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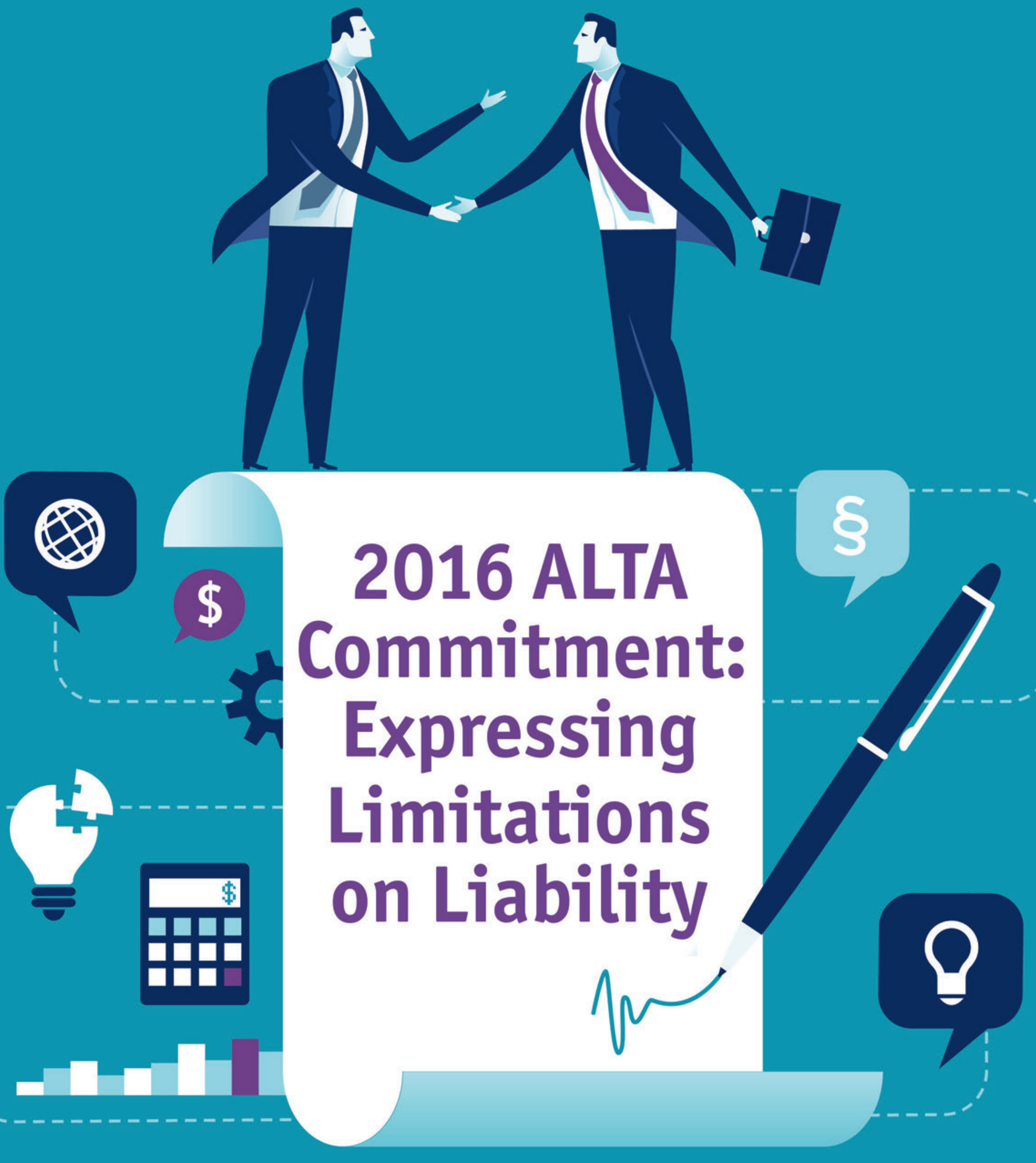

2016 ALTA Commitment: Expressing Limitations on Liability

contents

TitleNews • Volume 96, Number 7

calendar

2017 ALTA CONFERENCES

August 23-24	Innovation Boot Camp *Baltimore, MD*
October 10-13	ALTA ONE *Miami, FL*

STATE CONFERENCES

August 2-5	Kansas *Wichita, KS*
August 3-5	Minnesota *Duluth, MN*
August 17-19	Pacific Northwest *Cle Elum, WA*
August 20-23	New York *Syracuse, NY*
September 6-8	Colorado *Beaver Creek, CO*
September 7-9	Maryland *McHenry, MD*
September 7-9	Missouri *Columbia, MO*

TitleNews

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AMERICAN LAND TITLE ASSOCIATION

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from the publisher's desk

Actions Speak Louder Than Words

I've got a little exercise for you today. Don't worry, there's no cardio involved. Flip to the back cover of the magazine if you don't mind. Read the words. It's a pretty black and white message.

What do these words mean to you? Think back to when you were growing up. If you had siblings, there were probably a few fights—and a few apologies and promises to be a little nicer. People say things and make promises they have no intention of keeping all the time. You can tell someone you're sorry as many times as you want, but until your behavior coincides with that, the other person will probably not believe you.

Think about how this applies to your business. What makes your company successful? How do you respond and perform during down cycles? What do you do when a customer blurs the regulatory line, or asks you to turn a blind eye to shady practices?

We all know Walt Disney. He's the famous American entrepreneur and pioneer of the American animation industry. Many don't know Walt's older brother, Roy. He was the businessman behind the scenes and co-founder of Walt Disney Productions. Roy Disney once made the profound comment "It's not hard to make decisions when you know what your values are."

This is such a true statement. When there's a fork in the road, your values will serve as a lighthouse and decision making will become easier. Success is driven by the expression of your company's values. In today's environment, customers are looking to do business with purpose-driven companies that treat their customers fairly and comply with the law. This is so important in a service-based industry.

As an industry, one of our core tenets is to protect property rights. As you'll read in this edition's cover article, the 2016 ALTA Commitment was recently updated to provide more clarity about coverage and explain obligations for all parties involved. As the industry leader, this is what we do. ALTA works to advance industry policies through advocacy on Capitol Hill that represents ALTA members. We collaboratively build, develop and grow member networks through events and active member participation. We increase public awareness of owner's title insurance, and empower members with the knowledge necessary to move the title and settlement industry forward.

You'll be reading more about this over the next few months. Your brand isn't what you say it is. It's what your customers think it is. And actions speak louder than words.

Michelle L Korsmo

— Michelle L. Korsmo, ALTA chief executive officer

Get Your ALTA Best Practices Questions Answered

To help ensure the industry receives consistent guidance about the Best Practices, ALTA publishes answers to frequently asked questions on its FAQ Portal. The latest answers address questions about licensing of individuals, sharing of consumer data with vendors and the two-day recording time frame.

Q. Does Best Practice Pillar 1 require licensing of an individual who is engaged in the sale, preparation or issuance of title insurance—or the settlement of real estate transactions if the state where these activities are performed does not require such a license?

A: *No, the licensing requirements of Best Practices Pillar 1 are applicable to business entities and to individuals working in states where individual licensure is required.*

Q. Does Best Practice Pillar 3—or any other Best Practice—prohibit the sharing of consumer data with vendors? And, what obligations exist if consumer data is shared with a vendor?

A. *No, there is not a Best Practice specifically prohibiting the sharing of consumer data with vendors. The Best Practice requires a company to maintain appropriate risk-based physical and network security designed to protect against unauthorized use of consumer data. It is recommended that companies have a written privacy policy, which is shared with consumers and others – outlining the company's policy concerning the sharing of information with vendors and other third parties.*

Q. How is the two-day recording time frame calculated? Does the time frame include intervening weekend days or holidays? And, when does the time frame start?

A. *Documents must be submitted for recording by the end of the second day following the date of Settlement. For example, if the settlement occurs on a Monday, the Best Practice requires the company to submit documents for recording by close of business on Wednesday. If the settlement occurs on a Thursday or Friday—or on a day immediately preceding a holiday when the recorder's office is closed—the weekend days, or holiday day(s) are not included in the two-day time frame.*

To submit a question, go to *www.alta.org/bestpractices.*

Digital TitleNews Extra: Digital Marketing with Google AdWords

ALTA Announces DocMagic as ALTA Elite Provider

DocMagic became the latest company to be named an ALTA Elite Provider.

ALTA's Elite Provider Program is comprised of premier service providers committed to offering comprehensive benefits to the title insurance and settlement services industry. Elite Providers promote the highest industry standards and provide effective solutions for ALTA members' critical needs.

DocMagic offers ALTA members access to its SmartCLOSE portal and Total eClose solution at no charge. Additionally, set-up fees for DocMagic's eNotary and title document preparation tools are waived for ALTA members.

Get More Business During This Booming Purchase Market

The purchase origination market continues to sizzle in 2017, but is your company getting all the title orders it could be? Now's the time to reinvigorate your marketing efforts and snag market share by attending ALTA's Innovation Boot Camp, which will be held Aug. 23-24, in Baltimore at the Royal Sonesta Harbor Court. You'll learn from some of the top marketing, communications and sales experts in the industry.

Here's a look at the 10 sessions that will be offered:

- *Paid vs. Free Tools: Making the Most of Your Budget*
- *Emerging Tech & Safe Social Practices*
- *Telling Your Story (Better)*
- *More Communication, More Problems*
- *Reimagining Your Sales*
- *Updating Your Organization's Curb Appeal*
- *Be Creative With Marketing Not the Law*
- *Title Insurance & Cucumbers Don't Mix*
- *The Times (And Consumers Are A-Changin')*
- *More Referrals With Video*

ALTA's Innovation Boot Camps are $349+1 night in hotel for access to nine hours of marketing education, exposure to exciting new marketing/communication tools and ideas, and tremendous networking opportunities.

Bring the team! Register two and get a third registration free! Register two staff members and email *meetings@alta.org* for your free code.

ALTA has secured an Amtrak discount for those attending the Baltimore Boot Camp. Amtrak is offering a 10 percent discount off the best available rail fare to Baltimore from Aug. 20-27. The discount code is X19F-972. To book your reservation, call Amtrak at 800-872-7245 or contact your local travel agent. The discount cannot be used when booking online. This offer is not valid on the Acela Service or Auto Train.

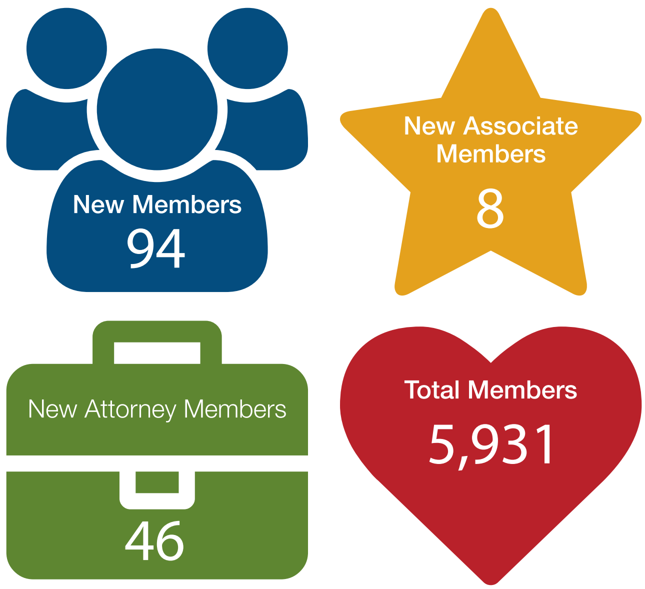
For more information, go to *meetings.alta.org/bootcamp/*.

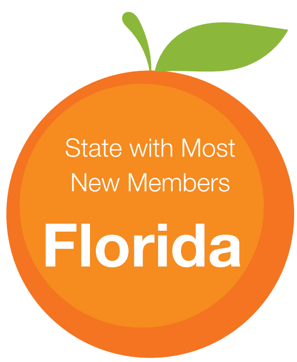
TIPAC Donors

TIPAC has received $460,315 from 733 donors so far in 2017. Check out who has supported the industry at www.alta.org/advocacy/tipac-contributors.cfm.

Membership By The Numbers

ALTA is the title insurance and settlement services industry resource for advocacy, education, communication and networking. Here's a look at some membership numbers over the past month.





For a list of the latest new and associate members, as well as real estate attorneys who recently joined ALTA, go to *www.alta.org/new-members*.

Membership Benefits

ALTA members have access to many business tools to help grow their companies. Make sure you're getting the most out of your membership. Here's an example of one member benefit.

- **Title Insurance and Settlement Company Best Practices:** ALTA created the Best Practices to help members highlight policies and procedures the industry exercises to protect lenders and consumers. You can access the Best Practices at *www.alta.org/bestpractices*.

The 2016 ALTA Commitment: Expressing Limitations on Liability

Update Streamlines Existing Features of the Commitment and Sets Out Many of the Fundamental Industry Assumptions

A significant change to one of the standard title insurance forms recently was approved by ALTA. The new 2016 ALTA Commitment both streamlines the existing features of the title insurance commitment and, for the first time, expressly sets out many of the fundamental title insurance industry assumptions underlying such commitments. The clear and laudable aim of this new form is more clarity, less misunderstanding, and therefore, a better relationship among the contracting parties. >>

By Christopher Smart

This article summarizes the changes to the form, with a particular focus on the important new notice and the express prescription on the title insurance issuing agent's limited role on behalf of the title insurer.

Background

On June 9, 2016, the ALTA Board of Governors approved recommendations to adopt new and revised forms, including the 2016 ALTA Commitment for Title Insurance, which was published in final form with an effective date of Aug. 1, 2016.

The 2016 ALTA Commitment is a more streamlined version of the 2006 ALTA Commitment. It contains important clarifications of the obligations between the title insurer, proposed insured and title insurance issuing agent.

You may recognize many of the changes as mere codifications of the existing standard, making clear the industry understanding of what a title insurance commitment is, what it does and why it is issued. However, the form's new terms are worth considering in some detail.

Notice

The most significant revision is the incorporation of a "Notice," prominently placed at the very top of the jacket of the 2016 ALTA Commitment. The Notice expressly sets forth that the 2016 ALTA Commitment is only an offer to issue the specified title insurance policy and not "an abstract of title, report of condition of title, legal opinion, opinion of title, or other representation of the status of title." In other words, the 2016 ALTA Commitment is simply the first step in the formation of a binding contract, the title insurance policy. The Notice further confirms that the procedures used by the title insurer in determining insurability, including any title search or examination, are for the benefit of the insurance company only.

The Notice is of particular significance because, previously, title insurance commitments had been asserted as the basis of tort claims against title insurers. Some courts have actually determined that a title insurance commitment could be the basis for a title insurer's liability in tort, if, for example, a title encumbrance or defect of record was not listed in the commitment. The error in this determination is that it is premised on the fundamental misconception that a commitment is designed to disclose the state of title, including all title encumbrances and defects of record, to the proposed insured.

Commitments are not, of course, designed to disclose the state of title, and title insurers are not engaged in the business of abstracting title, issuing legal opinions of title or making any representations as to the state of title.

Instead, title insurance is best thought of as the process by which a title insurer comes to determine the risk of, and premium for, issuing a policy of title insurance that will provide the insured with a defense and possible indemnification in the event that title is not as insured, pursuant to the terms, conditions and stipulations of the policy that is ultimately issued. Thus, commitments have always only been, as the 2016 ALTA Commitment now expressly states, an offer to issue a policy to a proposed insured if the conditions of the commitment are met.

> The 2016 ALTA Commitment is a more streamlined version of the 2006 ALTA Commitment. It contains important clarifications of the obligations between the title insurer, proposed insured and title insurance issuing agent.

Importantly, an offer to issue a title insurance policy and the policy itself are not warranties or guaranties that title is as set forth in the offer (commitment) or the ultimate contract (policy). Instead, the policy is a contract of indemnification and expressly contemplates the obligations of the insured and

American Land Title Association | Commitment for Title Insurance Adopted 08-01-2016

COMMITMENT FOR TITLE INSURANCE
ISSUED BY
BLANK TITLE INSURANCE COMPANY

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

insurer in the event there is an allegation that title is not as insured. For example, title insurance policies impose specific notice obligations on the insured in the event of a claim and also provide the insurer with a range of options on how to address a claim, including defending, curing or paying diminution in value.

In other words, the title insurance policy that is the end result of the offer contained in the title insurance commitment, far from warranting that title is as insured, expressly contemplates the possibility that title will not be as insured and then sets forth the parties' contractual obligations under those circumstances.

It is not difficult to understand why an insurance industry that calculates its insurance premiums based on potential limited contractual liability arising from the risk of a recorded encumbrance or defect was concerned to correct misinterpretations of its contractual offer to issue title insurance as representation of title that could open insurers to potentially unlimited tort damages.

It is an important goal for the title insurance industry and for all of the participants in the residential and commercial real estate industry, as title insurance is what allows real estate professionals to close real estate transactions efficiently, affordably and with confidence.

The Commitment

The 2016 ALTA Commitment is comprised of the Notice, Schedule A; the Requirements in Schedule B, Part I; the Exceptions in Schedule B, Part II; and the Commitment Conditions. Each part of the 2016 ALTA Commitment is required for it to be effective and, in particular, the amount of insurance and the name of the proposed insured must be included in Schedule A before it becomes effective.

The 2016 Commitment expressly states that it terminates within six months of the effective date if the requirements in Schedule B, Part I are not met before that time. The 2016 ALTA Commitment conditions, discussed below, also go on to state that if the Schedule B, Part I requirements are not met within this time, then the insurer's obligations and liability terminate along with the commitment.

The Commitment Conditions

- **Definitions:** The 2016 ALTA Commitment now contains definitions of certain key terms such as "Knowledge," "Land" and "Public Records," which will prove helpful to anyone reading it, including proposed insureds.

- **Counter-signature:** The condition that the commitment be counter-signed by the insurer or the insurer's title insurance issuing agent had always been expressed simply in the fact of the authorized signature block, but the 2016 ALTA Commitment Conditions now expressly state this requirement.

- **Right to Amend:** The 2016 ALTA Commitment now also expressly states the insurer's right to amend the commitment at any time to add defects, liens, encumbrances, adverse claims or other matters recorded in the official records and places detailed and specific limitations on any possible liability to the proposed insured in the event of such an amendment.

- **Limitation on Liability:** The 2016 ALTA Commitment also expressly limits liability of the title insurer by providing that only the identified proposed insured is entitled to make a claim pursuant to the commitment, that such claims must be in contract pursuant to the terms and provisions of the commitment, that the commitment is the entire agreement between the parties until the policy is issued (at which point the obligations and liability under the commitment terminate), that any modifications must be in writing, and that any modifications to Schedule B, Part II Exceptions will not require the insurer to provide coverage beyond the commitment or the policy.

The Title Issuing Agent

In many jurisdictions, a closing agent, in addition to acting as the closing and escrow agent for the parties, can also serve in the limited capacity as title insurance issuing agent for the insurer.

Although the independent title insurance agent relationship is frequently set forth in a written agency agreement with the insurer that strictly limits the scope of the agent's authority on behalf of the insurer, the parties to the transaction often subsequently allege that the agent was the insurer's agent for all purposes.

Those allegations, like the allegations of tort liability for misrepresentations in the commitment, have the potential to give rise to extra-contractual and potentially unlimited liability for insurer, given that closing agents have a duty to close a transaction in a reasonably prudent manner and their liability arises in negligence.

In order to address this problem, the 2016 ALTA Commitment affirmatively states that the title insurance issuing agent is the insurer's agent only for that purpose and not the insurer's agent for the purpose of providing closing or settlement services.

Thus, this provision should help to clarify one of the most frequently misunderstood roles in any real estate transaction and end title insurers' potential for liability for providing closing services, when they do not contract and are not paid for those services.

Christopher Smart is a shareholder with the law firm Carlton Fields. He represents national title insurance companies, lenders, creditors, and a broad array of real estate owners, developers and investors. Smart can be reached at csmart@carltonfields.com.

ALTA Board Approves Revisions to Co-insurance Endorsement, Arbitration Rules

During its 2017 Summer Meeting, ALTA's Board of Governors approved revisions to ALTA Endorsement 23.1-06 (Co Insurance – Multiple Policies) and the ALTA Title Insurance Arbitration Rules.

The co-insurance endorsement describes how multiple co-insurance policies are structured. Co-insurance endorsements are often issued in commercial transactions involving multiple policies and properties. However, comments have been made that the existing ALTA Endorsement 23.1-06 (Co-Insurance – Multiple Policies) is not sufficiently clear, and needs to be further revised to address the need for separate Aggregation Endorsements for each co-insurer where multiple policies are issued, and ensure that the liability of each co-insurer is separately aggregated.

The endorsement as adopted does not make substantive changes to the endorsement as adopted Aug. 1, 2016, but does make some modifications, primarily in paragraph two. The endorsement as revised states that the liabilities of the issuing co-insurer and each co-insurer may be aggregated by separate Aggregation Endorsements (the ALTA 12 Series) issued by each of the co-insuring companies.

This endorsement also recognizes that the policy liability of each of the co-insuring companies may not be aggregated with policy liabilities assumed by any other co-insuring company.

Arbitration Rules

The ALTA Title Insurance Arbitration Rules were originally adopted in 1987 and revised in 2000 and 2006. The 2006 amended rules incorporated the Code of Procedure of the National Arbitration Forum (NAF). The NAF has been operating under a consent agreement with the Minnesota Attorney General to cease/desist consumer arbitrations since 2009. The NAF continues to administer commercial arbitrations, but does not administer consumer arbitrations.

The approved revised rules incorporate the Consumer Arbitration Rules and Commercial Arbitration Rules of the American Arbitration Association (AAA), and provide for designation of an arbitrator under The Federal Arbitration Act (FAA) should the AAA be unavailable.

ALTA has also engaged arbitration counsel to advise the Forms Committee about the current legal and regulatory environment with respect to mandatory arbitration and class-action arbitrations. The revision includes an explicit prohibition on class arbitrations. The rules were silent on this before.

The changes go into effect Aug. 1, 2017.

To access all of ALTA's forms, go to *www.alta.org/forms*.


Go ABOVE and
BEYOND

Big Four Underwriters Open 2017 With Strong Financial Results

Fidelity Plans to Make Larger Acquisitions in Effort to Expand Market Share in Various States

The first quarter of 2017 became the ninth consecutive quarter the title industry generated an increase in title insurance premium volume. During the first three months of the year, title premium volume increased 10 percent to $3.3 billion.

Here's a look at individual family earnings results:

Fidelity

Fidelity National Financial reported that its title segment generated $151 million in pre-tax earnings during the first quarter of 2017. This compared to $121 million in pre-tax earnings during the same period a year ago.

Additionally, the adjusted pre-tax earnings of $175 million for the title segment were the largest amount recorded in the history of the company.

"This was another strong quarter for our title operations," said Randy Quirk, chief executive officer of Fidelity National Financial. "We expected the residential purchase and commercial markets to drive our performance in 2017, and they did just that in the first quarter. We expect seasonal acceleration in the title business over the next few quarters and look forward to continued strong, industry-leading performance from our title insurance business."

During the first quarter of 2017, Fidelity's direct operations opened 472,000 orders and closed 334,000 orders. During the same period in 2016, the company opened 517,000 orders and closed 322,000.

Fidelity's title segment paid $52 million in claims during the latest quarter. This held steady compared to the first quarter of 2016.

Fidelity's direct and agency channels both grew by 10 percent compared to the first quarter of 2016. On the agent side, Quirk said that $85 million (19 percent) of agency premiums was generated by agents signed after January 2015. Fidelity Chairman Bill Foley added that the company expects to continue its penetration in the agent channel by developing additional systems to be more competitive in the marketplace.

When asked about potential acquisition possibilities, Foley said. "We're not going to stray from the basic goal of remaining a title insurance-based business."

"So it's going to be acquisitions in those areas, plus some agency acquisitions, larger agency acquisitions," Foley said. "We're going to try and stay away from the $1 million and $2 million and $3 million acquisitions, but look to larger acquisitions that will expand our market share in various states, which may be under-served by other underwriters."

He added that Fidelity is developing an end-to-end software program that would help the company control the transaction from the time a real estate agent gets a listing to when a lender becomes involved and the transaction closes.

"It's not going to happen overnight," Foley said. "But we do have it underway, and it's an area of focus for us. And frankly, we believe over the next two years or three years ... it's a disrupter in the marketplace."

In March, Fidelity completed the redomesticating of its three major underwriters—Chicago Title Insurance Co., Fidelity National Title Insurance Co. and Commonwealth Land Title Insurance Co.—to Florida.

First American

First American Financial reported that its title insurance and services division posted pre-tax income of $98.2 million during the first quarter of 2017. This is up from $87.7 million during the same period a year ago.

"The year is off to a good start, with total revenue up 10 percent," said Dennis Gilmore, chief executive officer at First American Financial. "While refinance headwinds remain, our purchase business is performing well as we move into the spring selling season, with the average fee per file continuing to show strong growth. Conditions remain good in our commercial business, with revenues up 2 percent from last year. The market outlook, combined with our continued operating efficiency, positions us well for 2017."

During the first quarter of 2017, First American opened 259,600 direct orders and closed 191,300 orders. The company opened 302,900 direct orders during Q1 2016, while closing 193,100 orders.

Meanwhile, the company paid $51 million in claims during the latest quarter. This is down from $56.7 million during Q1 2016. The provision for policy losses and other claims was $39.9 million in the first quarter of 2017.

"We reduced our title loss provision rate this quarter to 4 percent, which reflects the expected claim losses for the 2017 policy year," Gilmore said. "We lowered the rate in light of favorable economic conditions, the current strength of our reserves, our improved claims experience over the past few years, and process improvements in the company's underwriting and claims practices."

Personnel costs were $384.8 million in the first quarter, an increase of $29.8 million. This is up 8 percent compared with the same quarter of 2016. First American reported that the increase was driven by the impact of recent acquisitions, higher salary expense due to annual merit and other salary increases, and an increase in incentive compensation as a result of higher revenue and profitability.

Old Republic

Old Republic International reported that its title segment posted pre-tax income of $40.4 million during the first quarter of 2017. This compares to pre-tax income of $21.4 million during the same quarter a year ago.

In a release, the company said that the continued generally positive mortgage rate environment and reasonably strong housing and commercial property markets were major factors in the 9.2 percent year-over-year gain in premiums and fees.

During the first quarter, the title segment paid $11 million in claims. This is down from $24.3 million in claims paid during Q1 of 2016.

"On the expense side of the ledger, claim costs were lower in the face of declining claims activity since the Great Recession years," the company said in a release. "Favorable developments of reserves established in prior years reduced the 2017 claim ratio by nearly 2 percentage points."

Stewart

Stewart Information Services reported that its title segment posted pre-tax income of $12.3 million during the first quarter of 2017. This was a $13 million improvement compared to the same period a year ago.

"First quarters are traditionally the weakest of the year for the title industry, and we are encouraged with the progress achieved by our title segment," said Matthew W. Morris, Stewart's chief executive officer. "We remain focused on generating core title revenue growth in target markets and are investing as necessary in initiatives to that end. We believe that smart revenue growth coupled with further production cost efficiency will yield sustainable margin improvement."

Stewart's direct operations opened 100,744 orders during the first quarter of 2017, while closing 69,934. Last year during this time, the company opened 107,326 and closed 74,643. The majority of the decline in opened orders was due to the overall drop in refinance activity.

During the latest quarter, Stewart paid $20.7 million in claims. This compared to $23 million during the first quarter of 2016.

"We continued to benefit from our emphasis on prudent underwriting and risk management, with the first quarter's title loss ratio just below 5 percent, while employee and other operating costs declined 8 percent," Morris said. "We expect to continue seeing modest but sustainable volume and price increases in existing and new home sales driven largely by demographics and the emerging millennial homebuyers, which will further enhance margins going forward."

Industry

The title insurance industry generated $3.3 billion in title insurance premiums during the first quarter of 2017 compared to $3.0 billion during the first quarter of 2016, according to ALTA's 2017 First-Quarter Market Share Analysis. This is an increase of 10.4 percent year-over-year.

market share data

2017 First Quarter Market Share

	Premium Written Direct	Premium Written Non-Affliated Agency	Premium Written Affiliated Agency	Total Premiums Written	Market Share
FIDELITY FAMILY					
Chicago Title Ins. Co.	54,039,110	234,608,177	177,118,006	465,765,293	14.11%
Fidelity National Title Ins. Co.	32,960,421	225,575,270	154,043,135	412,578,826	12.50%
Commonwealth Land Title Ins. Co.	15,637,272	73,914,561	49,951,480	139,503,313	4.23%
National Title Ins. of NY	66,233	75,525	19,167,266	19,309,024	0.58%
Alamo Title Ins. Co.	-	4,478,270	12,017,612	16,495,882	0.50%
TOTAL - FIDELITY FAMILY	102,703,036	538,651,803	412,297,499	1,053,652,338	31.92%
FIRST AMERICAN FAMILY					
First American Title Ins. Co.	169,432,046	530,688,382	112,252,914	812,373,342	24.61%
First American Title Guaranty Co.	-	8,728,424	21,991,028	30,719,452	0.93%
First Canadian Title Ins. Co.	25,280,275	-	-	25,280,275	0.77%
First American Title Ins. Co. of LA	-	10,576,250	-	10,576,250	0.32%
TOTAL - FIRST AMERICAN FAMILY	199,947,077	553,789,026	134,243,942	887,980,045	26.90%
OLD REPUBLIC FAMILY					
Old Republic National Title Ins. Co.	22,218,735	430,686,405	41,998,936	494,904,076	14.99%
American Guaranty Title Ins. Co.	957,569	8,627,258	761,137	10,345,964	0.31%
TOTAL - OLD REPUBLIC FAMILY	23,176,304	439,313,663	42,760,073	505,250,040	15.31%
STEWART FAMILY					
Stewart Title Guaranty Co.	46,954,867	183,254,536	81,079,626	311,289,029	9.43%
Stewart Title Ins. Co. of NY	9,127,052	33,887,623	46,289	43,060,964	1.30%
TOTAL - STEWART FAMILY	59,680,880	217,142,159	81,125,915	357,948,954	10.84%
FAMILY TOTALS					
TOP INDEPENDENT COMPANIES					
Westcor Land Title Ins. Co.	854,850	105,437,359	10,887,056	117,179,265	3.55%
WFG National Title Ins. Co.	7,633,771	69,297,726	13,967,231	90,898,728	2.75%
Title Resources Guaranty Co.	921,499	29,508,526	38,168,505	68,598,530	2.08%
North American Title Ins. Co.	-	33,919,960	23,677,603	57,597,563	1.74%
Alliant National Title Ins. Co.	3,879	29,644,748	-	29,648,627	0.90%
Investors Title Ins. Co.	9,220,573	16,818,646	259,626	26,298,845	0.80%
Connecticut Attorneys Title Ins. Co.	-	22,274,487	-	22,274,487	0.67%
First National Title Ins. Co.	-	6,679,642	12,720,400	19,400,042	0.59%
Attorneys' Title Guaranty Fund of IL	-	12,881,035	-	12,881,035	0.39%
Security Title Guarantee Corp. of Balt.	-	10,898,957	-	10,898,957	0.33%
Land Title Ins. Corp. of CO	-	109,779	9,483,863	9,593,642	0.29%
TOTAL - INDEPENDENT COMPANIES	21,781,088	357,253,149	117,149,550	496,183,787	15.03%
TOTAL - ALL COMPANIES	**407,288,385**	**2,106,149,800**	**787,576,979**	**3,301,015,164**	**100.00%**

Note: Individual numbers do not equal totals as not all companies are shown. *Source: ALTA*

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Upfront Fee Disclosures Still a Major Pain Point in Mortgage Process

BY JIM PAOLINO

It's been nearly two years since the "Know Before You Owe" regulations went into effect, marking the largest change to the mortgage and closing process in over 30 years. Many reports have indicated stabilization across the industry with the average closing time returning to 43 days. However, major pain points in the new TILA-RESPA Integrated Disclosure (TRID) process remain. The cost to originate loans is at an all-time high, and there remains a large percentage of defects preventing loans from being resold on the secondary market. Many of these problems are caused in the beginning of the process by companies failing to accurately quote closing costs.

Inaccurate Manual Processes

After a loan application is received, lenders have three days to provide the borrower with a Loan Estimate that includes closing costs and total charges paid during the life span of the loan. In spite of the fact that lenders do not control many of the costs on this form, they are still required to accurately disclose costs across the various service providers they work with throughout the closing process. Many lenders still rely on phone calls, emails, and in some cases, even fax requests to obtain closing costs for the necessary forms. Some continue to over-estimate the closing costs, hurting the consumer's ability to shop for the best provider.

Risks of Inaccurate Disclosures

Fees disclosed on the Loan Estimate must be within a certain tolerance of the final fees given to the consumer on the Closing Disclosure. Many fees, such as title insurance premiums and origination costs, need to be within 10 percent of the value originally disclosed. Some fees, such as the transfer taxes charged by state and local governments, need to match exactly what is disclosed. Incorrect fee disclosures can lead to closing delays, costly missed tolerances and mortgages that can't be resold. In many cases, lenders push the risk associated with fee disclosure to their settlement agents.

"Many of our lender clients utilize our online rate calculator for all loan applications they receive, regardless of which company eventually closes the loan," said Regina Braga, chief operating officer of Res/Title, a national title agent based in Rhode Island. "Having a settlement agent that stands behind a quote provides peace of mind when providing the Loan Estimate to the consumer."

Consequences

If a fee falls out of tolerance, several things can happen, hurting all parties

CFPB Continues to Delay Release of Finalized TRID Amendments

In its latest semi-annual report, the CFPB) reported that it expected to finalize its proposed amendments to the TILA-RESPA Integrated Disclosures rule in mid-2017. That point has come and gone.

ALTA does not expect the bureau to make an announcement until late in 2017 despite having proposed amendments to TRID a year ago. According to the CFPB, the proposed changes correct technical problems, add clarity and incorporate informal guidance provided by the bureau in webinars into the official staff commentary. The CFPB said it did not intend to revisit major policy decisions in this rulemaking. Because of this, the proposed changes do not correct the inaccurate disclosure of title insurance premiums.

involved. In some cases, lenders must re-disclose fees to the consumer in a new Closing Disclosure, restarting the seven-day waiting process and further delaying the closing. In other cases, lenders or settlement agents must reimburse the consumer if the actual costs are above those originally quoted. These costs of missed tolerances—sometimes in the thousands of dollars—eat into increasingly thin profits across the industry and can become very costly if repeated for multiple files. Fees falling out of tolerance between the Loan Estimate and Closing Disclosure can also be flagged as TRID errors and make loans unable to be resold on the secondary market.

Fixing the Issue Up Front

Despite all the issues surrounding upfront fee disclosure, lenders are not taking advantage of the tools readily available to accurately quote closing costs. It is an easy problem to solve using data aggregators and closing cost calculators. These tools allow lenders to quote accurate, guaranteed fees as soon as a loan application is received. Lenders can set up their settlement service providers proactively, eliminating the need for phone calls and fee requests via email. By integrating these tools in their Loan Origination systems (LOS), lenders can minimize both the time needed by their staff to process loans and the risk of manual errors. Like most things, it pays to get it right the first time.

Jim Paolino is CEO and founder of LodeStar Software Solutions, a provider of compliance solutions for the mortgage and title insurance industries. He can be reached at *jpaolino@lssoftwaresolutions.com*.

Three More States Pass Predictable Recording Fee Bills

Illinois, Louisiana and Nevada became the latest states to enact legislation for predictable recording fees, which helps facilitate fee accuracy and compliance with the TILA-RESPA Integrated Disclosures rule.

Adoption of flat recording fees helps settlement agents provide more accurate recording fees upfront and help reduce lender liability if fees change substantially on the Closing Disclosure. Recording fees fall into the bucket of fees that can't change more than 10 percent from the Loan Estimate to the Closing Disclosure.

In Illinois, HB 3036 takes effect Jan. 1, 2019. The law creates a flat-fee structure on a county-by-county basis for five document classifications and eliminates surcharges or fees based upon the individual attributes of documents to be recorded with the county recorder. The legislation requires an analysis of the average fees collected for the recording of each of the document classifications based upon the three previous years of data. It also requires cost studies to justify increases going forward.

Louisiana's SB 236 creates a uniform filing fee that its clerks shall charge for recording land documents, inclusive of indexing and certification. Previously, the law provided that clerks could charge $25, plus $8 or $10, depending on length of document, for each subsequent page and $5 for each name after the first name that must be indexed. This fee structure led to great uncertainty in calculating filing costs, parish to parish and transaction to transaction. The bill, which awaits the governor's signature, goes into effect Aug. 1, 2017.

In addition, documents to be recorded in Louisiana may be on 8½-by-11-inch or 8½-by-14-inch paper and the recording fee shall be the same regardless of which size paper is used. For any other size paper, there will be an additional $20 charge per page. Every document filed for recordation shall be captioned as to type of act on the first page, and shall have on the first page a margin of two inches at the top and one inch at the bottom and sides. The type size shall not be less than eight point.

In Nevada, AB 169 revises the fees collected for recording certain documents and eliminates the additional fee for recording documents that do not meet certain requirements. Now, recorders shall charge a base fee of $25 for recording a document. With additional fees as provided for in the Nevada Revised Statues, the full recording fee will be $38 or $35 depending on the county. Previously, there was a fee for the first page, charges for each additional page and a separate fee for recording portions of each document that needed to be indexed separately. The bill goes into effect Oct. 1, 2017.

Other jurisdictions adopting predictable recording fees include Arizona; Idaho; Indiana; Maryland; Massachusetts; Michigan; Minnesota; New Mexico; North Carolina; North Dakota; South Dakota; Texas; Washington, D.C.; Wisconsin and Wyoming.

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Report Shows TRID Responsible for Over 68 Percent of Reported Loan Defects

Top Three Issues Involve Disclosures Not in File for Review, Timing of Borrower Receipt of Closing Disclosure and Fee Tolerance Violations

Over 68 percent of loan defects reported in 2016 involved TILA-RESPA Integrated Disclosure (TRID)-related issues, according to the latest mortgage quality control trends report from ACES Risk Management (ARMCO).

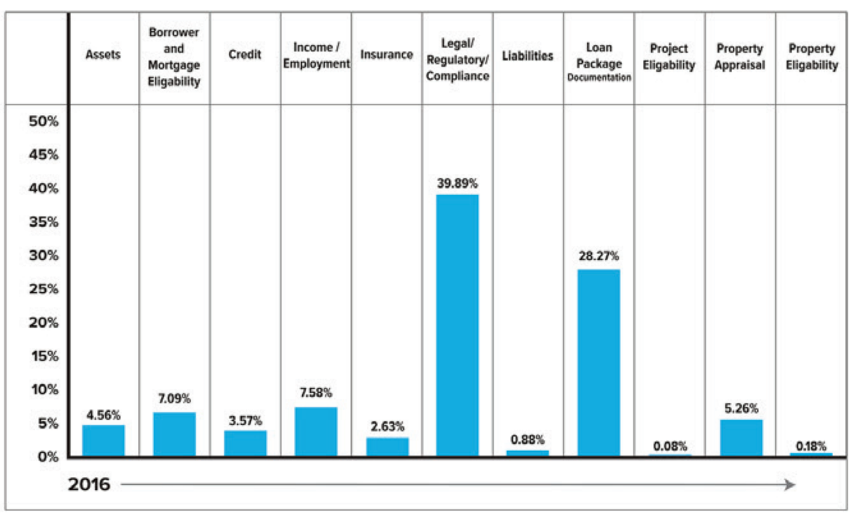
According to the report, legal, regulatory, and compliance issues plus loan package documentation were the leading defect categories in 2016.

The ACES Analytics benchmarking dataset includes post-closing quality control data from over 65 lenders, comprising more than 75,000 unique loans selected for random full-file reviews. Defects are categorized using the Fannie Mae loan defect taxonomy. Data for any given calendar quarter is analyzed approximately 90 days after the end of the quarter, to allow for sufficient elapsed time for the post-closing quality control cycle to be completed.

Loan package documentation, which has long been one of the top defect categories, continues to be a recurring problem for the lending community. In most cases, while defects related to loan package documentation rarely result in actual non-saleable loans, the ability to cure these defects with little to no financial impact continues to hinder the needed corrective action to significantly reduce these defects. The same cannot be said about the defects associated with legal, regulatory and compliance issues, according to ARMCO.

In 2016, the entire lending industry was impacted by the enhanced regulatory oversight from the Consumer Financial Protection Bureau (CFPB) as the long-awaited implementation of TRID was fully realized. Many lenders spent the better part of the first quarter of 2016 addressing the multitude of mistakes associated with TRID. In some cases, this resulted in originating loans that

Defect Rates by Fannie Mae Category, 2016



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were not salable on the secondary market.

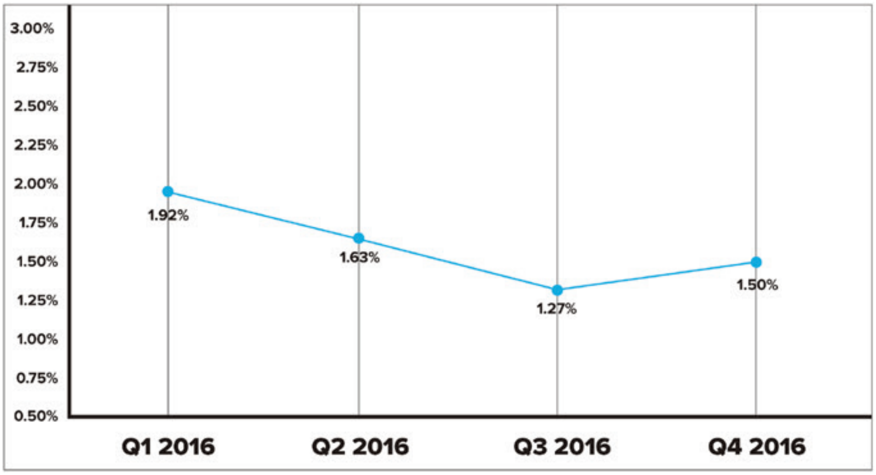
A wave of corrective action followed, and soon the sheer amount of resources directed at solving these issues became overwhelming for many lenders. In closing out 2016, legal, regulatory and compliance defects still held the lead of all defect categories. However, the number of critical defects associated with TRID had dropped significantly. The top three TRID-related defects for 2016, as reported in conjunction with post-closing quality control reviews, are:

1. Final Loan Estimate and/or Closing Disclosure not in file for review
2. Timing of borrower receipt of Closing Disclosure
3. Fee tolerance violation with invalid change of circumstance

Although TRID was officially implemented on Oct. 3, 2015, its effects took hold in the post origination world in early 2016. As lenders, investors, insurers and warehouse lenders focused TRID-related efforts primarily on protecting themselves against potentially non-salable loans, post-closing quality control teams at lenders worked feverishly to identify all TRID defects and initiate the appropriate corrective action throughout the process.

Much of lenders' Q1 2016 efforts were driven by trial-by-fire efforts, according to ARMCO. As such, changes in their processes, people and systems happened almost daily, which led to a spike in the industry's critical defect rate. As the year progressed, ARMCO reported, the industry gained a better understanding of TRID's impact, identifying which TRID defects were severe enough to make a loan non-salable, and which were relatively minor and curable. This led many lenders to reclassify TRID defects from critical severity to non-critical severity categories. As a result, the industry's overall critical defect rate trended downward throughout the first three quarters of 2016, ARMCO's trends report showed. In Q4 2016, there was a slight uptick driven by a shift to the purchase market. Barring other changes that lower the critical defect rate, ARMCO expects to see increased defects associated with a purchase-driven market.

Critical Defect Rate, Q1 2016 – Q4 2016



"The data suggest lenders are getting more adept at complying with critical TRID-related issues. However, new areas of concern are beginning to spring up and an early correlation can be linked to a more purchase-focused market," said Phil McCall, COO of ARMCO. "Lenders need to learn from their own defects if they want to protect themselves against compliance-related issues, but they also need to stay apprised of changing trends if they want to mitigate the increased risk of fraudulent activity that is inherent with a purchase-driven market."

Additional industry data associated with to the mortgage funding side, suggests that purchase-related defects have already increased. According to an April report published by First American, loan defects overall have increased 8 percent from a year ago. First American's report shows that the defect index for purchase transactions is up 7.2 percent from a year ago, while defects for refinance transactions is 3.1 percent higher than a year ago.

"Part of the rise in overall risk is due to the market's shift toward riskier purchase transactions, but the fact that risk in refinance transactions is also on the rise underscores the need for caution," said Mark Fleming, chief economist for First American Financial.

How's TRID Going?

ALTA would like to know how TRID compliance is going in your market. You can email comments to *communications@alta.org*.

HOMEBUYER OUTREACH PROGRAM

INTRODUCING THE HOP BOX!

ALTA's new HOP Box is a tool for title agents, underwriters, state land title associations and others to highlight the great materials available in the ALTA Homebuyer Outreach Program.

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- **Rack Card**
- **Manifesto**
- **Business Cards**
- **ALTA Prints Ad**
- **Marketing Flyer**
- **House Magnet**
- **Table Top Easel**

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Each HOP Box costs **$120**. (*Multiple box discounts are available.*)

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New Florida Law Aims to Rein In HOAs

Makes It Easier to Obtain Info Prior to Closing

BY LINDSEY GORDON

The passage of a new law is causing rounds of slow-claps and general cheers from real estate and title professionals across Florida. Nicknamed the "Florida Estoppel Bill" (HB 483 & SB 398), the resulting changes to Florida Statutes 718.116, 719.108, and 720.30851 (relating to condominium associations, cooperatives and homeowners' associations, respectively) place stricter requirements on associations. These changes make it quicker, easier and less expensive to obtain necessary information before a closing.

Florida is saturated with homeowners' associations and condominium associations. In fact, according to the Community Associations Institute's most recently reported data (2015), about 9.4 million Florida residents are governed by one or more associations, which means roughly 46 percent of all Florida residents.

In Florida, we call them estoppel certificates, or just estoppels, but you may be more familiar with the terms "HOA certificate," or "HOA information." As a matter of due diligence, the closing agent will order this information from the governing associations. The estoppel certificate provides a snapshot of what's owed to the association, which typically includes when assessments are due and if there are any delinquent assessments.

Up until now, those associations could charge whatever they felt was "reasonable" for this information. At PropLogix, we commonly saw estoppel fees topping $700 dollars for one association. The new law now caps the fee at $250, or up to $400 if the property has delinquent assessments. The law also reduces the turnaround time to produce the estoppel from 15 days down to 10, and if the association doesn't meet that deadline, it can't charge for the information at all.

Other important changes:

- It dictates exactly what must be included in an estoppel certificate. This will hopefully standardize the request process by providing a format for the information that must be furnished, which has never been clearly accounted for in Florida law.
- Each association must designate a recipient for estoppel certificate requests on its website with that recipient's contact information.
- Estoppel rush fees can't exceed $100. Previously, we typically saw $200-$300 rush fees on top of the regular cost to provide the information.
- Fees are capped for estoppel certificates for multiple units with the same owner that are simultaneously requested, provided there are no past due monetary obligations.
- Associations waive the right to collect any money owed if it wasn't included on the estoppel, and that estoppel certificate was relied upon in good faith.
- Estoppel information must have a 30-day effective period (35 if sent by regular mail).

For closers in Florida, discovering the appropriate association to contact, much less dealing with associations and management companies, can be extremely difficult and time consuming. It's why so many people outsource the work. We hope that at the end of the day, this change helps all the parties involved in the closing.

Florida Gov. Rick Scott signed the bill into law on June 14. The legislation went into effect July 1.

Lindsey Gordon is the marketing director for PropLogix, which offers municipal lien searches, surveys, association estoppels and payoff tracking . She can be reached at *lindsey.gordon@proplogix.com*.

DocuSign Confirms Hackers Gain Access to Email Addresses

Emails May Be Used to Target Wire Transfers

DocuSign confirmed in May that a malicious third party gained temporary access to a "non-core system" allowing it to steal email addresses.

According to DocuSign, non-public personal information was not accessed:

A complete forensic analysis has confirmed that only email addresses were accessed; no names, physical addresses, passwords, social security numbers, credit card data or other information was accessed. No content or any customer documents sent through DocuSign's eSignature system was accessed.

DocuSign reported that its core e-signature service, envelopes and customer documents and data remained secure.

This confirmation followed an announcement by DocuSign that it detected an increase in phishing emails sent to some of its customers and users. The spoofed emails, branded to look like they came from DocuSign, attempted to trick recipients into opening an attached Word document that, when clicked, install malicious software.

The email addresses may be used to target those handling wire transfers. DocuSign recommended the following steps to ensure security:

- Delete any emails with the subject line, "Completed: [domain name] – Wire transfer for recipient-name Document Ready for Signature" and "Completed [domain name/email address] – Accounting Invoice [Number] Document Ready for Signature". These emails are not from DocuSign. They were sent by a malicious third party and contain a link to malware.
- Forward any suspicious emails related to DocuSign to spam@docusign.com, and then delete them from your computer. You should be suspicious of any email purporting to be from DocuSign if you don't recognize the sender, weren't expecting a document to sign, notice misspellings (like "docusgn.com" without an 'i' or @docus.com), or receive attachments or links that direct you to a web address that starts with anything other than *https://www.docusign.com* or *https://www.docusign.net*.
- Ensure your anti-virus software is enabled and up to date.

Additional tips

- Be wary of emails that ask you to view or download files from people you do not know.
- Also be cautious of emails that ask you to view files on services that you do not subscribe to.
- Hover your mouse over the URL of links contained in emails to check their destination address. Don't click suspicious links. To log into a service, open a new web browser and type in the URL manually.
- Be wary of services that ask you to provide log-in credentials for a number of different email providers. This is a trick scammers use to widen their phishing net, allowing them to steal user details.

Additional Resources

- ALTA Information Security page: *www.alta.org/business-tools/*

Earning Professional Designation Shows Industry Pride

David A. Townsend

Company: Agents National Title Insurance
Title: President, CEO
City/State: Columbia, Mo.
Data of NTP Designation: May 2013
Industry Experience: 15 years

Get Your NTP

The NTP designation recognizes title professionals who demonstrate the knowledge, experience and dedication essential to the safe and efficient transfer of real property. Learn more at *www.alta.org/ntp*.

Why did you become an NTP?

I became an NTP because I wanted to support ALTA in promoting the program and to affirm my standing as an expert and a professional in the industry. The designation also lifts the reputation of the industry by highlighting everything it takes to be active and successful in our industry.

Why should others get a NTP?

It shows that you truly care about being an integral part of our industry and that you are willing to give back. It is not an easy designation to attain. It will show your pride in the title industry.

How have you used the NTP designation to advance your career or promote your business?

I include it on my signature line and company promotional materials. We promote the designation with our agents. I feel we stand out because of the NTPs in our company.

How does being an NTP advance your career?

I feel that I stand apart and that others look to me as someone who is involved and knowledgeable in our industry. I am part of a select group that has met the standards to become an NTP.

Who do you think should get their NTP?

Every ALTA member should strive to get their NTP. I have never regretted my involvement in ALTA and the knowledge and friendships I have gained. Any professional who wants to further their career in the title and settlement industry should apply.

How did you get into the industry?

I started in the industry working for a large agent in Missouri. Eventually, I founded Agents National Title and then became involved in ALTA.

What is your best professional trait?

I am very outgoing and able to make connections and network. Creative problem solving is a strength.

What do you see for the future of the industry?

I see a lot of change in the next few years. Technology will speed up how we operate and also how compliance is monitored. I see a lot of smaller agents benefitting from advances in hosted systems and it will allow them to adapt and to compete. I also see consolidation throughout the marketplace.

Fannie, Freddie Accept E-recorded Mortgage Copies Rather Than Wet-signed Docs

Fannie Mae and Freddie Mac both recently announced they would accept copies of electronically recorded mortgages rather than original wet-signed documents.

In its bulletin, Freddie Mac said that in response to feedback it removed the requirement that a seller/servicer retain the original paper security instrument signed by the borrower if an electronic (as defined in Section 1401.2) copy of the original security instrument is electronically recorded at the recorder's office, as long as:

- *The seller securely stores (with the other e-mortgage file documents) either (1) the electronically recorded copy of the original security instrument or (2) the recorder's office other form of recording confirmation with the recording information thereon, and*
- *Applicable law does not require storage of the original security instrument signed by the borrower*

According to Freddie Mac, "Removing this requirement addresses one of the barriers for e-mortgage adoption in the industry, permitting more mortgage file documents to be electronic and reducing some storage costs for seller/servicers."

Fannie Mae says that electronic records may be delivered as part of an electronic transaction by the seller/servicer to the servicer, document custodian or Fannie Mae, or by a third party, when one is involved.

"All electronic records for mortgage loans sold to or serviced on behalf of Fannie Mae must comply with all applicable requirements and standards set forth or referenced in ESIGN and, if applicable, UETA as adopted by the state in which the subject property secured by the mortgage loan associated with the electronic record is located," according to Fannie Mae.

Here are the sources if you need verification to share with your lender partners:

- *Fannie Mae: Section A2-5.2-01 of its Servicing Guide*
- *Freddie Mac Bulletin: Chapter 1401.14 of Seller/Servicing Guide*

ePN Adds 12 Counties to E-recording Network

eRecording Partners Network (ePN) recently added 12 jurisdictions to its electronic recording network in April. These county additions are located in Connecticut, Georgia, Louisiana, Minnesota, Missouri, New York, North Carolina, Ohio, Oregon and Wisconsin. The ePN Team continues to work with recorders to integrate their electronic recording technology with the counties' land record systems.

County additions include:

- *Town of Cheshire, Conn.*
- *Wayne, Ga.*
- *Iberville, La.*
- *St. Charles, La.*
- *Union, La.*
- *Murray, Minn.*
- *Atchison, Mont.*
- *Schenectady, N.Y.*
- *Henderson, N.C.*
- *Lucas, Ohio*
- *Sherman, Ore.*
- *Fond du Lac, Wis.*

Texas, Georgia Title Companies Join Forces

Georgia-based Liberty Title and Texas-based Allegiance National have merged into one national title processing company known as Elevated Title, effective immediately.

"The addition of Allegiance National and its team members provides Elevated with leadership and industry knowledge that is unmatched," said Sally Farrar, CEO of Elevated Title.

Elevated Title is licensed to conduct business in 48 states and has locations in Georgia, Texas and Utah. Liberty Title was founded in 2002 in Kennesaw, Ga.

In addition to Farrar as CEO, Kelly Ogden will serve as president, with Dan Gaudreau as executive vice president of national operations, Brian Lemke as executive vice president of national sales and marketing, and Corey Hulbert as executive vice president of business development.

Accenture Acquires BeesPath's ClosingBridge Platform

Accenture has extended the capabilities of its Mortgage Cadence subsidiary with the acquisition of BeesPath Inc.'s ClosingBridge platform, which facilitates communications and file exchange for real estate finance transactions.

The ClosingBridge platform will be provided under the Mortgage Cadence product suite and will eventually be branded as Collaboration Center. In its first phase, the platform—which manages the communications between borrowers, co-borrowers, real estate agents, sellers, attorneys, lending staff, title agents and settlement agents on mortgage transactions—will be offered as a standalone product. In subsequent releases, Collaboration Center will be incorporated into Mortgage Cadence's existing product portfolio.

Todd Hougaard, president of BeesPath, will join the Mortgage Cadence team to help speed the integration and spearhead product advancement going forward.

"Taking an innovative approach to a long-standing challenge in mortgage—unsecure communications involving borrower data and information—BeesPath has created an elegant, all-digital solution that securely connects all parties involved in the closing process," said Michael Detwiler, Mortgage Cadence's chief executive officer. "ClosingBridge is another strategic addition to our forward-looking Mortgage Cadence platform."

Black Knight Launches Municipal Lien Search Solution

Black Knight Financial Services introduced a new solution that helps find liens that are not included on property reports and are outside the scope of title insurance coverage. Examples of these types of liens include county debts, code and force violations, waste, water and sewer.

Through access to significantly greater property and tax data than can be pulled from a traditional online title search, Black Knight reported that its Municipal Lien Search solution can quickly help identify outstanding property liens, violations, assessments and more that would fail to show up in a standard title search.

N.Y.-Based Startup Title Company Receives $4.5M in Venture Funding to Fuel Expansion

New York-based startup title company Spruce received $4.5 million in financing as it plans to expand across the United States by the end of the year.

Spruce was founded by two former employees of Betterment, a wealth management company. Patrick Burns, former product manager at Betterment, is the company's chief executive officer, while Andrew Weisgall, former head of data science at Betterment, is the chief operating officer at Spruce. The company raised the $4.5 million in its Series A financing primarily from Bessemer Venture Partners, Omidyar Network and Third Prime Capital.

In a blog post, Burns said Spruce will apply technology with a customer-centric focus to deliver a "new kind of title and closing service."

"Title companies are far less efficient than they could be at doing that work," Burns wrote on his blog. "The research, processing, escrow and closing that comprise a title company's role in ensuring and insuring that a real estate transaction is legally effective are often extremely manual, paper-based processes. That means they're more costly than they need to be, more error prone, subject to increasing amounts of fraud, and provide a slower and more opaque process for borrowers than might otherwise be possible."

Currently, the company operates in 11 states.

SLK Global Unveils Single Platform for Property and Tax Reports

SLK Global Solutions announced the ability to order property searches and property tax reports from within a single integrated platform.

Title agents and settlement companies can order various property ownership reports such as current, two owner, full search, update/loan modifications and other property reports. They can also pull tax certificates and municipal lien search reports from a single integrated platform. The upgraded dashboard gives users a real-time view on the orders placed, providing transparency and allowing quicker decision making, the company said in a release.


HIRING?
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Cutting checks while trying to find new employees?
Let ALTA help you with the hiring process so you can keep your focus where it needs to be! ALTA has created sample job descriptions and ads to simplify your search and allow you to more easily find the right person for the job.
Access to the samples is an ALTA member benefit.
Visit www.alta.org/hrsamplelibrary to take advantage of these resources.
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New Legislation Enables Massachusetts Jurisdictions to E-record Land Court Documents

Until recently, Massachusetts law dictated that recorders must retain original, hard-copy Land Court documents, making electronic recording of those documents impossible. Early this year, however, the governor of Massachusetts signed into law House Bill 3862, overturning the requirement and allowing registers of deeds throughout the state to e-record Land Court documents for the first time.

In the Commonwealth of Massachusetts, about 80 percent of real property is "recorded land" whose record keeping is conducted by the recorded land department. The remaining 20 percent of real property, called "registered land," is subject to stricter policies and managed by the registered land department, also known as the Land Court. Land registration documents related to registered land are commonly referred to as "Land Court documents."

Hampden County, Norfolk County and Southern Essex District were the first Massachusetts jurisdictions to e-record Land Court documents on April 12. All three jurisdictions have been e-recording land documents for years and were eager to extend the benefits of e-recording to the Land Court.

"In 2004, the Hampden County Registry of Deeds was the first governmental agency on the East Coast to perform an electronic recording. On April 12, 2017, we once again made history by being the first registry in the Commonwealth of Massachusetts to record a registered land document," said Hampden County Register of Deeds Donald E. Ashe. "These historic events would not be possible without Simplifile's hard work, dedication and innovation in the field of electronic recording of documents."

Simplifile announced that it is now electronically recording Land Court documents in the Commonwealth of Massachusetts for the first time.

"Simplifile has been helping Massachusetts jurisdictions e-record documents related to recorded land since 2007," said Paul Clifford, president of Simplifile. "Registers of deeds throughout the Commonwealth have come to appreciate the efficiency, cost savings and customer service benefits of e-recording—and now they can apply those benefits across their recording workload."

FNF Acquires Auction Company

Fidelity National Financial announced the acquisition of Hudson & Marshall, a full-service auction company and a real estate and property auction provider.

FNF and H&M expect to partner to further enhance the services FNF can provide to its lender, servicer and real estate agent relationships. Additionally, H&M will power ServiceLink Auction, a new, results-driven, full-service auction platform that will be fully integrated with ServiceLink's suite of products and technologies.

Stewart Title Expands in Utah

Stewart Title's direct operations in Utah today announced its asset purchase of the business of Title West, a title agency serving the greater Salt Lake and Utah County areas. As a market with enormous growth potential, Stewart reported that the acquisition fits the company's overall expansion plans in 2017.

Stewart and Title West began their partnership in 1987, when Title West joined the Stewart Trusted Provider network as an independent agent.

"We're excited to welcome everyone from Title West into the Stewart Title family," said Dave Fauth, president of Stewart direct operations. "We have a long history of partnership and we appreciate the dedication they have to their clients and to the industry. We share the same core values of integrity and excellence in customer service—ensuring that this acquisition will benefit both our associates and the community."

This addition will enable Stewart Title's Utah direct operations to expand in the Utah County market, and will provide Title West's local customers the world-class real estate transaction experience that Stewart is known for providing.

"Joining with Stewart Title feels like a natural progression of our partnership," said Mark Day, chief executive officer of Title West. "We are excited to have access to new products and services that will provide our customers with the best possible experience—making the entire closing process faster and more efficient."

ClosingCorp Introduces New Rate Engine for Title Companies

ClosingCorp released an advanced rate management solution that enables title organizations to collect and manage their specific rate and fee data.

With SmartEngine, ClosingCorp said title companies can centralize data processing and connect their rate and fee data to any third-party system, including title production systems, websites and ClosingCorp's SmartFees and SmartCalc products to reliably exchange information to produce estimates.

SmartEngine, which is based on ClosingCorp's proprietary rates management solution, enables companies to centralize disparate, often outdated rate-management tasks, including the administration of tables, templates or other systems, and optimize the overall closing process. The software as a service (SAAS) solution was designed specifically for underwriters and title companies seeking to create and manage special lender pricing, as well as standard rates for lender use nationwide. This advanced rate and fee management solution also enables lenders to connect to their service providers and exchange information in real-time—improving speed, accuracy and compliance with regulations, as well as their own internal processes.

SoftPro Wins Gold in 2017 American Business Awards

SoftPro was named the winner of Gold Stevie Awards in the Company of the Year–Real Estate and Customer Service Department of the Year categories in the 15th Annual American Business Awards.

SoftPro's winning entries highlighted its Client Contact Initiative, which is tasked with gauging customer satisfaction and identification of client needs. Since its inception, SoftPro has earned a 3.74 rating from its customers on a 1–4 scale with 4 being the best. In addition to its two Gold Stevies, SoftPro was also recognized with Silver in the categories of Corporate Social Responsibility Program of the Year and Most Innovative Tech Company of the Year.

MERS Prevails in Cases Brought by Four Pennsylvania Counties

In May, the Commonwealth Court of Pennsylvania reversed a lower court's ruling and ruled by a majority opinion in favor of MERSCORP Holdings Inc. in four lawsuits filed by the recorders of four Pennsylvania counties (Delaware, Berks, Bucks and Chester).

In each of the four cases, the respective county recorder claimed that Mortgage Electronic Registration Systems, Inc. (MERS) and MERS System Members failed to record mortgage assignments upon the transfer of promissory notes in violation of Pennsylvania recording laws.

The trial court denied MERS and the MERS System Members joint preliminary objections and the appellate court granted their petition for review. The higher court reversed the trial court decision finding that Pennsylvania law does not mandate the recording of every mortgage and mortgage assignment.

Judge Wojcik, writing for the majority, further stated, "Our conclusion is grounded in the clear language of the statute, and it also is supported by a body of case law interpreting Pennsylvania recording laws that specifically addresses the purpose of those statutes and the effect of a failure to record an interest in the land."

In its opinion, the Court agrees with the 3rd Circuit Court of Appeals' opinion in Montgomery County, Pennsylvania, *Recorder of Deeds v. MERSCORP*, Inc., 795 F.3d 372 (3rd Cir. 2015), which reversed the district court's holding and held that the applicable recording statute does not create a duty to record all land conveyances.

"The Pennsylvania law, including the recording statue, does not impose a duty to record the transfer of a promissory note and case law on this issue is clear," said MERSCORP Holdings' Vice President for Corporate Communications, Janis Smith.

News to Share?

If you have information you'd like us to consider for *TitleNews*, send company announcements to *communications@alta.org*.

FLTA Names New Executive Director

The Florida Land Title Association has named Scott Merritt as executive director effective June 1. Most recently, Merritt served as vice president of business development for Home Team Equity, Loanwise Financial, a mortgage lender in Maitland, Fla. Before that, he was executive officer for the Greater Orlando Builders Association (GOBA) in Maitland, where he served for four years. There, Merritt executed a rebranding initiative and organized an overall membership increase.

Westcor Names Manager for Southeast, Midwest Regions

Westcor Land Title Insurance Company (Westcor) announced the promotion of Glenn Bradley as the company's manager for the Southeast and Midwest regions. Bradley, who joined Westcor in 2008 as Florida state manager, has over 37 years' of experience. Prior to assuming his new role, he was a regional manager in Westcor's Southeast region.

Action Title Research Promotes VP of Business Development

Action Title Research, a New Jersey search and abstract company, has promoted David Penque to vice president of business development. He will lead the sales and on-boarding processes for customers utilizing Action Title's Smart Search product.

ATG LegalServe Names President, CEO

Kelly Ann Kienzle has been named president and CEO of ATG LegalServe, Inc., a subsidiary of Attorneys' Title Guaranty Fund Inc. Kienzle joined ATG LegalServe as vice president of sales and marketing in February 2016 when her company, It's Your Serve, joined forces with ATG LegalServe. She brings more than 20 years of experience and leadership to her new position.

Stewart Appoints SVP of Direct Operations in Western States

Stewart appointed Michael Tafoya as group senior vice president of direct operations. Tafoya brings more than 32 years of experience in title industry sales, marketing and operational leadership, as well as considerable knowledge of the technical aspects of title insurance and escrow settlement services.

WFG National Title Grows Agency Team

WFG National Title Insurance Company has added Susan Silverstein as senior vice president for its agency group, where she will focus on the Florida region. She has over 35 years of experience in the settlement services industry, most recently as vice president for a national underwriter.

CATIC Names Massachusetts State Counsel

CATIC announced that Melanie E. Kido has joined the company's Massachusetts team as vice president and state counsel. Kido joins CATIC with 25 years of legal and title insurance industry experience. She has worked in the title insurance industry for the past 19 years underwriting both residential and commercial transactions for various national underwriters.

RedVision Names VP of Operations

RedVision appointed Tim Padgett as vice president of operations. With over 30 years of title industry experience, Padgett previously served as vice president of retail title and closing for Altisource Premium Title Services Inc. Earlier in his career, Padgett also served in various leadership roles at Westcor Land Title Insurance Company and other title companies.

Innovation Doesn't Require Technology

As you may know, one of my passions is auto racing. In fact, I've attended 27 of the past 29 Indianapolis 500 races, as well as numerous other racing events. In racing, there are many details that have to be considered and addressed in order to achieve a high level of success.

But it's the human factor that ultimately makes the difference.

In my view, too heavy of a reliance on technology—absent human interaction and decision making—can be detrimental. That's why motor racing intrigues me so much—that and the speed and the noise.

When thinking of innovators in racing, the first person who comes to mind is Adrian Newey. Widely noted as the most successful Formula One designer of all time, Adrian is Chief Technical Officer of the Red Bull Racing Team.

Through a very detailed understanding of sporting regulations and aerodynamics, the design of his cars helped his racing team dominate Formula 1 racing for four consecutive seasons, both the constructor's and driver's championships.

Not an easy task in any sport.

What's most interesting to me is that all of his design work is done with paper and pencil on a drafting board. Not on a computer. Considered creative and innovative, it's Adrian's understanding of the car as a whole that keeps him ahead of the pack.

In fact, many of his contemporaries say Adrian's innovation and conceptual vision in an era where regulations have changed, is what has ensured his success.

So, what does this have to do with the title industry?

The point is that you don't have to be high-tech to be innovative.

You don't need every new piece of technology, but you do need to listen to your team members and your customers in order to deliver the exceptional experience that they want and deserve.

You do need to understand trends and how new policies could affect your business.

Think about the things that can make your operation more aerodynamic and run more efficiently.

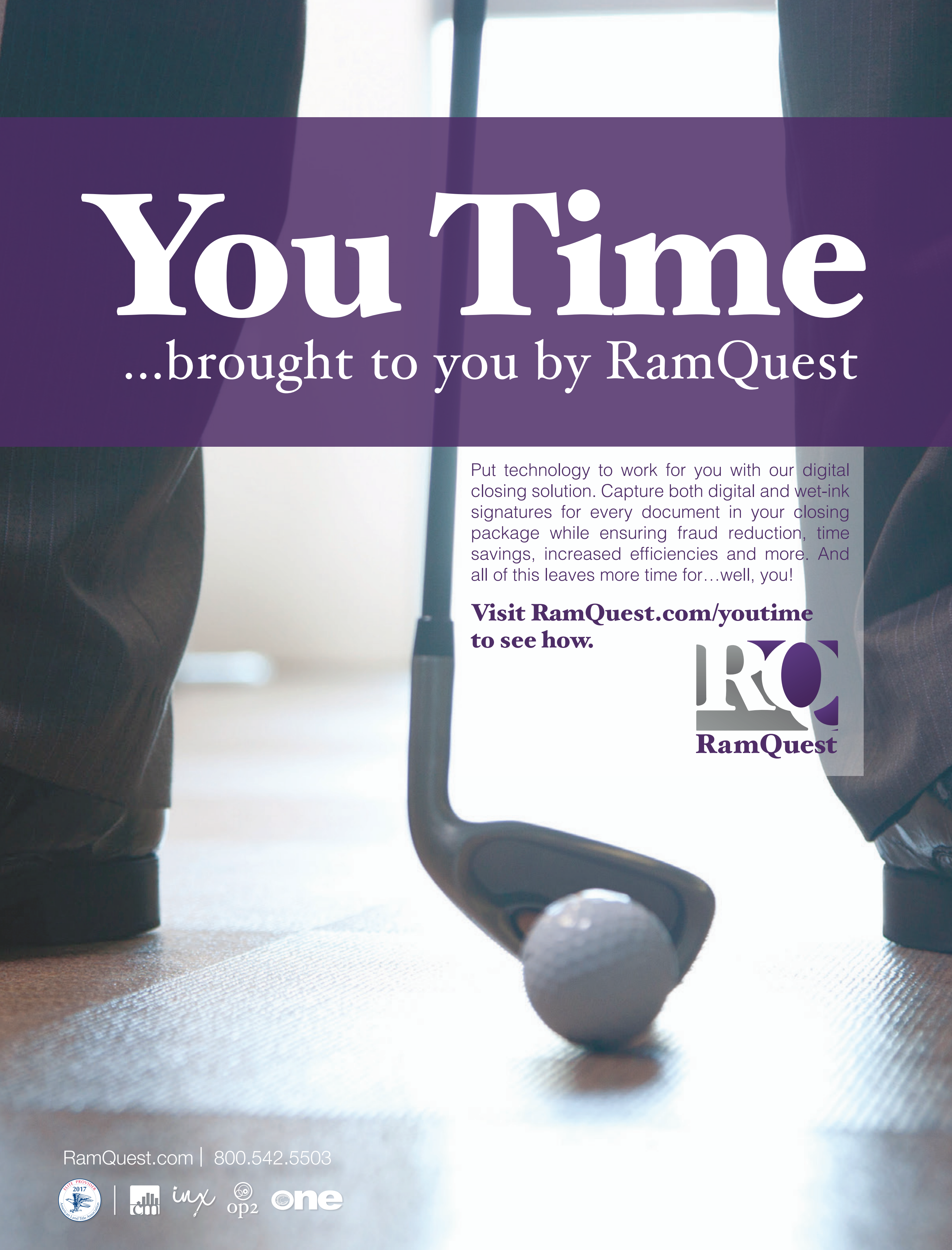
Get your ideas on paper. I'm sure you'll be amazed at what you come up with.

If you're looking for inspiration, I encourage you to join me and more than a thousand other title professionals in Miami for ALTA ONE.

ALTA ONE is the place to get connected with industry peers and experts, and inspired to lead the way into 2018 using innovative solutions to provide your customers what they will continue to want 10 years from now.

I look forward to seeing you there.

— Daniel D. Mennenoh ITP, NTP, ALTA president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