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TitleNews

Official Publication of the
American Land Title Association

Elder Financial Abuse: Know the Red Flags and Avoid Liability

As U.S. Population Ages, the Need to Recognize and Prevent Financial Exploitation of Older Clients and Family Members Increases

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September 7-9	Maryland *McHenry, MD*
September 7-9	Missouri *Columbia, MO*
September 13-15	Arizona *Tucson, AZ*
September 14-16	North Dakota *Bismarck, ND*
September 14-16	North Carolina *White Sulphur Springs, WV*
September 14-16	Southeast *New Orleans, LA*

TitleNews

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AMERICAN LAND TITLE ASSOCIATION

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Find Your Team's 'Swing'

In 1936, nine University of Washington students who were ordinary men—and very much products of the Great Depression they were living in—went to Germany to take on Hitler's hand-selected, well-funded crew in pursuit of Olympic gold in eight-oar rowing. These Americans came together by chance during the four years before the Olympics, seeking a spot on the Washington crew team. As these young men worked diligently to improve both as individuals and as a team, their coach realized they had tremendous talent—greater than the nation had ever seen. It wasn't a straight line to building that team, synchronizing that talent and earning the spot on the U.S. Olympic Team. It took dedication, failure, and resilience. It took each of those men trusting the others to become one in the boat.

The story of the 1936 U.S. Olympic crew is told in the compelling book *The Boys in the Boat*, by Daniel James Brown. ALTA's staff read the book over the summer with the goal of improving our crew's engagement so we can continue delivering exceptional products and services to you. We enjoyed the inspirational and leadership lessons. We dug into the book's message about the importance of the team being in sync and knowing what they need to do as lessons for us to as we are on the road to exceptional performance. We learned about the concept of "swing," when all rowers in the boat are seemingly in a symphony of harmonic motion, with no wasted energy.

Think about how "swing" can apply to your company. Has your operation experienced "swing"? From our customers' perspective, there's not much difference between the products we offer. Your staff and customer service are what set you apart. One of the great stories in the book is about a race between Washington and California. Both teams had state-of-the-art boats, powerful oarsmen and savvy coxswains. "It was hard to see a clear advantage. It would simply come down to watermanship, and guts." Your crew has to be good at the mechanics of the work. But it is something else that gets your crew to "swing" that allows you to beat the competition. Each team has to decide if they are committed to the "boat" and figure out what they need to do to give their best work. When you find that "swing" the results are exceptional.

Think about this edition's cover article, for instance. With America's aging population, elder abuse has become a growing concern and introduces additional liabilities when closing transactions involving older customers. It is critical for your staff to be able to recognize the red flags that warn of elder abuse. This is just another issue that title companies must contend with every day (wire fraud is another example, see page 17). When you have a blend of personalities who understand the company's purpose, where you're going and how they fit in, "swing" can be attained. In rowing, great crews are carefully balanced blends of physical and mental abilities. Each must adjust to the needs and capabilities of the other. Each must be prepared to compromise for the overall benefit of the boat (or company). It's poetry when your team learns to function like this and trust their co-workers. ALTA is dedicated to helping you find your swing!

— - Michelle Korsmo, ALTA chief executive officer

ALTA news

Get the 'Wow' at ALTA ONE

By developing a company culture and committing to it, you can make a positive change within your organization. Zappos.com has grown its business because of the company's unique culture and the service they provide to their customers.

Register for ALTA ONE to hear from Zappos Speaker of The House Erica Javellana who will share the Zappos core values system, their approach to customer service and engagement, and how this culture of service can be applied to your company.

Key Takeaways:

- *Insights on defining and committing to your company culture.*
- *Incorporate your culture into your daily operations.*
- *How empowering employees increases customer satisfaction.*
- *Building stronger connections with customers.*

For more information and to register, go to *meetings.alta.org/one/tn.*

Drummer for Renowned Musicians to Help Your Team Harness Its Rhythm at ALTA ONE

Mark Schulman has toured, recorded and performed with some of the biggest names in the history of pop music: PINK, Billy Idol, Cher, Foreigner, Sheryl Crow and Stevie Nicks to name a few.

Attend ALTA ONE and you'll get to hear Mark share first-hand experience of how these world-class artists succeeded on the big stage. A compelling element of Mark's program is his use of stories of the failures of these musical teams, focusing on what we can learn from their broken moments. Mark takes these performers' moments of challenge, change and tenacity and synthesizes them into principles that will enhance communication, heighten performance and shift the mindsets of teams and individuals.

To register, go to *meetings.alta.org/one/tn.*

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Title Industry Generates $3.3 Billion in Premiums During Q1

The title insurance industry generated $3.3 billion in title insurance premiums during the first quarter of 2017 compared to $3 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.

The publically traded underwriters captured 85 percent of the market share, while market share of independent underwriters increased to 15 percent during the latest quarter. This is up from 13.9 percent during the same period a year ago.

The top individual underwriters based on market share were:

- *First American Title Insurance Co. (24.6%)*
- *Old Republic National Title Insurance Co. (15.0%)*
- *Chicago Title Insurance Co. (14.1%)*
- *Fidelity National Title Insurance Co. (12.5%)*
- *Stewart Title Guaranty Co. (9.4%)*

The top five independent underwriters based on market share were:

- *Westcor Land Title Insurance Co. (3.6%)*
- *WFG National Title Insurance Co. (2.8%)*
- *Title Resources Guaranty Co. (2.1%)*
- *North American Title Insurance Co. (1.7%)*
- *Alliant National Title Insurance Co. (.9%)*

On a state-by-state basis, 47 states, plus the District of Columbia, showed first-quarter 2017 written premiums increasing from first-quarter 2016.

Overall during the first quarter of 2017, the industry's operating expenses were up 10.6 percent, while loss and loss adjustment expenses were down 1.5 percent resulting in a net operating gain of 29.4 percent.

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.

New Members
42

New Associate Members
5

New Attorney Members
20

Total Members
6,141

State with Most New Members
Florida

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*.

Information Security Bulletin: Encryption and Safeguarding Your Data

In the second quarter edition of ALTA's Infosec Advisory Bulletin, the Information Security Committee defines the process encrypting data, explains why you should encrypt data and indicates what information should be protected. In addition, the bulletin provides a list of different devices that you should consider encrypting. To download the bulletin, go to *www.alta.org/business-tools/cybersecurity.cfm*.

TIPAC Donors

The Title Industry Political Action Committee (TIPAC) is ALTA's voluntary, non-partisan Political Action Committee (PAC). TIPAC raises money to help elect and re-elect candidates to Congress who understand and support the issues affecting the title industry. TIPAC has received $482,470 from donors 794 donors so far in 2017. Check out who has supported the industry at *www.alta.org/tipac*.

It’s a people business.

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Elder Financial Abuse: Know the Red Flags and Avoid Liability

As U.S. Population Ages, the Need to Recognize and Prevent Financial Exploitation of Older Clients and Family Members Increases

When discussing housing trends, the conversation quickly turns to how Millennials will affect the future of the real estate market. An area of concern not widely discussed, however, is the country's aging population, which fuels the need to recognize and prevent financial exploitation of older clients and family members. Highlighting the concern, the Consumer Financial Protection Bureau (CFPB) issued an advisory last year on how to prevent elder financial exploitation. If an insured real estate transaction is later found to be void, title and settlement companies may expose themselves to escrow or policy losses. Because of this, it's critical the industry be alert to financial elder abuse and recognize the red flags. >>

By Jeremy Yohe

Elder financial abuse refers to a broad range of behaviors, including taking money or property, forging an older person's signature, coercing or unduly influencing an older person to sign a financial document and defrauding or scamming money from an older person.

The population of people aged 65 and over is expected to reach nearly 75 million, or one fifth of the total population by 2030, according to analysis of Census Bureau data. Even though financial exploitation of elders is growing fast and is a common form of abuse of the elderly, it is often unreported or undetected. According to a report from True Link Financial, estimated losses from elder abuse range from $2.9 billion to $36.9 billion a year. During a recent compliance webinar hosted by ALTA, 53 percent of attendees indicated they've handled a transaction where they observed an instance of elder abuse.

Wealthy Targets

Older people are attractive targets because they may have accumulated assets or equity in their homes and usually have a regular source of income such as Social Security or a pension. In 2011, the net worth of households headed by a consumer age 65 and older was approximately $17.2 trillion, and the median net worth was $170,500, according to the Census Bureau. These consumers may be especially vulnerable due to isolation, cognitive decline, physical disability, health problems, and/or the recent loss of a partner, family member or friend.

There are three main categories of abusers targeting elders. The first are family members, specifically adult children and grandchildren (20 percent daughters, 24 percent sons). The second group consists of professional criminals such as home repair scammers and telemarketers. Finally, there are friends or others in a position of trust. This group could include attorneys, bank employees, caretakers and pastors, according to the National Adult Protective Services.

The Grayest Counties in the U.S.

Counties with largest % of population ages 65+

County	State	Total Population	% ages 65+
Sumter	Fla.	114,350	52.9%
Charlotte	Fla.	168,474	37.7
La Paz	Ariz.	20,231	36.1
Citrus	Fla.	139,377	35.2
Lancaster	Va.	11,044	35.2
Catron	N.M.	3,556	35.0
Alcona	Mich.	10,454	34.8
Northumberland	Va.	12,251	34.3
Sierra	N.M.	11,325	34.0
Sarasota	Fla.	396,962	33.9
Llano	Texas	19,510	33.9

Source: U.S. Census Bureau 2014 population estimates

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Abuse of Legal Authority

The abuse of legal authority occurs when a person with the legal authority to act on behalf of another misuses that power. As fiduciaries, they must act on behalf of the person in that person's best interests. They are charged with preserving assets, using them wisely and for the benefit of the person. Failure to do so is a violation of that fiduciary duty, and may be a crime.

"While powers of attorney are legal and binding, and must be acknowledged as such when appropriate, they can be both wide ranging and narrow in scope," said Ruth Dillingham NTP, senior underwriting counsel for First American Title Insurance Co. "It is important to always review the power of attorney and make sure the act it is proposing is within the limitations of the actual power. A power of attorney to sign the purchase contract and/or escrow instructions for the sale of a house does not—without more documentation—mean the holder can sign the deed."

While a court-ordered appointment as a guardian or conservator is perceived as a more protected status, it can be abused as well—and it is not a license to steal the assets of the incapacitated person, Dillingham added.

Transfer of Title

The first example is a forgery of the owner's signature on a deed or mortgage. The conveyancing practice of requiring that the person signing the document appear in person before the notary public taking the acknowledgment is intended to make forgery more burdensome, but it is not impossible.

"Of course the notary could be an accomplice of the forger, or could fail to require valid proof of identity of the person signing," Dillingham said.

Perhaps harder to determine, especially in the case of elder abuse, is whether the owner is signing without true consent. To establish actual or legal consent to an act, the person must have the ability—mental capacity—to act.

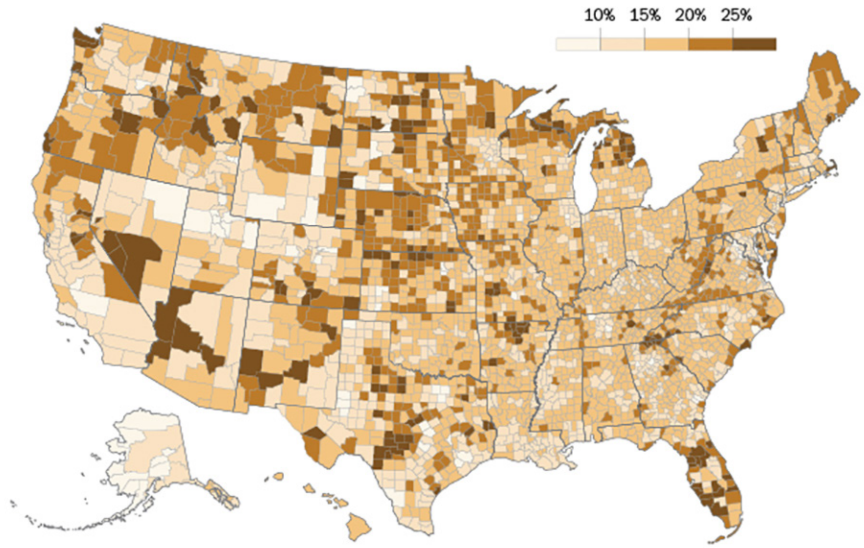
"They need to know what it is they are doing and they need to intend that it happen—voluntarily," according to Dillingham.

In the case of undue influence, the person may have all of the components to give consent, but be acting against their own interests due to fear or dependency.

Every state has specific requirements on reporting elder

Counties With the Largest, Smallest Shares of Seniors

% of county population ages 65+



Source: U.S. Census Bureau 2014 population estimates

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abuse. As a general rule, the primary entity responsible for reporting elder abuse is the lender. In most instances, a lender will explain any responsibility in its closing instructions.

Dillingham said, "In the context of a real estate closing, the settlement agent, in conjunction with information from the title report, is the 'eyes and ears' of the financial institution and plays a critical part."

In every state, even if there is no direct duty for a person to report elder abuse, it may be reported voluntarily. It is important to remember that elder abuse reporting applies to all parties in the transaction. This includes both the borrower and the seller.

"A deed signed under duress is just as fatal as a mortgage signed with a forged power of attorney," Dillingham said.

Patricia Pinto, legal claims education officer for North American Title Insurance Co., added that the party involved in a transaction has a responsibility to independently conduct due diligence in accordance with the law and instructions of the principals to the transaction. She said a closing should not proceed until any issues are resolved to the satisfaction of the lender, the underwriter, and the borrower and/or family. While the title agent typically has no personal contact with the senior, the chain of title is examined for suspicious recordings and documents. A commitment or preliminary report is generated that may contain such information for the lender's notification. The title agent will notify the escrow/settlement agent with suspicions of abuse, who in turn will notify the lender for guidance.

> "The settlement agent, in conjunction with information from the title report, is the 'eyes and ears' of the financial institution and plays a critical part."

Additionally, if title is held in a trust, it's important to read the trust document carefully and note if there have been changes in trustees, expansions in trustee powers or changes to eliminate the requirement of beneficiary consent, Dillingham said.

Like others, Pinto has noticed an increase in claims involving elder abuse, especially in areas where home values have rebounded since the 2007 financial crisis.

"This equity allows relatives, caregivers, acquaintances and other unscrupulous opportunists to prey on the isolated senior who is dependent on others for support," Pinto said. "The increase in these types of claims may also be a function of evolving or broadly written state laws that allow for such claims to be asserted against anyone connected with a transaction involving a senior."

When a transaction closes involving elder abuse, the new owner or lender's title may be subject to challenge by the senior that can result in substantial loss to the underwriter. In addition, the title and settlement agent may be exposed to tort or contractual liability.

While title and settlement agents typically don't come into contact with the subject until the closing, it's important to be aware of red flags and proceed cautiously when encountering irregularities or unusual situations, such as a large cashout from a refinance, proceeds being wired to an account not belonging to the senior, or a relative or caretaker who shows too much interest in the transaction for no apparent reason.

"The escrow or settlement agent should take note of any signs of cognitive impairment, confusion or lack of understanding of the transaction when the senior is present to sign documents before or during the closing," Pinto said. "If a mobile notary service is utilized, the escrow agent should obtain the notary's observations of the senior's mental and physical state and the senior's living situation before closing the transaction. If the senior is accompanied by an overbearing third party who has no apparent interest or role in the transaction, the settlement agent may wish to speak directly with the senior before proceeding further."

Pinto's company recently stopped a transaction because of suspected financial elder abuse. The warning signs included a third party who was overly involved in the transaction, which involved a large amount of equity being pulled out of free and clear property and proceeds to be wired to an unfamiliar account.

"We sent our traveling notary to the senior, and the notary was convinced the senior had a serious cognitive impairment," Pinto said. "The most telling sign was that the transaction simply did not make sense. It defied common sense for the elder, given his age and length of ownership, to take out a new, 30-year institutional loan, hard money loan or equity line."

By the Numbers

44.7 million
The number of people who were 65 and older in the United States on July 1, 2013. This group accounted for 14.1 percent of the total population.

98.2 million
Projected population of people 65 and older in 2060. People in this age group would comprise nearly one in four U.S. residents at that time. Of this number, 19.7 million would be 85 or older.

2.6 million
Projected number of baby boomers in 2060. At that time, the youngest baby boomers would be 96 years old.

2033
The year in which, for the first time, the population 65 and older would outnumber people younger than 18 in the U.S.

Source: U.S. Census Bureau, Population Projections

Resources

- **National Center on Elder Abuse:** www.ncea.aoa.gov
- **American Bar Association Commission on Law and Aging:** www.americanbar.org/groups/law_aging
- **Department of Justice:** www.justice.gov/elderjustice

CFPB Advisory

Underscoring the threat of elder abuse, the Consumer Financial Protection Bureau (CFPB) issued an advisory and a report last year with recommendations on how to prevent, recognize, report and respond to financial exploitation of older Americans.

"This action gives financial institutions best practices and tools to protect older consumers from financial abuse," said CFPB Director Richard Cordray. "When seniors fall prey to a scam by a stranger or to theft by a family member, they may be too embarrassed or too frail to report it. Banks and credit unions are uniquely positioned to look out for older Americans and take action to protect them."

With their opportunities for face-to-face transactions, the CFPB reported that financial institutions are well-situated to protect older Americans from financial exploitation. Financial institutions are also uniquely suited to detect and act when an elder account holder has been targeted or victimized, and are mandated to report suspected elder financial exploitation under many states' laws.

According to the CFPB, the following are recommendations to help prevent elder abuse:

- **Train staff to recognize abuse:** Financial institutions should educate employees to prevent, detect and respond to abuse. Training should cover the warning signs of financial exploitation and appropriate responses to suspicious events.

Warning Signs & Red Flags

Many if not most elderly people are fully able to be full participants in the management of their own affairs. Sometimes, though, conditions such as dementia and Alzheimer's Disease can prevent them from making rational, reasoned decisions." The Alzheimer's Association tells family members to consider these signs in considering whether a person may suffer from dementia:

- Poor judgment and decision making
- Making a bad decision once in a while
- Inability to manage a budget
- Missing a monthly payment
- Losing track of the date or the season
- Forgetting which day it is and remembering later
- Difficulty having a conversation
- Sometimes forgetting which word to use
- Misplacing things and being unable to retrace steps to find them

While title and settlement agents typically don't come into contact with the subject until the closing, it's important to be aware of red flags and proceed cautiously when encountering irregularities or unusual situations. Here are other signs to consider when evaluating whether a party to the transaction might be suffering from reduced mental capabilities:

- Never get to speak directly with the elder person involved in the transaction
- The appearance of disorientation or lack of understanding
- The person seems unaware of dates and times
- The person seems to lack understanding of what the transaction is all about
- Recent, uninsured deeds in the chain of title (this comes up over and over in many flavors of fraud and forgery)
- Change in contact person or other authorized user
- Elder borrower not allowed to speak for him or herself
- No documentation to support third-party's authority
- Use of powers of attorney or change in grant of POA
- Free and clear property
- Documents signed outside of escrow
- Sales or loan proceeds paid over to somebody other than the borrower or seller
- Holder of POA wants funds disbursed to him/herself

- **Use fraud detection technologies:** Financial institutions should ensure that their fraud detection systems spot suspicious account activity and products associated with elder fraud risk. This includes using predictive analytics to review account holders' patterns and explore additional risk factors that may be associated with elder financial exploitation. Some signs of elder fraud risk may not match conventionally accepted patterns of suspicious activity, but nevertheless may be unusual given a particular account holder's regular behavior.
- **Offer age-friendly services:** Banks and credit unions should enhance protections for seniors, such as encouraging consumers to plan for incapacity. They can also offer age-friendly account features such as opt-in limits on cash withdrawals or geographic transactions, alerts for specific account activity and view-only access for authorized third parties. And they can enable older consumers to provide advance consent to share account information with a trusted relative or friend when the consumer appears to be at risk.
- **Reporting suspicious activity to authorities:** Financial institutions should promptly report suspected exploitation to relevant federal, state and local authorities, regardless of whether reporting is mandatory or voluntary under state or federal law. Banks and credit unions can work closely with local Adult Protective Services and law enforcement to enhance prevention and response efforts, including expediting document requests and providing them at no charge.

"Whether it's in your master closing instructions or you start getting alerts from lenders, I'd imagine this will be a hot topic because America isn't getting any younger," Dillingham said. "I expect to see lenders starting to add this to their vendor management policies and the CFPB to start examining for it."

Jeremy Yohe is vice president of communications for the American Land Title Association. He can be reached at *jyohe@alta.org*.

CFPB Answers ALTA's Request to Issue Consumer Alert on Wire Fraud

ALTA Continues Push to Raise Awareness

On July 7, the Consumer Financial Protection Bureau (CFPB) finally heeded ALTA's advice and published a warning to help alert consumers about wire fraud schemes.

On its blog, the CFPB says "scammers attempt to steal the homebuyer's closing funds—for example, their down payment and closing costs—by sending the homebuyer an email posing as the homebuyer's real estate agent or settlement agent (title company, escrow officer, or attorney). The email falsely claims there has been a last minute change in the closing process, for example, that a check is no longer acceptable or that the wiring instructions have changed. It instructs the homebuyer to wire or otherwise electronically transmit the closing funds to an account that the scammers control."

The warning echoed the tips in ALTA's recent consumer alert, along with alerts from the Federal Trade Commission, FinCEN and the FBI.

In January, ALTA's Board of Governors met with CFPB Director Richard Cordray to inform the bureau about the threat of wire fraud schemes. At the time, Cordray was skeptical about the frequency of the crimes and the risk to consumers, according to ALTA CEO Michelle Korsmo. ALTA also sent a formal letter requesting that the CFPB put out a consumer alert on the topic. In addition, Title Action Network members sent nearly 1,000 messages to 241 members of Congress asking them to reach out to the CFPB to publish a consumer alert on wire fraud.

"This alert from the CFPB—along with all the alerts from other agencies—will not, in itself, do anything to combat these crimes," Korsmo said. "There is little the CFPB can do to prevent wire fraud. The only way these alerts will help is if members put them to use. We all need to use consumer alerts to help educate our buyers, sellers and real estate partners about the risks. ALTA is developing some new resources to help, but ultimately, it comes down to our industry getting in the habit of talking about this risk at every opportunity."

In June, an article by ALTA President Dan Mennenoh titled "Commonsense measures are needed to prevent wire fraud" appeared in *The Hill,* a D.C.-based newspaper. The article explained how wire fraud happens and the threat it poses to consumers. Mennenoh provided tips on how businesses and consumers can protect their money and sensitive information. The article encouraged Congress to consider increasing criminal penalties for wire fraud to be as tough those for identity theft and bank robbery. In addition, Mennenoh said when sending a wire, financial institutions should match the payee's name with the account number. This simple change in practices could be the single biggest deterrent to wire fraud. ■

Resources

ALTA has developed the infographic on the following page that members can brand with their logo to help raise awareness and educate consumers about wire fraud. ALTA also has created a video that members can use. To access these resources, go to *www.alta.org/wirefraud-tn*.

AMERICAN LAND TITLE ASSOCIATION

PROTECT YOUR MONEY WHEN BUYING A HOME FROM WIRE FRAUD SCHEMES

Every day, hackers try to steal your money by emailing fake wire instructions. Criminals will use a similar email address and steal a logo and other info to make it look like the email came from your real estate agent or title company.

You can protect yourself and your money by following these steps:

BE VIGILANT

- **Call, don't email**: Confirm your wiring instructions by phone using a known number before transferring funds. Don't use phone numbers or links from an email.
- **Be suspicious**: It's uncommon for title companies to change wiring instructions and payment info by email.

PROTECT YOUR MONEY

- **Confirm everything**: Ask your bank to confirm the name on the account before sending a wire.
- **Verify immediately**: Within four to eight hours, call the title company or real estate agent to confirm they received your money.

WHAT TO DO IF YOU'VE BEEN TARGETED

- **Immediately** call your bank and ask them to issue a recall notice for your wire
- **Report** the crime to www.IC3.gov
- **Call** your regional FBI office and police
- **Detecting** that you sent money to the wrong account within 24 hours is the best chance of recovering your money.

For more information about the home closing process, please visit:
HOMECLOSING101.ORG

This is for informational purposes only and should not be considered legal advice.


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CFPB Finalizes TRID Updates

Bureau Fails to Fix Inaccurate Disclosure of Title Fees

The Consumer Financial Protection Bureau (CFPB) on Friday finalized updates to its TILA-RESPA Integrated Disclosures(TRID) rule with amendments intended to formalize guidance in the rule.

The 560-pages of amendments includes a number of helpful clarifications, but, as ALTA expected, fails to fix the requirement that results in inaccurate title insurance pricing disclosures for consumers at closing.

"Chalk this one up to an opportunity missed," said ALTA CEO Michelle Korsmo. "While it made some important clarifications, the CFPB failed to address the item that confuses buyers and sellers the most at closing, the requirement that they receive incorrect information about the cost of title insurance. The CFPB has an obligation to make this simple change. We strongly urge the bureau to start the process of writing a new regulation to fix the title fee disclosure so consumers receive accurate information about title insurance at closing."

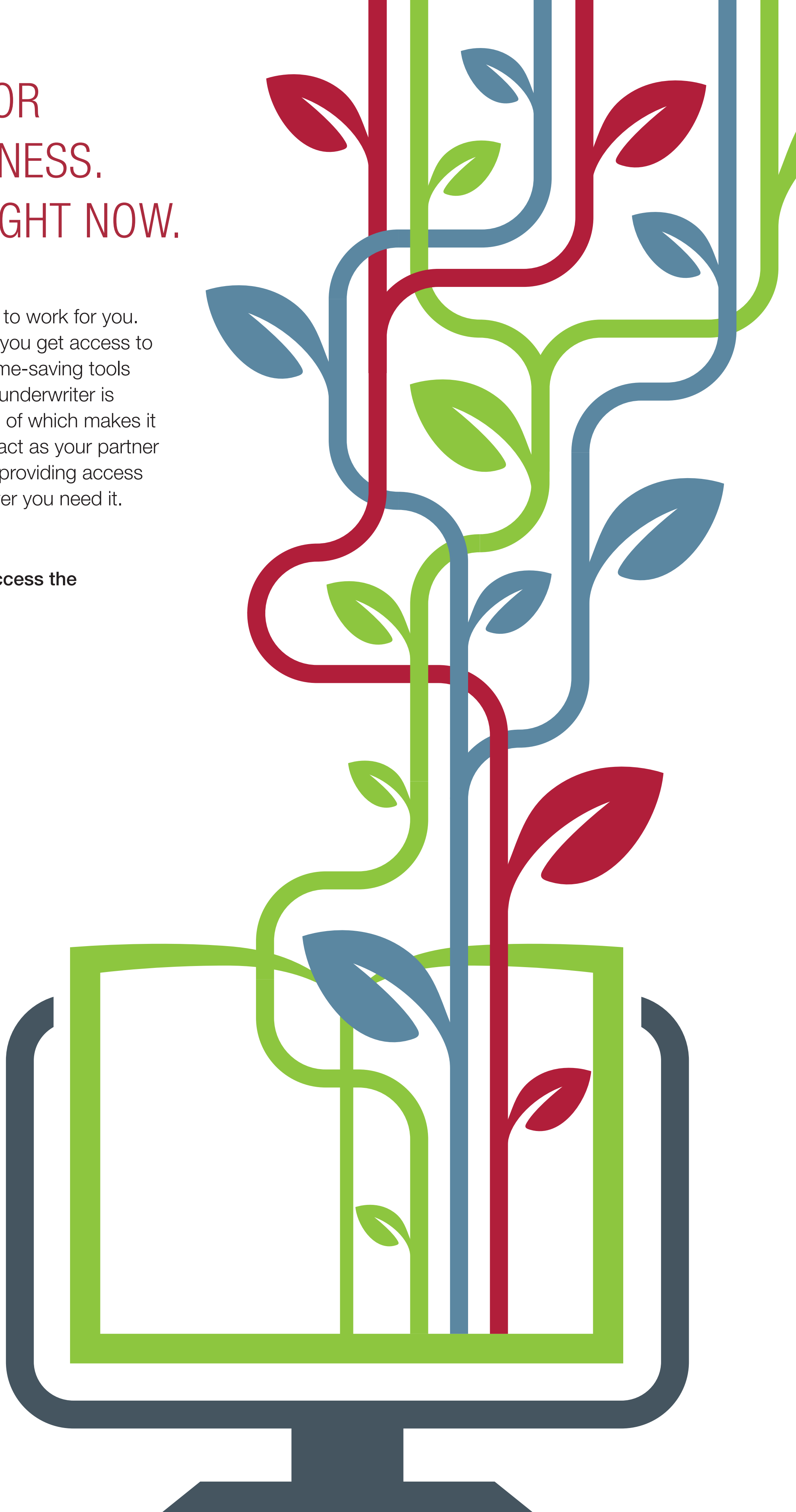
A survey ALTA conducted in July 2016 found that more than 40 percent of homebuyers feel taken advantage of or are confused by the calculation of title insurance fees on the mortgage disclosures.

Here are highlights of the finalized amendments:

- **Tolerances for the total of payments:** Prior to TRID, the total of payments disclosure was determined using the finance charge as part of the calculation. This rule changed the total of payments calculation so that it did not make specific use of the finance charge. The bureau finalized updates to include tolerance provisions for the total of payments that parallel the tolerances for the finance charge and disclosures affected by the finance charge.
- **Housing assistance lending:** The original rule gave a partial exemption from disclosure requirements to certain housing assistance loans, which are originated primarily by housing finance agencies. The bureau's update, as finalized, clarifies that recording fees and transfer taxes may be charged in connection with those transactions without losing eligibility for the partial exemption. The update also excludes recording fees and transfer taxes from the exemption's limits on costs.
- **Cooperatives:** The bureau finalized updates to extend the rule's coverage to include all cooperative units. Currently, the rule only covers transactions secured by real property, as defined under state law. Cooperatives are sometimes treated as personal property under state law and sometimes as real property.

Although the amendments will become effective 60 days after publication in the Federal Register, mandatory compliance with the amendments will be required for applications received on or after Oct. 1, 2018. The CFPB advises that during the optional compliance period between the effective date and Oct. 1, 2018, a party may comply with the amendments "all at one time or phase in the changes over time (even within the course of a transaction)."

In addition to the final rule, the CFPB plans to issue a proposal addressing when a creditor may use a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith and within tolerance. ■



CFPB Keeps Onus on Lenders for Determining to Share Closing Disclosure

Amendments Clarify that TRID Does not Mandate or Prohibit Sharing

Implementation of TRID nearly two years ago raised questions regarding who is permitted to receive copies of closing documents, including the Closing Disclosure and alternate settlement statements, such as the ALTA Settlement Statements.

While the CFPB finalized amendments to the rule, it didn't settle the debate on what documents can be shared. It is important to note that the regulation did not implement any changes to data privacy. TRID still requires creditors to provide certain mortgage disclosures to the consumer, but the rule does not go so far as to mandate sharing. Instead, it states, "the Bureau notes that such sharing of the Closing Disclosure may be permissible currently to the extent that it is consistent with GLBA and Regulation P and is not barred by applicable State law. However, the Bureau does not believe that expansion of the scope of such permissible sharing would, in this rulemaking, be germane to the purposes of Regulation Z."

The bureau reported it has received many questions about sharing the disclosures provided to consumers with third parties to the transaction, including the seller and real estate brokers. There is extensive discussion of the comments and the interplay between Gramm-Leach-Bliley Act (GLBA) and state law.

Because TRID does not address who may or may not receive a copy of closing documents, many lenders refuse to share a copy of the Closing Disclosure with real estate agents or other third parties. Additionally, some lenders include provisions within their closing instructions that prohibit settlement agents from sharing the Closing Disclosure with third parties. These lenders state that the consumer may provide a copy of the Closing Disclosure to real estate agents if they choose. A concern remains about how to get necessary information about the transaction to outside parties, including real estate agents, who need certain information to document their involvement in the transaction. One of the primary reasons real estate agents are interested in receiving the Closing Disclosure is because they have to report certain data fields to the MLS to close the listing. These requirements vary by state, and there is not a uniform set of data fields that will satisfy the MLS. Reporting these data fields is a requirement for participating in the MLS system, so it is crucial that real estate agents receive this information.

"Settlement agents and title insurance professionals should contemplate the requirements and limitations of their privacy policies and whether any of these policies need to be revisited," Korsmo said.

Passed in 1999, the GLBA remains the predominant authority on how to protect data. It requires financial institutions, including title insurance companies and agents, to disclose their data-sharing practices to their customers and to safeguard private and sensitive customer information. To meet these new requirements, the GLBA imposed three basic obligations:

1. a privacy notice requirement,
2. a requirement that all consumers be provided the opportunity to opt-out of certain information disclosures and
3. a requirement that measures be instituted to maintain the

"security and integrity" of all non-public information.

The GLBA tasked the Federal Trade Commission (FTC) and other government agencies that regulate financial institutions to implement regulations to carry out the Act's financial privacy provisions. The CFPB is not included on the list of government agencies that regulate data privacy, and thus the implementation of the Know Before You Owe regulation did not affect the longstanding data-security requirements that title insurance companies and agents have been subject to.

With the implementation of GLBA, the FTC released guidance regarding the type of information companies should be safeguarding. The FTC is responsible for enforcing its Privacy of Consumer Financial Information Rule, which protects a consumer's "non-public personal information" (NPI). NPI is any "personally identifiable financial information" that a financial institution collects about an individual in connection with providing a financial product or service, unless that information is otherwise "publicly available." The Privacy Rule applies to ALTA members who provide real estate settlement services.

ALTA members should note that the FTC considers NPI to be any information obtained about an individual from a transaction involving a company's services. This could include a person's name, address, income, Social Security number or other information on an application. This also includes any information from court records or from a consumer report. The FTC said NPI does not include information that is believed to be lawfully made "publicly available." In other words, information is not NPI when steps have been taken to determine: (1) that the information is generally made lawfully available to the public and (2) that the individual can direct that it not be made public and has not done so.

ALTA's Title Insurance and Settlement Company Best Practices reiterate the importance of privacy policies and include guidelines for companies to protect against data theft to help comply with GLBA. Pillar Three of the ALTA Best Practices provides procedures on physical and network security of NPI, how to properly dispose of NPI, how to develop a disaster management plan, employee training to ensure compliance and oversight of service providers. When revisiting your privacy policies, consider the following questions:

- Why did you initially implement this policy?
- What was your rationale in implementing this policy? Does that rationale still apply?
- Does this policy continue to provide adequate protection to sensitive data in today's marketplace?
- What information do you need to share with your real estate partners?
- How are you sharing this information?

After re-examining your privacy policies, you should compare these policies with your company's data-sharing practices to ensure that you are only sharing information in conformity with your policies.

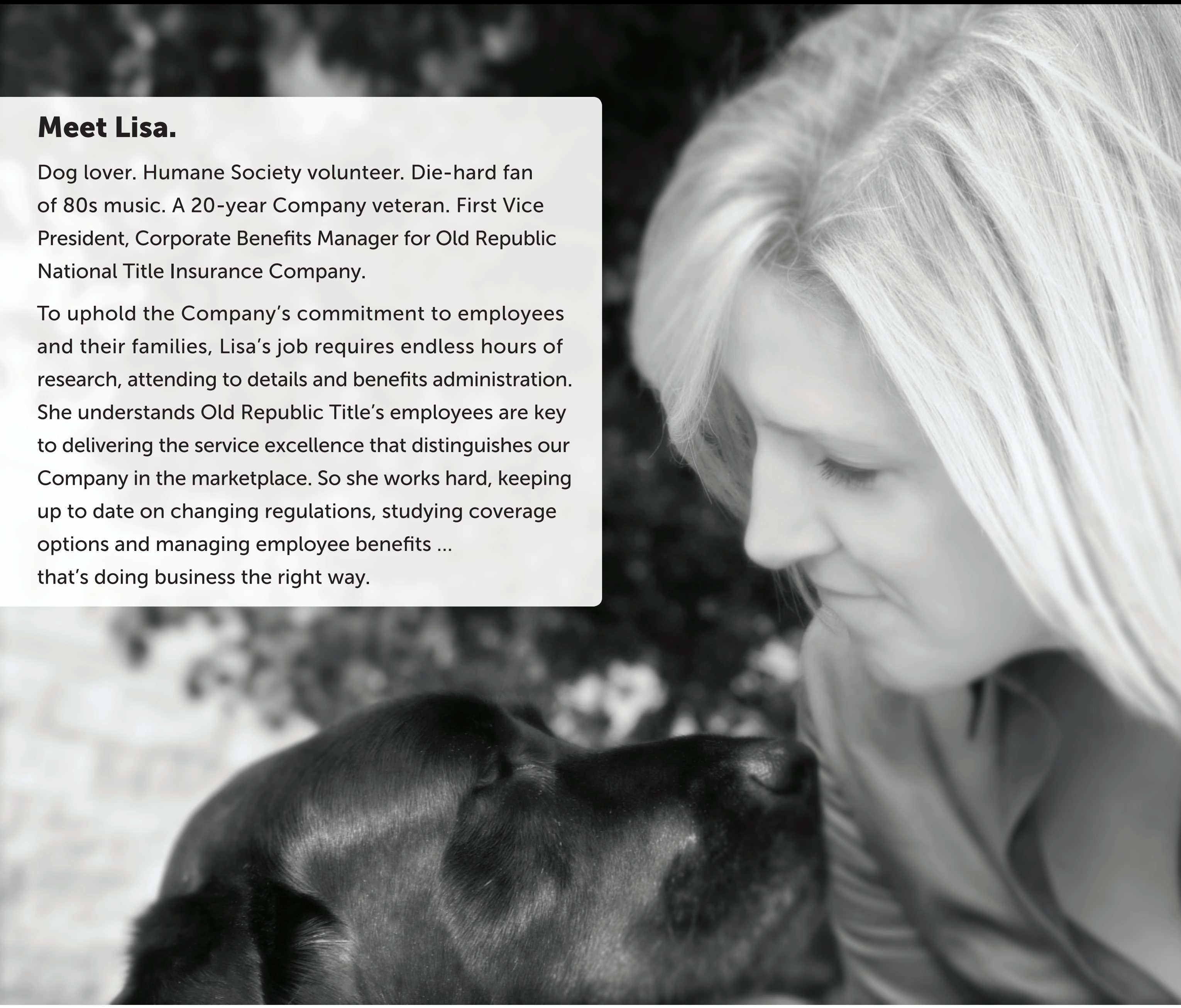
If your lender prohibits you from sharing the Closing Disclosure with third parties, you may consider using an alternative settlement statement, such as ALTA's Settlement Statements, to document the transaction. The ALTA Settlement Statements were designed to be model forms based on the settlement statements that have been in use prior to the implementation of TRID. These statements may be modified as appropriate to reflect the terms of the transaction and to prevent any disclosure of the buyer's or seller's NPI. Four versions of the ALTA Settlement Statement are available (*www.alta.org/trid*): the buyer statement, the seller statement, the combined statement and a statement for cash transactions.

"If you plan on sharing a closing document, such as a settlement statement, with a third party, consider whether you are sharing any information that would be considered NPI under the FTC's guidelines and whether you have met the GLBA's requirements for sharing such data," Korsmo said. "By keeping GLBA requirements and ALTA's Best Practices in mind, you can ensure that your customer remains protected and that you continue to have compliant real estate closings."

The National Association of Realtors, meanwhile, believes the bureau's update clarifies the sharing of the Closing Disclosure with third parties. NAR cites this quote from the CFPB:

"The Bureau understands that it is usual, accepted, and appropriate for creditors and settlement agents to provide a Closing Disclosure to consumers, sellers, and their real estate brokers or other agents. The Bureau is finalizing additional commentary to clarify how a creditor may provide separate disclosure forms to the consumer and the seller." ■

OLD REPUBLIC TITLE



Meet Lisa.

Dog lover. Humane Society volunteer. Die-hard fan of 80s music. A 20-year Company veteran. First Vice President, Corporate Benefits Manager for Old Republic National Title Insurance Company.

To uphold the Company's commitment to employees and their families, Lisa's job requires endless hours of research, attending to details and benefits administration. She understands Old Republic Title's employees are key to delivering the service excellence that distinguishes our Company in the marketplace. So she works hard, keeping up to date on changing regulations, studying coverage options and managing employee benefits …
that's doing business the right way.

For more than a century, Old Republic Title has been doing business with integrity.

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OLD REPUBLIC INSURANCE GROUP

The Future is Bright for E-mortgages: An Overview of Relevant Laws and Requirements

Title and Settlement Companies Have Three Primary Concerns as Industry Pushes Electronic Closings

BY MICHAEL GORDON AND RAJASEKHAR PENUGONDA

The industry is working to streamline the overall mortgage process by encouraging the use of electronic documents. Fortunately, there are U.S. federal and state laws that permit lenders to originate e-mortgages in any state and deliver them to investors, including Freddie Mac, for purchase. And with the legal framework in place, interest in e-mortgages is picking up speed.

While barriers to adoption remain, powerful forces are driving interest in e-mortgages, not the least of which is borrower demand for faster, better and more reliable service. No fewer than 15 financial institutions have begun implementing e-mortgage process tests or committing to the e-mortgage business outright over the past year. Eight other financial institutions are ready to provide warehouse financing for e-notes.

With increasing interest from lenders, now is the time for title companies to talk to lender partners to get ready to implement electronic closings.

Legal Foundation

An e-mortgage is a mortgage loan where the critical loan documentation—specifically the promissory note—is created, executed, registered, transferred and ultimately stored electronically. An electronic closing or e-closing produces an e-mortgage only if an electronic note or e-note was signed electronically.

E-mortgages were not possible before 1999 because there were no federal or state laws that enabled them. Then, after almost a decade of hard work, the National Conference of Commissioners on Uniform State Laws (NCCUSL) drafted the Uniform Electronic Transactions Act (UETA). Versions of the UETA have been adopted in 47 states and the District of Columbia, but not in Illinois, New York or Washington. California rushed to pass the UETA, but removed the provisions governing transferable records, commonly called e-notes.

In light of California's actions in 2000, supporters of a national uniform electronic mortgage transactions law asked Congress and the president to support a new federal law. Specifically, they were looking for a law that would pre-empt non-uniform versions of UETA or supply federal enabling legislation in states that did not enact UETA as written by NCCUSL. The result was the Electronic Signatures in Global and National Commerce Act (ESIGN).

Since then, other laws have been drafted, revised or amended to support the implementation of UETA and ESIGN. The Uniform Real Property Electronic Recording Act (URPERA) and the Revised Uniform Law on Notarial Acts (RULONA) are two such uniform model state laws.

Although electronic recording of electronic records is enabled by the UETA and ESIGN, the passage of

You
have
options.

URPERA provided states with a clear path to implement electronic recording of electronic records—for example, with electronic instruments such as security instruments, assignments and modification agreements.

The current version of RULONA establishes the ability for states to permit notaries to notarize digital records electronically. In the future, it's possible that laws may permit remote electronic notarization as well—a development that could vastly improve the homebuying process for people purchasing properties in distant locations. Think of members of the military working overseas who want to buy homes back in the United States, for example.

Digital TitleNews Extra

TitleTopics: E-closings Transforming the Mortgage Experience

Lender Landscape

With the necessary laws in place, an increasing number of lenders are using electronic documents. There are several factors driving interest, including a better customer experience, improved operational and financial efficiencies and the ability to easily prove compliance with regulatory requirements.

Most lenders are currently using electronic documents for initial loan applications and loan disclosures provided to borrowers. The vast majority of these lenders are looking at implementing electronic closing documents and including e-notes in the process as well.

Most of the lenders that are employing electronic closing documents are using a hybrid approach with either the e-note or notarized documents wet-ink signed. Lenders that excluded e-notes from their initial rollout are now working on including them in their e-closing process. And with more and more states adopting e-notarization, it's only a matter of time before the lenders that currently exclude notarized documents move to conducting fully electronic closings.

E-closing and E-mortgage Delivery Requirements

While sellers don't need special approvals to use electronic documents (as long as their procedures meet the requirements laid out in Freddie Mac's Single-Family Seller/Servicer Guide), they do need Freddie Mac approval to deliver e-notes.

The e-note is a critical document that must remain a single, unique, unaltered, authoritative copy. The mortgage industry has designed special technology to comply with these requirements; any system used must facilitate the creation, signing, transfer and storage of the e-note in compliance with ESIGN and UETA.

Lenders are required to register their e-mortgage security instruments with the Mortgage Electronic Registration Systems (MERS) and the e-note with MERS eRegistry. The MERS eRegistry identifies the "controller" of the authoritative copy of an e-note and the party storing that e-note as the "location" for the controller.

As of May 2017, MERS had registered over 341,000 e-notes and the number continues to grow. There are approximately 38 lenders/investors integrated with the MERS eRegistry, and several technology solutions are readily available for interested lenders to use that have completed integration with MERS eRegistry.

Title Industry Adoption of E-closings

In 2016, Freddie Mac and Fannie Mae conducted a joint survey, under the direction of the Federal Housing Finance Agency (FHFA), to better understand the obstacles facing the e-mortgage market. The Joint GSE eMortgage Outreach Survey Findings on the State of Industry Adoption report found that lenders are willing to spearhead the e-mortgage process and that warehouse banks, servicers and title/settlement partners will adopt the technology when requested by their lender partners.

The results showed that title companies have three primary concerns:

- multiple e-closing solutions are difficult to manage
- lack of lender demand
- staff not trained to conduct e-closings

Analysis of the findings led to three conclusions:

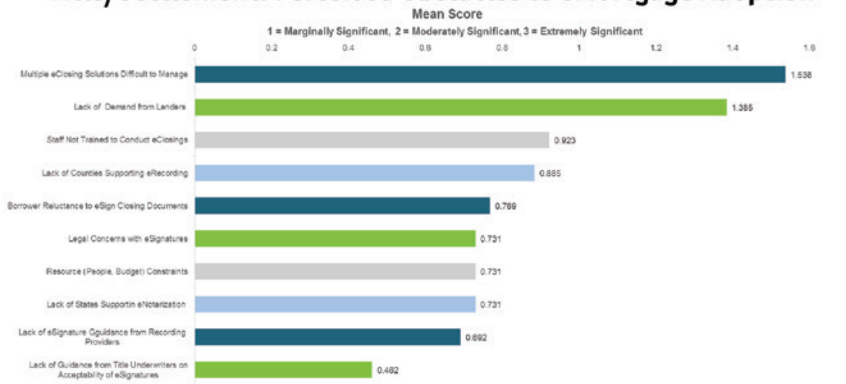
- Lenders must drive adoption among their title/settlement partners
- Training and education on e-closing platforms are essential for title agent acceptance
- Having the e-closing process integrated into the most widely used loan origination systems could benefit adoption

With increasing lender demand, more and more closing agents are now either supporting or ready to support e-closings. The industry is exploring solutions that would either integrate title documents into lenders' e-closing systems or establish a centralized electronic signing platform that integrates documents from lenders and title agents to minimize the need for closing agents to learn multiple systems.

In the interim, closing agents will need trained on multiple systems. While this is not ideal, a growing number of title companies think the benefits far outweigh the effort. The benefits include reduced risk of sending incomplete packages and faster delivery of signed closing docs to the lender.

"The industry is exploring solutions that would either integrate title documents into lenders' e-closing systems or establish a centralized electronic signing platform that integrates documents from lenders and title agents to minimize the need for closing agents to learn multiple systems."

Title/Settlement: Perceived Obstacles to eMortgage Adoption



Source: GSEs

Conclusion

As more lenders enter the e-mortgage business, efficiencies are already apparent. Everything is faster—the turn-around of warehouse lines, delivery to Freddie Mac, titling, settlement/funding and securitization. Shrinking paper-intensive timelines saves time and money.

With the UETA and/or ESIGN enacted and the e-mortgage infrastructure in place, a lender may originate an e-mortgage in any state and deliver it to Freddie Mac for purchase. All that's required is that the e-mortgage complies with ESIGN/UETA and meets the requirements laid out in Freddie Mac's Single-Family Seller/Servicer Guide and its eMortgage Guide, as well as the lender's specific contract with Freddie Mac.

We believe the future is bright for e-mortgages. These are interesting times. We should all be looking forward to implementing more electronic solutions. ■

Michael Gordon is associate general counsel for Freddie Mac Single-Family, while **Rajasekhar Penugonda** is product capabilities manager for Freddie Mac Single-Family.

Study: Majority of Small Businesses Lack Written Disaster Recovery Plan

ALTA's Best Practices Includes the Development of a Disaster Management Plan

Superstorm Sandy, Hurricane Katrina and Tropical Cyclone Matthew should serve as constant reminders of how important it is for every business, regardless of size, to make supply chain management a priority.

While the 2017 hurricane season is half over, disasters such as tornadoes and flooding can strike at any time. According to Nationwide, natural disasters have led to a 26 percent annual increase in the average severity of commercial catastrophe claims when comparing the three-year period between 2014-2016 with the seven-year period between 2007-2013. Additionally, the insurance company has seen a 14 percent increase in unique commercial catastrophe events that impact a business when comparing those same time periods.

Despite those statistics, most small-business owners (68 percent) still don't have a written disaster recovery plan, according to Nationwide's second annual Small Business Indicator, which was conducted online by Harris Poll among 502 U.S. business owners with fewer than 300 employees. Additionally, the survey found that about half said it would take their business at least three months to recover from a natural disaster.

Disaster recovery is a set of policies and procedures to enable the recovery or continuation of vital technology infrastructure and systems following a natural or human-induced disaster. Disaster recovery focuses on the technology systems supporting critical business functions.

Nationwide's survey revealed critical gaps in disaster preparedness for small businesses:

- 71 percent of small-business owners don't have business interruption insurance, which can be vital to survival since an estimated 25 percent of businesses never reopen following a major disaster.
- 21 percent of small-business owners without a written disaster plan said they don't have one because it's not a high priority
- 22 percent of small-business owners have already been impacted by a natural disaster.

While most small-business owners don't have a formal plan, many have taken various steps to prepare for natural disasters. The majority reported that they can work remotely in case of a natural disaster (82 percent), have duplicated and stored their company's vital records off site (75 percent) and have access to alternative suppliers (78 percent).

The third pillar of ALTA's Best Practices includes the development of a disaster management plan. A business continuity plan should include the following elements:

- **Risk Assessment:** What are the likely risks to business operations in the area in which business is conducted?
- **Contingency:** What steps can be taken to maintain operations in the event of a disaster?
- **Communications:** Is the plan communicated to employees? Do the employees know what to do in case a disaster scenario becomes an actual event?
- **Recovery:** What steps would be necessary to restore business operations in the event of a disaster? ■

NTP Opens Door to Conversations About Benefits of Industry

Why did you become an NTP?

I wanted to prove to myself that it was actually a possibility. My manager initially suggested that I seek the designation, and I was immediately interested. Of course I wanted the professional recognition, but it started out as a personal goal.

Why should others get their NTPs?

There is simply no better way to demonstrate your title insurance professionalism on a national scale. The title sets you apart from competitors, indicates that you have a wealth of experience and demonstrates knowledge of real estate matters. It is THE way to gain recognition in our industry.

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

Initially, I sent out state and national press releases. The NTP plaque is displayed in my office, and I wear my pin to title insurance events. The designation is on my emails, biography and other promotional materials. People frequently ask what NTP stands for, which leads to questions about ALTA and our industry.

How did you get into the industry?

I started out as a residential and commercial real estate paralegal, and also performed title examinations. I was also a licensed title insurance agent, which led to a position as a trainer/auditor/marketing representative with Chicago Title. I returned to law school, and became an underwriter upon completion.

What is your best professional trait?

I suppose organization. I seem to be able to multitask and juggle like a champ. There are so many changes going on in our industry today that organization skills are a must to keep on top of all that is demanded of us.

How have your ALTA connections benefited your career?

It's immeasurable. Attending ALTA events has not only allowed me to have incredible networking opportunities, but also gives me cutting-edge knowledge to share with my coworkers and customers alike. As a member, I constantly refer to ALTA's written materials and website for information and trends in the industry. ■

Martha K. McConnell

Company: Chicago Title Insurance Company
Title: Vice President and State Counsel
City/State: Columbia, S.C.
Data of Designation: July 2016
Industry Experience: 33 years

Earn Your NTP

The National Title Professional (NTP) designation recognizes land title professionals who demonstrate the knowledge, experience and dedication essential to the safe and efficient transfer of real property. Start earning your NTP designation at *www.alta.org/ntp*.

industry news

First American Title Hosts Its First-Ever 'Women in Title' Event

First American Title Insurance Company recently gathered some of the top women in the title industry for a two-day event designed to foster discussions on the opportunities and challenges in the title industry as well as the growing influence of women in the industry. Forty women leaders representing some of the largest title companies in the nation joined senior executives from First American Title's Agency Division and parent company, First American Financial Company, at the company's home office in Santa Ana, Calif.

"Empowering women is part of First American's DNA, as nearly 70 percent of our employees are women, so hosting the 'Women in Title' felt like a natural way to connect the women making an impact in the industry with some of our senior executives and prominent women leaders," said Evan Zanic, president of First American Title's Agency Division. "The response has been overwhelmingly positive and we're looking forward to hosting the event again next year."

The event's two-day schedule featured a mix of panel discussions and presentations on the most pressing issues in the title industry and business. Presentations on fraud, cyber security, changing regulations for employers and best practices in talent management, and marketing for growth were led by the women spearheading corporate initiatives at First American. These included Michele Green, who oversees fraud prevention initiatives for First American Title's Agency Division; Shabnam Jalakian, who leads cyber security efforts for First American as the company's chief information security officer; Michelle Glonek, vice president of human resources at First American; and Sandra Bell, vice president of corporate marketing and communications at First American. Other guest speakers included Cornelia Horner, the chief operating officer of the American Land Title Association, and Susan E. Packard, the co-founder of Scripps Networks Interactive and former chief operating officer at HGTV.

The concept for the Women in Title event, which was the first of its kind hosted by First American Title, originated from a focus group discussion attended by Paula Cross, an Ohio-based sales representative within First American Title's Agency Division.


Jalakian


Glonek


Bell


Horner


Packard

Minnesota, Missouri Address Signature, Recording Issues

Minnesota and Missouri passed bills that affect the signing and recording of documents relating to real property.

The Minnesota legislature recently passed House File 46, which clarifies that an electronic signature satisfies the requirement that a document contain original signatures and when an electronic document is considered recorded. This legislation was signed by the governor and went into effect immediately.

Missouri, meanwhile, adopted final provisions of an emergency rule that addresses electronic notary definitions, and electronic signatures and seals. These provisions are effective as of June 30. The provision provides useful definitions of eight terms including "capable of independent verification," "electronic seal," "electronic notarial certificate" and "record." The purpose of this provision is to clarify statutory section 486.275.2, which offers little guidance to notaries seeking to use electronic signatures and seals.

Florida Governor Vetoes Electronic Wills Bill

On June 26, Florida's governor vetoed a bill that would have allowed the use of remote technology to assist in the witnessing and notarization of wills. The bill was set to go into effect July 1.

In a letter, Florida Gov. Rick Scott said the concept of remote notarization is meant to provide increased access to legal services such as estate planning, but he believes HB 277 does not adequately ensure authentication of the identity of parties involved in the transactions.

"This bill has generated much debate among stakeholders who seek to find the right balance between providing safeguards to protect the will-making process from exploitation and fraud while also incorporating technological options that make wills financially accessible to a greater number of Florida's citizens," Scott wrote. "While the idea of electronic wills is innovative and may transform estate planning for Floridians, I believe this bill fails to strike the proper balance between competing concerns."

Fidelity to Acquire Major Stake in Oldest Title Company in Hawaii

Fidelity National Financial Inc. has signed a definitive agreement to acquire a majority ownership stake in Title Guaranty of Hawaii, with the Pietsch family, the current owners of Title Guaranty, continuing to own a portion of the company. Title Guaranty will continue to be closely aligned with Chicago Title as it formally becomes part of the FNF title company family.

Founded in 1896, Title Guaranty is the oldest title insurance company in Hawaii. Title Guaranty employs more than 300 in branches statewide providing title insurance and real estate closing services. FNF has a more than 30-year relationship with Title Guaranty.

"We are excited to formally welcome Title Guaranty of Hawaii into the FNF family," said Chairman Bill Foley, II. "We have a 30-plus-year relationship with the company and we expect the same level of professionalism and customer service to continue as Title Guaranty joins our direct operations."

North Dakota Streamlines Recording Fee Structure

North Dakota recently passed a bill that modifies the fees country recorders can charge for filing mortgage disclosures.

According to Senate Bill 2340, it now costs $20 to record documents containing six or fewer pages, while it costs $65 to record documents containing more than six pages. County recorders charge an additional $3 for each additional page after the first 25 pages.

This legislation could be an option for other states that conduct a high volume of gas and oil transactions, as it can cost more than $30,000 to record documents due to the number of pages. Nick Hacker, president of North Dakota Guaranty & Title Co., said the legislation was a compromise with the counties so it wouldn't disrupt their budgets.

ValuAmerica Acquires California-based Escrow Company

ValuAmerica, a wholly owned subsidiary of Clayton Holdings and national provider of appraisal, title, closing and settlement services, announced that it has acquired ValuEscrow Inc., an independent escrow company located in Santa Ana, Calif., expanding its closing and escrow operations in California.

Founded in 2013, ValuEscrow provides loan closing and escrow services to real estate agents, lenders and title companies statewide. The company will continue to operate with its current staff and under its own brand and license.

Old Republic Title Launches New Website Promoting OR SigningPro

Old Republic Title recently launched a new website promoting OR SigningPro services to lenders, title agents and signing professionals. OR SigningPro was originally introduced in January 2014 to accommodate the changing needs of clients and to provide a secure, professional experience for consumers at real estate closings. OR SigningPro manages a national panel of vetted signing professionals who provide closing services to lenders and standard notary services to title agents, allowing Old Republic to directly assign a mobile notary for closings.

INTRODUCING THE HOP BOX!

HOP
HOMEBUYER OUTREACH PROGRAM

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.

Your HOP Box will contain:

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

Of those items, you're able to customize the **Marketing Flyer** and the **Rack Cards** with your company logo and information before your HOP Box arrives.

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

The HOP Boxes are great for use at staff trainings, underwriter seminars, general education events, first time homebuyer seminars, state land title conventions and much more.

$120 PER BOX!

American Land Title Association
Protect your property rights

WWW.ALTAPRINTS.COM

OCC Issues FAQs on Bank Risk Management for Third-party Providers

The Office of the Comptroller of the Currency recently issued answers to 14 frequently asked questions on risk management around third-party providers.

The major driver in publishing the FAQs was to explain how banks interact with newer fintech companies. Many banks have been reluctant to share information with these start-ups, even when customers give their approval, due to security concerns.

While the FAQs are not directed at title and settlement companies, they do provide some parallels. Some of the more relevant FAQs are:

OCC Bulletin 2013-29 defines third-party relationships very broadly and reads like it can apply to lower-risk relationships. How can a bank reduce its oversight costs for lower-risk relationships?

- *The OCC's response to this question is that, while banks need to do due diligence on all third parties, this does not mean a one-size-fits-all approach. "Bank management should determine the risks associated with each third-party relationship and then determine how to adjust risk management practices for each relationship. The goal is for the bank's risk management practices for each relationship to be commensurate with the level of risk and complexity of the third-party relationship."*

How should banks structure their third-party risk management process?

- *On this question, the OCC responded that banks should structure their programs to meet their needs and the risk of each business line. "There is no one way for banks to structure their third-party risk management process. OCC Bulletin 2013-29 notes that the OCC expects banks to adopt an effective third-party risk management process commensurate with the level of risk and complexity of their third-party relationships."*

Can a bank rely on a third party's Service Organization Control (SOC) report, prepared in accordance with the American Institute of Certified Public Accountants Statement on Standards for Attestation Engagements No. 18 (SSAE 18)?

- *Responding to this question, the OCC notes the value of reviewing third-party assessments, but cautions that the bank needs to evaluate how the assessment fits into the bank's established controls. "In meeting its due diligence and ongoing monitoring responsibilities, a bank may review a third party's SOC report [and] a bank may find the third party's SSAE 18 report particularly useful. A bank should consider whether an SSAE 18 report contains sufficient information and is sufficient in scope to assess the third party's risk environment."*

The FAQs are similar, although more detailed, than the bulletin published last year by the CFPB. If you have any questions, email Steve Gottheim, ALTA's senior counsel, at steve@alta.org.

DocMagic's UCD Technology Solution Now Supports Both Phases of Upcoming UCD Requirements

DocMagic Inc. announced that its technologies are now capable of supporting both phases of the upcoming UCD (Uniform Closing Dataset) requirement. The company's technology solutions, which have been certified by Fannie Mae and Freddie Mac for both phases of the UCD file delivery mandate, enable lenders to start immediate testing of full UCD delivery.

The Uniform Closing Dataset (UCD) is a common industry dataset that allows information on the Consumer Financial Protection Bureau's (CFPB's) Closing Disclosure to be communicated electronically.

Stewart Opens Commercial Services Center in Florida

Stewart Title has opened a Commercial Services Center in Tampa, Fla. This is Stewart's first office dedicated to providing title insurance and escrow services for commercial real estate in the state. The office will serve as regional headquarters for all commercial services operations in Florida, including Orlando, Jacksonville, Miami and Fort Lauderdale.

Fannie, Freddie Delay Closing Disclosure Requirement for Uniform Closing Dataset

To address recent industry concerns, Fannie Mae and Freddie Mac announced they would delay by six months the requirement for lenders to embed the Closing Disclosure PDF within the Uniform Closing Dataset (UCD) XML file.

In an effort to standardize the underlying data required by the new Closing Disclosure, Fannie Mae and Freddie Mac created the UCD, which is a common industry dataset that allows information on the Closing Disclosure to be communicated electronically.

Fannie Mae and Freddie Mac have developed the UCD at the direction of the Federal Housing Finance Agency as part of the Uniform Mortgage Data Program (UMDP), an ongoing initiative to enhance loan quality and consistency through uniform loan data standards for the single-family loans the GSEs purchases.

In their announcement, the GSEs reported there are industry challenges requiring the Closing Disclosure PDF to be embedded in the UCD XML file. The previous deadline was September 2017, but as a result of customer feedback, the GSEs will not enforce this requirement until April 2018.

Previously, the GSEs delayed requiring lenders to submit seller Closing Disclosure data until September 2018. The GSEs postponed the seller reporting requirement after hearing about difficulties lenders are having preparing systems for changes to the Home Mortgage Disclosure Act and Uniform Residential Loan Application.

In a letter sent by the Mortgage Bankers Association, lenders expressed concerns that most seller data does not originate in their systems. They indicated that efforts to integrate that data are not going as smoothly as hoped.

News to Share?

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

Recent Software Integrations

SoftPro announced the integration of its business exchange platform with **Alliant National Title Insurance Company**. Agents of Alliant who use SoftPro can generate closing protection letters and policy jackets directly through their SoftPro software.

RamQuest Inc. announced that its Closing Market digital network is now integrated with **BC Law**. RamQuest customers can order conveyance documents without leaving their RamQuest production solution. Documents are then prepared with BC Law's system, and are reviewed by a state-licensed attorney to ensure state compliance and accuracy before being delivered directly back to the customer's title production solution.

Qualia Title & Closing Software is now integrated with **NotaryGO**, giving title agencies and law firms access to nationwide vetted notary signing services directly within Qualia. The integration allows Qualia users to schedule services with this network directly within their core settlement software, with no disruption in workflow.

Qualia Title & Closing Software is now integrated with **A.S.K. Services**, allowing title agents to complete property searches and commitments directly within Qualia. This partnership provides Qualia users with a way to retrieve high-quality public record information.

Visionet Systems has become a verified technology integration vendor for **Freddie Mac's** Loan Closing Advisor platform. Visionet's CD2UCD solution was tested to ensure that its interface was developed in accordance with Freddie Mac's requirements for the Uniform Closing Dataset (UCD).

Two N.J.-based Title Agencies Merge

ABL Title Insurance Agency LLC announced it is merging with Foundation Title. Bob Cosentino and Simeon Bogiages, who launched ABL Title in 1995, will join Foundation Title as senior vice presidents of business development. Foundation Title is operated by Ed Rickenbach and Mark D'Agostino. The merger will result in a company with over 140 employees, 14 locations and the ability to insure and close over 1,800 transactions per month.

North American Title Group Names SVP of Strategy and Corporate Development

North American Title Group LLC (NATG) has named Dominic Fahey as senior vice president of strategy and corporate development. Fahey will provide strategic leadership for the company to establish long-range goals and policies and collaborate in the development of technology for internal and external enhancements. Fahey worked for North American Title Agency in New Jersey from 2003-2016. He returns to the NATG family after more recently serving as vice president of state agency manager for another national title company.

Old Republic Title Appoints New Exec to Central Title Division

Brooks Yeager has joined Old Republic Title's Corporate Development team as senior vice president of ORNTIC and director of business development for the Central Title Division. In this new role, Yeager will work closely with the management teams in the Central Title Division and with the Corporate Development team to implement divisional growth strategies and business development processes. Formerly executive vice president and chief strategy officer at RamQuest Software, which is part of Old Republic Title Tech Companies Inc., Yeager managed customer, existing partner and potential partner relationships, with an overall objective to execute strategic business and sales initiatives.

Orange Coast Title Names Senior Underwriter

Orange Coast Title Company announced that Kent Schmeeckle has joined its management team as vice president and senior underwriter. He has been in the title industry since 1974 and has more than 10 years of direct underwriting of insurance.

Signature Information Solutions' GM Honored With Two Professional Service Awards

Two different title insurance associations recently recognized Patrick Roe, general manager of Signature Information Solutions LLC. He was honored for his distinguished service to the title industry, willingness to go the extra mile for customers, sharing of his time, offering the talents of his staff and industry advocacy.

On June 5, Roe was presented with the New Jersey Land Title Association (NJLTA) President's Award. The recognition is given to a member who has distinguished him or herself over the years providing service, vision and guidance to the industry. On June 12, he received the Pennsylvania Land Title Association (PLTA) James G. Schmidt Distinguished Service Award. The annual award recipient is selected by the last five association presidents and is presented to an individual for substantial service and contribution to the welfare of the land title industry. Roe is the first affiliate member from both of these organizations to receive such distinctions.

Texas Land Title Association Names Title Person of the Year

The Texas Land Title Association (TLTA) recently presented Randy D. Pittman, president and county manager of West Texas Abstract & Title Company, with the Title Person of the Year Award. The award, which is the highest honor bestowed by TLTA, recognizes significant and longtime contributions to the title industry and the association.

Pittman has been in the title business for over 19 years, having been a co-owner of West Texas Abstract from 2003 to 2014 before becoming a part of the Fidelity National Title Group in January of 2015. He was awarded the TLTA President's Award in 2010 and served as TLTA president from 2012-2013.

Become a Service Company That Sells Title

Zappos CEO Tony Hsieh went from selling pizzas in his dorm room to leading the largest online shoe store in the world. What fascinates me is how he transformed Zappos into something much more by making company culture and customer service a priority. Tony has said that "Your culture is your brand. Customer service shouldn't just be a department, it should be the entire company."

A company's culture manifests itself from core values. This is a simple, yet profound concept. Core values are the essence of the company's identity—its principles and beliefs. Zappos formalized the definition of its culture into 10 core values ranging from delivering "wow" through service, to being humble. Tony is clear that an organization must adopt the values that work for them. It's how they became a customer service company that just happens to sell shoes. It's why Zappos doesn't compete on price, but on service. But Tony doesn't stop there. Take for instance Zappos hiring practices.

Zappos conducts two interviews for prospective employees – one that assesses skills and talents, the second to learn if a person fits with their corporate values.

Obsessed with finding the right employees, Zappos offers employees thousands of dollars to quit if the job isn't for them. The goal is to encourage people to think about what they want. It's not healthy for them or the company if they don't like the job.

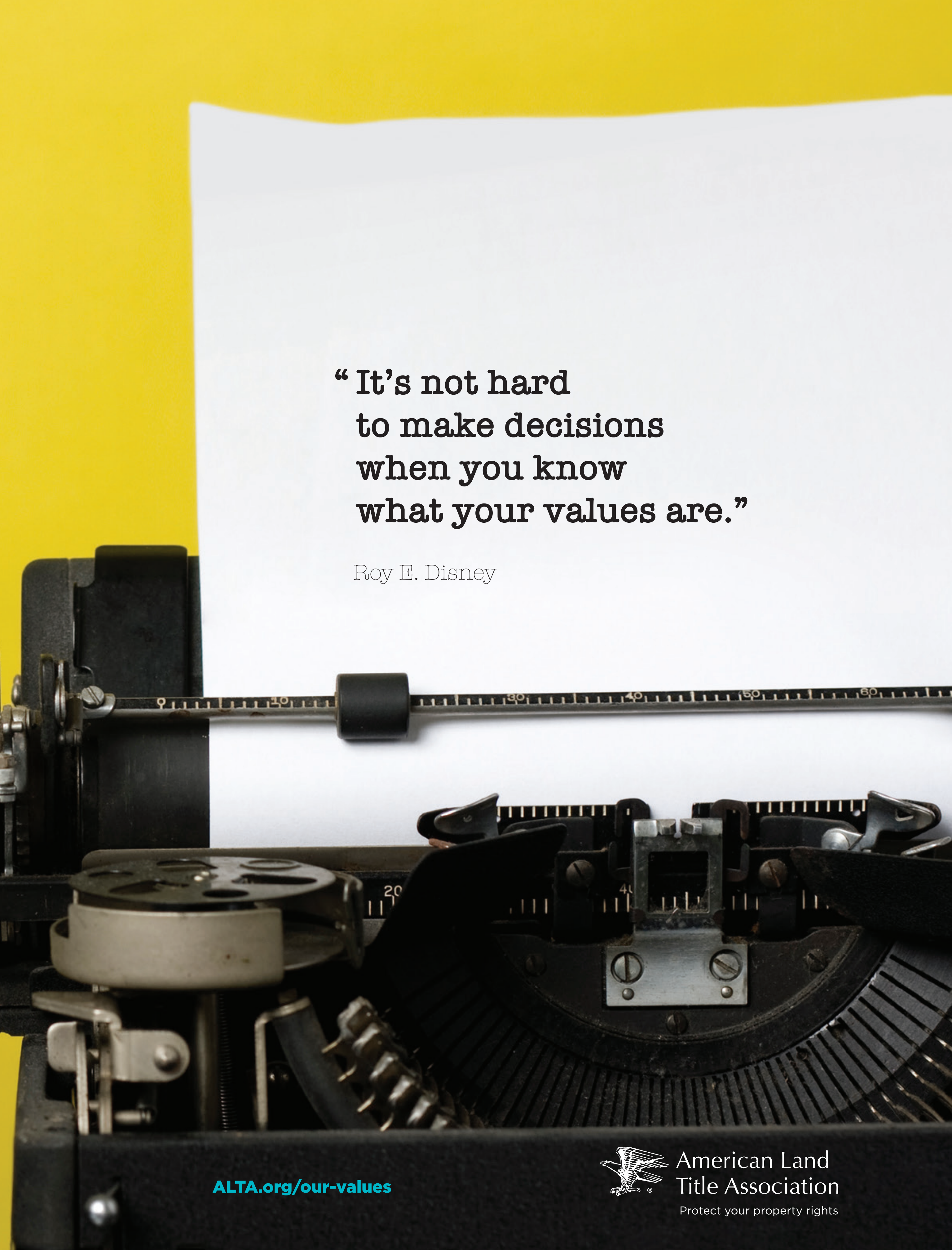
Tony says "The best businesses are ones that can combine passion, profits and purpose." This same philosophy can be applied to our industry and operations. Think about these questions:

- Do we allow our values to drive our actions?
- Are we a customer service company that just happens to search titles and conduct closings?
- Do we stress the importance of our values throughout the organization.

Finding productive employees that embrace your company's culture is just as vital to our industry, especially with the changing demands and needs of today's customers. Policy and technology are changing the landscape of the title industry. Homebuyers are demanding more transparency during the closing process. To build trust with our customers, we must come together as leaders and identify new ways of continuing to deliver exceptional service. There's no better place to be ready for what's next than by joining us in Miami for ALTA ONE. You'll leave inspired to develop innovative solutions to provide your customers what they will continue to want today, tomorrow and in the future.

— Steven G. Day NTP, ALTA president-elect


Safeguard.
Jumping into an ocean symbolizes summer. Whether you're just dipping your toes in or grabbing a board, you need to be prepared for dangerous waters. If you pick the wrong wave, it might not take you where you want to go. And you might miss out on the perfect wave when it comes and you're unprepared. Learning to ride the right waves and practicing safeguards provided by the best professionals are vital.
Who can help you navigate through the rough and murky waters?
Trust your instincts.
FIDELITY NATIONAL
TITLE GROUP
With you…for what's next
fntg.com/next


" It's not hard
to make decisions
when you know
what your values are."
Roy E. Disney
ALTA.org/our-values
American Land
Title Association
Protect your property rights