

March 2014

Official Publication of the
American Land Title Association

TitleNews

Owner's Policies Labeled 'Optional' But Education Is Not

While Challenging,
Industry Must Embrace
Opportunity With
Integrated Mortgage
Disclosures to Explain
Value of Title Insurance





A cougar's field of vision spans 287 degrees – that's a full 87 degrees more than human vision.

At Old Republic Title, we bring that same sharp eyesight to every transaction.

Spotting defects in title is no problem for our nationwide team of experienced underwriters. We understand that satisfied customers make your business more successful – and rewarding. That's why Old Republic is committed to providing you and your customers with peace of mind through our underwriting expertise, financial strength and stability, and ethical business practices.

For an underwriter who looks out for you, count on Old Republic Title.

TAKE ANOTHER LOOK

STRENGTH AND STABILITY FOR OVER A CENTURY



612.371.3882

oldrepublictitle.com/TNM

CONNECT SOCIALLY:

oldrepublictitle.com/social

> contents

TitleNews • Volume 93, Number 3



10

COVER ARTICLE

Owner's Policies Labeled 'Optional' But Education Is Not

By Jeremy Yohe

While Challenging, Industry Must Embrace Opportunity With Integrated Mortgage Disclosures to Explain Value of Title Insurance to Consumers

Features

17

RUNNING YOUR BUSINESS

White House Launches Cybersecurity Plan

The Framework Can Be Used to Complement Any Information Security Program Policies ALTA Members May Have in Place or Need to Implement

20

RUNNING YOUR BUSINESS

IT Pays to Be Prepared: The Cost of Data Breaches

By Thomas E. Zeno and Lindsay Holmes

Failure to Properly Guard Information May Carry a Hefty Price Tag Regardless of Whether an Actual Injury Resulted

23

INSIDE THE INDUSTRY

New York Governor Proposes Title Agent Licensing Bill

The Budget Includes Three Additional Areas That Would Impact the Industry

28

INDUSTRY NEWS

Escrow Company Sues Bank to Recover \$1.1M Lost in Cybercrime

The Lawsuit Accuses Bank of Failing to Act in 'Good Faith' When It Approved Fraudulent Transactions

Departments

5

From the Publisher's Desk

6

ALTA News

8

@altaonline

26

Industry News

31

New Members

34

The Last Word

calendar

2014 STATE CONFERENCES

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>
June 16-17	DC <i>National Harbor, MD</i>

TitleNews

PUBLISHER
Michelle L. Korsmo

EDITOR IN CHIEF
Jeremy Yohe

COMMUNICATIONS
MANAGER
Shawn Sullivan

ASSOCIATION OFFICERS

PRESIDENT
Robert Chapman
Old Republic National Title Insurance Co.
Minneapolis, MN

PRESIDENT-ELECT
Diane Evans
Land Title Guarantee Co.
Denver, CO

TREASURER
Peter J. Birnbaum
Attorneys' Title Guaranty Fund, Inc.
Chicago, IL

CHAIR, FINANCE COMMITTEE
William Burding
Orange Coast Title Family of Companies
Santa Ana, CA

CHAIR, TITLE INSURANCE
UNDERWRITERS SECTION
John Hollenbeck
First American Title Insurance Co.
Santa Ana, CA

BOARD REPRESENTATIVES,
TITLE INSURANCE
UNDERWRITERS SECTION
Steven Day
Fidelity National Title Group
Jacksonville, FL

Stewart Morris Jr.
Stewart Information Services Corp.
Houston, TX

CHAIR, ABSTRACTERS AND TITLE
INSURANCE AGENTS SECTION
Daniel D. Mennenoh
H.B. Wilkinson Title Co.
Galena, IL

BOARD REPRESENTATIVES,
ABSTRACTERS AND TITLE AGENTS
SECTION
Cynthia Blair
Rogers Townsend & Thomas, PC
Columbia, SC

Brian Pitman
Independence Title
Austin, TX

IMMEDIATE PAST PRESIDENT
Frank Pellegrini
Prairie Title, Inc.
Oak Park, IL

ASSOCIATION EXECUTIVE STAFF

CHIEF EXECUTIVE OFFICER
Michelle L. Korsmo

VICE PRESIDENT OF
GOVERNMENT AFFAIRS
Justin Ailes

VICE PRESIDENT
Cornelia Horner, CMP

VICE PRESIDENT
Kelly Romeo, CAE

DIRECTOR OF COMMUNICATIONS
Jeremy Yohe



Look at What You're Missing
in this month's Digital Issue

March 2014

TitleNews

Grow Market Share With Social Media

Watch a webinar recording to learn how to utilize social media to market their business and find out what tools ALTA provides to help members enhance their social media efforts.

Go to www.alta.org to get your copy of Digital TitleNews Today!

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 (nonmember 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.

Reprints: Apply to the editor for permission to reprint any part of the magazine. Articles reprinted with permission must carry the following credit line: "Reprinted from *TitleNews*, the monthly magazine of the American Land Title Association."

©2014 American Land Title Association

AMERICAN
LAND TITLE
ASSOCIATION



Members Call Toll Free: 800-787-ALTA • Members Fax Toll Free: 888-FAX-ALTA
Visit ALTA Home Page: www.alta.org • Email Feedback to: service@alta.org

from the publisher's desk

Telling the Industry's Gold-medal Story

The XXII Olympic Winter Games were held last month in Sochi, Russia. As a North Dakotan, I immensely enjoy the Winter Games. What I take pleasure in, however, is present in both the Summer and Winter Games. It's the personal stories about the athletes and the teams. It's the stories of how the teams rally together, how the athletes overcome personal struggles, and how the countries show their pride when cheering for their countrymen. This is what makes the Olympics so compelling.

The title industry has a compelling story to tell. You and your organization have an undeniable important story to tell. Your work as a title professional ensures that your neighbors' can enjoy full use of their property. When they decide to put on an addition or add a fence in the backyard for their new dog, they can do that with confidence because of the work that you do every day determining property rights.

The new integrated mortgage disclosures that go into effect August 2015 has raised awareness that the industry needs to examine how we explain the importance of title insurance to consumers. As we do this, it is important to think about the compelling story you can tell. Take some time to explain how the work you do allows the homebuyer peace of mind and an ability to use their property—including the ability to borrow against it to pay for home renovations, education or something else. I encourage you to read this edition's cover article on page 10, which addresses the CFPB's labelling of Owner's Policies as "optional" on the integrated mortgage disclosures.

Handling change takes training and preparation, just like competing in the Olympics. At ALTA, we are committed to providing training to keep your organization running like an Olympic team.

We are researching the message about the value of the industry's work to consumers, clients and policymakers. I am looking forward to sharing the results of our research at the Annual Convention this fall. In the meantime, ALTA provides a variety of tools in our Education e-Kit to help our members educate consumers, real estate agents, lenders and the media about the value of title insurance. I encourage you to go to www.alta.org/ekit to take advantage of what is provided online to help tell the industry's story.

Before wrapping up this month's column, I should tell you another story about me. What I really love about the Winter Olympics is watching Team USA hockey. I even got up super early to watch the United States beat the Russians. USA! USA! USA!



- Michelle Korsmo, ALTA chief executive officer



Check Out ALTA's 2014 Marketing Opportunities Brochure

ALTA is focused on keeping you in touch with prospects and existing customers. Through advertising, sponsorships, and presentation opportunities, ALTA makes it easy for you to educate your prospects, achieve brand recognition, and stay ahead of the competition. The brochure has information on becoming a strategic partner, as well as the various advertising

options ALTA offers. You can download a PDF of the brochure here:

www.alta.org/vendor.

For more information, contact Claire Mitchell at cmitchell@alta.org.



ALTA Members Can Save with UPS

ALTA announces that members now have exclusive access to a UPS Savings Program. ALTA members can take advantage of some of the most competitive rates available on shipping services with UPS. Whether a company needs documents or packages to arrive the next day or are looking for the most affordable shipping option, UPS understands the importance of reliability, speed and cost.

Here are ways UPS discounts can help members' bottom line:

- Up to 36 percent on UPS Air letters including UPS Next Day Air
- Up to 32 percent on UPS Air packages (1 pound+)
- Up to 34 percent on UPS International imports and exports
- Up to 24 percent on UPS Ground shipments
- Savings begin at 70 percent on UPS Freight shipments more than 150 pounds

ALTA members can receive these discounts even if they already have a UPS account. To enroll and start saving, go to savewithups.com/alta.

CFPB Updates Settlement Cost Booklet

The Consumer Financial Protection Bureau (CFPB) earlier this month made technical updates to the settlement cost booklet, which was initially prepared by the U.S. Department of Housing and Urban Development.

Changes were made to reflect new mortgage rules under Title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), according to the CFPB.

Page 28 includes information about title services and title insurance. The booklet tells consumers that a lender's policy protects the lender.

"If you want to protect yourself from claims by others against your new home, you will also need an owner's title insurance policy," the booklet states. The description matches what HUD previously said in the booklet about owner's title insurance.

The CFPB said a larger

update of the booklet is planned to reflect the integrated mortgage disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act and other changes under the Dodd-Frank Act.

The changes are meant to align with other CFPB resources and tools for consumers as part of the CFPB's broader mission to educate consumers.

In the CFPB's final rule for integrated mortgage disclosures, owner's title insurance is labeled as "optional" on both the Loan Estimate and Closing Disclosure. ALTA has warned the CFPB that telling consumers that owner's title insurance is "optional" will mean that homebuyers may be dissuaded from purchasing the same protection that lenders receive from a title insurance policy.

ALTA will continue to work with the CFPB on this issue.



Consumer Financial
Protection Bureau

ALTA Comments on President Obama's State of the Union Address

During the 2014 State of the Union Address, President Obama briefly mentioned reforming the housing finance market. He's previously called for shutting down Fannie Mae and Freddie Mac. While his remarks on housing were few, he said that the most important investment many families make is their home. He asked Congress to send him legislation that "protects taxpayers from footing the bill for a housing crisis ever again, and keeps the dream of homeownership alive for future generations."

Michelle Korsmo, ALTA's chief executive officer, issued a response supporting Obama's comments on the importance of homeownership.

"Ensuring the dream of homeownership for all Americans is imperative to the success of our

economy and nation," she said. "ALTA's nearly 4,800 member companies stand ready to serve as a resource to the president and members of Congress as they work on housing finance reform this year.

"While ownership of a home may seem very straightforward, the rights to enjoy a property aren't always as clear. We must continue to make certain that mortgages are insured by a title insurance company as an important risk-management standard for all real estate transactions. An owner's title insurance policy can help homeowners on potential issues that could impede a property owner's rights. Only an owner's title insurance policy fully protects the homebuyer should a covered title problem arise," Korsmo added.

Registration Open for 2014 Federal Conference and Lobby Day

Your work help drives the economy, allows for the safe and efficient transfer of property and protects the American dream of home ownership. Join us in D.C. from May 5-7 for the 2014 Federal Conference and Lobby Day. This conference is the best way for title

professionals to meet with congressional leaders and discuss the importance of the industry and share how federal decisions impact business. Register today and help protect your future. Register at www.alta.org/meetings.

April Title Topics Webinar to Focus on Enhancing Customer Service

ALTA's Title Topics webinar on April 16 will feature the topic "Quality Customer Service vs. Exceptional Customer Service." Mark Isaac of Gorman Business Consultants will discuss how successful companies retain customers and examine

how improving service can help companies separate themselves from the competition.

To register, go to www.alta.org/titletopics. You can also view previously recorded webinars here as well.



Record Attendance at Large Agents Meeting

ALTA enjoyed record attendance at its Large Agents Meeting, which was held Jan. 26-28 at the Fairmont Miramar Hotel & Bungalows in Santa Monica, Calif. A total of 71 people from 23 states attended the event to discuss issues impacting the industry and share information.

The first day of the meeting was highlighted by an ALTA update followed by a discussion of the Consumer Financial Protection Bureau's final rule for integrated mortgage disclosures. Ben Olson, of the law firm BuckleySandler and former deputy assistant director for the Office of Regulations at the CFPB, highlighted

parts of the rule that will impact the industry.

Additionally, the group addressed Best Practices and consequences for companies that don't comply, including a case study on one company that was decertified by its lender. Capping off the day, Gene Urcan of the investment banking company Cappello Group gave a presentation on the valuation of title companies.

The following day featured Penny Reed of Wells Fargo and Jay Laifman of BuckleySandler, addressing the lending community's concerns over settlement-agent risks.

The next Large Agents meeting will be held July 13-15 in Portland, Ore.

Digital Extra: TitleTopics Social Media Webinar

Did you miss the February Title Topics webinar on social media strategies? Wayne Stanley, ALTA's manager of public affairs, provided information to jumpstart your social media presence no matter the size of your company.

Q2 Social Strategy Session

We have scheduled our second-quarter social strategy session at 2 p.m. ET, Thursday, May 15. To register, email social@alta.org with "Q2 social strategy" in the subject line. The session will provide a forum for ALTA members of all sizes to talk about content strategy, online marketing opportunities and discuss what works and doesn't in various online communities. These 45-minute calls will be open to all ALTA members.

Social Media on Title Topics



Did you miss the February Title Topics webinar on social media strategies? ALTA's manager of public affairs, Wayne Stanley, presented information, tips and tricks to jumpstart your social media presence no matter the size of your company. A recorded copy of the webinar is available at www.alta.org/titletopics.

Social Media Summit

We had more than 60 title professionals attend our first Social Media Summit, which was held in conjunction with the Business Strategies Conference in Nashville. Watch *TitleNews* for a recap of the event, which also offered via livestream.

It's Here ... March Title Madness

Are you game? ALTA will post two title trivia questions via Facebook, Twitter and Vine every other day March 18 through April 7. Never heard of Vine? Vine is a social network where users share six second videos. Yes, six seconds only. Download the app today. Every correct trivia question answer will result in one point toward the overall prize that will be announced on April 8. Correct answers submitted via a video response (YouTube, Vine or mobile phone) will earn two points. All correct answers will be awarded points so you must answer as often as possible in order to win the prizes! Bonus-point opportunities will be available throughout the competition. Do you have title trivia questions that will stump your colleagues? Every individual that submits a possible trivia question via email (social@alta.org) will receive one additional point and all trivia questions submitted via video (YouTube, Vine, mobile) to social@alta.org will receive an additional two points.





stewart[®]
Vetted and verified.

As a Stewart Trusted Provider you'll be able to show lenders that you're the kind of agency they need to work with.

Another reason why Stewart is the right underwriter for you.

Being a part of the Stewart agency network is an accomplishment and marks you as a top tier agency. The Stewart Trusted Provider seal gives you a way to market your elite status. A symbol of the quality and trustworthiness of your agency, the seal is proof to lenders that you have been vetted and verified through our rigorous vetting process, which we believe to be the toughest in the industry.

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.

stewart[®]

Owner's Policies Labeled 'Optional' But Education Is Not

While Challenging, Industry
Must Embrace Opportunity With
Integrated Mortgage Disclosures
to Explain Value of Title Insurance

Four years ago, the Real Estate Settlement Procedures Act (RESPA) was reformed and HUD began requiring the use of a new Good Faith Estimate (GFE) and a new Settlement Statement with the hope of helping consumers comparison shop. While there's no data to support whether this goal was achieved, having Owner's Title Insurance quoted on the GFE helped many title agents have their best years in a while. Now, the industry is in the midst of transitioning to new mortgage disclosures once again—all in the name of helping consumers understand their transaction, according to the Consumer Financial Protection Bureau (CFPB). >>

By Jeremy Yohe



The Bureau released its final rule for integrated mortgage disclosures in November. Beginning Aug. 1, 2015, a three-page Loan Estimate will replace the GFE and early TIL, while a new five-page Closing Disclosure will replace the HUD-1 and final Truth-in-Lending (TIL) disclosure. While the integrated forms make improvements in the way they provide information to the consumer, they fall short in their disclosure of title-related fees to consumers.

In the final rule, owner's title insurance must be labeled as "optional" on both the Loan Estimate and Closing Disclosure. This concerns many title agents because telling a consumer that owner's title insurance is "optional" may dissuade homebuyers from purchasing the same protection that lenders receive.

Calling owner's policies "optional" on the integrated disclosures will have a varied impact depending on market traditions of who pays for the policy. In many markets—including Illinois and Wisconsin—it is common for the real estate contract to state that the seller pays for the owner's policy. In Ohio, however, there is no standard as to who pays for an owners' policy. "It is pretty much designated by area," according to Pamela Daley-Jennings, manager and co-owner of First Lima Title Agency in Ohio.

"The new rule is going to absolutely devastate my owner's title insurance business," she added. "The fact that it is listed in a separate area with the word 'optional' by it makes it seem unimportant to the entire process."

In Jennings' market, real estate contracts do not include language saying the seller pays for the owner's policy. Historically, she said it has

been uncommon for buyer's to purchase coverage for themselves.

"Things are so competitive around here, that years ago, one bank even forwent title insurance, which resulted in numerous lenders following suit," Jennings said. "This was acceptable by Freddie Mac and Fannie Mae because it was the 'standard' in our area. The housing market crash put an end to that practice as Fannie and Freddie would no longer accept the title opinion instead of title insurance."

Many community banks continue

Cassidy, president of Majesty Title Services, agrees that this description is troublesome and will be a bigger issue where buyers pay.

According to Rich Patterson, president and CEO of Connecticut Attorneys Title Insurance Co., the majority of transactions in the New England states do not result in the issuance of owner's policies. This is due to a variety of factors. In Massachusetts, a title certificate is provided to the purchaser of a residential resale by an attorney. In other jurisdictions, attorney agents

"The new rule is going to absolutely destroy my Owner's Title Insurance business. The fact that it is listed in a separate area with the word optional by it makes it seem unimportant."

to rely on title opinions, according to Jennings, but the fact that RESPA required owner's title insurance to be quoted on the GFE greatly improved the percentage of Owner's Policies that consumers have purchased.

"Since it has not been the standard in our area, we can't even get the Realtors to promote it," Jennings added. "The lenders see it as an additional, unnecessary cost to their buyers, so we don't have their support either. About the only time we can get them to suggest it to their client is when they are purchasing a bank repo."

In Florida, there are pockets of the state—such as Dade, Broward and Manatee counties—where the buyer pays for the Owner's Policy. Vincent

are not convinced of the value of an owner's policy because a title search has been conducted by someone they trust and the attorney examined the title. Resistance to the higher cost of an owner's policy from real estate agents and mortgage lenders also plays a role, Patterson said.

"I am not sure whether labeling the owner's policy as 'optional' will make much of a difference here," he added.

Cecelia Adams, owner and manager at RSI Title in Maryland, believes this will play out poorly in the market. With lenders required to provide the Loan Estimate three days after receiving a mortgage application, the buyer will notice one of the fees labeled as "optional." If the buyer is trying to save on closing

The Road to ‘Optional’

Many title professionals may not have followed the several iterations of the integrated disclosures that the CFPB released before issuing its final rule in November 2013. ALTA has been engaged with this for nearly three years since the CFPB released its initial prototypes of the integrated mortgage disclosures in May 2011.

When the CFPB rolled out the first iteration of the forms, owner’s title insurance was labeled as “not required.” In 2011, ALTA’s RESPA Task Force shared its concern that the forms should not discourage consumers against purchasing an owner’s policy by describing this protection as “optional” or “not required.” The Task Force suggested it simply be disclosed as owner’s title insurance.

The CFPB dropped the “not required” phrase but retained the “optional” modifier. It should be noted that on transactions in which the seller will pay for owner’s title insurance, the line will not have to include the phrase “optional.”

Over the past two years, ALTA has continuously shared the message with the CFPB and others that using a term such as “optional” would harm consumers. In June 2012, ALTA’s president at the time, Chris Abbinante, testified during a congressional hearing on what would help make the new disclosures successful. One of the principles was that the forms must encourage consumers to make informed decisions. The use of “optional” would not help the CFPB meet its goals.

During a roundtable ALTA held when the CFPB released the final rule in November, Rich Horn, who led the Bureau’s department responsible for the rule, said the use of the word “optional” did not impact consumers’ decision to purchase title insurance when the Bureau conducted testing. Horn left the CFPB in February to join the law firm Dentons.

ALTA will continue to work with the CFPB on this issue. However, the CFPB has said it’s the industry’s responsibility to educate consumers about the product.

costs, the message unfortunately tells them that owner’s title insurance may not be needed.

“At this point in the process, this form is being delivered directly from the lender,” Adams said. “Who are we kidding that we actually will have a voice in the process? Do you think that the lender will be able to inform the consumer how important title insurance is for the homebuyer? This is an uphill battle at this point for anyone in this business. When the final form is provided to the purchaser

three days before closing, it may be too late. The buyer has already established how much money they will need for their purchase, which may not include the owner’s coverage.”

At Paragon Title & Escrow Company in Washington, D.C., attorney Richard Fritts tells buyers every month how the seller’s owner’s policy aids in getting transactions settled on time. Without an owner’s policy, issues such as unrecorded releases or mistakes in filed documents, could delay settlement until they are

resolved, possibly causing the loss of a loan lock or even a sale.

Recently, Paragon Title handled a deal where—three years ago—the sellers of a property recorded a deed transferring the property to their revocable trusts during the gap period and never told anyone. The deed had not been indexed when the next deed was recorded.

“This resulted in the deed that the sellers signed in their individual capacities conveying the property to the buyer being invalid,” Fritts said. “Because the seller had an owner’s policy, the settlement on a refinance went through as scheduled while the deed was in the process of getting corrected.”

Waiving Coverage

A few states—such as California, Louisiana and Pennsylvania—require a buyer to sign a statement if they want to waive owner’s title coverage.

Phil Janny of the law firm Plunkett & Graver recalls one time when a buyer in Pennsylvania waived coverage of an owner’s policy. He’s unsure how the word “optional” will impact consumers in his state, but said the CFPB’s decision fails to protect consumers when purchasing one of the biggest investments in their life.

Janny said the federal tax forms provide a great example of paying for something without modifying it with “optional.” On the tax forms, people can check a box if they want \$3 to go toward the “Presidential Election Campaign.” The form indicates that checking the box will not change the tax refund.

“This to me seems to be a prime example of the definition of optional, and yet the word optional is not used on any of these federally regulated

forms, but the CFPB chose to use it on the new Closing Disclosure,” Janny said. “If just one consumer misconstrues the interpretation of the word optional on this form and does not purchase an owner’s title insurance policy as a result, and that consumer has a title claim, then shame on the CFPB. Their mission failed by not protecting the consumer as a result of the poor choice of wording on the disclosures.”

In California, it’s rare that a buyer

or more of residential and commercial buyers walk into the closing knowing they want coverage. It is an issue of education,” Miller said.

Randy Bradley, executive vice president of Mother Lode Holding Co., which provides title insurance, underwriting and transaction support services across the country, said the traditional payer of an owner’s policy varies by county. In addition, it’s always negotiable and can be split between the buyer and seller.

“This puts the onus on us to actually explain the value of our product. If we can’t effectively do that, we shouldn’t be selling it.”

waives an owner’s policy. If they do, the document they must sign states:

“Important: In a purchase or exchange of real property, it may be advisable to obtain title insurance in connection with the close of escrow since there may be prior recorded liens and encumbrances which affect your interest in the property being acquired. A new policy of title insurance should be obtained in order to ensure your interest in the property that you are acquiring.”

Patrick Miller, president of Preferred Title Company in Louisiana, said he asks buyers that elect not to purchase an owner’s policy if it was their decision or if others offered advice. He makes a note of who advised the buyer not to purchase coverage.

“We have made an effort in our area to educate lenders and real estate agents on the positives of owner’s title insurance and I would say 90 percent

Education Not an Option, But a Necessity

“This puts the onus on us to actually explain the value of our product. If we can’t effectively do that, we shouldn’t be selling it,” Bradley said. “So, I view this as an opportunity for us to get better at explaining our value to the consumer. In doing so, we just might get consumers to actually direct their business back to the company that took the time and explained the value of title insurance.”

While the “optional” modifier is a challenge, it’s also an opportunity. Many title professionals overwhelmingly agree with Bradley that educating consumers about the product should be a priority.

Diane Evans, senior vice president of Land Title Guarantee in Colorado and ALTA’s president-elect, said part of the argument against the use of “optional” should go back to the

basics and the role of the title agent, and confirming seller’s ownership rights and the legal description.

“Once these items are confirmed, ownership rights can be transferred to the buyer,” Evans said. “The guaranty of those rights can be protected with title insurance.”

ALTA Tools

To help educate consumers and others about the value of title insurance, ALTA offers the Title Insurance Education e-Kit, which includes information in a variety of formats that members can download. The e-Kit is located at www.alta.org/ekit. Items available for download from ALTA’s website include a homebuyer presentation, videos, articles, social media content, brochures and other material that members can use for educational purposes. Because social media is a powerful tool to reach a wider group of people and provide education about title insurance, ALTA also provides sample content that members can use on Facebook and Twitter.

“All parties involved in the real estate process—especially consumers—should have an understanding of the importance of title insurance and what’s involved in the closing process,” Evans said. “The various elements included in the e-Kit can assist in explaining the closing process and how title professionals help consumers get the keys to their home and also how title insurance protects them in case ownership of their home is ever challenged.” ■



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

Title Insurance Optional? We Don't Think So

Missouri Couple Saved from Foreclosure

A 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. Because the couple purchased an Owner's Title Insurance Policy, the title company paid the lien and the husband and wife kept their home.

(August 2013, NBC KSHB Channel 41, <http://bit.ly/1daRG8C>)

Texas Builder Sells Homes With Liens

A Texas-based builder sold first-time homebuyers houses that were encumbered by undisclosed liens. When Casa Linda Homes subsequently failed to pay its undisclosed debt, the creditors who were owed money then instituted foreclosure proceedings or filed lawsuits against the homebuyers. Because the deals were "seller financed," the builder didn't require the buyers to purchase title insurance, which would have protected the buyers.

(March 2010, Texas Attorney General, <http://bit.ly/188U88x>)

Vacant Virginia Properties Fraudulently Sold

In Virginia, properties were sold to unsuspecting buyers. Unfortunately, the sellers weren't the rightful owners of the properties. Instead, death certificates of the real owners were falsified and the fraudsters appeared at settlement to sign the closing documents. The criminals were caught and the properties were returned to the rightful owners. But what about the unsuspecting buyers? If they had purchased an Owner's Title Insurance Policy, they would have been covered. However, if they weren't properly advised to protect their investment, they would not have only been without a home, but also lost their entire down payment.

(June 2013, Home by School, <http://bit.ly/1791Y4S>)

Calif. Non-profit Dissolves After Losing Suit

Mendocino Coast Television voted to dissolve its non-profit organization after losing a lawsuit that found the TV station never really owned its headquarters. An Owner's Title Insurance Policy would have covered the costs of the non-profit's lawsuit.

(June 2013, Fort Bragg Advocate-News, <http://bit.ly/14LY660>)

Honest Abe Lost His Home—Twice



Abraham Lincoln was born in a one-room cabin in Kentucky. His father paid \$200 for the cabin and 300 acres. It wasn't much, but it was home. However, the Lincolns didn't have the right papers and someone else had a better claim to the land. At the age of three, Abe's family packed up and moved. Four years later, Lincoln's father had to go to court to prove ownership rights again. Abe's father, Tom, won the suit, but moved his family to Indiana due to the fear of losing another property due to title issues.

The Lincoln's losses would have been covered had Tom purchased a title policy.

The same potential flaws in title exist today. A home is the largest purchase most of us make in our lifetime.

Make sure you explain the benefits of purchasing an owner's title insurance policy to your customers. The option of not purchasing a policy could be devastating to them.

RAMQUEST IS UNDER NEW MANAGEMENT...



Businesses don't do business. People do.

And we want to do business with you. From engaging in conversations about your business needs to delivering innovative and configurable solutions that exceed your every expectation, you are the focus of everything we do.

Take ownership of your future with RamQuest.

800-542-5503 - ramquest.com

YOURS.



White House Launches Cybersecurity Plan

The Framework Can Be Used to Complement Any Information Security Program Policies ALTA Members May Have in Place or Need to Implement

To help organizations charged with providing the nation's financial, energy, health care and other critical systems better to protect their information and physical assets from cyber attack, the Commerce Department's National Institute of Standards and Technology (NIST) released a Framework for Improving Critical Infrastructure Cybersecurity. The framework provides a structure that organizations, regulators and customers can use to create, guide, assess or improve comprehensive cybersecurity programs.

In February 2013, President Obama issued an executive order calling for the development of a voluntary, risk-based Cybersecurity Framework—a set of existing standards, guidelines and practices to help organizations manage cyber risks. The resulting framework, created through public-private collaboration, provides guidance addressing and managing cyber risk in a cost-effective way based on business needs, without placing additional regulatory requirements on businesses, according to NIST.

“The framework provides a consensus description of what's needed for a comprehensive cybersecurity program,” said Patrick D. Gallagher, NIST director. “It reflects the efforts of a broad range of industries that see the value of and

■ “ALTA supports efforts to protect against cyber attacks, which is why the association provided guidance over a year ago to help members develop an information security program.”

need for improving cybersecurity and lowering risk. It will help companies prove to themselves and their stakeholders that good cybersecurity is good business.”

The framework allows organizations—regardless of size, degree of cyber risk or cybersecurity sophistication—to apply the principles and best practices of risk management to improve the

security and resilience of critical infrastructure.

Organizations can use the framework to determine their current level of cybersecurity, set goals for cybersecurity that are in sync with their business environment, and establish a plan for improving or maintaining their cybersecurity. It also offers a methodology to protect privacy and civil liberties to help organizations incorporate those protections into a comprehensive cybersecurity program.

The third pillar of ALTA's “Title Insurance and Settlement Company Best Practices” addresses the

adoption of a written privacy and information security plan to protect non-public personal information. Like the government's cybersecurity framework, this Best Practice must be appropriate to the company's size and complexity, the nature and scope of the company's activities, and the sensitivity of the customer information the company handles.

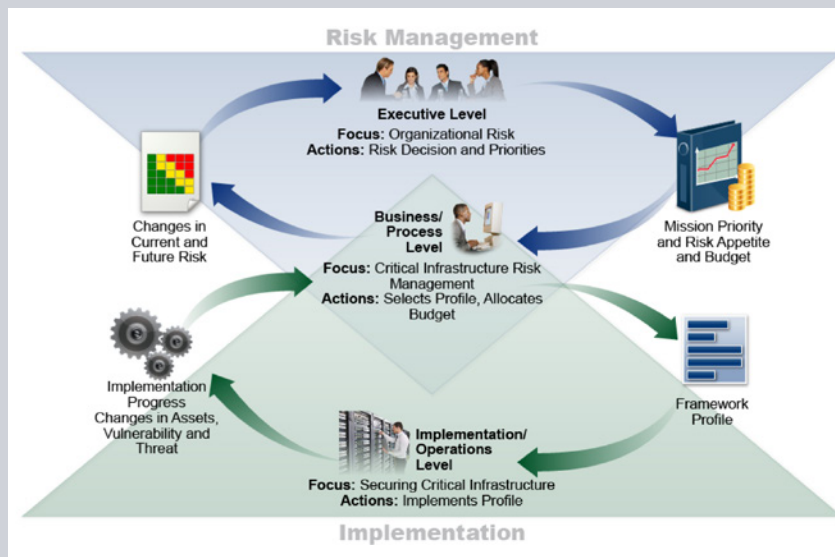
“ALTA supports efforts to protect against cyber attacks, which is why the association provided guidance over a year ago to help members develop an information security program that protects NPI and consumer money,” said Andy Maloney, chair of ALTA’s technology committee. “The voluntary Cybersecurity Framework can be used as a complement to any Best Practices policies a member may already have in place or need to implement.”

The release of the framework is expected to be a first step in a continuous process to improve the nation’s cybersecurity. The framework document is labeled “Version 1.0” and is described as a “living” document that will need to be updated to keep pace with changes in technology, threats and other factors, and to incorporate lessons learned from its use, the NIST said in a release.

The three main elements are the framework core, tiers and profiles. The core presents five functions—identify, protect, detect, respond and recover—that allow any organization to understand and shape its cybersecurity program. The tiers describe the degree to which an organization’s cybersecurity risk management meets goals set out in the framework and “range from informal, reactive responses to agile and risk-informed.” The profiles help organizations progress from a current level of cybersecurity sophistication to an improved state that meets business needs.

“The development of this framework has jumpstarted a vital conversation between critical infrastructure sectors and their stakeholders,” Gallagher said. “They can now work to understand the cybersecurity issues they have in

Coordination of Framework Implementation



Here’s a look at the common flow of information and decisions at the following levels of an organization: executive, business/process, and implementation/operations. The executive level communicates the mission priorities, available resources and overall risk tolerance to the business/process level. The business/process level uses the information as inputs into the risk management process, and then collaborates with the implementation/operations level to communicate business needs. The implementation/operations level communicates the implementation progress to the business/process level. The business/process level uses this information to perform an impact assessment. Those managing the business/process level report the outcomes of that impact assessment to the executive level to inform the organization’s overall risk management process and to the implementation/operations level for awareness of business impact.

common and how those issues can be addressed in a cost-effective way without reinventing the wheel.”

NIST also released a “Roadmap” document to accompany the framework. It lays out a path toward future framework versions and ways to identify and address key areas for cybersecurity development, alignment and collaboration. It says NIST will continue to serve as a convener and coordinator to work with industry and other government agencies to help organizations understand, use

More Information

- Cybersecurity Framework: www.nist.gov/cyberframework
- ALTA Best Practices: www.alta.org/bestpractices

and improve the framework. This will include leading discussions of models for future governance of the framework, such as potential transfer to a non-government organization.

Best Practices, simplified.

Best Practices: Simplified is First American's approach to help you implement the ALTA Best Practices Framework.

Coming Soon: Ask your First American representative about CAPP, the user-friendly platform that makes creating your agency's policies and procedures simple and convenient.

firstam.com/simplify

Go to firstam.com/simplify or snap the code here:



FIRST AMERICAN®

BEST PRACTICES:
Simplified



First American Title™

866.701.3361 • www.firstam.com

First American Title Insurance Company makes no express or implied warranty respecting the information presented and assumes no responsibility for errors or omissions. First American, the eagle logo, First American Title, and firstam.com are registered trademarks or trademarks of First American Financial Corporation and/or its affiliates.

©2014 First American Financial Corporation and/or its affiliates. All rights reserved. • NYSE:FAF

IT Pays to Be Prepared: The Cost of Data Breaches

Failure to Properly Guard Information May Carry a Hefty Price Tag Regardless of Whether an Actual Injury Resulted

BY THOMAS E. ZENO AND LINDSAY HOLMES

As a result of holiday hacking into the computer systems of major retailers like Target and Neiman Marcus, millions of customer names, account numbers, PINs, addresses, telephone numbers and email addresses have been compromised. What will these security breaches cost? Some say very little, adding that lower security precautions during high-traffic shopping seasons are worth the risk. In December, Target and luxury retailer Neiman Marcus were both the target of hackers that breached the companies' systems and stole millions of credit card records. Those who followed the result of the recent settlement in the AvMed litigation may think differently. Companies failing to pay for data security will face calls to repay their "unjust enrichment." The answer is that *IT* (information technology) pays to be prepared for a data breach. Now is the time to implement data security measures that will protect

your company and your customers in the future.

In 2009, AvMed, a Florida-based health insurer, reported the theft of two laptops containing unencrypted personal information of more than 1.2 million customers, including names, Social Security numbers and health-related information. Class-action litigation began in 2010, and the parties entered into a settlement agreement in October 2013. The agreement requires AvMed not only to implement the data security measures it should have had in the first place—such as security awareness training, upgraded laptop security systems, and upstaged security policies and procedures—but it also requires AvMed to forfeit the "unjust enrichment" it has received over the years by not spending sufficiently for the data security it should have provided. Thus, without proof of actual harm to the individual, such as identity theft, AvMed is required to

reimburse customers for a portion of their premiums. It's unclear whether unjust enrichment claims will be successful in actual litigation, but the approach has been given added vitality through the AvMed settlement.

Although experts predict that data losses are likely inevitable, damage to your organization does not have to occur. Lost or stolen data does not automatically become a data breach. In many cases, simple steps such as encryption would have rendered the stolen information unreadable and no breach would have occurred. Many of these steps are already considered standard practice.

Data Security Standards

Whether your organization handles personal information now, or may do so in the future, federal and state laws are likely to set the standard by which unjust enrichment claims will be made and damages calculated. The following is a non-exhaustive list of examples of what those standards expect.

Federal

The Federal Trade Commission (FTC) polices "financial institutions" subject to the Gramm-Leach-Bliley Act (GLB Act). Businesses that significantly engage in providing financial products and services are required to protect the security and confidentiality of information they collect, such as names, addresses, phone numbers and credit card information. The FTC has issued the

Safeguards Rule pursuant to the GLB Act that requires measures to keep consumer information safe. These protections require implementation of an information security program that can include a written security policy, ongoing monitoring, security training, access controls, background checks, laptop and cell phone policies, employee sanction policies, termination procedures, and so forth.

The FTC has also been involved in data breach enforcement by alleging “unfair and deceptive trade practices” against companies that did not properly protect consumer information leading to identity theft. As of 2011, the FTC had brought more than 30 cases against a range of companies for violations of consumers’

privacy rights or for data breaches. A number of the settlement agreements require periodic audits during the next 20 years, implementation of security programs and civil monetary penalties.

State

Currently, 46 states as well as the District of Columbia, Guam, Puerto Rico, and the Virgin Islands have data breach notification laws, some of which are broad enough to span multiple industries. For example, Massachusetts state law requires notification by any “person or agency that maintains or stores ... data that includes personal information about a resident of the commonwealth” when it “knows or has reason to know of a breach of security or”

the information “was acquired or used by an unauthorized person or for an unauthorized purpose.” Personal information, as defined by Massachusetts law, can be the first initial and last name of an individual coupled with a social security number, driver’s license number or credit card number. Based on the broad definition of personal information, this and other state laws should prompt all companies to properly protect customer information.

Industry

Industry has also been influential in setting standards for interaction with consumer personal information. The Payment Card Industry Data Security Standards (PCI DSS)

AMERICAN LAND TITLE ASSOCIATION

2014

Federal Conference & LOBBY DAY

Grand Hyatt Washington

May 5, 2014 – May 7, 2014

WASHINGTON, DC

Register today at www.alta.org/meetings • #ALTAFed

provide guidelines for handling cardholder information. The standards are comprised of security incident prevention, detection and response processes. They include data security activities such as monitoring security controls, detecting and responding to security control failures, accessing gaps in protection and annual inventory reviews.

Best Practices

By maintaining awareness of applicable data security standards and following industry best practices, your company can help avoid the fate of falling victim to data breaches. Here's a non-exhaustive list of practical tips for protecting data held by your organization. Many of these suggestions are also encouraged by ALTA's "Title Insurance and Settlement Company Best Practices." For more on ALTA's Best Practices, go to www.alta.org/bestpractices.

Organize Your Data

Determine where personal information is stored and who has access to it. Ensure that wherever personal data is kept, it is secure and segregated from other information. All personal data that is not necessary to business operations should be properly destroyed.

Establish Updated Policies and Procedures

Policies and procedures covering privacy and security should be tailored to your organization. Policies should anticipate a variety of issues include texting, use of social media, BYOD (bring your own device), cloud storage and use of external storage devices (e.g., external hard drives and thumb drives). It is important to update these policies and procedures to meet the

changing technology and business environment.

Encryption

Use encryption as specified by the National Institutes of Standards and Technology, especially on portable devices that store protected information (e.g., laptops, memory sticks). Additionally, keep your encryption key separate from the device.

Computer Security Protections

Common computer security protections can go a long way in protecting personal data. Examples include installing software patches, requiring robust passwords, requiring multiple-factor authentication for remote access and terminating dormant accounts. An overlooked precaution is keeping an up-to-date inventory of the equipment in the organization, ranging from mainframes to backup tapes.

Limiting Access

Limiting access to data and technology not only reduces the opportunities for a breach, but it also restricts the potential damage if a breach occurs. Such limits can include controlling employee access to certain websites (so as to avoid hacker sites), regulating employee access to data storage (on an as-needed basis) and establishing an employee exit procedure (including an exit interview and separation agreement).

Employee Training

Policies and procedures must be shared throughout the organization. This can be accomplished through employee training sessions on general topics such as proper privacy and security procedures as well as on

specific risks for breach identification and the appropriate response. These sessions should be updated and repeated on a regular basis. New employees should be trained promptly upon being hired.

Conclusion

It is no surprise that companies are feeling the financial pinch of upgrading data security systems to assure that they do not fall victim to hackers, thieves and even unintentional errors resulting in loss of protected information. Some organizations have reasoned that the time and money necessary to implement data security measures are not worth it. AvMed would likely disagree.

Although proving the causal link between the breach of consumer information and an injury can be difficult, the theory in the AvMed case will make damages easier to determine. The standard of due care is likely to be established by federal and state data privacy laws. Going forward, an organization's failure to guard information properly may carry a hefty price tag regardless of whether an actual injury resulted. The money an organization thinks it is saving, may in fact, be nothing more than "unjust enrichment." ■



Thomas E. Zeno, a former assistant U.S. attorney for the District of Columbia, is now Of Counsel to Squire Sanders. He can be reached at

thomas.zeno@squiresanders.com.



Lindsay Holmes is a fellow in Squire Sanders' Washington, D.C., office. She can be reached at lindsay.holmes@squiresanders.com.

New York Governor Proposes Title Agent Licensing Bill

The Budget Includes Three Additional Areas That Would Impact the Industry

In his 2014 proposed budget, New York Gov. Andrew Cuomo unveiled legislation that would require title insurance agents, closers and title solicitors to be licensed by the state's Department of Financial Services (DFS).

Requiring licenses would "discourage dishonest practices and ensure consistency throughout the industry," according to a memo in support of the proposal. The proposal was part of Cuomo's \$137 billion budget proposal for the 2014-15 fiscal year, which starts April 1. The state legislature has until March 31 to approve or modify the spending plan.

Licensing of title insurance agents, closers and title solicitors would raise approximately \$80,000 in annual revenue for the state. The superintendent may require applicants to provide fingerprints that may be submitted to the state and the FBI for a criminal history check.

The New York State Land Title Association has pushed for years to require title agents to be licensed in the state. Bob Treuber,

executive director of the NYSLTA, said the association will work with Cuomo to address ambiguities and contradictions in the bill. The NYSLTA met with the DFS in January to provide additional information.

■ "Licensing in New York is a good thing and is long overdue."

David Gutmann, executive vice president and managing counsel for Rochester, N.Y.-based Customized Lenders Services, supports the licensing bill as well.

"Overall, licensing in New York is a good thing and is long overdue," he said. "It would help get rid of the bad players in the industry and give the rest of us that do things the right way a boost."

Additionally, there are three key areas of Cuomo's budget that would impact the industry. First, the proposal would require title insurance agents to provide at the

time of application, a written good-faith estimate of the premium on the policy(s) to be issued. The title agent also must provide a "breakdown of all fees and service costs, including filing fees, closing costs, any other ancillary or discretionary charges to be incurred and the amount of any commission or other compensation to be paid to such agent by the title insurance corporation." Since last year, the NYSLTA has worked on this issue of "fee disclosure" with state Sen. John DeFrancisco. The DFS said it was not aware of the fee disclosure bill.

Gutmann said providing a good-faith estimate of the policy premium may be redundant on most transactions—specifically

residential—because a lender is involved and must provide a good-faith estimate as well.

"This could be confusing to a borrower if they see two estimates, one of which will include other charges and won't break down the title charges to the extent the proposal is suggesting," Gutmann said. "I suppose it could be a good thing on a cash transaction, but in either case, I think more thought and discussion is necessary before implementing."

Second, the budget would prohibit title insurance agents and closers

from receiving any compensation or fee, direct or indirect, for services performed in connection with the issuance of a title insurance policy, unless such compensation is:

1. *for ancillary services not encompassed in the rate of premium approved by the superintendent; and*
2. *based upon a written memorandum signed by the party to be charged, and specifying or clearly defining the amount or extent of such compensation. A copy of every such memorandum shall be retained by the licensee for not less than three years after such services have been fully performed.*

Finally, the bill also would prohibit any direct or indirect rebates of the premium or any payment as an inducement or compensation for any title insurance business. The proposal says that any person or entity accepting or receiving such a commission or rebate shall be subject to a penalty equal to the greater of \$5,000 or five times the amount of any compensation or rebate received or paid.

The proposal includes language specific to affiliated business arrangements (AfBAs). In order to be licensed, the proposal would limit the amount of business a title insurance agent may receive from an affiliate to 10 percent of the aggregate net compensation. According to Richard Andreano of the law firm Ballard Spahr, this includes residential and commercial transactions, but excludes refinances.

Affiliated parties covered by the 10 percent limit include:

- the spouse of an individual applicant; and any corporation of which such individual applicant or his or her spouse or both own more than 50 percent of the shares; and of any affiliated or subsidiary

corporations of such corporation; and of the members of any firm or association and their spouses, of which firm or association the individual applicant or his or her spouse is a member

- members of an applicant firm or association and their respective spouses, and of the owners of any interest in such firm or association and their respective spouses, and of any corporation of which such firm or association or the members or owners and their respective spouses, either individually or in the aggregate, own more than 50 percent of the shares, and of any affiliated or subsidiary corporations of such corporation, and of any other firm and the members thereof and their respective spouses, of which other firm a member or members of the applicant firm or association and their respective spouses are members or owners; and
- the shareholders of an applicant corporation and their respective spouses, and of any affiliated and subsidiary corporations of such applicant corporation, and of any subsidiary and affiliated corporations of a corporation owning any interest in such applicant corporation, and of any firm or association and the members thereof and their respective spouses which either individually or collectively own more than 50 percent of the shares of the applicant corporation, and of any corporation of which such firm or association and its members and their respective spouses, either individually or in the aggregate, own more than 50 percent of the shares, and of any affiliated or subsidiary corporation of such corporation.

Additionally, if business is referred to an affiliated title insurance agent, the consumer must receive a written disclosure that explains the nature of the relationship. The disclosure must also:

- explain that the party being referred is not required to use the services of the title insurance agent or corporation to which the party is being referred;
- that any money or other thing of value directly or indirectly paid by the title insurance agent or title insurance corporation to the person or entity is based on the person or entity's financial interest in the title insurance agent, and is not related to the amount of title insurance business the person or entity refers to the title insurance agent;
- that the person or entity is not required to refer a specified amount of title insurance business to the title insurance agency; and
- the amount or value of any compensation or other thing of value that the person or entity expects to receive in connection with the services to be provided by the title insurance agent or the title insurance corporation to which the party is being referred.

There have been reports that Cuomo's budget includes plans to cut title insurance rates by 20 percent on purchase transactions and 60 percent on refinances. Cuomo's proposed budget does not include any details on this plan. In New York, the Title Insurance Rate Service Association (TIRSA) submits rate proposals to the superintendent for approval. TIRSA, under the supervision of the superintendent of insurance, compiles and submits to the department statistical data for title insurance premiums, losses and expenses. ■



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.



**Title Industry Assurance Company,
A Risk Retention Group**

7501 Wisconsin Avenue, Suite 1500E
Bethesda, MD 20814-6522

- p. (800) 628-5136
- f. (800) TIAC FAX (842-2329)
- e. tiac@cpim.com
- w. www.cpim.com/tiac

ENDORSED BY THE MAJOR TITLE UNDERWRITERS

Howard Hanna Obtains Title Agency in Merger with Competitor

Pittsburgh-based Howard Hanna Real Estate Services announced Jan. 8 the merger with William E. Wood and Associates, and its subsidiaries including Heritage Title and Towne Mortgage.

The deal allows Howard Hanna, the U.S.'s fourth-largest brokerage by closed transaction sides in 2012, to expand into the two mid-Atlantic states for the first time.

William E. Wood and Associates has 17 offices and nearly 700 agents in Virginia and North Carolina. The brokerage closed roughly \$1.5 billion in sales last year. Based on

2013 figures, the combined company represents more than \$10 billion in annual transactions with more than 53,000 homes sold last year. The acquisition gives Howard Hanna 167 offices with more than 5,700 agents operating in Pennsylvania, Ohio, Michigan, Maryland, Virginia, North Carolina, New York and West Virginia.

Howard Hanna already owned a title company, Barristers Title and Closing Company. Heritage Title and Barristers closed transactions involving homes worth a total of \$2 billion in 2013.

Kensington Vanguard National Land Services Expands in D.C. Area

Kensington Vanguard National Land Services recently acquired two Northern Virginia title insurance agencies, expanding its footprint throughout the Washington, D.C., area.

By acquiring New Title Era and Clear to Close Settlement, the company was able to officially open

its first Washington, D.C., area office.

Kensington Vanguard National Land Services underwrites with Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Company, Lawyers Title Insurance Corp., Old Republic Title Insurance Co. and Stewart Title Insurance Co.

New Jersey Bills Would Ban Fees for Escrow Evaluation Services

Identical bills were proposed in New Jersey's Senate and Assembly that would prohibit escrow evaluation services from charging escrow agent fees.

Assemblyman David Russo introduced AB 4483, while Sen. Kevin O'Toole introduced SB 3106. The proposed legislation would prohibit an escrow agent evaluation service from preparing a report for use by a mortgage lender in evaluating the capacity of an escrow agent to perform real estate settlement service, in exchange for a fee charged to that escrow agent.

If passed, the legislation would take effect immediately. AB 4482

is currently pending in the Assembly Financial Institutions and Insurance Committee and SB 3106 is pending in the Senate Commerce Committee.

ALTA's "Title Insurance and Settlement Company Best Practices" highlight policies and procedures the industry follows to ensure a positive and compliant real estate settlement experience. The Best Practices are voluntary standards title professionals can adopt to protect consumers, promote quality service, provide for ongoing employee training and meet legal and market requirements.

WFG National Title Acquires Universal Land Title of Texas

WFG National Title Insurance Co., a Williston Financial Group Co., announced it has acquired Universal Land Title of Texas, a Texas-based title insurance agency with offices in Dallas, Fort Worth and Houston.

Universal Land Title of Texas will now operate as WFG National Title Company of Texas. As the division president for the new entity, Patrick Dougher will oversee the growth and operations of the business.

MBA Lowers 2014 Mortgage Originations Forecast

The Mortgage Bankers Association lowered its forecast for mortgage originations in 2014 by \$57 billion to \$1.12 trillion for the year, based on declining mortgage application activity and increasing interest rates.

The forecast for purchase originations has been lowered to \$677 billion for 2014, compared to \$711 billion forecast

previously. Compared to 2013, purchase originations are expected to increase by 3.8 percent. Meanwhile, refinance originations were revised lower as well and are now expected to be \$440 billion in 2014. Previously, refinances were estimated to total \$463 billion. The updated refinance total is around 60 percent lower than 2013 refinance originations.

All Jurisdictions in Alaska Enabled for E-recording

Alaska has become the third multi-jurisdictional state in which 100 percent of its recording jurisdictions are e-recording enabled.

Colorado was the first multi-jurisdictional state to earn the 100-percent designation, with Arizona reaching that landmark in 2012. Hawaii also claims 100 percent with its state-based recording system.

“Alaska is divided into 34 recording districts, which are under the jurisdiction of the State of Alaska, so recording is handled at the state level,” said Vicky Backus, Alaska’s state recorder.

Alaska began e-recording in 2012 at its Anchorage office and expanded from there. All 34 of Alaska’s recording districts were enabled for e-recording as of January 2014.

Title Sources Launches Signing Agent Mobile App

Title Source recently launched a mobile application that streamlines the mortgage process for the company’s thousands of signing-agent partners nationwide. The My Signings app

includes real-time communication, an in-app closing calendar and integrated GPS directions. The app is available in both the Apple App and Google Play stores.

Florida-based Title Company Acquires Competitor

Tampa Bay, Fla.-based Hillsborough Title announced it acquired the operations of Paramount Title Corp.

Aaron Davis, president and CEO of Hillsborough Title, said the acquisition gives Hillsborough Title a new presence in Florida’s Carrollwood and North Hillsborough counties, while enhancing the company’s footprint in the Tampa Bay area. The company, which now has a staff of more than 90, was

founded by Davis’ mother, Gail Calhoun.

Jim Farr founded Paramount Title after serving as underwriting counsel for Chicago Title Insurance Co. and has more than 38 years’ experience in the industry. He will continue as underwriting attorney for Hillsborough Title. Additionally, Rhia Winant served as president of Paramount Title since 2010 and will represent Hillsborough Title as legal counsel.

Indiana Bill Amended Dropping Language Requiring Consumer Comparison Tool

Indiana’s House Insurance Committee amended legislation that would have required the state’s department of insurance to create a title insurance consumer comparison tool.

Introduced by Rep. Dale DeVon in January, HB 1224 would have required that the filed rates of all insurers that issue title insurance policies in Indiana be included on the tool. The goal was to allow an average consumer to compare and differentiate between similar title insurance rates offered by title insurers. The bill would have required that the

tool be made available to the public free of charge on the department of insurance’s website by Sept. 1, 2014.

The legislation, which is pending committee referral in the House, still would limit the amount that may be charged to each party receiving benefits of a closing protection letter in a real estate transaction to the lesser of:

- The actual cost associated with issuing a closing protection letter; or
- \$25 for all closing protection letters related to the sale of a single property.

FHA to Accept More Documents with E-signatures

The Federal Housing Administration (FHA) granted expanded authority to lenders to accept electronic signatures on documents associated with mortgage loans. The new policy, announced in Mortgagee Letter 2014-03, allows e-signatures on origination, servicing and loss mitigation documents, as well as FHA insurance claims, REO sales contracts and related addenda. Current FHA policy allows for electronic signatures only on third-party documents such as sales contracts and other documents not controlled by the lender.

“By extending our acceptance of electronic signatures on the majority of single family documents, we are bringing our requirements into alignment with common industry practices,” said FHA Commissioner Carol Galante. “This extension will not only make it easier for lenders to work with FHA, it also allows for greater efficiency in the home-buying and loss mitigation process.”

Lenders choosing to employ e-signatures may begin using this



policy immediately for single-family forward mortgages and FHA's reverse mortgage products, Home Equity Conversion Mortgages (HECM). Lenders are required to adhere to the Electronic Signatures in Global and National Commerce Act (ESIGN), have specific technology and operational capabilities and controls, documented quality control processes and the ability to adapt e-Signature to FHA's existing record retention processes.

According to the FHA, the e-signatures policy will help streamline the origination process and help reduce document submission timeframes for borrowers seeking options to avoid foreclosure. Initially, e-signatures will not be accepted on the mortgage note itself. The FHA plans to begin accepting e-signatures on forward mortgage notes at the end of the year.

Escrow Company Sues Bank to Recover \$1.1M Lost in Cybercrime

The receiver for a California-based settlement company is suing the firm's former bank to recover more than \$1.1 million in escrow funds that were fraudulently transferred to China.

Peter Davidson of the California law firm Ervin, Cohen & Jessup LLP, the appointed receiver for Efficient Services Escrow, Group alleges First Foundation Bank of California had insufficient security procedures in place when cybercriminals hacked Efficient Services Escrow Group's bank account between December 2012 and January 2013.

More than \$432,000 was wired to an account in Moscow on Dec. 17, 2012. Then, the criminals wired more than \$1.1 million on Jan 24 and 30 to a trade company located in the northeast corner of China. The bank recovered the first transfer, but not the other two.

The lawsuit accuses the bank of failing to act in "good faith" when it approved the fraudulent transactions on Efficient Services Escrow's behalf. Davidson claims the

bank failed to properly implement the proper use of a token security procedure agreed upon by the escrow company and First Foundation.

Efficient Services Escrow Group reported the theft Feb. 22, two months after the first unauthorized transfer to its fidelity insurer, Escrow Agents' Fidelity Corp. On Feb. 28, 2013, the department froze the company's escrow activity. According to the state, the escrow company had been cited previously for failing to maintain its records in accordance with state law.

In an addendum to the claim, First Foundation indicated that employees at Efficient Services Escrow received email notifications about all wire transfers that left the escrow company's account.

ALTA's "Title Insurance and Settlement Company Best Practices" provides guidelines on appropriate written procedures and controls for escrow trust accounts.

Go to www.alta.org/bestpractices for more information.

Old Republic Announces Several Exec Changes

Old Republic Title Insurance Group announced that John Magness was promoted to the new position of chief operating officer and Chris Lieser was named chief financial officer, while Richard Wilson has been promoted to president of the Eastern Title Group.

Magness will oversee and administer the title group's agency and direct operations throughout the country, in order to maximize each component's profitability. He also will be responsible for assisting in the ongoing growth of the title group, as well as developing, implementing and achieving business objectives and corporate strategies. Magness joined the company in 2009 as vice president of Southwest Regional Operations.

Lieser will be responsible for all internal and external financial reporting, company audits and examinations, financial analysis, and internal control procedures. He joined Old Republic Title in 1984 as a financial

analyst and has held a variety of significant positions within the title group's corporate finance department over the years, most recently as senior vice president and controller. He replaces Gary Horn, who is moving to the newly created position of executive vice president – corporate finance and development.

As president of the Eastern Title Group, Wilson will oversee all of its operations and manage the region's growth and profitability. In doing so, he will work closely with field management personnel to meet market penetration and productivity goals, as well as to create new and innovative products and services for agents and customers. He also will be responsible for developing and executing a long-range business plan for the expansion of the Eastern Title Group. Prior to coming to Old Republic Title, Wilson worked for several national title insurers in New Jersey managing their direct and agency operations.

North Dakota Guaranty & Title Names President

North Dakota Guaranty & Title Co. announced that it has promoted Nick Hacker as its new president. Hacker joined NDGT in July 2012 as the company's office manager in Williston. In 2013, he was named vice president of the northwest region. Hacker brings extensive business development, land title,

real estate and executive management experience to the position. Prior to joining NDGT, he worked for five years as a business development manager and real estate agent. Hacker also worked for three years as the manager of state government affairs for the American Land Title Association.

Edina Realty Title Appoints New President

Edina Realty Home Services has named Brad Fisher as the new president of Edina Realty Title. He succeeds Greg Mason, who was recently named president and CEO of Edina Realty Home Services.

Fisher, who has 20 years of experience in real estate sales, management and training, served as manager

of the Edina Realty Plymouth office since 2005. He joined Edina Realty as an agent in 1995.

Throughout his career, Fisher has been active in several professional organizations, including a two-year term as president of the Minneapolis Area Association of Realtors from 2010 through 2011.

North American Title Names Arizona State Manager

Melissa Shapiro has joined North American Title Co. as senior vice president and Arizona state manager. With a background in pharmaceutical sales, Shapiro transitioned to

real estate sales in the Phoenix area, earning her license in 2004. The next year, she created an in-house title division for a real estate firm, later serving as president.

Thank You

to Our 2013 Strategic Partners

Diamond Partners



Platinum Partner



First American

Gold Partners



stewart

Bronze Partners



To become a Strategic Partner, contact Claire Mitchell at cmitchell@alta.org or 202-296-3671.

New Members

CONNECTICUT

Albert J. Barr
Barr & Morgan
Stamford

Jim Brennan
Kaplan & Brennan, LLP
Plainfield

Louise Brown
Ackerly Brown, LLP
Sharon

Ryan Barry
Barry & Barall, LLC
Manchester

Michael Carrier
Weber and Carrier, LLP
New Britain

Michael Cicchetti
Cicchetti, Tansley & McGrath, LLP
Waterbury

Heather L. Danaher
**Tobin, Carberry, O'Malley,
Riley & Selinger P.C.**
New London

Eric DaSilva
The DaSilva Law Firm, LLC
Newton

Fischer & Fischer
West Haven

Edward Fitzpatrick
Fitzpatrick, Mariano & Santos, P.C.
Naugatuck

Barbara Gillette
**Sheffy, Mazzaccaro,
DePaolo & DeNigris, LLP**
Southington

Gould, Larson, Bennet, Wells & McDonnell, P.C.
Essex

John Harvey Jr.
Barry, Harvey & Later, P.C.
Wethersfield

Richard Krezel
Krezel, Richard
Southington

Ellen Marino
Law Office Of Ellen C. Marino
Winsted

Louise A. McGlynn
Freshman & McGlynn, LLC
Westport

Joshua D. Nichols
Joshua D. Nichols
Hamden

Norman K. O'Connor
O'Connor, Norman K.
Danbury

CONNECTICUT CONT.

Robert Pellegrino
Pellegrino & Pellegrino, LLC
New Haven

Salvatore J. Petrella Esq.
Petrella, Salvatore J., Law Office of, LLC
Cromwell

Robert B. Potash
Potash, Robert B.
Greenwich

Cheryl Rodriguez
Law Offices of Cheryl A. Rodriguez
Bridgeport

James Rogers
Lavigne, Mark & Rogers, LLC
Manchester

Joseph A. Saffi
Joseph A. Saffi, P.C.
Danbury

Alexander Tighe
Tighe, Alexander W., Esq.
Old Saybrook

Ellen Traystman
Traystman, Ellen S.
Oakdale

John Tunila
Diana, Conti & Tunila, LLP
Manchester

Barbara Veillette
Litwin, Asman & White, P.C.
Bantam

FLORIDA

Clare Bilbo
Mathews Law Firm, P.A.
Tallahassee

Brenda A. Curran
Superior Title Services of SW FL, Inc.
Bonita Springs

Mitchell Goldman
Mitchell Goldman P.A.
Cocoa

Henry Johnson
Johnson & Walters, P.A.
Boca Raton

Sharon B. Logan
Logan, Sharon B., P.A.
Ormond Beach

Michael Snyder
Snyder, Michael J., P.A.
Hollywood

GEORGIA

Bob Harris
Haygood, Lynch, Harris, Melton & Watson, LLP
Forsyth

Bob Knox
Knox & Swan Attorneys
Thomson

GEORGIA CONT.

Hutch Moore
Moore & Reese, LLC
Atlanta

Joseph Odachowski
**Taylor, Odachowski, Schmidt
& Crossland, LLC**
Saint Simons Island

IOWA

Kevin J. Kuckelman
Keokuk Abstract & Title Co.
Keokuk

KANSAS

Teresa Woker
Assurance Title Services, Inc.
McPherson

KENTUCKY

Robert Harrison
Harrison & Goin
Scottsville

MASSACHUSETTS

Peter Merry
Law Office of Peter R. Merry
Salem

Vale M. Van Doorne-Freeman
Connolly & Connolly
Newburyport

MARYLAND

Jacqueline Nguyen
Wall Street Title & Associates, LLC
Rockville

Donna Townsend
Members Title, LLC
Crofton

NEW HAMPSHIRE

Caroline Owen
Owen Law Offices, PLLC
Bedford

NEW JERSEY

Susan Radgoski
Premier Title Company, LLC
Voorhees

George A. Stickel Esq, CTP
Stickel Title Agency, Inc.
Pennington

NEW YORK

Mark D'Addona
Home Abstract Corp./Ny/Brooklyn
Brooklyn

Donna M. Kelly
Kelly, Donna M.
White Plains

OHIO

David Furry
Northern Title Agency, Inc.
Rocky River

Tricia Kubic
Greater Cleveland Title, LLC
Beachwood

OKLAHOMA

Meg Prestidge
Boardwalk Title, LLC
Yukon

PENNSYLVANIA

David Ceraul
Ceraul, David J., Esq.
Bangor

Lorraine Haag
Colony Abstract, Inc.
Southampton

Charlene M. Ostroski CLTP, NTP
Norristown

Marsha Wolf
Accelerated Land Transfer LLC
Philadelphia

SOUTH CAROLINA

George Bishop
George B. Bishop, PA
Moncks Corner

Meredith Coker
Altman & Coker, LLC
Charleston

Estelle McDonald
McDonald Title Agency, Inc.
Anderson

TENNESSEE

Jim R. Vanderpool, P.C.
Franklin

VIRGINIA

David Burger
DB Title, Llc
McLean

Johanne Mullarkey
Guardian Title And Escrow, L. C. D/B/A
Woodbridge

Joe Wheeler
PenFed Title, LLC
Ashburn

Associate Members

LOUISIANA

Edwin G. Generes
Generes & Associates, Inc/
Landtech Support Systems
Slidell

NEW YORK

Jennifer Holt
The Merriam Insurance Agency
Schenectady

Charles Rosenstein
Charles B. Rosenstein, Esq.
Albany

Real Estate Attorneys

CONNECTICUT

Kristen Brandt
Brandt, Kristen M.
North Haven

Norman Chase
Law Office of Norman K. Chase
Shelton

Mark Steier
Steier & McCormick, LLC
West Hartford

Amy Winnick
Winnick & Winnick, LLC
New Haven

Edward W. Zawacki
Zawacki, Edward W.
Westport

FLORIDA

Charles Ball
Ball, Charles H., & Associates, P.A.
Sarasota

GEORGIA

Bo Wagner
Wagner Law Group, LLC
Atlanta

ILLINOIS

John G. Ames
Orion

David L Anders
Tinley Park

Ryan J. Anderson
Henry

Ronald W. Arbeiter
Chester

Donald P. Bailey
Orland Park

David Bartlesmeyer
Craig and Bartelsmeyer, P.C.
Herrin

Asher J. Beederman, Ltd.
Chicago

Scott Z. Berman
Skokie

Richard J. Bertinetti
Carlinville

ILLINOIS CONT.

Mary Brady
Schaumburg

Raymond M. Carlson
Mundelein

Michelle T. Chase
Naperville

Jason E. Coffey
Chester

Norman Conrad
Clinton County Title Company
Breese

William H. Cawley
Mahomet

Joseph M. Del Preto
Westmont

Jay K. Filler Jr.
Jay K. Filler, Jr. P.C.
Marengo

Keri L. Fox
Cass County Abstract Company
Virginia

Betsy W. Friestedt
Ray & Glick, Ltd.
Libertyville

Jacob J. Frost
Spring Valley

Brian M. Gabor
Brian M. Gabor, Ltd., PC
Pontiac

Robert J. Galgan
Galanopoulos & Galgan
Elmhurst

John W. Guntren
Jerseyville

Gerard D. Haderlein
Chicago

Rodger K. Hay
Warren

Jeffrey L. Hays
Champaign

Mary Heck
H & H Title Services, LLC
Peoria

Gatherine S. Hurlbut
Elgin

P. Jerome Jakubco
Chicago

Larry E. Kabrick
Quincy

Neil J. Kaiser
Des Plaines

Leanne W. Klein
Premier Title
Arlington Heights

Edward Kusta
Edward Kusta, P.C.
Bolingbrook

Lisa Leach
Central Illinois Title Company
Decatur

ILLINOIS CONT.

William Lowry
Western Illinois Title Services, LLC
Pittsfield

Thomas S. McLaughlin
Orland Park

Ted A. Meyers
Ted A. Meyers, Attorney at Law
Saint Charles

Theresa Miller
Theresa Miller d/b/a Miller Title and
Closing Services
Bartonville

Joseph J. Neely
Metropolis

Stephen S. Newland
Libertyville

Mary Niego-McNamara
Mary Niego-McNamara, P.C.
Oak Lawn

Nathan J. Noble
Nathan J. Noble, PC
Belvidere

Charles G. Popp
Belvidere

Sally A. Reed
Downers Grove

Anne Rennick
Rennick & Rennick
Wyoming

C. K. Renshaw
C. Kent Renshaw
Mount Vernon

Eric Schmalz
H. Eric Schmalz, Attorney at Law
Palatine

Marcum A. Spears
Marcum A. Spears
Monmouth

H. Wayne Statham
Galesburg

William E. Stewart
Kewanee

James L. Tungate
Watseka

Catherine M. Wifler
Catherine Mary Wifler
Libertyville

Harry M. Williams
Peoria

Michael A. Wlodek
Michael A. Wlodek, Ltd.
Elgin

Steven P. Zimmerman
Rockford

Alliance Land Title, Inc.
Bloomington

Ansani & Ansani, P.C.
Park Ridge

ILLINOIS CONT.

Barnhart Law Office, Ltd.
Canton

Bernabei, Balestri & Fiocchi
Spring Valley

Brotschul Potts, LLC
Chicago

Califf & Harper, P.C.
Moline

Certified Title Company, LLC
Greenville

Comprehensive Title, Inc.
Chicago

Cullison & Vandever
Hillsboro

Guzaldo Law Offices
Chicago

Johnson County Abstract Company
Vienna

Lake County Title and Abstract Com-
pany
Libertyville

Law Offices of Kulas & Kulas, PC
Chicago

LeFevre Oldfield Myers Apke & Payne
Law Group Ltd.
Vandalia

Mason and Scott, PC
Moline

McGrath Law Office, P.C.
Mackinaw

Metro Title & Escrow Company
Granite City

Meyer Capel, A Professional Corporation
Champaign

NLT Title, LLC
Crystal Lake

Phelan, Nolan & Associates, P.C.
Joliet

Pluymert, MacDonald & Hargrove, Ltd.
Hoffman Estates

Powell & Boyer
Wheaton

River City Title, LLC
Peoria

Schuyler County Abstract &
Title Company
Rushville

The Cordis Law Office, LLC
Princeville

Thomson, McNeely, Crews,
Hurst & Thielen, P.C.
Jacksonville

Vonachen, Lawless, Trager & Slevin
Peoria

Whitman, Baber & Siegel
Monmouth

INDIANA

Tamara Brown
Absolute Title Services, LLC
Indianapolis

Dodd Title Corporation
Indianapolis

LOUISIANA

Christian Avery
Source Title, Inc.
Gonzales

MASSACHUSETTS

Jill A. Natola
Natola, Jill A
Leominster

Karen A. Underhill
Karen A. Underhill, LLC
North Eastham

MAINE

Richard A. Hull III
Hull Law Office, LLC
Biddeford

NORTH CAROLINA

Scott Tippet
The Tippet Law Firm, PLLC
Oak Ridge

TENNESSEE

John Floyd
Floyd Law Firm
Cordova

Carl McInturff
Johnson City Title Company, LLC
Johnson City

Teri W. Nicholson
Larry K Tolbert, Attorney
Murfreesboro

VIRGINIA

Lloyd A. Martin II
Lloyd Martin PLC
Burke

WISCONSIN

Alanna Feddick-Goodwin
Alanna J. Feddick-Goodwin
Marshfield

Kristine L. Gerke
Carriage House Title, LLC
Onalaska

Wendy Hurst
Northern Land Title Co.
Superior

Perry D. Pierre
Seymour

William Pulkinen
Elm Grove

Edward J. Ritger
Random Lake

Carlson, Koeck, Kirk, & Graves, Ltd.
Prairie Du Sac

Joining ALTA Is First Step in Stewardship

According to Merriam-Webster, the definition of stewardship is the “activity or job of protecting and being responsible for something.”

Essentially, title professionals serve as stewards of property rights. While there are many other parties involved in a real estate transaction, we are the guardians of the closing—the neutral, third party ushering the process along.

Peter Block wrote a book many years titled “*Stewardship, Choosing Service Over Self-Interest*,” which remains relevant today. Anyone hoping to become a better manager or leader can glean some thought-provoking ideas about focusing on service instead of self-interest. Block says that stewardship is the “willingness to be accountable for the well-being of the larger organization by operating in service, rather than in control, of those around us.”

It’s a great read and provides excellent inspiration if someone is interested in building a sustainable business. This advice easily can be applied to the title and settlement industry. Being a member of ALTA provides a fantastic pathway to industry stewardship. But it’s only the first step. It takes involvement and a commitment to service to make an impact. There are many opportunities at our fingertips.

Over the next year, we can be the leaders to educate others about the CFPB’s integrated mortgage disclosures. While owner’s title insurance is labeled as “optional” on the disclosures, we all must take the opportunity to educate consumers about the value of the product. This education is not “optional.” (See cover article on page 10.)

Another opportunity rests with the CFPB’s attempt to improve the closing process. The Bureau is focused on helping consumers better understand their mortgage transactions. Hundreds of title professionals submitted suggestions to the CFPB on ways to achieve this. We must continue telling our story and emphasizing the valuable role settlement agents play in the closing process.

You can help take ownership in the future of our industry by attending the 2014 Federal Conference and Lobby Day. There’s no better occasion to tell members of Congress our important role in protecting consumers and driving the economy.

It may seem hard to make the leap and dedicate more time and energy to serving the industry. When you do, however, great things can happen and everything else will fall into place.



— Diane Evans, ALTA president-elect

Making Sense
of New
Regulations
isn't Easy.

SoftPro Can Help.

In an industry filled with constant regulatory changes, understanding these changes and how they affect your business can be a daunting task. You need a software partner that is working alongside you to help make sense of everything. As the nation's leading provider of closing and title software, you can count on SoftPro to deliver state-of-the-art technology that is always current with the latest industry regulations and requirements.



Call **800-848-0143** for a **FREE 30 DAY TRIAL** or visit www.softprocorp.com.



ALTA Education e-Kit

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?

- ☛ *Homebuyer presentation*
- ☛ *Videos*
- ☛ *Educational articles and blog content*
- ☛ *Social media content*
- ☛ *Brochures*
- ☛ *Letter to homeowner*
- ☛ *Consumer website*
- ☛ *Details about steps in a home purchase and a refinance*

AMERICAN
LAND TITLE
ASSOCIATION

