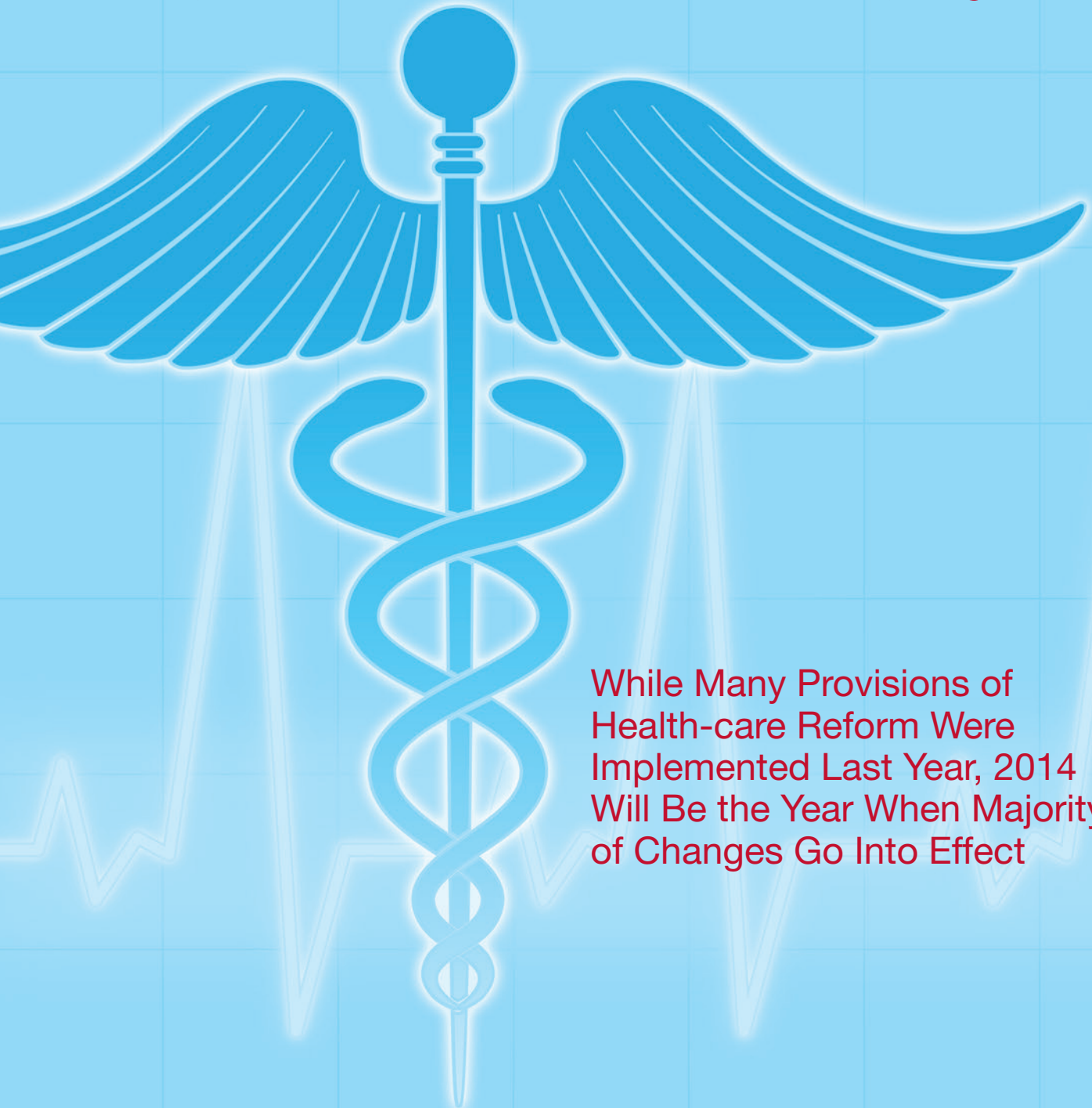


February 2014

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TitleNews

Affordable Care Act: Impact on Businesses and Employees



**While Many Provisions of
Health-care Reform Were
Implemented Last Year, 2014
Will Be the Year When Majority
of Changes Go Into Effect**



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February 21-22	Alaska <i>Anchorage, AK</i>
April 10-12	Oklahoma <i>Tulsa, OK</i>
April 10-12	Tennessee <i>Nashville, TN</i>
April 27-29	California <i>San Diego, CA</i>
May 2-3	Iowa <i>Cedar Rapids, IA</i>
May 15-18	Arkansas <i>Hot Springs, AR</i>
June 1-3	Pennsylvania <i>Hershey, PA</i>
June 5-7	Virginia <i>Herndon, VA</i>
June 8-10	Wyoming <i>Casper, WY</i>

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Check Out Exclusive Content
in This Month's Digital Issue



Understanding the Affordable Care Act

Watch a webinar recording on
the Affordable Care Act, which
provides information to help you
make decisions on providing health
insurance for your employees or
obtaining coverage for yourself.

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Owner's Title Insurance Optional? We Don't Think So

There has been a lively conversation on our LinkedIn group about how the addition of the word “optional” to describe Owner's Title Insurance on the CFPB's integrated mortgage disclosures might affect an agent's ability to sell owner's policies. The participants' response has been very positive. Many have indicated they are able to explain the importance of owner's insurance not only to the consumer, but also to those who advise the homebuyers, the Realtors and the lenders.

The current economic and political culture focuses on the economic benefit, or harm, that products may have on consumers. It is fair to say it is a consumer-protection centered society. That is why now, more than ever, the time you take to explain the value of title insurance is critical to your success. The way you talk about title insurance matters too. You have heard me say before how important it is to tell stories to connect with people. Lucky for us, title insurance has a great story to tell.

For example, a Missouri couple purchased a home from their landlord, who had taken out a \$419,000 loan to purchase the property along with several other properties. The lien was missed during the title search, so the lender paid the landlord instead of paying off the lien. Despite making their payments, the bank sent a letter saying the home would be auctioned since the landlord's lien still existed. Because the couple purchased an owner's policy, the title company paid the lien and the husband and wife kept their home.

Personal anecdotes help our efforts to set the record straight when detractors claim title insurance is too expensive or when we work to persuade the CFPB and consumers that owner's title insurance is something every home buyer should purchase. Please share your positive stories by emailing them to Wayne Stanley at wstanley@alta.org. Title professionals also are encouraged to join the Title Action Network at www.titleactionnetwork.com to get involved.

In addition to protecting the title industry, ALTA is always working to provide information to help members run their businesses. The cover article in this month's edition focuses on the Affordable Care Act (ACA), sharing information about how the health care reform impacts member companies of various sizes, how to count employees, the importance of understanding “common ownership” structures and employer responsibility, as well as important dates and penalties.

We hope you find the article, as well as everything else we do at ALTA, valuable to your operation. We take great pride in providing value to your membership.



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

Eight New ALTA Endorsements, Two Policy Forms Revisions Published as Final

The Forms approved by the ALTA Board of Governors on Oct. 10 have passed through the comment period and have been published in final on the ALTA website at www.alta.org/forms.

Users should access the final versions of these forms, which include any changes applied pursuant to the comment period. Redlines have also been posted, where applicable. These forms have a publication date of Dec. 2. Any prior version(s) of revised forms that may exist are considered decertified effective Dec. 2.

Use of ALTA's copyrighted forms is restricted to ALTA licensees and ALTA members in good standing as of the date of use. Permission to reprint may be requested by contacting service@alta.org.

The 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: Revised Form*

If you have comments or concerns, please email Kelly Romeo, ALTA's staff liaison for the Forms Committee, at kromeo@alta.org.



ALTA Opposes Use of G-fees to Fund Extension of Unemployment Benefits

ALTA joined eight other trade associations in a Jan. 8 letter opposing the use of credit risk guarantee fees (g-fees) to offset the cost of extending certain unemployment benefits.

The Senate is considering S. 1845, the Emergency Unemployment Compensation Extension Act, which would extend the unemployment benefits for the 1.3 million people who lost them in December. The bill requires the use of g-fees to offset the cost.

"We are united in our belief that using g-fees as a funding mechanism places an unnecessary burden on homeowners and prevents Fannie Mae and Freddie Mac from effectively managing their risk," the letter stated. "Though we are seeing signs of improvement in the real estate sector, we must avoid taking any steps that could keep housing consumers on the sidelines and hinder that recovery, while possibly delaying implementation of the

necessary reforms required of the GSEs."

Joining ALTA on the letter were the American Bankers Association, Community Mortgage Lenders of America, Credit Union National Association, National Association of Federal Credit Unions, National Association of Home Builders and National Association of Realtors.

Last year, ALTA joined other associations in a letter that said g-fees should only be used for minimizing the GSE's or FHA's risk exposure, shoring up capital reserves and ensuring liquidity in the secondary mortgage market.

After taking office Jan. 6, newly confirmed FHFA Director Mel Watt formally postponed a planned increase in g-fees charges that were announced in December. The original proposal was part of a strategy by FHFA to gradually raise fees to attract private capital to the housing finance market.



ALTA Partners With Industry Veteran to Continue Publishing Legal Sources for Land Title Industry

ALTA has partnered with title industry veteran and attorney Bush Nielsen to continue publication of valued legal resources for the land title industry, including the Title and Escrow Claims Guide (Second Edition), which is updated each year in a supplement, and The Title Insurance Law Newsletter, which is published monthly.

“First published in 1996, Title and Escrow Claims Guide is the preferred research tool for land title claim administrators and retained counsel,” said Michelle Korsmo, ALTA’s chief executive officer. “The guide’s 1,400 pages are packed full of practical analysis that is valuable for underwriters, agents, examiners, managers and training supervisors. We are delighted to partner with Mr. Nielsen and continue offering these resources to title professionals across the country.”

The book is updated each year with new topics and a discussion of the cases decided in the preceding year. It covers the entire range of topics related to title insurance claims, including a detailed analysis of the policies’ terms, as well as issues

concerning escrows and closings, title agent disputes and abstractor liability.

The Title Insurance Law Newsletter has served as the authoritative monthly source for legal developments affecting the land title industry since 1992. The newsletter reports on cases addressing title insurance coverage, class actions and regulatory enforcement, escrow and closing duties, agent/underwriter disputes, conveyancing law, and compliance and violations of the Real Estate Settlement Procedures Act and the Truth-in-Lending Act. Nielsen will continue to author the book and serve as editor of the newsletter.

For more information or to subscribe to any of these products, go to www.alta.org/titlelaw.



CFPB Seeks Info to Improve Closing Experience

The Consumer Financial Protection Bureau (CFPB) in January issued a notice and request for information on ways to improve the closing process.

The CFPB asked to hear from professionals such as settlement and closing agents, and attorneys, who work with consumers during the closing process. The CFPB indicated the anecdotes and information that is provided will be used to research and test solutions that address some of the biggest pain points associated with closing on a mortgage.

The CFPB asked for answers to 17 questions broken into five categories, consumers and closing; errors and changes at

closing; other parties at closing; closing documents; and improving closing.

Deadline to comment was Feb. 7. When *TitleNews* was going to print, ALTA was finalizing comments based on guidance from its RESPA Task Force and Government Affairs Committee.

“This is a great opportunity for the settlement agents to share its expertise and knowledge with policymakers,” said Michelle Korsmo, ALTA’s CEO. “While ALTA is preparing a response, we urge title professionals to provide their own comments.”

ALTA Awards Six National Title Professional Designations

ALTA recently awarded six National Title Professional (NTP) designations. The professional designation was received by Jeffrey S. Wolff of Fidelity National Title Group in Fort Collins, Colorado; Charlene M. Ostroski CLTP of Norristown, Pa.; Cara L. Detring of Preferred Land Title in Farmington, Mo.; Roberta Schneider CLTP of Fidelity National Title Group in Columbia, Md.; Chuck

Sheffield of AmeriTitle in Bend, Ore.; and Linda Stelle of AmeriTitle in Bend, Ore.

The NTP designation recognizes land title professionals who demonstrate the knowledge, experience and dedication essential to the safe and efficient transfer of real property. ALTA awarded a total of 26 NTP designations in 2013.

For more on the NTP program, go to www.alta.org/ntp.



Social Media Summit

Are you a social media manager? Looking to ramp up your company's social media presence, increase brand awareness and help bring in more orders? If so, don't miss ALTA's first Social Media Summit (SMS), which will be held March 12 in Nashville prior to the start of ALTA's Business Strategies Conference. This half-day summit opens with a networking luncheon and will provide four hours of social media training to enhance your online strategy no matter the size of your company. The SMS will address content strategy, trends and must-have apps. You'll also be able to network with industry social media experts from around the country. If you're a title professional working in communications, marketing, or digital media, this summit is for you! 2014 SMS participants that are also attending ALTA's Business Strategies Conference will be given the inaugural registration price of \$75. The registration fee for non-Business Strategies Conference attendees is \$125.

To register, go to www.alta.org/meetings/bsc.



28 Ways We Love Title

This February, "28 Ways We Love Title" returns to ALTA's social media channels to highlight the best of the land title industry. Be sure to check Facebook and Twitter frequently and email any suggestions to social@alta.org.

March Title Madness is Coming!

Last year, hundreds of land title industry professionals participated in March Title Madness. We are excited to announce that March Title Madness will return in 2014! This year, in addition to title trivia games, we will use actual NCAA brackets. Email social@alta.org to receive more on March Title Madness in the future.

What is Flickr Anyway?

Don't forget that ALTA has developed a social media dictionary with terms and definitions for eight of the most popular social media sites including Facebook, YouTube, Twitter and yes, even Flickr. For a copy of the dictionary, check out ALTA's e-Kit at www.alta.org/ekit or email social@alta.org.

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Affordable Care Act: Impact on Businesses and Employees

While Many Provisions of Health-care Reform Were Implemented Last Year, 2014 Will Be the Year When Majority of Changes Go Into Effect

Adapting to a purchase-dominated mortgage market and keeping abreast of a barrage of new regulations from the Consumer Financial Protection Bureau (CFPB)—including new mortgage disclosures that go into effect in August 2015—are major items impacting business flow and operations. When running a company, concerns don't just revolve around generating revenue. Human resource issues also must be addressed. A big issue ALTA members must consider these days is compliance with the Affordable Care Act (ACA). >>

By Jeremy Yohe



The health-care reform legislation has been hotly debated since passage in 2010, and the U.S. Supreme Court upholding its constitutionality in 2012. The stated purpose of the legislation is to assure that all Americans have access to affordable health insurance. After the legislation is fully implemented in 2014, all Americans will be required to have health insurance through their employer, through a public program such as Medicaid or Medicare, or by purchasing coverage from a state-based health insurance exchange.

The ACA creates new requirements and options for employers. Some insurance-related provisions, such as requiring employers to provide affordable coverage—deferred until 2015—small-business tax credits, and expanding individuals' access to health insurance either through the individual mandate or through Medicaid expansion programs, will directly and indirectly impact employers' future benefits decisions, according to Deloitte's 2013 Survey of U.S. Employers.

Changes to the insurance market landscape over the next two years could bring many employers to a crossroad.

"As health care reform continues to unfold, markets evolve and costs continue to rise, employers will need to make important strategic decisions to shape company responses to health care reform," Deloitte reported in its study. "Some employers may decide to no longer provide health care coverage to employees to focus on other priorities and commercial objectives, while others may continue 'business as usual' and provide benefits but potentially using different models."

Overall, it's been reported that companies with older employees (typical of title companies) will see rates decrease, while companies with younger employees will see rates increase.

"Every case is different, but in general terms that should be true," according to Michael Curcio, a broker at independent insurance agency Benefits Inc. "The actuaries develop a base rate and use something called community rating and average to the middle. What I've seen so far is cost has held the same and companies have been able to get a more robust plan."

Kelley Hinsley, owner of Heartland Title Services in Tennessee, said his eight-employee company hasn't been negatively impacted by the health-care law. Scott Stevenson, president of Ohio-based Northwest Title, said his company hasn't been forced to make any strategic changes to the coverage provided to its 80 employees. The ACA has actually helped the bottom line.

"Actually, our medical insurance premiums increased by less than 10 percent this year," Stevenson said. "I was averaging 20 percent increases each year over the last four years."

Meanwhile, attorney Cheryl Kraus said the health-care law has impacted hiring decisions for a company that her law firm owns.

"We have a need for more than 50 employees at the moment, but are managing with less and are looking for long-term solutions," she said.

Due to employee variables, the ACA will impact each company differently. Additionally, many employees view the goal of their benefits plan to retain quality workers and reduce turnover. Others focus

on keeping expenses down while remaining compliant.

"Last year was when the nuts and bolts of implementation started happening and 2014 is when the grand reveal will happen and when a lot of the changes go into effect," Curcio said. "It's important for companies to sit down with a broker to go through the ACA grid and different plans to select a plan that best serves their needs."

Employee Responsibility

In October 2013, employers were required to provide a Notice of Exchange to existing employees about exchanges and federal subsidies to buy private health plans through exchanges. The notification—which is one more thing to add to Employee Retirement Income Security Act (ERISA) compliance documents and FMLA check boxes—must also inform employees they could be eligible for federal premium tax credits if they buy a qualified health plan through an exchange. If an employee purchases a qualified health plan through an exchange, they could lose the employer contribution (if any) to any health benefits plan offered by the employer. According to the Department of Labor (DOL), new employees hired in 2014 must be provided the notice within 14 days of hiring. A standard form of the exchange notice can be found on the DOL website (www.dol.gov/ebsa/healthreform). New hires must be on the plan within 90 days of hire.

Depending on a company's size, different provisions of the law apply. The ACA separates businesses into large and small.

"If you have more than 50 employees working 30 hours per week, a company is considered a

large employer and subject to the employer mandate and penalties if it doesn't offer coverage that meets the affordability standards," Curcio said.

Companies with less than 50 employees don't have to offer coverage and there's no penalty. The definition of a small company will rise to 100 full-time equivalents in 2016, however.

Companies must determine who is full-time and who is a full-time equivalent (FTE) to determine employer size. Determining FTEs will be an important aspect to comply with the law for title companies that staff up and down depending on the volume of title orders. Many title companies also use part-time workers. A couple of part-time employees could add up to a FTE. Curcio said some insurance carriers are using different formulas to count employees, but said the IRS has issued guidelines that outline safe harbors that employers may use to determine which employees are treated as full-time for purposes of the shared employer responsibility. The number of full-time employees a large company has will determine the penalty amount if coverage isn't provided or it doesn't meet the affordability standards.

Common Ownership

When counting employees, it's important to factor in whether a person or a group of people own multiple entities under an umbrella. The ACA matches the ERISA requirements for definition of common ownership. If the parent corporation or partnership owns at least 80 percent of voting stock of the subsidiary companies—or companies with the same owners that provide services to each other or third parties—are considered to have

Understanding the Affordable Care Act

common ownership. This is another area that title companies should pay attention to if they do business under various names in different states or are involved in affiliated business arrangements.

Common ownership also includes related companies/partnerships that have five or fewer owners who control 50 percent of voting stock in all entities. According to Curcio, regulatory discretion of the IRS trumps all of this. Accurate employee counting will catch up to companies after the first year through audits.

"If you have LLCs or a parent company and are operating in multiple states under different brands—as is the case of many ALTA member companies—this is something you want to examine," Curcio said.

As an example, Curcio said one of his clients has five LLCs.

Before ACA, the client had five different health plans. Now, they are considered one large employer and have one plan.

"It's been a big gear change for them," he added.

Play or Pay

While the pay-or-play penalty for large companies has been delayed until 2015, the look-back period to count employees starts now. According to the law, beginning next year, large companies must provide coverage to 95 percent of their employees and dependents or pay a penalty. The penalty will apply if the coverage is not affordable or does not meet minimum value benefits.

Firms that do not offer any insurance, have more than 50 employees, and have at least one employee receiving insurance subsidies, must pay a tax of \$2,000

Key Terms to Know About the Affordable Care Act

- **Affordable Insurance Exchange:** Also known as the health insurance “Marketplace,” the Affordable Insurance Exchange is an insurance marketplace where individuals and small businesses can purchase and qualified health benefit plans. The Marketplace for small employers, known as the Small Business Health Options Program (SHOP), and the Individual Marketplace for consumers and those who are self-employed, opened in all states on Jan. 1, 2014.
- **Employer Shared Responsibility:** Although employers are not required to provide health coverage to their employees under the Affordable Care Act, employers of a certain size will be subject to the Employer Shared Responsibility provision of the law. Under this provision, business owners with at least 50 full-time or full-time equivalent (FTE) employees that do not offer health coverage to their full-time employees may be subject to a shared responsibility payment under the health care law. This requirement was pushed back to 2015.
- **Essential Health Benefits:** The ACA ensures that health plans offered in the individual and small group markets, both inside and outside of the health insurance Marketplace, offer a comprehensive package of items and services, known as essential health benefits. Essential health benefits must include services within at least 10 core categories, among them emergency services; maternity and newborn care; prescription drugs; and preventive and wellness services.
- **Small Business Health Care Tax Credits:** Although the ACA does not require that businesses provide health insurance, it does offer tax credits for eligible small businesses that choose to provide insurance to their employees for the first time, or maintain the coverage they already have. To qualify for a small business health care tax credit of up to 50 percent, a small business must have fewer than 25 full-time equivalent employees, pay average annual wages below \$50,000, and contribute 50 percent or more toward its employees’ self-only health insurance premiums. The credit is available to qualified small businesses that purchase coverage in the SHOP Marketplace.

per subsidized employee. The tax is applied to all of a firm’s employees (after excluding the first 30), and not just those that are subsidized. For example, a firm with 51 employees would pay \$42,000 in new annual taxes and an additional \$2,000 tax for every new hire. For firms that offer insurance plans that are not deemed “affordable,” the penalty is the lesser of \$2,000 for every employee (after exempting the first 30) or \$3,000 for every employee receiving a subsidy.

The economic impact of the law is that smaller businesses may have a disincentive to expand in order to avoid the penalties.

The regulation does provide three affordability “safe harbors.” First, large companies meet the affordable test if the insurance costs less than 9.5 percent of the employee’s W-2 wages for that year. The second safe harbor is if it’s 9.5 percent of an employee’s hourly wages multiplied by 130. Third, if the insurance costs

are less than 9.5 percent of the federal poverty level for one person.

“We’ll start seeing more employers make decisions on who works full time and who doesn’t,” Curcio said.

Exchanges/Marketplaces

The ACA requires every state to offer an exchange to its residents. States may choose to create and run their own exchanges, allow residents of that state to shop on an exchange operated by the federal government or partner with the federal government. Enrollment in the exchanges opened in October 2013, but the government website has continued to have issues. The federal government ditched its IT administrator and signed a new contract with Accenture to try and fix the problems.

“The goal was a Travelocity experience,” Curcio said. “When we first logged onto healthcare.gov to get groups or individuals enrolled, it was taking us three hours per person to get through the site. It’s gotten better, but it’s not as easy as booking a vacation.”

When the law first came out, assumption was that most states would want to operate their own exchanges. Instead, the inverse has turned out to be true—most states are working with the federal exchange. Public exchanges will exist for both individuals and for small-group employers, who can buy insurance through the Small Business Health Options Program (SHOP). To aid shopping, health plans on a public exchange are labeled platinum, gold, silver or bronze. The metallic level helps shoppers understand the level of coverage a plan offers. Platinum plans have the lowest out-of-pocket cost for members, but the monthly premiums will generally be higher.

Bronze plans, on the other hand, will have the highest out-of-pocket costs for members, but will typically feature lower monthly premiums. Premiums are based on four rating criteria, size of family, geographic area, age and tobacco use.

Individual Mandate

Sole proprietors and other business owners with no employees will be impacted by the ACA much like individuals. Effective this year, the individual mandate is a provision of the federal health law that requires individuals—and anyone else who can be claimed as a dependent on taxes—purchase insurance in 2014 or pay a penalty. Coverage can be supplied through an employer, via public programs such as Medicare or Medicaid, or by purchasing an individual policy.

The mandate is aimed at some of the 57 million people younger than 65 who now do not have insurance. The Congressional Budget Office (CBO) estimates that in 2014 nearly three out of five Americans will have coverage through an employer-provided plan and 12 percent through Medicaid and the Children's Health Insurance Program, federal-state programs that provide insurance to lower income Americans. The CBO estimates that by 2016, after the major provisions of the health law are implemented, 24 million people will be exempted from the mandate's penalties.

Under the final rule, individuals will be required to report on their fiscal year 2015 tax returns whether they had health insurance in 2014. Non-exempt individuals who failed to purchase insurance will be required to pay a fine of \$95 or 1 percent of the household income, whichever is greater. Beginning in 2016, the

annual penalty will increase to \$695 per person—or 2.5 percent of taxable annual income—with the total amount increasing with inflation.

Strategies

Some smaller companies may have previously allowed employees to pay for a health-care plan through a health-reimbursement arrangement. Though some experts have disagreed on whether this is allowed under the ACA, Curcio asserts that it is not. If a company wants to reimburse employees for individual coverage, it will have to do so through payroll—meaning the employee and employer must pay taxes.

“There are companies that have made the business decision to continue doing this until a judge tells them to stop,” Curcio said. “We are cautioning our clients that this practice does not comply with the law.”

The ACA also will impact Health Savings Accounts (HSA). Because HSA plans have high deductibles, there will be few options for small groups under the ACA-categorized metallic plans that would be compliant. As an example, under the small group plan grid in Tennessee, there are only three options on metallic plans that are HSA compliant, according to Curcio.

“The legislation doesn't specifically prohibit HSAs, but the realities of the law limit the time when an HSA would be applicable.”

According to Deloitte, cost-sharing strategies designed to shift more responsibility for managing consumption and expenditures to employees are widely used by employers to reduce or control health care costs. “Tried and true” tactics such as increasing premium

contributions and adjusting plan content are in play.

For small-group employers who must renew their plans in 2014, Curcio suggests companies evaluate the new community ratings and plan with carriers and consider a defined contribution model. An employer would provide a set amount as a virtual gift or flex credit and then allow the employee to shop for their own insurance off a menu that the employer provides. Self-funded plans also are growing in popularity among small groups, according to Curcio, because they are not subject to the requirements of the law. Before, self-funded plans were traditionally used by larger companies. Curcio has seen companies with 100 or more employees turning to self-funded plans because they give employees more control of what plans they offer.

Many employers appear to be adopting a “wait and see” approach regarding the public and private exchanges, Deloitte reports. Many smaller companies are watching to find out where the large players are going, so they can follow their lead.

“We are analyzing anyone who must renew their old plan in 2014 and move to a compliant plan under the new law,” Curcio said. “Some groups are going to see a tremendous savings with the new law and some won't see any savings. All of this is fact dependent. Companies need to work closely with their broker to do the analysis.” ■



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



Let's talk...

If the new RESPA-TILA rule has left you with more questions than answers, you aren't alone.

While everyone in the title and settlement industry has been talking about the new RESPA-TILA rule, few fully understand the change. For months, RamQuest has been in consultation with industry leaders, legislators, regulators and vendor partners to understand the RESPA-TILA rule, the resulting changes and the impact on our industry. As we did for the 2010 HUD, RamQuest wants to share our expertise to help you through this transition. RamQuest's RESPA-TILA-Talk.com is a community forum to get information, ask questions and share ideas. The site also features a blog where our own Mary Schuster will share her insight throughout the implementation of the rule. Come talk to us!

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Potential Runaway Train Could Impact Land Rights

The U.S. Supreme Court to Decide Whether United States Has Unrecorded Reversionary Interests in Properties Across the Nation

BY WILLIAM T. STUART

The U.S. Supreme Court is set to decide a case that will have significant ramifications on the titles to hundreds of thousands of acres of land across the nation. That case—*United States v. Brandt*—involves the title ownership to abandoned railroad rights-of-way that were initially conveyed to railroad companies pursuant to the General Right-of-Way Act of March 3, 1875 (1875 Act). The Supreme Court will determine whether:

- the interests transferred by the 1875 Act were mere easements that could be extinguished upon abandonment of the line (which means ownership of the land would remain with whoever holds title according to documents in the applicable register’s office), or
- the United States owns those lands pursuant to unrecorded, implied rights created purely by judicial interpretation of federal statutes.

The stakes here are high. If the interests passed by the 1875 Act are not deemed to be easements, then private landowners (and their title insurers) who, for decades, have believed they owned property pursuant to recorded deeds will be met with the sudden realization that their properties are, in fact, owned by the federal government—without notice or compensation.

The federal government could then use that property for public uses, such as bike trails or recreational activities, even in instances where landowners have made improvements to the properties in question. As Supreme Court Justice Stephen Breyer aptly observed, a person could “be living in their house and suddenly a bicycle will run through it ...”

The issues involving the 1875 Act are best understood in the context of the historical development of railroads in the United States. In the mid-1800s, Congress began a series

of lavish land subsidies to stimulate the construction of railroad tracks across the vast quantities of unsettled public lands. These grants initially took the form of “right-of-way” grants, in which railroad companies were given a width of land—generally ranging from 60 to 100 feet—to offset the cost of building their tracks. Over time, the grants expanded to include gifts of acres of land on either side of the tracks as a further means of aiding in the construction of the line. These so-called “land grants” allowed the railroad companies to build a portion of line, sell the bestowed acres to the public and then use the sales proceeds to construct additional portions of the line.

On a national level, it is estimated that the federal government “passed into the hands of western railroad promoters and builders a total of 158,293,000 acres, an area almost equaling that of the New England states, New York and Pennsylvania combined.” (*United States v. Union Pac. R.R. Co.*)

The 1875 Act was one of the last railroad land subsidies passed by Congress. Unlike other “right-of-way” grants that were specific to particular railroads, the grants under the 1875 Act were available to any railroad company fulfilling the conditions of the Act. The 1875 Act granted a 200-foot wide right-of-way, as well as additional lands necessary for the construction of station-buildings, depots, side-tracks and other facilities connected to the operation of the

railroad. These additional lands could be located on as much as 20 acres of land for every 10 miles of track.

By its terms, the interests conveyed by the 1875 Act appeared to be easements, not ownership rights. The 1875 Act expressly stated that, once a railroad company obtained a grant under the Act, the “lands over which such right of way shall pass shall be disposed of subject to such right of way”—which meant the federal government could pass title ownership of the land, but that conveyance would be subject to the use right created in the right-of-way.

In 1942, the Supreme Court determined that the interests conveyed by the 1875 Act were, in fact, only easements. In *Great Northern Ry. Co. v. United States*, a railroad company argued that it had the right to mine all subsurface minerals under a right-of-way granted under the 1875 Act because it obtained complete ownership interests to the land under that Act. In contrast, the United States argued that the 1875 Act only conveyed an easement interest and that it retained the ownership interests to the right-of-way under the Act (and thus had the exclusive right to mine the minerals under the tracks). The United States ultimately won that argument, and the Supreme Court held that the 1875 Act only conveyed an easement interest allowing the railroad company to use the land (not own it).

Incredibly, 72 years later, the United States is taking a directly contrary position in the *Brandt* case. It now argues that the rights conveyed under the 1875 Act were not mere easements, but something closer to limited fee interests with an *implied* reversionary right.

In other words, the United States is now arguing that it conveyed ownership rights under the 1875 Act (not easements), but retained the limited right to take those ownership interests back in the future (i.e., the “reversionary interest”) if the railroad company ever stopped using the property for the operation of a line. This reversionary interest is not claimed to exist on account of anything in the Act itself, or in any document in the chain of title to the property. Rather, this right is claimed to be *implied* from the fact there was a conveyance under a federal railroad grant.

If a grant is subject to an *implied* reversionary interest, ownership of the right-of-way is returned to the federal government when the railroad company abandons its lines, and then disposed of pursuant to another federal statute: 43 U.S.C. § 912 (Section 912). Section 912, enacted in 1922, generally transferred the ownership interests to adjacent landowners. This result was not bad for landowners or title companies, since it confirmed ownership of the right-of-way to those people generally using it. However, in 1988, Congress modified Section 912 through 16 U.S.C. § 1248(c), which generally requires the federal government to retain all interests to the abandoned railroad lines. Thus, any railroad lines subject to a reversionary interest and abandoned after 1988 are subject to recapture by the federal government without notice or compensation.

In *Brandt*, the United States filed suit to recapture 66 miles of railroad right-of-way near Laramie, Wyo. The United States named 26 separate parties in the case who could have claimed an adverse interest in the

ALTA Joins Brief in Brandt Case

ALTA recently joined several other associations and law professors in submitting an amicus brief in a case being reviewed by the U.S. Supreme Court that addresses rights to abandoned railroad lines.

In October, the Supreme Court agreed to review *Marvin M. Brandt Revocable Trust v. United States* to determine if the United States held an implied reversionary interest in rights-of-way created by the General Railroad Right of Way Act in 1875.

A ruling by the court will resolve a current split among the circuits on the reversionary interest issue. The decision by the Tenth Circuit is contrary to other court rulings and well-established principles of property law, and would unsettle title to millions of acres of land throughout the nation, according to the amicus brief.

Joining ALTA in submitting the brief were the Cato Institute, the American Farm Bureau Federation, the National Cattlemen’s Beef Association, the Public Lands Council and a group of prominent real estate law professors. Oral arguments began in January.

right-of-way. One of those parties included the Marvin M. Brandt Revocable Trust (Trust). The Trust argued that the 1875 Act only conveyed easement interests to the railroad, which were extinguished at the time the railroad stopped using the lines. As a result, the Trust concluded that the United States did

not have any reversionary interests in the right-of-way. In contrast to its arguments to the Supreme Court in *Great Northern*, the United States has now argued that the interests under the 1875 Act were not mere easements, but something closer to a limited fee—and that such limited fee was subject to an unrecorded reversionary interest in favor of the federal government.

Ultimately, the United States won, and the Tenth Circuit Court of Appeals held that the 1875 Act was subject to an implied reversionary interest and to disposition under Section 912, as amended. In doing so, it gave the United States ownership interests to the right-of-way at issue.

The Tenth Circuit's decision in *Brandt* is at odds with decisions

from other courts, including the Seventh Circuit Court of Appeals. In *Samuel C. Johnson 1988 Trust v. Bayfield County*, the Seventh Circuit held that the 1875 Act only conveyed easements with no *implied* reversionary interests. The same result occurred in the United States Court of Appeals for the Federal Circuit and the United States Court of Federal Claims. (See *Hash v. United States*; *Beres v. United States*) Thus, the Supreme Court is considering the issues in the *Brandt* case to resolve a conflict in law among the lower courts.

Oral argument in the *Brandt* case recently occurred on Jan. 14, 2014, and a decision will be handed down later this year.

The potential impact of that decision is significant. Owners of land subject to 1875 Act are not likely to be aware of that fact, or that their property rights may be unsettled by a lurking, undisclosed ownership interest in favor of the United States.

If the Supreme Court determines the 1875 Act was subject to an *implied* reversionary interest, those owners will be at risk of a complete failure of title, without notice or compensation. Let us hope this does not happen. ■



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Training and Education to Keep Your Company Topping the Charts

2014 Business Strategies Conference Provides Diverse Playlist of Sessions, Highlighted by Best Practices, Integrated Mortgage Disclosures and Fraud

The Grand Ole Opry began as a radio broadcast in 1925. Today, the show is a live entertainment phenomenon dedicated to honoring country music's rich history and dynamic present.

"The Grand Ole Opry has remained relevant because of its ability to evolve with the changing musical landscape by mixing country legends with contemporary artists," said Michelle Korsmo, ALTA's CEO. "Likewise, title professionals who can adapt to the changing business and regulatory landscape will continue to find success in the market."

Nashville is home of the Grand Ole Opry, and also the site of ALTA's 2014 Business Strategies Conference. Title professionals attending the conference will learn about implementing ALTA's "Title Insurance and Settlement Company Best Practices," and the CFPB's final rule for mortgage disclosures. Attendees also will receive hands-on training to thwart fraud and recognize fake identities.

Mary Ann Christensen, senior vice president and state escrow administrator for Arizona-based Title Security Agency, attended last year's Business Strategies Conference in Oklahoma City and is returning again.

"I was so impressed with the conference last year and took away a ton of information that we have implemented in our company's Best Practices that we have just completed," she said. "I am looking forward to learning even more this year from both the speakers and attendees."

Christensen added that the networking opportunity to engage with title professionals from across the country is an additional value when considering attending the conference.

"I still keep in contact with fellow title and escrow company owners and managers that I meet from last year's conference to share ideas and information," she said.

Barbara Seerey, vice president of Insight Title Co., said attending the conference is important because it has become essential for companies to

blend technology and compliance into the everyday process and procedure planning.

"Business development plans without the necessary Best Practice compliance components are doomed to fail," she added. "Our clients deserve to have the most prepared team possible to facilitate their transactions and insure the highest level of industry standards are followed at all times. The ALTA Business Strategies Conference offers a forum for title professionals across the country to discuss and offer solutions to common issues."

Kicking things off during the opening general session on March 13, a group of industry experts will lead the discussion "What Does the CFPB Mortgage Disclosure Rule Mean to You?" Featured speakers include Phil Schulman of K&L Gates (moderator), Tim Armbruster of ClosingCorp, Ruth Dillingham of First American Title Insurance Co. and Richard Horn of the Consumer Financial Protection Bureau (invited).

The panel will address the top operational impacts the CFPB's final rule to integrate mortgage disclosures—which goes into effect Aug. 1, 2015, will have on title companies.

"While the effective date of the final rule and the new disclosures is a year and a half away, there is a lot to be done in that time," Schulman said. "Title insurance companies and settlement agents must begin the process of defining their ongoing relationships with mortgage lenders

regarding preparation of the Closing Disclosure form. There is no question that a lot of time and resources will be expended by these companies in the coming months to learn the new requirements, update technology and train employees.”

Following that discussion, Glen Garrity of G2 Identity Management will share how to prevent fraud at the closing table by learning to recognize a fraudulent identification card. Garrity said any criminal can search the public records and assume the identity of an out-of-town owner by purchasing a fraudulent driver’s license or identification card under any state, name, address or birth date of their choice.

“Verifying a person’s identity in a transaction is imperative because of the legal documents being signed, and fraud can occur when an agent approves a fraudulent identification as a valid identification, because they were not trained to tell the difference,” he said.

During his seminar, Garrity uses real and fake IDs and will discuss Social Security card features among other identity-theft topics.

On March 14, the general session will be highlighted by the panel “You Can Handle the Truth about your NPI,” which will feature a live hacking session to highlight computer and network vulnerabilities. The third pillar of ALTA’s Best Practices addresses protecting non-public personal information. Speakers on this panel include Pat Carney of reQuire, Greg McDonald of CloudStar Consulting, Randall D’Arche of WFG National Title Insurance Co. and Andy Maloney of Nashville Title Insurance Corp.

“We will provide real-world examples of how vulnerable settlement

agents’ systems are to network breaches when it comes to physical and network security,” McDonald said.

ALTA President Rob Chapman will close the final general session with

Additionally, 16 professional development sessions in four tracks—operations, Best Practices, legal and regulatory, and sales and marketing—will be offered. CE and CLE will be available for most of the sessions.

Prior to the start of the conference on Wednesday, March 12, ALTA will

host an Issues Forum for agents and abstracters to address items impacting business, as well as a half-day Social Media Summit.

“Harnessing the power of social media can lead to new opportunities and growth in any organization,” said Wayne Stanley, ALTA’s manager of public affairs. “If you’re a title professional working in communications, marketing or digital media, this summit is for you.” ■

ALTA’s 2014 Business Strategies Conference

When: Wednesday, March 12 – Friday, March 14

Where: Omni Nashville, Nashville, Tenn.

More info: www.alta.org/meetings/bsc

Schedule At-a-Glance – All Times Central

Wednesday, March 12

9:00 a.m. – 5:00 p.m. *One Day Issues Forum (Separate Registration) (Agents & Abstracters Only)*

12:00 p.m. – 5:15 p.m. *Social Media Summit (Separate Registration)*

4:30 p.m. – 5:30 p.m. *New Member & First Time Attendee Orientation*

5:30 p.m. – 7:00 p.m. *Exhibit Showcase Opening Reception*

Thursday, March 13

7:30 a.m. – 6:30 p.m. *Exhibit Hall Open*

7:30 a.m. – 8:45 a.m. *Continental Breakfast in the Exhibit Showcase*

9:00 a.m. – 10:45 a.m. *General Session*

11:00 a.m. – 12:15 a.m. *Professional Development Sessions (4 tracks)*

12:15 p.m. – 1:45 p.m. *Lunch in the Exhibit Showcase*

2:00 p.m. – 3:15 p.m. *Professional Development Sessions (4 tracks)*

3:45 p.m. – 5:00 p.m. *Professional Development Sessions (4 tracks)*

5:00 p.m. – 6:30 p.m. *Happy Hour Reception in the Exhibit Showcase*

Friday, March 14

8:00 a.m. – 12:00 p.m. *Exhibit Hall Open*

8:00 a.m. - 9:00 a.m. *Continental Breakfast in the Exhibit Showcase*

9:00 a.m. - 10:30 a.m. *General Session*

10:45 a.m. - 12:00 noon *Professional Development Sessions (4 tracks)*

12:00 noon - 2:00 p.m. *Closing Luncheon*

ALTA Members Honor Veterans, Give Back During Holidays

Soldiers Who Withstood Battle of the Bulge Remembered While Local Communities Benefit from Industry's Generosity

On top of working countless hours making sure deals are completed on schedule during the holiday season, many ALTA member companies are among the businesses that also find time to give back to their communities and help those in need.

For Steve Napolitano, president and CEO of First Nationwide Title Agency, he took time in December to join elected officials and historians at the Museum of American Armor at Old Bethpage Village Restoration in New York to pay tribute to the American soldiers who withstood attacks by German ground and armor forces during the winter of 1944.

Napolitano's father served in General George Patton's Third Army, which helped win the Battle of the Bulge. In the face of overwhelming firepower, small groups of American servicemen with incredible courage prevented the Germans' march on Antwerp, Belgium, while waiting for reinforcements that brought ultimate victory. The victory was

belied by horrific casualties suffered by American forces with some 19,000 soldiers killed and many more wounded.

"I chose to stand here with these veterans because I know what they accomplished through courage and sacrifice in the snows of Belgium

almost 70 years ago," Napolitano said. "My dad fought in Europe and I believe everyone in America has a direct connection to the events of World War II. This tribute and the armor museum now being built will give us all better insight into that conflict and why we can never forget the lessons that generation continue to teach us."

During the tribute, vintage World War II armored vehicles rumbled from behind the trees and positioned themselves in front of the podium. A crane flying the American flag from its steelwork rose in the air as veterans snapped a razor-sharp salute at the command of veteran Jack Hayne.

Among those joining Napolitano were State Senator Charles Fuschillo



A Steve Napolitano greets WWII veteran Irving Greger who fought during the Battle of the Bulge in December 1944. The two are joined by historians during tribute ceremonies at the Museum of American Armor.

and Assemblyman Chuck Lavine, who shook the hands of the vets, including a much later generation of soldiers who served in Vietnam.

“In weather far colder than this—in conditions that were lethal—unsuspecting American G.I.s found themselves the target of a massive counter offensive by the German Army in December 1944,” Fuschillo said. “Before the Germans were thrown back, nearly 19,000 American troops would die. The

company’s gift fund. Territorial Title then matches the amount collected. Two staff members collect wish lists from the nursing home management and then purchase and wrap the gifts. Staff members then deliver the gifts.

“We’ve done this for over 15 years, and it has always been a fun and fulfilling experience,” Mares said.

In Concord, N.H., Priority Title Services contributes every year to the Salvation Army. Several employees participate as bell ringers and


during the holiday season when the need is so strong. He added that all business owners should strive to uphold a positive impact on the communities in which they reside. Hillman and his staff remain involved in helping the community by regularly hosting and attending affairs such as blood, food and toy drives, as well as local fundraising events for cancer research and similar efforts.

“The Homeless Emergency Project is one of the largest support organizations in our community—many families rely on its resources to make it through hard times,” Hillman said. “HEP’s practice of helping families survive and providing a strong, familial support system is an initiative that NTC is honored to encourage.”

Additionally, NTC is supporting the Marine Toys for Tots Foundation during the organization’s annual holiday collection campaign for the third consecutive year. NTC will serve as a drop-off site for employees and nearby residents to bring new toys for children in need throughout the Tampa Bay community.

Meanwhile, Bayview Title Services “adopted” an elementary school in a working-class neighborhood in Fort Lauderdale, Fla. David Slachter, president and chief operating officer of Bayview Title, said that in addition to other projects, the company assembled Thanksgiving dinner baskets for 55 families identified by the school as being in special need of financial assistance.

“At Christmas time, we have committed to putting together and delivering Christmas stockings with ‘stocking-stuffer’ gifts for all 700 children at the school,” Slachter said.

 “We’ve done this for over 15 years, and it has always been a fun and fulfilling experience.”

number remains staggering, but few Americans today appreciate what it took to hold the line and prevent the Germans from breaking through to the English Channel.”

The Museum of American Armor is scheduled to open its doors in the spring and feature almost 30 operational armored vehicles. Napolitano is a supporter of the museum and its mission.

“It’s about my dad, and your dad, or grandfather. In short, it’s about everyone’s family,” he added.

Meanwhile, many ALTA members find it rewarding to give back to their communities. As an example of the giving spirit that runs through the title industry, Ruth Mares, co-owner of Territorial Title of Las Vegas in Las Vegas, N.M., said her company provides gifts every year to a local nursing home. The gifts go to patients who don’t have family members or have special needs. Each employee contributes \$10 to the

volunteer at the local food pantry. In an effort to help in as many ways possible, the company also gets involved with food and coat drives, and several other holiday events that benefit various local charities.

In Florida, employees at Nationwide Title Clearing Inc. volunteer with the Homeless Emergency Project (HEP) to serve Tampa Bay’s hungry population. According to reports, about 17 percent of Hillsborough County’s population is considered hungry, leaving their basic nutritional needs unmet.

John Hillman, CEO of NTC, said his employees volunteered at the HEP kitchen on Dec. 21. This is something NTC employees have done every month for the past three years. To date, NTC has logged a total of 128 employee volunteer hours over the past three years with HEP.

Hillman said helping the community has been a part of NTC’s culture from its inception, particularly



Celebrating 25 Years of Service to ALTA Members and the Title Industry!

Times were tough for title professionals in the 1980s. Like today, E&O insurers were either ceasing to offer coverage or raising rates dramatically. To respond to this crisis, ALTA members created Title Industry Assurance Company (TIAC) to provide a long-term stable E&O market for its members.

25 years later, TIAC is one of the longest running and successful E&O insurance providers available! Combining broad coverage, expert claims and underwriting services, and competitive rates, TIAC is the choice for title professionals!

If you have not received a quotation from TIAC lately or compared our broad coverage, contact us at 800-628-5136 or complete our online premium estimate form at www.cpim.com/tiac.



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Fidelity Completes Purchase of LPS, Forms Mortgage Tech Subsidiary

Fidelity National Financial announced in January the completion of its \$2.9 billion acquisition of Lender Processing Services Inc. as well as the creation of a new subsidiary that will offer technology, data and analytics businesses, and title, closing and escrow services.

To consummate the deal, Fidelity agreed to a consent order issued by the FTC requiring the company to sell six title plants in Oregon to resolve antitrust concerns. FNF issued 25.9 million shares of common stock to shareholders of LPS as the stock component of the deal, which included \$28.10 in cash and \$9.04 in FNF common stock for each share of LPS common stock.

LPS was originally spun off from a separate Fidelity spin-off, Fidelity National Information Services, Inc. in July 2008.

The FTC Commission voted 3-1 to accept the consent agreement requiring Fidelity to sell the six title plants to “preserve competition.” Commissioner Joshua D. Wright voted against the consent order.

“Because insurance rates are generally set at the state level and also because Oregon is a ‘prior approval’ state in which underwriters must

request specific rates that the regulator then approves or amends, it is unlikely that concentration in title plant ownership at the county level can increase the likelihood of collusion or coordinated interaction and thereby result in an increase in price,” the commissioner wrote.

According to the FTC consent order, Fidelity must sell a copy of LPS’s title plants serving Clatsop, Columbia, Coos, Josephine, Polk and Tillamook counties in Oregon to an FTC-approved acquirer within five months of closing the acquisition. In addition, Fidelity must sell an ownership interest equivalent to LPS’s share in the joint title plant that serves the Portland area to an FTC-approved buyer, also within five months of the deal’s close. Finally, Fidelity must notify the FTC in advance before acquiring any title plants in Oregon in certain circumstances that might raise anti-competitive concerns. The consent order includes a requirement that Fidelity maintain title plant assets and the joint plant until the divestitures are complete.

A day after announcing it completed the LPS purchase, Fidelity reported it was forming a new mortgage technology and services subsidiary called Black Knight Financial Services

(BKFS) from its ServiceLink division and LPS.

BKFS consists of LPS’ former technology, data and analytics businesses and the technology offerings previously owned by FNF’s ServiceLink division. The new company will offer several products including three loan origination systems (Empower, PCLender and Lending Space); the RealEC portal; the MSP mortgage servicing platform; LPS Desktop and Fusion, servicing workflow platforms; and property and loan performance databases. It will also provide title, closing and escrow services, flood certifications, appraisals and default services.

Fidelity named Tom Sanzone as chief executive of BKFS. Chris Azur, who served as president of FNF’s ServiceLink division, was named CEO of ServiceLink.

“We are excited to finalize the reorganization, ownership and management structure of the former LPS and ServiceLink businesses,” said FNF Chairman William P. Foley II. “We will now focus our efforts on the successful integration of these businesses to achieve operational efficiencies, drive organic growth and identify investment opportunities to grow this core business.”

According to Fidelity, private equity firm Thomas H. Lee Partners holds a 35-percent stake in each of Black Knights’ two operating subsidiaries, ServiceLink Holdings LLC and Black Knight Financial Services LLC. ■

Wisconsin Governor Signs Industry-supported Mortgage Satisfaction Act

In December 2013, Wisconsin Gov. Scott Walker signed into law the Mortgage Satisfaction Act, which establishes new state requirements on obtaining mortgage payoff statements and new restrictions on the content of payoff statements. According to Craig Haskins, chief operating officer of Knight Barry Title, an important provision of the law allows title insurance companies and their agents to sign and record an affidavit of satisfaction for residential properties when the lender fails to record the satisfaction in a timely manner.

“The new law will help speed up closings for homes encumbered by a paid-off mortgage from a lender that can’t be reached, which may be out of business or has been taken over and spun off by the FDIC,” Haskins added.

Wisconsin joins more than a dozen states that have such a law in place. Unreleased mortgages create problems for title professionals across the country. According to reQuire, a company that provides web-based release ordering, tracking,

reporting and delivery service, 36 percent of fully paid or satisfied mortgages remain unreleased after state-mandated timelines. Here’s some additional data from reQuire:

- 37 percent of all payoffs are home equity lines of credit (HELOCs). In many cases, lenders treat HELOCs differently from first mortgages, mailing the lien release documents to the landowner instead of recording them in the county land records.
- 5.8 percent of all fully paid HELOCs that were intended to be closed, remain open with significant balances long after closing. In most cases, the lender holding this account has a priority claim on the landowner’s property. Many times the borrowers obligated on these loans are no longer owners of the property securing the loan.
- \$2,800 is the average amount of balance on HELOCs that remain unreleased.



▲ Craig Haskins, chief operating officer of Knight Barry Title, shakes hands with Wisconsin Gov. Scott Walker. Pictured next to Haskins is Mary Jo Radowicz of Fidelity National Title Insurance Co., past president of the Wisconsin Land Title Association.

Title Alliance Expands into Maine With Keller Williams Partnership

Title Alliance Ltd announced it will expand into Maine by partnering with Keller Williams Greater Portland Market Center. This is the company’s 18th venture with Keller Williams. The new entity opened Feb. 1 and is called Title Alliance of Maine LLC.

Title Alliance currently has partnerships in Pennsylvania, Ohio, Virginia, New York and New Jersey. The new partnership will serve the greater Portland, Maine, region. The announcement comes as Title Alliance celebrates

its 30-year anniversary of developing title and settlement joint ventures with real estate and lending professionals throughout the East Coast and Midwest.

“This is a very exciting time for Title Alliance as we continue our relationship with Keller Williams to develop successful title joint ventures,” said Bill O’Connell, partner of Title Alliance. “Not only does this mark our first venture in Maine, but it is our 35th venture overall in our family of companies.”

Survey Reveals Compliance Pressure Impacting E-mortgage Initiatives

Pressure to comply with industry regulations and standards is the greatest factor impacting e-mortgage and paperless initiatives, a new report indicates.

According to Xerox's ninth annual "Path to Paperless" mortgage survey, 88 percent of respondents said regulatory compliance is driving decisions to implement e-mortgage processes. With compliance demands front and center, 63 percent of respondents indicated they have electronic document solutions in place, compared with 55 percent in 2012. Down from 79 percent in 2012, 68 percent of respondents believe that the mortgage industry will close more than half of all loans as an e-mortgage within the next seven years.

Survey participants represented mortgage professionals involved with loan origination, underwriting, closing, archiving, investing/funding and servicing.

"While industry enthusiasm for e-mortgages has wavered slightly, interest remains," said Ken Marlin, VP and general manager of Xerox Mortgage Services. "In fact, 82 percent of

respondents experienced an increase in e-disclosures and 32 percent noted an increase in e-closings."

Other challenges facing mortgage professionals and their e-mortgage initiatives include:

- 78 percent indicate that their e-mortgage plans remain unaffected despite perceptions that government-sponsored enterprises (GSEs) will eventually be eliminated
- 74 percent admit that the lack of e-signatures acceptance on Housing and Urban Development (HUD) origination has hindered their paperless plans

Almost all respondents—97 percent—said that online collaboration among internal and external participants in the mortgage loan process is a key component of making an office paperless. This includes cooperation among lenders, borrowers, closing agents, investors and servicers working together through an electronic loan folder.

According to a survey by Accenture, more consumers are starting the loan process online. About a quarter of all mortgages

were obtained online in 2013, the survey revealed. This is up from 15 percent of consumers obtaining mortgages online in 2012.

Meanwhile, the Property Records Industry Association reported that more than 1,000 recording jurisdictions now accept electronically recorded documents.

Long-time General Counsel for CATIC Passes Away

Edmond Browne Jr., 66, who entered the title insurance industry in 1992 when he was named ALTA's general counsel, died Nov. 18, 2013.

Browne was deeply respected within his field and is remembered for his great intelligence, ethical commitment and sharp sense of humor. In 1997, Browne joined Connecticut Attorneys Title Insurance Company (CATIC) as its general counsel and served in that capacity over the past 16 years. At the time of his passing, Browne was senior vice president for legal and industry relations.

Browne played an instrumental role in developing CATIC into a leading regional title insurer. During this time,

The fourth pillar of ALTA's "Title Insurance and Settlement Company Best Practices" addresses recording procedures to help ensure compliance with consumer financial laws as applicable to the settlement process. Implementing e-recording can aid in the documentation of these procedures.

he actively participated with the Connecticut and Massachusetts mortgage bankers associations. He also held leadership positions within the American Bar Association's Real Property, Probate and Trust Section. Browne also served for many years on ALTA's Forms Committee.

Aside from his time at CATIC and ALTA, he also served as senior vice president and corporate counsel at American Residential Mortgage Corp., senior vice president and corporate counsel for Norwest Mortgage Inc., counsel for Freddie Mac and assistant director for government agency relations for the Mortgage Bankers Association.

Stewart Aligns to Better Serve the New York Market

Stewart Title announced new leadership and company alignment to better serve its New York customers. The alignment focuses on growth, operational synergies and continued market leadership in an effort to leverage relationships across the company. The new leadership includes:

- Julie Curlen will continue to oversee the New York agency services operations.
- Craig Goldenberg has been named division president for the New York direct Stewart Title operations
- Tom Vinci will continue to lead Stewart's New York commercial center, Title Associates, a

division of Stewart Title Insurance Co.

- John Frates has been appointed executive vice president and STIC general counsel.

The New York operation was previously led by John Welling who passed away in October 2013. Welling was a member of the Stewart family of companies since 1992.

“New York is a market filled with opportunities, and while we still mourn the loss of John Welling, we are encouraged by his legacy and the quality of the STIC operation,” said Matt Morris, CEO of Stewart. “Welling was an essential part of a team that established a strong foundation, and his influence is apparent every day.”

CATIC Elects General Counsel

CATIC's Board of Directors announced the election of Guy DeFrances Jr. to the position of vice president/general counsel.

In this position, DeFrances will oversee the company's corporate, legislative and regulatory affairs, including the provision of underwriting assistance to agents and the resolution of claims.

DeFrances previously served as CATIC's associate general counsel. Prior to joining CATIC, he was in private practice for 13 years with a concentration in commercial transactions and land use matters.

He replaces Edmond Browne Jr. (See “Long-time General Counsel for CATIC” Passes Away on page 27.)

Title365 Agency Names New State Manager for Arizona

Title365 Company recently named Sharon Grannis as manager of its Arizona operations.

Grannis brings almost 30 years of operational leadership and sales and marketing experience in the title and escrow arenas. Chartered with the balanced objectives of winning customers, driving sales and

growing the settlement services business in Arizona, Grannis also holds responsibility for recruitment, training and retention.

Grannis started her career at California Land Title and has a wide-reaching familiarity in operations, sales and management.

WFG National Title Names Senior Auditor

WFG National Title Insurance Co. has added Sandra Pfeiffer to its compliance and audit department as senior vice president, senior auditor. In this role, Pfeiffer is charged with creating audit programs, protocols and internal controls designed to test and maintain the company's operational soundness. She will

also be responsible for extending the company's compliance programs to direct operations, internal service centers and WFG's network of title agents.

A certified fraud examiner since 2007, Pfeiffer comes to WFG National Title with 17 years of experience. She was most recently a senior consultant with Deloitte & Touche.

North American Title Names Two State Agency Managers

North American Title Insurance Co. recently named Scott Anthony Peterson as state agency manager in its Mid-Atlantic region, while Michael Rubin was named state agency manager for Illinois, Minnesota and Wisconsin.

Peterson, who has more than 17 years' experience with title insurance companies, will oversee Delaware, Maryland, Virginia and Washington, D.C. Rubin has been in the title industry for 16 years, most recently as president of a title agency in Illinois.

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TIPAC raised nearly \$425,000 last year. For more information, contact Jessica McEwen, ALTA's director of political affairs, at Jessica@alta.org or call 202-261-2935

Harmonize Your Operation and Best Practices in Nashville

From its beginning, Nashville grew from a foundation built on music, which has been the common thread connecting the life and soul of the city and its people.

Just as Nashville's connection to music is unequalled, its reputation as Music City consistently proven, the title industry's ability to meet the needs of its customers with industry Best Practices has proven to be worthy of a Grammy Award.

Title professionals have a great opportunity to tune-up their operations by joining us for the 2014 Business Strategies Conference, which is being held March 12-14 at the Omni Nashville, in the city where music is written, recorded and performed every single day. I'm positive you'll leave knowing the latest industry trends to keep business flowing your way.

In addition to getting chart-topping information about how to enhance your company's Best Practices, we'll provide sweet beats on improving your operation, as well as your sales and marketing efforts. Wondering about how legal and regulatory developments will impact the title industry? We've got that genre covered as well.

Aside from the content-rich professional development sessions—where you can get CE and CLE credit—we've got some great speakers lined up for the main stage during the general sessions. Glen Garrity will provide practical, step-by-step training to help attendees identify fake identifications of parties involved in a transaction. This will be fabulous information to help reduce your liability and protect your business and employees.

Also on the playlist is a great session that will address the top operational challenges the Consumer Financial Protection Bureau's integrated mortgage disclosures will pose for ALTA members. You'll leave ahead of the curve in preparing for the Aug. 1, 2015, implementation deadline.

Finally, we have a great quartet prepared to perform a live hacking session that will highlight vulnerabilities to cybercrime that may exist at your company.

For a preview of what to expect at this year's Business Strategies Conference, check out our article on page 20. I hope you will join me in Nashville as we strum some informative chords to help ensure your company remains a headliner as a valued independent third party in the real estate transaction.



— Rob Chapman, ALTA president



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Visit us at the ALTA[®] Annual Conference booth #104/106 to find out more about Stewart's initiative to provide our agencies with the knowledge and tools needed for success in the new regulatory environment.

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ALTA members have access to an Education e-Kit, which includes information in a variety of formats that can be eaphotossily downloaded and used by members to educate others about title insurance and the closing process.

What's in the e-Kit?

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- ☛ *Educational articles and blog content*
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- ☛ *Brochures*
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- ☛ *Details about steps in a home purchase and a refinance*

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