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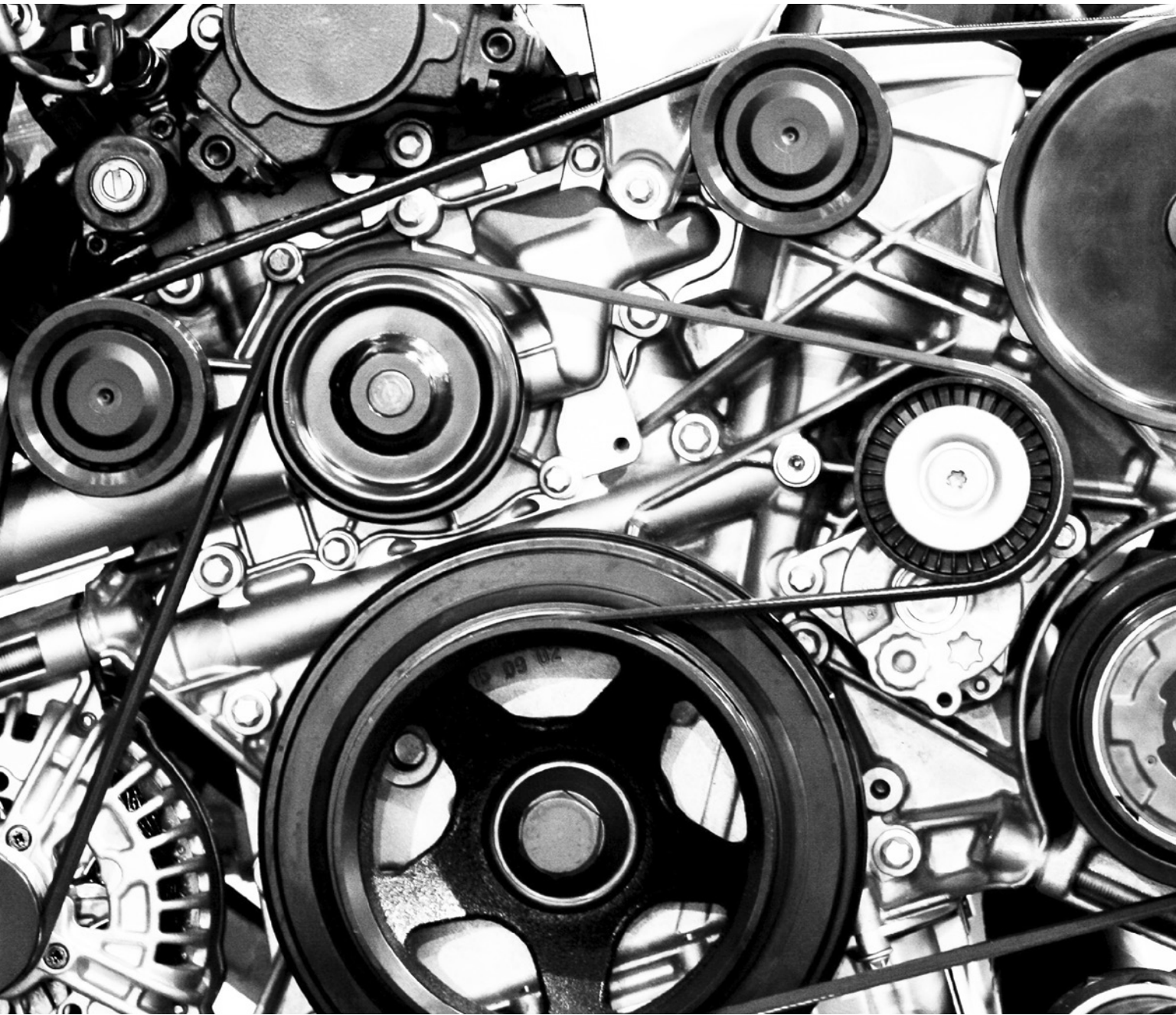
TitleNews

The Evolution of ALTA's Best Practices

ALTA Board Approves Modifications
To Best Practices, Develops Maturity
Model to Give Companies Another
Tool To Measure Compliance



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2016 ALTA CONFERENCES

October 4-7 | Annual Convention
Scottsdale, AZ

STATE CONFERENCES

August 7 - 9 | Indiana
Indianapolis, IN

September 8 - 10 | North Dakota
Fargo, ND

September 8 - 11 | Maryland
Ocean City, MD

September 8 - 10 | Missouri
Excelsior Springs, MO

September 9 - 11 | Pacific Northwest
(ID, OR, WA)
Bend, Oregon

September 11 - 14 | New York
Montauk, NY

September 12 - 14 | Ohio
Columbus, OH

TitleNews

PUBLISHER
Michelle L. Korsmo

EDITOR IN CHIEF
Jeremy Yohe

COMMUNICATIONS
MANAGER
Shawn Sullivan

ASSOCIATION OFFICERS

PRESIDENT
John Hollenbeck NTP
First American Title Insurance Co.
Santa Ana, CA

PRESIDENT-ELECT
Daniel D. Mennenoh
H.B. Wilkinson Title Co.
Galena, IL

TREASURER
Steven Day
Fidelity National Title Group
Jacksonville, FL

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Rattikin Title Company
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Stewart Information Services Corp.
Houston, TX

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Underwriters Section
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Winter Park, Fla.

Daniel M. Wild
Old Republic National Title Insurance
Company
Minneapolis, MN

CHAIR, ABSTRACTERS AND TITLE
INSURANCE AGENTS SECTION
Cynthia Blair NTP
Blair Cato Pickren Casterline, LLC
Columbia, SC

BOARD REPRESENTATIVES,
ABSTRACTERS AND TITLE AGENTS
SECTION
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Orange Coast Title Family of Companies
Santa Ana, CA

Richard H. Welshons
DCA Title
Hastings, MN

IMMEDIATE PAST PRESIDENT
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Land Title Guarantee Co.
Denver, CO

ASSOCIATION EXECUTIVE STAFF

CHIEF EXECUTIVE OFFICER
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Government Affairs
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CHIEF OPERATING OFFICER
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Look at What You're Missing
in this month's Digital Issue



Data Breaches

The digital edition of TitleNews includes a webinar recording of "Life Cycle of a Data Breach: Know What You Need to Do," which addresses breach notification requirements, the potential costs to resume operations following a breach, and examines the stages of a breach.

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

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

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What's Your Company's Mental Diet?

Much of our thinking and actions are undeniably habitual. Most of our behavior consists of habits—including many we don't even realize. Typically, most of us go to bed at a certain time each night following the same routine to get there. We get up at a regular time. Brush our teeth. Drink coffee at a predictable hour. Then, we get in a car and drive to work, usually following the same route.

Nobody nudges us to do these things. We don't need reminders because most of them are habitual. It's easy to see how our habits affect us physically. If we consume donuts and candy bars, drink several cups of coffee and several sugar-filled soft drinks a day, and rarely get much exercise, we can predict a certain level of health down the road. What we put into our bodies is going to determine the quality of life we have.

Think about the information we can access when it comes to making nutrition choices. Think how deliberate we can be when it comes to nutrition. Thirty years ago, if you pulled a can of corn off the shelf, the label listed one ingredient—corn. Today, there's a breakdown of protein, carbohydrates and fat. Many people are particular about counting calories and key nutrients. Fast food restaurants have charts telling us what's in their food. Those labels and charts are there because of popular demand.

As society has created this demand for nutrition information, we should bring the same critical eye to our businesses. ALTA developed its "Title Insurance and Settlement Company Best Practices" nearly four years ago to serve as a policies and procedures benchmark for the title and settlement industry. ALTA members wanted our industry to create the benchmark so that questions lenders were posing to meet their third-party vendor management regulatory requirements were the right questions for our businesses. It is industry members who know best what the expectations should be for title and settlement companies.

These expectations and benchmarks are improving because of the work of our volunteer members. The cover article of this month's edition focuses on proposed changes to the Best Practices that incorporate comments on ways to improve the existing Best Practices. The cover article also explains the development of a Maturity Model specific to the Best Practices to help title and settlement agents gauge their ongoing compliance process. Guided by our Best Practices Task Force, the Internal Audit Committee and our Board of Governors, we believe these changes and new tool will improve the Best Practices and make adoption clearer for ALTA members.

Using the Maturity Model as a tool for your company will help you make Best Practices a habit. Looking at the details of the path to full Best Practice implementation helps you put the right ingredients into your company's operation to ensure you have strong organizational health down the road. Habits that ensure the strength of the title and settlement industry for years to come are just what this country needs.



A handwritten signature in black ink that reads "Michelle Korsmo". The signature is fluid and cursive, with a long, sweeping underline.

— - Michelle Korsmo, ALTA chief executive officer

ALTA Board Approves Recommendations to Adopt, Revise, Decertify Forms

The ALTA Board of Governors approved recommendations to adopt, revise and decertify forms during a June 9 meeting. New forms include ALTA Endorsement 18.2-06 Multiple Tax Parcel and ALTA Endorsement 23.1-06 Co-Insurance—Multiple Policies; a revised ALTA Commitment for Title Insurance; and the decertification of ALTA Expanded Coverage Residential Loan Policy and ALTA Short Form Expanded Coverage Residential Loan Policy.

The revised ALTA Commitment for Title Insurance updates and consolidates the two 2006 versions of the ALTA Commitment forms: the ALTA Commitment Form (adopted June 17, 2006) and the ALTA Plain Language Commitment Form (adopted June 17, 2006). While those two forms are similar in substance, there are variations between them. The Forms Committee also recognized court decisions holding title insurers and agents liable for negligence or negligent

misrepresentation in the preparation of title insurance commitments.

The committee approached this particular issue by including a bold-face “Notice” at the top of the form and incorporating it into Condition 3(a). The Notice specifically precludes third-party liability and underscores that the procedures utilized to determine the insurability of the title are proprietary to the company and create no liability to any person outside the terms of the Commitment. A company may continue to separately provide abstract or search reports if it chooses.

In the revised Commitment, the committee

- clarified, in Condition 4.(a), the insurer’s right to amend the commitment for matters appearing in the public records at commitment date that are not included as a requirement or an exception
- clarified, in Condition 5 – Limitations of Liability, the extent of the insurer’s liability for amending the commitment as permitted

under Condition 4.(a) (which may encourage courts to uphold the limitations contained in the Notice)

- incorporated the “gap” exception into the Conditions (Condition 4.(b)), as well as the option to include it in Schedule B, Part II
- underscored the contractual nature of the business relationship with the Proposed Insured by requiring both a named Proposed Insured and a specified dollar amount of coverage.

Among other things, the committee also took the opportunity to:

- streamline the document, including revising headings and reordering and restating certain Conditions
- add some definitions of terms included in the ALTA 2006 Owner’s and Loan policy forms for consistency
- revise Schedule B, Part II to incorporate language usually added to exceptions for covenants and restrictions denying publication of an unlawful discriminatory matter

- add, in the introductory paragraph to Schedule B, Part II, an exception for the terms and provisions of any lease or easement set forth in Schedule A as an estate or interest to be insured

- add Subsection 6.(d) of the Conditions, stating that the deletion or modification of a Schedule B, Part II Exception does not create an obligation to provide coverage beyond the terms of the Commitment or policy

Other changes to the form result in an updated, better-integrated document with clearer provisions and address issues relating to the delivery system (Transaction identification data, agent’s role, ALTA Universal ID, pro-forma policies). Returning to a single form of Commitment adds clarity for customers and helps avoid potential confusion in court interpretation of the insurer’s obligations under the contract.

The forms may be downloaded for review at www.alta.org/forms.

Title Insurance Premium Volume Up 11 Percent During Q1

The title insurance industry generated \$3.0 billion in title insurance premiums during the first quarter of 2016 compared to \$2.7 billion during the first quarter of 2015, according to ALTA's 2016 First-Quarter Market Share Analysis. This is an increase of nearly 11 percent year-over-year.

The publically traded underwriters captured 86 percent of the market share, while market share of independent underwriters increased to nearly 13.9 percent during the latest quarter. This is up from 13.0 percent during the same period a year ago.

The top underwriters based on market share were:

- *First American Title Insurance Co. (25.2%)*
- *Old Republic National Title Insurance Co. (14.9%)*
- *Chicago Title Insurance Co. (14.3%)*
- *Fidelity National Title Insurance Co. (12.3%)*
- *Stewart Title Guaranty Co. (9.6%)*

The top five independent underwriters based on market share were:

- *Westcor Land Title Insurance Co. (3.8%)*
- *WFG National Title Insurance Co. (2.2%)*

- *Title Resources Guaranty Co. (2.2%)*
- *North American Title Insurance Co. (1.5%)*
- *Alliant National Title Insurance Co. (0.8%)*

On a state-by-state basis, 46 states, plus the District of Columbia, showed first-quarter 2016 written premiums increasing from first-quarter 2015. Eight states were up over 20 percent, 29 states were up 10 to 20 percent and nine states plus the District of Columbia were up less than 10 percent. Four states showed decreases.

Overall during the first quarter of 2016, the industry's operating expenses were up 8.9 percent, while loss and loss adjustment expenses were down 20 percent. This pushed net operating gain up 74.2 percent.

ALTA expects to release its second-quarter 2016 Market Share Analysis around September 1.



ALTA: Model Cyber Law Should Protect Consumers, Not Duplicate Existing Safeguards

Following a public hearing held in May and a previous letter in March, ALTA offered modifications that should be made to the National Association of Insurance Commissioner's (NAIC) proposed state model cybersecurity law.

In March, ALTA submitted a letter to the NAIC's Cybersecurity Task Force outlining concerns with the group's draft Insurance Data Security Model Law. ALTA's latest letter provides more detail and line-by-line comments and suggested changes to the NAIC's proposal.

"ALTA supports a model law that protects consumers, is workable, does not duplicate existing safeguards, helps consumers understand the implication of cybersecurity breaches and provides

uniform standards to protect consumer information and respond to breaches," wrote Justin Ailes, ALTA's vice president of government and regulatory affairs. "As currently written, the Preliminary Working and Discussion Draft appears to take the most severe penalties, add an extensive additional regulatory burden and private rights of action under state regulation."

ALTA believes the model law would not meet the NAIC's goal of creating a uniform standard, but would create a competing patchwork of regulations to existing state law.

Email questions to Benjamin Lincoln, ALTA's director of government affairs, at blincoln@alta.org.

Digital TitleNews Extra: Title Topics: Life Cycle of a Data Breach: Know What You Need to Do



New Events at ALTA's Annual Convention!

This year's convention promises to be the most innovative yet.

Several new events will be unveiled, including:

HQ LIVE: ALTA's new registration area and the heartbeat of the convention. This will be the networking hub, so don't be afraid to stop by and make new connections. ALTA staff will be available to answer any of your questions.

Omni Sessions: In need of inspiration? All attendees will unite as one during these presentations led by powerful speakers and industry leaders.

Engagement Labs: If you like a smaller setting, these shorter, interactive labs are for you. Pick & choose which conversation interests you, and engage directly with other attendees.

Which new event are you most excited about? Let us know with a tweet—tag us on Twitter using the hashtag #ALTA16. Not on Twitter? Send your vote for the most exciting new event to communications@alta.org.

Social Media Pro Tip: Incorporate Video Marketing

As advertising moves to the digital marketplace, it's now time to incorporate a digital marketing strategy before you fall behind. One of the best tools to put in your repertoire is video. Digital advertisements don't require a huge budget or considerable skill. They're not only easily targeted to your specific audience and easily measurable—they're extremely engaging. Customers are much more

likely to visit your social media pages or your website after watching a video ad, rather than a traditional static advertisement. Try using video and watch your consumer engagement grow.

Email social@alta.org if you have any questions and make sure to find the "Title Agent's Guide to Video Marketing" on the ALTA Blog for more information.

Want to Re-vamp Your Customer Outreach?



Need help with your customer outreach strategy? Visit www.alta.org/titletopics and click on the 2016 archives link. You'll find our webinar from March 2016 titled "Consumer Outreach and Education: Yes It Does Work." Presenters include Laura Francesconi from Meridian Title Corp., Nancy Hughes from Jackson Hole Title & Escrow and Lisa Steele from Mother Lode Holding Co. Don't forget that you can find all of our past webinars in our Title Topics archives and learn about the title industry for free.

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The Evolution of ALTA's Best Practices

ALTA Board Approves Modifications to Best Practices, Develops Maturity Model to Give Companies Another Tool to Measure Compliance

As the chief executive officer and majority owner of a title company with 25 employees, Nicole Plath understands the challenges of running a business. From generating new business, dealing with human resources issues, contending with TRID and keeping abreast of new federal overtime rules that go into effect Dec. 1, finding time for anything else is daunting. Despite everything on her plate, Plath became involved with ALTA's Best Practices Executive Committee and the Task Force. She knew how overwhelming it was to document policies and procedures and wanted to ensure title companies had the tools to prove compliance. >>

By Jeremy Yohe



“Similar to how we are all trying to contend with the various ways lenders want to exchange data for TRID, title companies also must meet diverging levels of vendor management protocols required by our lender clients,” said Plath, CEO of New Jersey-based Fortune Title Agency, Inc. “With some lenders not requiring any vendor oversight requirements to others mandating third-party certifications, it is essential title agents have useful tools to evaluate where they stand in regard to compliance.”

This was a driving force behind ALTA developing the Best Practices Maturity Model, an additional business tool that can be used to measure a company’s procedures against the ALTA Best Practices.

After nearly a year of discussions with members, lenders and assessment providers, ALTA’s Best Practices Executive and Internal Auditing committees created the Best Practices Maturity Model to help companies evaluate their policies and procedures to facilitate adoption of Best Practices. Maturity models have been used for decades in a number of industries, including technology and lending. Regulators, including the Consumer Financial Protection Bureau (CFPB), use them in their compliance assessments.

“Maturity models are used by lenders and regulators to analyze how companies operate and to measure a company’s procedures against benchmark compliance levels,” said Michelle Korsmo, ALTA’s chief executive officer. “They provide companies with a valuable alternative to help them determine where they are on the path of Best Practices compliance and how they



HOW?



Use your Best Practices assessment results



Identify the benchmark compliance level for each Best Practice



Make a progress plan to help your company move up the compliance spectrum

can improve. Compliance with Best Practices is an ongoing process for ensuring policies and procedures are followed and updated, and errors are detected quickly.”

The term “maturity” refers to the strength of a company’s procedures and whether they are followed consistently. ALTA’s

Maturity Model includes five benchmark levels ranging from ad hoc—meaning a company has not established any policies or procedures—to optimized—where a company is fully compliant with the Best Practices.

The results are shown in a summary similar to a report card

and provide a more streamlined view of a company's compliance with Best Practices, according to Diane Evans NTP, past ALTA president and a member of the Best Practices Executive Committee.

"This new tool helps companies define what steps must be taken to reach full compliance," added Evans, who is vice president at Land Title Guarantee Co. "The Maturity Model gives agency owners and their employees a useful resource and a better understanding and appreciation for the assessment process."

The Maturity Model does not alter ALTA's Best Practices or change the required testing for an assessment, which should be performed using the Best Practices Assessment Procedures. If a company is already fully compliant with Best Practices, it should be in the optimized category of the Maturity Model. The Maturity Model does not invalidate any assessment a company may have already received.

"This new tool in no way diminishes the value of Best Practices, its rigorous standards or existing assessments that have been completed and certified in the market place," Evans said. "In fact, this report really heightens the needs for credible evidence of compliance."

The Maturity Model was under a public comment period through July 29 and will go into effect Oct. 7 after submitted comments are considered.

Proposed BP Changes

In addition to developing the Maturity Model, ALTA's Board of Governors approved proposed changes to the Best Practices to

better reflect market needs and trends. The changes also were in a comment period through July 29. Comments will be carefully considered before the changes are finalized and become effective Oct. 7.

The Board approved proposed changes to pillars 2, 3, 4 and 5.

"ALTA's Best Practices Framework is the clear choice among title and settlement companies to help develop policies and procedures that protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements," Korsmo said. "The Best Practices also have become the blueprint used by many lenders to meet third-party vendor management regulatory requirements. Since initially publishing the Best Practices Framework more than three years ago, ALTA has engaged in discussions with stakeholders to continually improve Best Practices and meet market demands."

Pillar 2

Under Pillar 2, language requiring the use of positive pay, reverse positive pay, Automatic Clearing House transactions and international wire transfers was modified. The pillar and associated assessment procedure now reads:

Utilize Positive Pay or Reverse Positive Pay, if available in the local marketplace, and have policies and procedures in place that prohibit or control the use of Automated Clearing House transactions and international wire transfers.

"The original Best Practices requirement to block ACH and international wires proved troublesome for companies that

had legitimate business reasons to utilize these services," said Cynthia Blair NTP, a member of the Best Practices Executive Committee and a founding member of the law firm Blair Cato Pickren Casterline LLC. "Additionally, many banks reported that they do not offer ACH or international wire blocks, but rather offer controls to help prevent any unauthorized transactions. This policy was modified to help companies better perform their duties by allowing them to either prohibit or control the use of ACH and international wires."

Modifications also were made to the Assessment Procedures for this pillar. Some of the additions included providing reconciliations, bank statements and supporting documentation electronically to the company's contracted underwriter upon request. A company must also verify that it's not commingling fiduciary funds, including underwriter premium, with operating funds, unless approved in writing by the underwriter. This does not include the portion of the premium maintained by the title company in its operating account.

Pillar 3

The Pillar 3 changes clarify requirements associated with maintaining and disposing of non-public personal information. Specifically, this portion of the Best Practices Framework included the addition of state law requirements for the maintenance and disposal of records (including electronic information) that include NPI.

Additionally, the following requirement was added to the Pillar 3 Framework:

Companies must securely maintain and dispose of records containing Non-public Personal Information pursuant to an established timeframe for retaining records, as documented in the Company's information security program that takes into consideration the appropriate legal, regulatory, and business requirements.

“We heard confusion that some believe the Best Practices required the disposal of records immediately after settlement,” Evans said. “This clarification makes it clear that a company may securely retain records containing NPI if there’s a need to preserve records to meet legal, regulatory and/or business requirements. The amendment requires companies to establish a timeline for disposing of records containing NPI to help protect against unauthorized access or use.”

Within the Assessment Procedures, language was added that says Pillar 3 should be applied as appropriate to the company’s size and complexity, the scope of activities and the sensitivity of the customer information that’s handled.

Pillar 4

Changes to Pillar 4 added standards for engaging third-party signing professionals. The pillar now says written procedures should help ensure any third-party signing professional—including Notaries Public—engaged by a title or settlement company possess the appropriate qualifications, professionalism and knowledge that can be determined by a mix of legal and contractual obligations.

Companies must conduct due diligence, which includes a combination of a verification that

More Information

For additional information and updates about ALTA’s Best Practices, go to www.alta.org/bestpractices or check out ALTA’s blog at blog.alta.org.

the third-party signing professional has adequate errors and omissions insurance, a notary surety bond, evidence of current state licensure, an acknowledgement of compliance with the company’s instructions, and/or evidence of a verifiable industry designation.

Also, the company that contractually retains the third-party signing professional is responsible for verifying that the applicable standards are met.

“We felt that it was important to include standards in the Best Practices Framework to reflect the increased prevalence and reliance by title insurance agents and underwriters on third-party signing professionals,” said Don O’Neill, a member of the Best Practices Executive Committee and chief compliance officer at WFG National Title Insurance Co. “Given this trend and the development of industry designations and certifications in the notary industry, this addition highlights these tools to agents.”

Pillar 5

Lastly, Pillar 5 changes modify the timeframe under which title insurance agents must report title insurance policies and remit premiums to their underwriters. The pillar now says that a copy of insurance policies must be reported if required by the underwriter. Meanwhile, title agents must remit

premiums to the underwriter within a fixed time period that takes into consideration the underlying contract between the agent and the underwriter.

“Previously, the language required policies to be reported and premiums to be remitted by the last day of the month following the month in which the insured transaction was settled, which could be a moving target anywhere from 28 to 62 days after settlement” said Best Practices Executive Committee member Craig Haskins, chief operating officer at Knight Barry Title. “We felt that having such a flexible timeframe for reporting and remitting premiums creates unnecessary confusion for title agents who are accustomed to more precise deadlines.”

Moving Forward

As previously reported, ALTA has sent two letters to the CFPB asking for additional guidance on third-party vendor management and to support ALTA’s Best Practices. ALTA is hopeful the bureau will soon provide needed clarity on this issue.

“Companies like mine rely on the tools and resources developed by ALTA to help meet regulatory compliance and assist lenders in meeting their vendor management obligations,” Plath said. “ALTA’s Board, Best Practices Executive Committee and Task Force are committed to constantly refining the Best Practices Framework to give title and settlement companies of any size the ability to protect consumers, promote quality, and meet legal and market requirements.” ■



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Tech Playbook for the Modern Closer

Today's Digital Tools Can Enhance Consumer Experience

BY AARON KING

Technology is flooding nearly every industry, and the tidal wave of change is striking fear in the hearts of many. But fear not, mortgage industry pros—you can get ahead by refusing to stand still.

By and large, mortgage technology is replacing tasks, not humans. Modern platforms augment and upgrade existing mortgage processes and systems to create efficiencies—saving time, money and manpower. And with newfound latitude comes the opportunity for closers to make personal service an area of focus. In fact, settlement services companies must concentrate on the consumer experience to stay competitive. Improving efficiency and experience are twin goals for the modern closer.

Companies making technology upgrades to enhance mortgage closings will inevitably evaluate the pros and cons of building in-house, versus bringing on outside tech partners to leverage millions of dollars in research, development and innovation and immediately shorten the roadmap. But deciding whether to outsource is only half

the battle; effectively applying modern applications is what will set a company apart.

New technologies can enhance mortgage closings from start to finish. When it comes to efficiency, upgrading internal processes should be a top priority for title companies, because abandoning outdated, manual methods in favor of smartly designed tools helps avoid human error and allows title agents to better spend the hours in the workday.

For many years, mortgage closings involved a disjointed process comprised of many moving pieces. Today, title companies can take advantage of multiple advancements to manage mortgage closings, particularly mobile closings, which are on the rise:

1. Utilizing an online dashboard makes it possible to track progress and coordinate efforts among mortgage professionals along the chain. This centralized information hub keeps loan closings moving forward and ensures pieces don't fall through the cracks.
2. Notary booking tools for remote mortgage closings save countless hours traditionally spent scanning spreadsheets and dialing vendors. Rather than relying on a flimsy search on the web, the modern closer can quickly locate and enlist the help of local, vetted notaries through databases that rank these third-party vendors according to user ratings and qualifications. Streamlining this piece of the process allows closers to allocate their time to higher and better use.
3. Using a collaboration platform helps title industry pros stay in close communication with their partners and with homebuyers. Technology that promotes interaction among stakeholders can catch mistakes and speeds the progress of loans.
4. New payment technology can contribute to the efficiency of title companies in a big way. For decades, mortgage companies' accounts payable (AP) departments were manually processing hundreds—even thousands—of notary invoices every month. Adding insult to injury, notaries traditionally had to wait 30 to 90 days to get paid for handling mortgage closings. Technology harnessing Automated Clearing House (ACH), an electronic network for financial transactions in the U.S., can chop down the wait time for payment to two weeks.

With the technology, payments to hundreds or thousands of different notary vendors can automatically be issued on a rolling basis.

Consider this: In the mortgage industry, the cost of processing invoices for payment to notaries is significant. Labor typically consumes 62 percent of total AP expense, and the AP processing cost can reach as high as \$12.44 per invoice, according to APQC research. For a title company that works with notaries for 100 mortgage loan closings per month, modern software could save over \$9,000 per year.

As an added bonus, technology for electronic invoice presentment, processing and payment (EIPP) improves the mortgage industry's relationship with the notary community and, as a result, the home-buying process as a whole. Eliminating lost checks and speeding up payment encourages more people to join the ranks of licensed notaries, increasing competition for notary work and improving performance among these vendors.

5. Security and compliance automation is also a major value add with modern technology. Today, compliance is built into new platforms. Rather than risking slip-ups in a process that is closely monitored by the Consumer Financial Protection Bureau (CFPB), satisfying regulatory requirements can be turn-key with the right technology in place.

In addition to improving the efficiency of the mortgage process,

today's digital tools can take consumer experience to the next level. In an age hyper-focused on the customer, borrower interactions have never been more important; they separate the winners from the losers. Technology is key to shaping a positive mortgage closing.

The modern consumer is more complex than many of us realize. To effectively reinvent the borrower experience, title industry professionals should step into the shoes of homebuyers and ask themselves: How would I like for those handling my loan to communicate with me? What would I want to know to alleviate uncertainty? Where would I want to close on a mortgage loan? What would make my experience ideal? Dream it, and then put it into action with the help of new tools.

Technology is key to giving borrowers what they want. Here are the things that consumers crave from the mortgage experience:

1. Transparency is highly valued by consumers and builds trust with homebuyers, who are making a major life decision. With information on-demand in nearly every aspect of modern life, the same is expected from the mortgage process. The latest technology makes sharing loan information secure and easy. Clear, frequent communication is key to transparency and has never been more important with mortgage closings. A collaboration platform keeps lines of communication open and consumers in the loop on loan progress.
2. Positive human interactions greatly influence the consumer experience. As luck would have it, technology helps to ensure

that human interactions during mortgage closings are positive. In a mobile world, and with the rise of online lending, face time with borrowers may be limited to the closing table. To source a notary who will represent the title company well during loan signings, closers can forget the goose chase—phone calls, spreadsheets and web searches. Instead, they can tap a networked database to find a local, highly-rated notary who will leave a good impression with the home buyer.

3. Convenience is a major consideration for consumers. Remote mortgage closings are becoming ever more common, and their popularity speaks to consumers' desires for personalized service and flexibility. Out-of-office mortgage closings provide title pros a leg-up when competing for business. Modern technology makes it easier for closers to cater to borrowers and meet their expectations

Embracing technology is key to remaining relevant in the digital age. Closers make themselves indispensable by being agents of change. Rather than standing still and being left behind, ride the wave. ■



Aaron King is the founder and CEO of Snapdocs Inc., a modern technology platform that simplifies mortgage loan closings. Snapdocs is an alum

of Y Combinator, the Silicon Valley accelerator known for helping to launch trailblazing technology startups.

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Lessons from CFPB's Mortgage Servicing 'Special Edition' Report

Bureau's Approach to Mortgage Servicing Exams May Be Instructive for TRID Compliance

In June, the Consumer Financial Protection Bureau (CFPB) released a "special edition" of its Supervisory Highlights focused on examinations of mortgage servicers between January 2014 and April 2016. In addition, the bureau released an updated mortgage servicing exam manual "to spur industry in its general compliance with CFPB rules."

- Supervisory Highlights Mortgage Servicing Special Edition
- Updated mortgage servicing exam procedures

The report was issued more than two and a half years after the CFPB's new servicing rules went into effect. While focused on mortgage servicing, the report can be instructive as those in the title insurance industry try to anticipate how the bureau will enforce the TILA-RESPA Integrated Disclosure (TRID) rule.

How the CFPB Prioritizes Exams

In the report, the CFPB said it uses a "prioritization framework that

considers a broad range of factors to predict the likelihood of consumer harm" to determine which mortgage servicers to examine.

"For instance, because a servicer's market share corresponds to the number of consumers affected, we prioritize relatively larger servicers with a more dominant market presence over comparatively smaller servicers," according to the CFPB.

This approach counterbalances size consideration with what the CFPB calls field and market intelligence. The bureau indicates it considers qualitative and quantitative factors for each servicer such as the strength of compliance management systems; the existence of other regulatory actions; findings from our prior examinations; servicing transfer activity; and the number, severity and trends of consumer complaints; as well as input from housing counselors and other stakeholders about institutional performance based on their experience.

What could this mean for TRID examinations? Steve Gottheim, ALTA's senior counsel, said the industry could expect TRID examinations to focus on larger lenders or those with higher complaint volume.

Exam Process

The CFPB said its examinations generally review compliance management systems and evaluate compliance through transaction testing of specific loan files. In many instances, examiners conduct specific transaction testing based on consumer complaints submitted to housing counselors or the CFPB's Office of Consumer Response, focusing on specific cases in which the servicer did not provide a sufficient response or remedy. The scope for the content of the CFPB's examinations reflects the size and risk profile of each servicer, and as a result, the content of the bureau's transaction testing may vary across market participants.

"Where we observe more significant violations during an examination, we may refer matters to our Action Review Committee," the CFPB stated.

The committee uses a deliberative process to determine whether matters that originate from the bureau's examinations will be resolved through confidential supervisory action, such as a board resolution or memorandum of understanding, or through a public enforcement action.

To determine appropriate action, the bureau said the committee “considers a variety of factors, including the magnitude of consumer harm, whether the violation was self-identified, and the timeliness and scope of remediation.”

Gottheim said this reinforces the importance of implementing a compliance management system and emphasizes why continued partnership between title and settlement companies and lenders is so important. Companies in the closing space must be able to communicate with their lenders what policies and procedures are in place for the closing process.

Exam Findings

When examining mortgage servicers, the CFPB found multiple violations related to critical process requirements. Examiners found that one or more servicers failed to send any loss mitigation acknowledgment notices due to a repeated loss mitigation processing platform malfunction over a significant period of time. Supervision cited the servicer(s) for violating Regulation X and directed the servicer(s) to reimburse affected borrowers, including for interest, fees, and any additional harm incurred. The bureau also directed the servicer(s) to fix and monitor the servicing platform for compliance weaknesses.

CFPB supervision also found deceptive statements in loss mitigation acknowledgement notices. One or more servicers sent acknowledgement notices that assured borrowers their homes would not be foreclosed on before the deadline passed for submitting missing documents. But the servicer(s) foreclosed on homes before

the submission deadline. Bureau supervision determined the notices to be deceptive, independent of whether or not the servicing rules permitted the servicer(s) to foreclose on the specific borrower(s) at that time. The CFPB also observed deficiencies with the timeliness and content of acknowledgment notices.

In the bureau’s press release, CFPB Director Richard Cordray said “Mortgage servicers can’t hide behind their bad computer systems or outdated technology. There are no excuses for not following federal rules. Mortgage servicers and their service providers must step up and make the investments necessary to do their jobs properly and legally.

Applying this to TRID, Gottheim said that lenders and title professionals need to determine that software used to produce the Closing Disclosure does so in a way that fosters compliance.

“Software glitches are not an excuse for mistakes,” he added.

Additionally, Gottheim indicated that while certain actions can be technically within the regulation, the bureau could also deem actions as deceptive. One example of this could be a settlement agent glossing over the Closing Disclosure and focusing on the Settlement Statement. “This might not be prohibited under the rule, but could still be considered deceptive,” Gottheim said.

The CFPB also reported that one or more servicers took unreasonable advantage of borrowers’ lack of understanding of the material risks of loan modification. According to the bureau, the servicer or servicers took unreasonable advantage of borrowers’ inability to protect their interests in selecting or using the modification because the language

in the proprietary modification offer made it impossible for a borrower to understand the true nature of how and when charges would be assessed. Without such knowledge, a borrower could not have understood the material risks of the modification, nor could they adequately protect themselves from the potential payment shock from the assessment of such charges.

“This highlights the definition of deceptive,” Gottheim said. “Think about how this might apply when explaining title insurance premiums or other closing fees. While the CFPB’s rule for the disclosure of owner’s title insurance premiums is inaccurate and causes confusion at the closing table, it is also important for agents to focus on how they talk about these differences to help consumers understand the cost they will pay.”

CFPB Conclusions

The Bureau observed servicers actively reviewing complaints for allegations of law violations and reported that some servicers created complaint governance committees to oversee all customer complaints to ensure they receive appropriate engagement, including remediation as appropriate.

“This highlights the value of internal assessments and audits along with active monitoring of complaints,” Gottheim said. “The core of the seventh pillar of ALTA’s Title Insurance and Settlement Company Best Practices focuses on developing a process for receiving and addressing consumer complaints to help ensure instances of poor service or non-compliance do not go undiscovered.” ■

ALTA Closing Survey Shows More Consumers Reviewing Mortgage Disclosures

Other Reports Show Borrower Satisfaction Increasing Under TRID; New Forms Easier to Understand

The goal of the Consumer Financial Protection Bureau's TILA-RESPA Integrated Disclosure (TRID) rule is to help consumers understand their loan options, shop for the mortgage that's best for them, and avoid costly surprises at the closing table.

Whether the new mortgage disclosures would result in any measurable improvement in consumer understanding or satisfaction has been a big question from industry participants who have had to spend millions of dollars to revamp operations in order to comply.

Reviewing Documents

According to a Home Closing Survey conducted by ALTA earlier this year, more homebuyers are reviewing their mortgage documents ahead of their scheduled closing under new federal regulations.

The survey was held in two phases. During the first stage, data was collected prior to implementation of the new mortgage disclosures to assess the closing experience of more than 800 homebuyers using the HUD-1 Settlement Statement. The second phase gathered information from nearly 700 homebuyers about their closing experience under the new rules requiring use of the Closing Disclosure.

"While there remain challenges to complying with the regulation, title and settlement agents went to great lengths to prepare and train staff about the new process," said Michelle Korsmo, ALTA's chief executive officer. "The hard work of these professionals paid off as our survey found that 92 percent of surveyed homebuyers are taking time to review their mortgage documents before closing. This compares to only 74

percent of consumers who reported having reviewed their documents before closing prior to the new regulation."

Potential Closing Delays

Additionally, the new regulations have had minimal impact on whether closings occurred on time. Before implementation of Know Before You Owe, homebuyers reported that 77 percent of closings took place as scheduled. With the Closing Disclosure, 74 percent of closings are taking place as scheduled.

"Settlement agents reported that the top reasons for rescheduling a closing to another day were issues with lender underwriting, a delay from the lender and an issue with the three-day rule," Korsmo said.

Collaboration Needed for Positive Consumer Experience

The survey also showed the continued need for all parties involved in the transaction to work together to ensure the consumer experiences a positive closing. According to the results, consumers received valuable information about their transaction from loan officers (39 percent), title/settlement agents (30 percent) and real estate agents (29 percent).

"ALTA was determined to ensure the vital role of title and settlement agents would not be diminished because the new rules put more liability on lenders," Korsmo said. "Fortunately, consumers continue to view title and settlement agents

as valuable resources who provide peace of mind and help them get the keys to their home. We appreciate the members of the Mortgage Bankers Association and National Association of Realtors working with ALTA members to ensure the consumer experience remains positive. Continued collaboration among title agents, Realtors and lenders is paramount to educate consumers about their real estate transaction.”

Homebuyer Education

The survey indicated that continued education about the benefits of owner’s title insurance is needed. According to the survey, 12 percent of homebuyers in a purchase transaction using the Closing Disclosure were unsure if they bought an owner’s policy. This compares to 8 percent of homebuyers who were unsure if they purchased an owner’s policy under the old regulations.

“Consumers should leave the closing table confident that they know they purchased an owner’s title insurance policy and protected their property rights,” Korsmo said. “Unfortunately, the CFPB’s current approach does not provide consumers with clear information about their title insurance costs. The required calculation under TRID for title insurance fees is not transparent or accurate and is inconsistent with the bureau’s mission to better inform consumers.”

With the CFPB opening a new rulemaking period for TRID, ALTA will continue to work with the bureau to correct the inaccurate calculation of title insurance policy premiums on the mortgage disclosures. ALTA is conducting a follow-up survey to capture whether consumers would prefer to see the actual cost of title

insurance or the CFPB calculation on the Closing Disclosure.

“In the meantime, we encourage ALTA members to use the education materials provided in our Homebuyer Outreach Program to help educate consumers about the benefits of owner’s title insurance,” Korsmo said. “Homebuyers should understand the important role title agents play in reducing their risks, providing peace of mind and protecting their property rights.”

Owner’s Policies

The final conclusion from ALTA’s survey showed that the labeling of owner’s title insurance as “optional” under TRID has only had a nominal impact on the number of these policies being sold. In both phases of the survey, settlement agents reported 96 percent of consumers in purchase transactions bought an owner’s policy. Meanwhile, 82 percent of consumers reported purchasing an owner’s policy pre-TRID, compared to 80 percent post-TRID.

Consumer Satisfaction

While ALTA’s survey showed more homebuyers are reviewing their documents, a survey conducted by STRATMOR shows overall consumer satisfaction with the mortgage process has increased since implementation of TRID. However, there’s a caveat. The increase mainly has to do with the fact that lenders are more frequently contacting borrowers during the post-application/pre-closing period as a result of the CFPB’s new rule.

The firm’s data shows that the percentage of borrowers being contacted by their lender prior to closing has increased from 85 to 91 percent under TRID. This increased

contact—which was a key goal of TRID—is likely the cause of the increased borrower satisfaction. Currently, overall borrower satisfaction with the origination process stands at about 91 percent.

Easier to Understand

According to a survey released in March by ClosingCorp, 63 percent of homebuyers said that the new Loan Estimates and Closing Disclosures were easier to understand than the old forms. The survey interviewed 1,000 repeat homebuyers who had purchased a home before and after the new TRID rule took effect on Oct. 3, 2015.

ClosingCorp said that it appears that TRID is making it easier for consumers to understand closing costs, “but at the same time, the new rules are adding time and anxiety to the closing process and more than half of the respondents still said they encountered ‘unexpected surprises.’”

Additional ClosingCorp survey findings:

- 68 percent said the new forms did a better job preparing them for the closing costs they would have to pay (6 percent disagreed). Similarly, 65 percent of the respondents said that the costs and fees were “explained better” in their most recent experience.
- Being able to shop for service providers (title companies, inspectors, pest services, etc.) is one of the consumer benefits highlighted in the new TRID forms. 78 percent of the consumers said they were informed about this option and nearly three quarters (74 percent) of those consumers said they took advantage of it. 55 percent said they saved money as a result. ■

How will you navigate the current jungle of change and regulations?

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The Value of Title Insurance for the Cash Purchaser

Owner's Coverage an Essential Option

Facts

An owner's policy of title insurance was issued in the amount of \$1.2 million, concurrent with the insured's purchase of vacant land in an extremely high-value area. The transaction was an REO sale of property, recently foreclosed upon by a local bank, and the insured, Ms. Able, received a quitclaim deed in exchange for the large purchase price in cash. Soon after closing, the insured Ms. Able began the process of building her dream home on the lot. All was well—right up until she got sued by the former owners of the property who had been foreclosed.

Let's go back in time a bit. A number of years before our insured transaction, during the real estate boom, the former owners, Mr. and Mrs. Solomon, purchased this nice house and the vacant lot next to it. They owned the property as tenants by the entirety. Over the years, Mr. Solomon racked up a couple of million dollars in liens on the property after failed business dealings. Things started to get a bit sketchy for Mr. Solomon, and the Solomons

transferred title to the vacant lot to Mrs. Solomon individually. A few years after that, they transferred title to the house lot to Mrs. Solomon.

Apparently, these transfers angered one of Mr. Solomon's many creditors, who sued them both, saying that the transfers of the properties were a fraud on creditors. The creditor got an attachment for \$500,000. The court in that case ordered that, as to the house lot, title must be revested back to both spouses. The court left title to the vacant lot in Mrs. Solomon's name. Finally, the court ordered that neither property could be further encumbered by the Solomons.

Soon thereafter, the parties to that case (the creditor and the Solomons) tried to settle up some of their issues; rates were falling, and they agreed that the Solomons would refinance of all of the existing debt on the properties, with the creditor getting a nice pay-down and subordinating its attachment to the new loan. The Solomons agreed that they wouldn't get a penny from the refi. The Solomons went to the local bank and

told their story. The bank knew it needed to be very careful here—there was a court order after all—so their counsel took the step of getting a new court order allowing the refinance transaction.

It all sounds good, right? Well, remember the state of title—house lot owned by both spouses and vacant lot just in Mrs. Solomon's name? The bank set up the refinance transaction for *both* properties with Mr. Solomon as the sole borrower on the note, and Mrs. Solomon as the only mortgagor on the mortgage. Wait, what? (Now, we all know we can do this kind of transaction, but it's complicated and there has to be some documentation of what's going on. For example, the bank could have set up Mrs. Solomon as a non-recourse guarantor, and she could have secured the guaranty with the mortgage, but the bank did none of this). The \$2.7 million refinance transaction took place, and all was well until the loan went into default and the bank proceeded with foreclosure.

To make matters worse, during the non-judicial foreclosure proceeding, the bank gave notice to Mrs. Solomon only, as the mortgagor, rather than to both spouses. The foreclosure sale was conducted, and the bank took back title to the property as REO. The bank sued the Solomons for eviction, and obtained a default judgment whereby the Solomons were ejected from the property. Interestingly, the bank chose to sell off the properties separately. It

sold the house lot to another investor for \$1.8 million and the vacant lot to our insured Ms. Able for \$1.2 million, which brings us back to the time of the insured transaction.

Our insured was happily building her dream home on the vacant lot when she was served with a lawsuit initiated by the Solomons. The lawsuit argued:

- As to both lots, the entire mortgage was void, due to a failure of consideration. He was the only borrower. She was the only mortgagor.
- As to the house lot, because they owned it as husband and wife, but only she executed the mortgage, the mortgage was not enforceable. (In the state where this claim occurred, a mortgage by only one spouse where title is held by the entireties is an unenforceable interest in only half of the estate, and that half interest only becomes enforceable upon death or divorce.)
- As to both lots, the foreclosure was void, because the bank only provided statutory notice to Mrs. Solomon.

Ms. Able filed a claim with her title insurance underwriter, who was faced with an allegation of an absolute failure of title for \$1.2 million. Sure, the Solomons didn't exactly have clean hands. They had signed a court order to get approval for the very transaction that they were now trying to void, and one hoped that they would have trouble defeating any reformation action necessary to fix up the loan documentation. And as to the lot which purchased by Ms. Able, the bank did give Mrs. Solomon notice as the only owner of that property, so that was in the insured's favor. As we all know, however,

Claims Corner

The Claims Corner is provided by members of ALTA's Claims Committee, which reviews claims that have a unique or interesting set of facts or triggers an unusual aspect of a title policy. Have an example that would make for an interesting article? Send an email to communications@alta.org.

foreclosures are statutory creatures that must be done correctly or done over, so there were nerves all around.

Outcome

Counsel was engaged at the underwriter's expense to defend the insured, and a motion to dismiss the Solomons' complaint was filed based upon numerous theories of bad faith, laches, fraud, estoppel and res judicata. It's never fun to be hanging your \$1.2 million hat on murky equitable defenses from law books, but that's what happened here, and thankfully the court in this case got it right. The court ruled that because the Solomons had allowed a default judgment to enter in the bank's eviction proceeding against them, the issue of the bank's rightful title to the property had already been adjudicated. Any claim by the Solomons that the loan documents were bad, or that the foreclosure was void, was barred by the doctrine of res judicata. The case was dismissed, and good title rested in the hands of Ms. Able.

Lesson Learned

There are some interesting points to consider from the perspective of the title agent and the insured on the value of title insurance, especially had things not gone so well in court:

- When underwriting a transaction where a foreclosure or other statutory process is in the back chain, title agents must confirm—often by a review of off-record evidence—that every statutory base was tagged. The consequence of a bad foreclosure is more often than not a complete failure of title.
- Ms. Able purchased the vacant property for \$1.2 million, and that was the amount of the policy coverage. Having designed and substantially begun construction at the time of the lawsuit, Ms. Able's damages in the event of a failure of title would have grossly exceeded policy limits.
- More interesting, what would have happened if Ms. Able hadn't purchased title insurance at all? Even though the litigation to defend title was successful, it was at a cost of tens of thousands of dollars, all of which was covered by the title insurance policy. Had the defense not been successful, Ms. Able's large purchase price in cash, as well as at least that much in construction costs, would have been at risk without the policy. How many investors purchase foreclosed property for cash, and then pump money into it for improvements before selling? For the prudent purchaser, owner's coverage is never an "optional" investment!

This claim summary was prepared by Michele Green, vice president and senior underwriting counsel for First American Title Insurance Company's Agency Division. She can be contacted at magreen@firstam.com. ■



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International Home Sales Dollar Volume Retracts in U.S.

Chinese Lead Purchases for Fourth Year in a Row

Waning economic growth in many countries and higher home prices further enhanced by a strengthening U.S. dollar resulted in a slight decline in international sales dollar volume of U.S. property over the past year and a significant retreat in buying from non-resident foreigners.

According to the National Association of Realtors 2016 Profile of International Activity in U.S. Residential Real Estate, foreign buyers purchased \$102.6 billion of residential property, a 1.3 percent decline from the \$103.9 billion of property purchased last year. Overall, a total of 214,885 U.S. residential properties were bought by foreign buyers (up 2.8 percent), and properties were typically valued higher (\$277,380) compared to the median price of all U.S. existing home sales (\$223,058). The survey covered U.S. residential real estate sales to international clients between April 2015 and March 2016.

Lawrence Yun, NAR chief economist, said this year's findings

highlight the tremendous appeal U.S. real estate still has on many foreign nationals despite the property becoming less affordable.

"Weaker economic growth throughout the world, devalued foreign currencies and financial market turbulence combined to present significant challenges for foreign buyers over the past year," he said. "While these obstacles led to a cool down in sales from non-resident foreign buyers, the purchases by recent immigrant foreigners rose, resulting in the overall sales dollar volume still being the second highest since 2009."

According to the survey, sales to non-resident foreign buyers pulled back by approximately \$10 billion to the lowest dollar volume since 2013 (\$35 billion). The decline was largely caused by the decrease in the share of non-resident foreign buyers to foreign residential buyers to 41 percent—down from the almost even split between the two in previous years (48 percent in 2015).

For the fourth year in a row, buyers from China exceeded all countries by

dollar volume of sales at \$27.3 billion, which was a slight decrease from last year's survey (\$28.6 billion) but over triple the total dollar volume of sales from Canadian buyers (ranked second at \$8.9 billion). Chinese buyers purchased the most housing units for the second consecutive year (29,195; down from 34,327 in 2015), and also typically bought the most expensive homes at a median price of \$542,084.

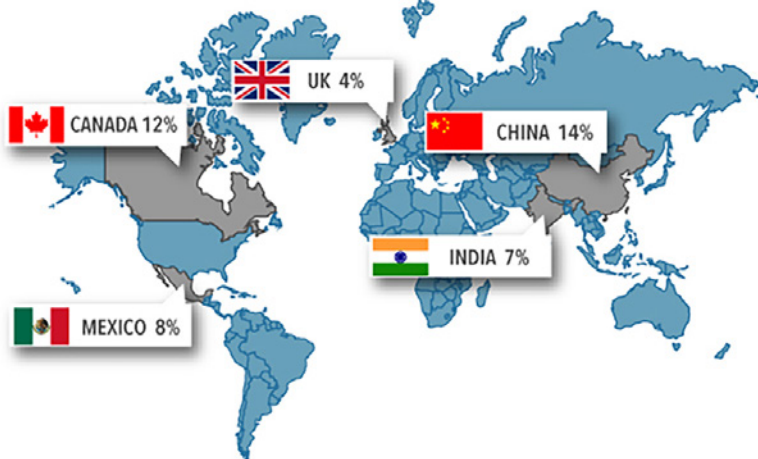
In addition to the slightly diminished sales activity from Chinese buyers, the total number of sales and the sales dollar volume from buyers from Canada, India (\$6.1 billion) and Mexico (\$4.8 billion) also retracted from their levels one year ago. Only buyers from the United Kingdom—after a decrease in the 2015 survey—saw an uptick in total sales and dollar volume (\$5.5 billion).

"Sales activity from U.K. buyers could very well subside over the next year depending on how severe the economic fallout is from Britain's decision to leave the European Union," added Yun. "However, with economic instability and political turmoil outside of the U.S. likely to persist, the world view of American real estate as a safe investment should keep demand firm even as pressures from a stronger dollar continue to weigh down on affordability."

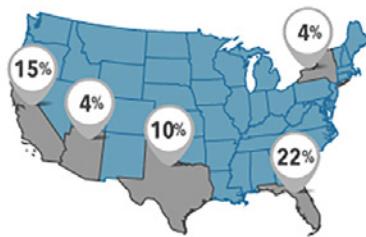
Slightly over half of all foreign buyers purchased property in Florida (22 percent), California (15 percent), Texas (10 percent), Arizona

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HOW ARE THEY PAYING? WHERE IN THE U.S. ARE THEY BUYING?



or New York (each at 4 percent). Latin Americans, Europeans and Canadians—who tend to buy in warm climates for vacation purposes—mostly sought properties in Florida and Arizona. California and New York drew the most Asian buyers, while Texas mostly saw sales activity from Latin American, Caribbean and Asian buyers.

The median purchase price over the survey period was a tad lower (\$277,380) compared to the 2015 survey (\$284,900) as a result of the fewer non-resident foreign buyers. Overall, foreign buyers most commonly purchased a home priced between \$250,001 and \$500,000, while 10 percent paid over \$1 million or more.

Exactly half of all international transactions were all-cash purchases, which was slightly down from a year ago (55 percent) but still roughly double the overall share of existing sales. All-cash purchases were more common by non-resident foreign buyers (73 percent) and those from Canada, China and the United Kingdom.

A majority of foreign buyers over the past year purchased single-family homes, and nearly half bought in suburban areas. Two-thirds or more of the buyers from China, India, Mexico and the United Kingdom purchased detached single-family homes, while Canadian buyers were the most likely to buy a multi-family home. ■

2016 Commercial/Multifamily Originations to Hit Record, MBA Projects

The Mortgage Bankers Association projects originations of commercial and multifamily mortgages to grow to \$511 billion in 2016, an increase of 3 percent from 2015 volumes and slightly more than the previous record of \$508 billion originated in 2007.

MBA also forecast mortgage banker originations of multifamily mortgages to reach \$202 billion in 2016, with total multifamily lending at \$262 billion.

“This past year was extremely strong for commercial real estate finance,” said MBA Vice President of Commercial Real Estate Research Jamie Woodwell. “Property incomes are rising, interest rates are low and property values are up. We expect the momentum to continue into 2016 and to support both the demand for and supply of commercial and multifamily mortgage capital.”

Woodwell said a growing economy, coupled with only gradual increases in interest rates, should continue to support a strong commercial property market.

“But there is a chance that cap rates could increase more rapidly in response to rising interest rates, impacting property sales and mortgage originations,” he said.

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Title Industry Tech Guru Retires After 30 Years

Al Verkuylen Encourages Industry to Embrace Technology and Innovation

Al Verkuylen, executive vice president of title and escrow strategy for ServiceLink, retired from the industry on June 15 after spending more than 30 years focused on title and closing, credit reporting, flood certification and automated valuation.

“On behalf of ServiceLink and the Originations Title and Close division, I would like to thank Al for his dedication to ServiceLink and the memorable contributions he has made to the company,” said Mike Kula, division president of Originations Title and Close for ServiceLink. “We wish Al all of the best on his well-deserved retirement.”

Before retiring, Verkuylen was responsible for leading the strategic direction for the company’s title and escrow business. Prior to joining ServiceLink, Verkuylen held a dual role at Lender Processing Services (LPS) as a senior vice president, title and closing executive, and as chief operating officer for LSI Title Company, part of the LPS family of companies. He managed the P&L

responsibility for the centralized title and closing company with revenues exceeding \$300 million annually and was responsible for domestic and offshore operations, product development, project management, strategy and execution.

Verkuylen also served as the chief strategy officer for LSI Title, where he directed the company’s origination product strategy, execution of product and technology projects, and development of new business opportunities.

In 2002, he leveraged his business and technical knowledge to lead the invention and delivery of the AQUA Title Decisioning and Workflow System, a technology platform utilized in the production of more than 2.5 million title transactions through 2013.

Verkuylen originally joined Fidelity National Financial Inc. (FNF) in 1998 and has worked in business development, sales management and new product development roles. Prior to joining FNF, he worked as a vice president and general manager



for First American CREDCO, where he had P&L management of newly acquired businesses serving the property management industry. He also was responsible for the development of background check products, integration of systems and property management platforms.

During his 30 years working in the settlement services industry, Verkuylen found that technology and innovation have had a profound impact on the products offered. He believes innovation will continue to improve the borrower experience, enhance quality and reduce costs.

“Today, we are at the beginning of a new ‘millennial’ era where consumers will engage electronic on-line settlement services that will be engineered utilizing more data and artificial intelligence that allow the user to apply, interact, review and close a loan from their device,” Verkuylen said. “I encourage settlement service companies to go out and embrace this new era.”

Superior Court of Pennsylvania Upholds MERS Authority to Act as Mortgagee

The Superior Court of Pennsylvania on June 13 affirmed the trial court's order granting summary judgment in favor of MERSCORP Holding.

In *Marjer v. Poplawski*, the appellant purchased property that was subject to a prior, unsatisfied mortgage with MERS as the mortgagee given by the prior owner. After purchasing the property, the appellant immediately filed a quiet title action alleging the deed to the property divested any claims MERS had in the property.

The trial court entered summary judgment in MERS' favor, finding the appellant's interest was

subject to the mortgage because the appellant could not produce any evidence that the mortgage had been paid off at the time the appellant purchased the property. On appeal, the Superior Court found the trial court had failed to address the appellant's standing arguments that MERS' nominee interest was insufficient to give MERS standing to defend the lawsuit and remanded the matter back to the trial court to consider this issue. The trial court again affirmed the priority of MERS' mortgage and held that MERS had standing to defend the action.

Stewart Title in Alice, Texas, Recognized as Top Title Company

Stewart Title announced that its Alice, Texas, office has been recognized as the 2016 Readers' Choice Title Company by the Alice Echo News-Journal. Approximately 4,500 ballots were

distributed to the newspaper's subscribers, who voted for their favorite hometown establishments among dining, entertainment, retail, beauty, medical, real estate and other services.

Assurant Buys Nebraska-based American Title

Assurant Inc. acquired Nebraska-based American Title Inc. (ATI) for approximately \$45 million in cash.

American Title will operate as part of Assurant's Mortgage Solutions business, with capabilities including property preservation, appraisal and valuation services. ATI's primary business lines include title services, settlement services and valuation for home equity loans, as well as conventional mortgages and refinancing.

"American Title is a strong fit with our focus on risk management in the housing market," said Michael Campbell, president of Assurant's global home business unit. "As a leader in home equity title and valuation, ATI adds another important dimension to the expansion of our capabilities across the home and mortgage value chain, to more holistically serve our clients."

According to a press release, American Title's

team of approximately 400 professionals will maintain their current offices in Omaha, Neb., and Palm Bay, Fla.

Privately held, American Title was founded in 1994 and acquired in 2004 by Bill Mackintosh, who led the company until his death earlier this year. Co-owners Mike Mackintosh and Ashley Horgan will continue to lead the business as part of Assurant.

"Joining with a respected Fortune 500 leader builds on our company's legacy and brings us greater capabilities and resources," Mackintosh said. "We've always been committed to our clients, our people and the communities where we serve. That won't change now that we're part of the broader Assurant team."

American Title, with annualized fee income of approximately \$48 million, expands Assurant's fee-based businesses, and serves the growing home-equity field.

Report: Cost to Close Loans Increases

Title agents report that the cost of closing a loan increased during the second quarter of 2016, according to First American Financial's latest Real Estate Sentiment Index.

According to the index, title agents reported an average increase of \$184 per transaction. The report noted that the increases are not necessarily due to the Consumer Financial Protection Bureau's TILA-RESPA Integrated Disclosure (TRID) rule, but rather are attributed to various approaches to how lenders have implemented the rule.

"These variances, they say, are forcing title agents to create different closing procedures for each lender with which they work, contributing to increased costs for title agents," said Mark Fleming, chief economist at First American.

Fleming added that the increase in cost per transaction differs dramatically by geography. Title agents in New Mexico indicated the highest increase, at \$313, while title agents in Indiana indicated the lowest increase at \$58, according to First American's data.

Meanwhile, the index found that title agents still

believe TRID is causing closing delays, but that this belief has decreased by nearly 20 percent since the first quarter. This "indicates the marketplace is adapting to the new process and forms," Fleming added. Agents surveyed also reported that consumer understanding of the closing process has gradually improved. While sentiment remains negative, there was a 74.7 percent improvement over the past quarter in how well title agents believe consumers' understanding of the closing has improved due to TRID. A Home Closing Survey conducted by ALTA also found that more homebuyers are reviewing their mortgage documents ahead of their scheduled closing under TRID.

"Change is difficult, and the implementation of the new Know-Before-You-Owe processes and forms was a challenge for title agents as well as lenders, requiring significant investments in new technology and time," said Fleming. "Based on our survey, title agents' believe that the new rules are benefiting consumers is improving and that closing delays are declining. We are all getting used to the new normal."

ATPR Integrates With Resware

ATPR Inc. announced that its property search product SmartPro is now integrated with Resware. According to ATPR, the integration helps title agencies by streamlining

the ordering and delivery process for property reports. The integration eliminates redundant and manual conversions from the process, the company said in a release.

North American Title Partners with University of Miami School of Law to Offer Agents CE

North American Title Insurance Co. (NATIC) has collaborated with the University of Miami School of Law to provide educational credit to its lawyer agents and approved attorneys through the school's Robert Traurig-Greenberg Traurig Real Property Development program. For a limited time only, the school offers NATIC's qualified agents

and approved attorneys a discount of 25 percent off the per-credit tuition costs. To qualify, NATIC qualified agents and approved attorneys must meet the program's admission requirements and enroll for the fall 2016 semester, scheduled to start Aug. 11. With permission from the program's director, enrollment may be delayed to spring 2017.

Investors Title Recognized as Top 25 Best-Run N.C. Public Company

Investors Title is ranked as one of the top 25 best-run public companies in North Carolina by the Triangle Business Journal. To compile the list, a team of *Triangle Business Journal* researchers and the Kenan Institute of Private Enterprise at UNC Chapel Hill evaluated several factors including stock return, employee growth, operational efficiency

and revenue growth. In stock return, for example, Investors Title ranked 10th overall and third in the Triangle area with a 38-percent increase in stock price from Jan. 1 to Dec. 31, 2015. Compared to other Triangle area performers, Investors Title ranked 11th overall and placed third and sixth in return on assets and return on equity, respectively.

Westcor Promotes Scott Chandler to Chief Operating Officer

Westcor Land Title Insurance Co. promoted Scott Chandler to chief operating officer. In this role, Chandler will oversee the operating divisions of the company's core business, which include regional operations, and national agency and lender services divisions. He will continue to lead Westcor's recently acquired title search company, Realty Data Company (RDC).

Chandler, who has been in the industry since 1983, joined Westcor in 2006 as vice president and western regional manager, opening the regional office in Denver. He grew the regional operation starting with three employees servicing title agencies mostly in Colorado, Utah and Nevada to a hub office with oversight of the Midwest, Texas and mountain region offices.

Fidelity National Title Group Promotes Abello to EVP, Division Manager

Fidelity National Title Group promoted Gus Abello to executive vice president and division manager. Abello will oversee the company's residential and commercial real estate services in 13 Midwestern states. He will also oversee the

company's services in Canada.

A 33-year veteran of Chicago Title, Abello previously served as senior vice president and regional manager, responsible for managing operations in six Midwestern states.

Title Alliance Names Director of Sales and Marketing

Title Alliance Ltd appointed Lindsay Smith as director of sales and marketing for its subsidiaries and affiliates. Smith will spearhead plans

for expansion and growth by reviewing new growth opportunities, preparing pro formas, unifying the team, and working with partners and prospects.

AmTrust Title Hires Chief New York State Agency Counsel

AmTrust Title Insurance Co. named James Thanasules, a commercial real estate title insurance veteran, as chief New York State agency counsel. In his role, Thanasules is expected to contribute to the growth of AmTrust Title's agency division by aligning and familiarizing

the New York agency market with the company. Prior to joining AmTrust Title, Thanasules served for nearly two decades as vice president and senior underwriting counsel for the New York Agency Division of First American Title Insurance Co.

NATIC Names Agency Manager for Idaho, Oregon and Washington

North American Title Insurance Co. has hired Kiel Rado as state agency manager for Idaho, Oregon and Washington. Rado has a background in sales, sales training and business development in the title industry as well as in publishing and office

services. He most recently spent two years as a sales executive in the residential title industry, where he developed integrated marketing campaigns and built value-based relationships with customer groups.

ClosingCorp Promotes Carney to Chief Innovation Officer

ClosingCorp promoted Pat Carney to chief innovation officer. In this new position, he will be charged with driving innovative solutions that impact the business and industry segments to deliver new growth opportunities. Prior to joining ClosingCorp,

Carney was chief operations officer and chief strategy officer at reRequire. He also founded 360 STS, a consulting firm that assists title companies with ALTA Best Practices, as well as developing new products for enabling workflow, automation and compliance.

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Fidelity National Title Group

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Land Title Guarantee Company

John E. Freyer, Sr.
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Roger Jewkes
Fidelity National Title Group

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Rattikin Title Company

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South Bay Title Insurance Agency

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Stephens County Abstract Co.

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First American Title Insurance Company

Matthew Ballard
First American Title Insurance Company

Ravi Bapodra
Fidelity National Title Group

Jeffrey Bates
D. Bello Associates

David Baum
Fidelity National Title Group

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Mother Lode Holding Company

Michael Brandner
Midwest Title Group

Edson Burton
Chicago Title Insurance Company

Richard Cannan
Fidelity National Title Group

Shonna Cardello
White Rose Settlement Services

Pat Carney
ClosingCorp, Inc.

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First American Title Insurance Company

Cheryl Cowherd
Agents National Title Insurance Company

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First American Title Insurance Company

Anthony Dellasalla
Fidelity National Title Group

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Fidelity National Title Group

Ralph DiDomenico
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First Montana Title

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Fidelity National Title Group

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Fidelity National Title Group

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American Land Title Association
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First American Title Insurance Company
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First American Title Insurance Company
- Deborah Scroggins
First American Title Insurance Company
- Randle Shoemaker
Fidelity National Title Group
- Paul Spano
Spano Abstract Service Co.
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Northwest Title
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Fidelity National Title Group
- David Townsend
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Fidelity National Title Group
- Mark Turner
Fidelity National Title Group
- Janette Waller
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- Anna Batten
Fidelity National Title Group
- Doug Bello
D. Bello Associates
- Matthew Cahill
First American Title Insurance Company
- David Calderwood
Stewart Title Guaranty Company
- Eric Carstensen
Fidelity National Title Group
- Glenn Clements
Stewart Title Guaranty Company
- Donald Cole
Fidelity National Title Group
- Mark Comstock
Commonwealth Land Title Insurance Company
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- Elizabeth Daniel
Continental Title Company
- Brian Danis
First American Title Insurance Company
- Larry Patrick Deal
First American Title Insurance Company
- Andrew Drake
Arsenal Insurance Corp.
- David Dunbar
Meridian Title Corporation
- Mary Pat Dunleavy
Fidelity National Title Group

tipac contributors

Ric Eborall
Alliance Title & Escrow Corp.

David Fauth
Stewart Title Guaranty Company

Leslie Foster
First American Title Insurance Company

Dan Fowler
Near North Title Group

Tommye Frost
Orange Coast Title

Thomas Gates
First American Title Insurance Company

Michael Gilbert
Mountain Land Title

Leslie Godec
First American Title Insurance Company

Charles Gray
Surety Land Title

Melissa Hall
Fidelity National Title Group

Paul Hofmann
Attorney's Title of Kitsap

Michael Holden
North American Title Insurance Company

George Houghton
Stewart Title Guaranty Company

David Huffman
Attorneys' Title Guaranty Fund

Tron Huynh
Fidelity National Title Group

Devon Irby
H.B. Wilkinson Title Company

Valerie Jahn-Grandin
North American Title Insurance Company

Rodney Johnson
Lake County Abstract & Title

Todd Jones
First American Title Insurance Company

Carol Kirby
American Title & Escrow

Kent Koepsell
Lawyers Title (Fidelity National Title Group)

Michael Koors
First American Title Insurance Company

Jan Koski Hogan
Fidelity National Title Group

Marsha Laner
Stewart Title Guaranty Company

James Lanzetta
Stewart Title Guaranty Company

Gerard LeGraize
Fidelity National Title Group

Gerard LeGraize
Fidelity National Title Group

Patti Madden
Security Title Agency

Pamela Mann
Chouteau County Abstract Co.

Claire Manning
Stewart Title Guaranty Company

Kenneth McBride
Connecticut Attorneys Title Insurance Company

Frank McCormick
Fidelity National Title Group

Donald McFadden
McFadden & Freeburg

Jim Milinkovich
First American Title Insurance Company

Amy Niesen
Land Title Company of Alabama

Deb Paoli
First Nationwide Title Agency

Joanna Patilis
Fidelity National Title Group

Scott Pierce
Old Republic National Title Insurance Company

Brenda Rawlins
First American Title Insurance Company

Patrick Rhodin
Fidelity National Title Group

Elizabeth Russo
MCP Title Services, LLC

Michael Russo
Council, Baradel, Kosmerl & Nola

Michael Savas
First American Title Insurance Company

Tom Schlesinger
First American Title Insurance Company

Eric Schneider
Lakeside Title Company

Sandra Schoen
Old Republic National Title Insurance Company

Burton Shepard
Fidelity National Title Group

James Sindoni
Fidelity National Title Group

Deborah Snell
First American Title Insurance Company

Dana Solms
Old Republic National Title Insurance Company

Donna St. George
First American Title Insurance Company

DeAnna Stancanelli
National Granite Title Insurance

Arnold Straus
Enterprise Title, Inc.

Quinn Stufflebeam
Title Financial

Justin Tanner
Agents National Title Insurance Company

KC Tong
KCT Abstract, LLC

Brian Tormey
First American Title Insurance Company

John Twiss
Custom Home Builder Title, LLC

Charlie Valdes
Chicago Title Insurance Company

Adrienne Verdone
Commonwealth Land Title Insurance Company

Kevin Wall
First American Title Insurance Company

Philip Webb
First American Title Insurance Company

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Dennis Wolfe
First American Title Insurance Company

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Michael Abbey
First American Title Insurance Company

Michael Anderson
First Dakota Title

Lisa Aubrey
Fidelity National Title Group

Sangeeta Banerjee
Fidelity National Title Group

Mathew Beall
First American Title Insurance Company

Cynthia Bilbe
Stewart Title Guaranty Company

Ron Blitenthal
Old Republic National Title Insurance Company

Jeffrey Bosse
Bosse Title Company

Justin Brashear
Ironclad Title, LLC

Thomas Brinkley
First American Title Insurance Company

Dan Buchanan
First American Title Insurance Company

Julie Bussey
RynohLive

Thomas Campbell
First American Title Insurance Company

Vicki Campbell
Stewart Title Guaranty Company

Chester Carmer
First American Title Insurance Company

Vincent Cassidy
Majesty Title

Rafael Castellanos
Expert Title Insurance Agency

Ben Comer
Abstract & Title Guaranty Co.

Wayne Conduct
First American Title Insurance Company

Julie Curlen
Stewart Title Guaranty Company

Joseph DeSalvo
First American Title Insurance Company

Michael Desmond
Stewart Title Guaranty Company

Molly Dillingham
Stewart Information Services

Ruth Dillingham
First American Title Insurance Company

Michael Doting
First American Title Insurance Company

Karen Drill
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Tom Dulick
First American Title Insurance Company

Jordan Dunn <i>First American Title Insurance Company</i>	Josh Luksberg <i>First American Title Insurance Company</i>	Karen Saez <i>First American Title Insurance Company</i>
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Amy Comer Elliot <i>Abstract & Title Guaranty Co.</i>	Derek Matthews <i>First American Title Insurance Company</i>	Donna Schmulbach <i>First American Title Insurance Company</i>
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Ambiguity

It's fair to say that lender requirements around third-party oversight are no model of clarity. Certain consistent themes exist, but uniform standards have yet to emerge, at least emanating from the lender community.

The various regulators could provide additional guidance, but they seem reticent to do so. Their approach is not prescriptive, but rather requires banks to implement third party oversight as part of a compliance management program built around the size and complexity of the lender organization, and the nature of the risks involved.

Simply put, not all lenders are the same. Therefore, the approach to third-party oversight varies. Until additional guidance is provided—potentially through enforcement actions—lenders and settlement agents alike must live with ambiguity. What must a lender require of a settlement agent? How much is enough?

This lack of clarity is not for lack of trying. ALTA continues to press lenders and their regulators—the CFPB, in particular—for more information. We've made all the right points in meetings with CFPB staff, and in two letters to the bureau. Due to ALTA's advocacy efforts and letters to the director, CFPB staff indicated there is agreement between its external affairs and supervision departments about vendor management guidance. The CFPB said we can expect written, but informal commutation, this summer that specifically addresses this issue.

As much as we'd all like the ambiguity to dissolve into a set of clear answers, uncertainty in this situation is not all bad. As third-party oversight requirements evolve over time—perhaps a short period—this helps the settlement agent community. It's our opportunity to document and improve practices and safeguards; it's our opportunity to get things right.

This much is certain: consumer protection is here to stay—frankly for all of the right reasons. Consumers desire and deserve protection. Credit goes to the land title industry for recognizing this basic point. We know the magnitude of trust placed with us when handling a consumer's confidential information and their money. We know consumers want fair treatment. We understand that consumers real estate transactions are perhaps the biggest financial transactions of their lives.

I am very proud of our industry for all of the hard work put into the ALTA Best Practices. No matter how third-party oversight evolves over the months and years, the seven pillars are here to stay. They are core to doing the right things right and protecting consumers. And, they make our companies better.

— John Hollenbeck NTP, ALTA president



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