SEPTEMBER 2020

TITLE News

AMERICAN LAND TITLE ASSOCIATION

Cultivate a High-performing Remote Team

Companies Encouraged to Focus on Results Rather Than Hours Worked

iN This Issue

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COVER STORY

FEATURES

DEPARTMENTS

AMERICAN LAND TITLE ASSOCIATION

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TiTLENews

OFFICIAL PUBLICATION OF THE **AMERICAN LAND TITLE ASSOCIATION**

Do Clothes Make the Virtual Person?

JEREMY YOHE
ALTA vice president of communications

WE'RE SIX MONTHS INTO THE COVID-19 PANDEMIC and things are nearly as uncertain as they were in March. Across the country, schools are grappling with how to bring students back to the classroom. Small businesses continue to be concerned about financial hardship due to prolonged closures or lack of guidance on proper reopening procedures.

One thing that we were reminded of during this pandemic is that the people in the title insurance industry have always cared deeply about their communities—most ALTA members live in the communities in which they work. Our customers are also our neighbors and friends. In March, we created the #GoodDeeds campaign so that our members could connect with their peers and communities to share stories of how they continue to help families on their journey to homeownership. Hearing your stories inspired ALTA leadership to develop something to support and enhance these efforts. You can be among the first to find out by registering for the virtual ALTA ONE conference at ***alta.org/one***.

Another thing this health crisis reminded us is that people in general tend to be judgmental. Especially when it comes to what we wear—and possibly even more with what's in the background of your Zoom meetings.

Earlier this year, Harvard Business Review conducted a survey asking questions about video conferencing preferences, expectations and experiences. Participants were shown a person against three different backgrounds, another person wearing three different colors and a third person dressed in three different types of attire. Respondents were asked to choose which background, clothing color and clothing style helped the speaker appear the most authentic, the most trustworthy, the most innovative and the most like an expert.

When it came to dress, the majority of survey respondents identified business casual attire and neutral colors as key to helping a speaker appear authentic and trustworthy. Interestingly, regarding backgrounds, showing actual room was the most popular choice. This could seem risky because of accidentally showing a pile of laundry, a stack of dirty dishes or a wandering child. However, the survey showed that if you're seeking authenticity, trustworthiness or expertise, a blank wall or virtual scenic background do not offer much in the way of sincerity.

What do the results tell us? Our clothing and our surroundings have the power to influence what people think about us. In fact, literary greats have already made this argument. In 1927, Mark Twain wrote in More Maxims of Mark, "Clothes make the man. Naked people have little or no influence on society." Twain wasn't the first to observe humans judging others for what they wear. In his collection of proverbs published in 1500, theologian and social critic Desiderius Erasmus Roterodamus wrote, "Estis virum facit," meaning, "Clothes make the man."

This edition's cover article isn't about the latest clothing tips, but rather insight on how to manage a successful remote workforce, and how to be a productive employee. Your clothes may not define who you are, but your actions do—both virtually and in person.

ALTA Promotes Industry in *USA Today* America Responds Special Edition

During all the uncertainty caused by the COVID-19 health crisis, one thing is certain: the land title insurance industry has truly stepped up.

To promote the industry during this trying time, ALTA was included in the *USA Today* America Responds special edition that recognizes businesses and industries that have remained resilient during this pandemic to deliver for their customers and keep the nation moving forward. It's the publication's salute to those Americans making a real difference—whether they're essential services, creating safer ways to work and shop, opening their hearts and wallets or just offering moral support.

In addition to the countless ways in which ALTA members are donating and volunteering for efforts in their communities, our members also have developed innovative and safer ways to continue to make the American Dream come true. From drive-thru to digital closings, the industry's dedication is allowing families to close on new homes or refinance their mortgages to take advantage of low interest rates.

"There is no doubt that the COVID-19 pandemic has completely changed the meaning of what we have come to know as 'home,'" said Diane Tomb, ALTA's chief executive officer. "In the wake of the pandemic, 'home' has now become an office, a school to our children and the heartbeat of a family's sense of security. We are proud of our members for how they responded during this challenging time."

The ad highlights the different roles ALTA members play when advocating for a homebuyer or seller. But one title encapsulates their true role: protector. Land title insurance professionals are responsible for protecting homebuyers, sellers and business owners from risks that could impact the purchase of a property, including wire transfer fraud, hidden liens and other critical threats.

"ALTA members, as title professionals, are the guardians of the American Dream," Tomb said. "We want everyone to know about the people who are dedicated to making sure that families can still open the door to their dream of owning a home."

ALTA and its more than 6,400 member companies—which operate in every county of the United States—strive with dedication and purpose to keep everyone healthy and safe every single day.

The *USA Today* America Responds special edition will be available alongside the daily *USA Today* throughout the country where newspapers are sold. Some of the major brands participating include Microsoft, Amazon, Google, Walmart, Kroger, Lowe's and Verizon. More than 10 million readers will receive a link via email providing a complete shareable digital copy of the publication. Feeding America, Boys & Girls Clubs of America, Direct Relief, Americares, Goodwill Industries, The Salvation Army and the United States Hispanic Chamber of Commerce will include a digital copy of the publication directly into the news feed of their social media channels.


ready2close™

Language Addressing Wire Fraud, BEC Added to Appropriations Bills

ALTA has successfully worked with the House Committee on Appropriations to push several federal agencies to focus more on real estate wire fraud as part of Congress's annual appropriations process.

An appropriations bill, also known as a spending bill, is legislation that authorizes the expenditure of government funds. The bills direct federal agencies on how to spend their budgets. Telling agencies to spend money on a specific topic or produce a report to address a problem is a critical way to elevate an issue with federal policymakers.

The report language included in three appropriation bills directs federal agencies like the FBI, FinCEN and FTC to produce reports on their current efforts on wire fraud and for suggestions of new legislative authority to help combat these crimes. For the Department of Housing and Urban Development, the language requires it to develop wire fraud education materials for consumers through the department's housing counseling programs.

ALTA Partners With U.S. Chamber of Commerce's Equality of Opportunity Initiative

ALTA is proud to announce it has partnered with the U.S. Chamber of Commerce's Equality of Opportunity Initiative, which outlines a broad policy agenda in the areas of education, employment, entrepreneurship and criminal justice.

"ALTA and its members are committed to hosting conversations and taking action in communities and within the industry to address the inequality of opportunity across America," said Diane Tomb, ALTA's chief executive office. "Bridging opportunity gaps and ensuring that black Americans and people of color have a greater chance to succeed is the right thing to do. As an industry that values homeownership and fair housing for all, this is one step in ALTA's journey to help achieve equality for all in America. We are proud to support this effort to advance equality and inclusion."

Membership by the Numbers

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

- New Members: 81
- New Associate Members: 4
- New Attorney Members: 32
- Total Members: 6,344

NEWS TO SHARE?

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

ALTA 2020 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. So far in 2020, TIPAC has received $225,919 from 248 donors. In addition, $121,500 from 19 companies has been pledged to the TIPAC Education Fund. Check out who has supported the industry at alta.org/tipac.

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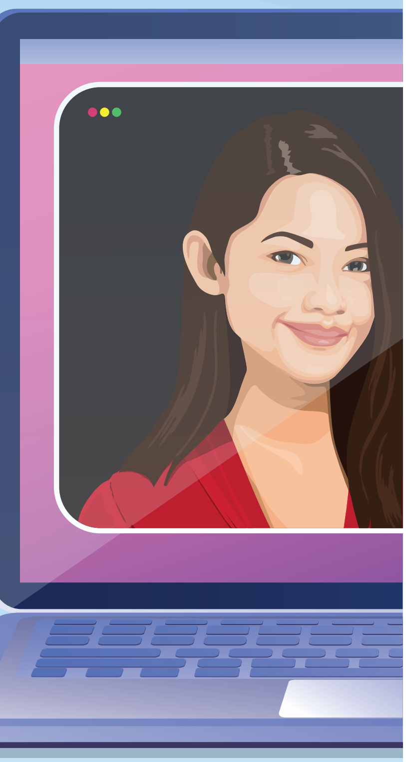
Cultivate a High-performing Remote Team

Companies Encouraged to Focus on Results Rather Than Hours Worked

By Jeremy Yohe



THE COVID-19 PANDEMIC forced title and settlement companies across the country to modify staffing practices and processes, among other things. Five months in, most professionals have learned that working from home can bring new challenges such as juggling work while watching (or teaching) kids, learning new software and conferencing programs, and managing files from a couch instead of a desk.

"The greatest challenge that any new remote team manager faces is that today we have more than two million people who were not working remotely at the beginning of March—now working remotely," said Tammy Strickland, vice president of digital transformation for Fidelity National Title Group. "This is a transition under very difficult circumstances for the teams and for their leaders."

According to a June survey by Gartner, 82 percent of respondents intend to continue permitting remote working some of the time as employees return to the workplace. For many organizations with employees working both onsite and remotely, adapting to a new, more complex hybrid workforce is the challenge as we see further evolution to the different paradigms people use to work together and get their jobs done.

Nearly half (47 percent) said they intend to allow employees to work remotely full time going forward. For some organizations, flex time will be the new norm as 43 percent of survey respondents reported they will grant employees flex days, while 42 percent will provide flex hours.

"The COVID-19 pandemic brought about a huge experiment in widespread remote working," said Elisabeth Joyce, vice president of advisory in the Gartner HR practice. "As business leaders plan and execute reopening of their workplaces, they are evaluating more permanent remote working arrangements as a way to meet employee expectations and to build more resilient business operations."

As employers move toward a hybrid workforce, the productivity of remote employees is a frequent topic of conversation. However, Gartner found that just 13 percent of business leaders voiced concerns over sustaining productivity. While 61 percent of business leaders surveyed by Gartner have implemented more frequent manager-employee check-ins, 29 percent report not taking any measures to track productivity remotely.

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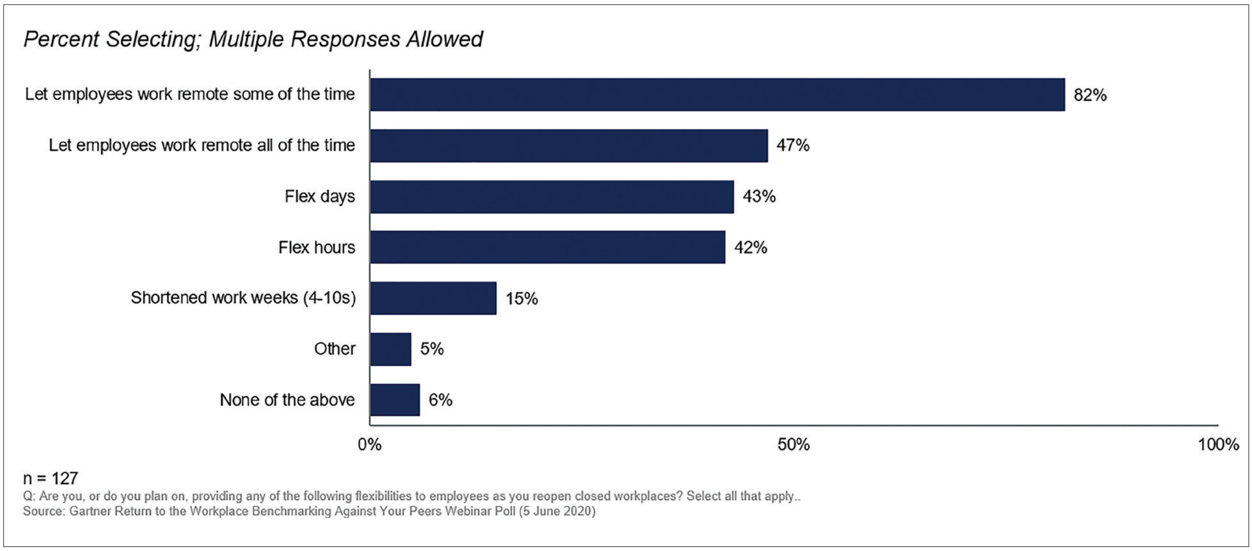

Among the challenges of managing a hybrid workforce, 30 percent of business leaders are most concerned with maintaining their corporate culture. Thirteen percent of respondents reported concern over creating parity between the remote and in-office experience; 13 percent also are concerned about providing a seamless employee experience.

"It is critical that employers get their corporate culture and employee experience right during this period of uncertainty," said Brian Kropp, chief of research for the Gartner HR practice. "Both facets help ensure organizations achieve the financial, reputation and talent outcomes that will drive business outcomes and competitive advantage."

Strickland believes every worker can be successful in a remote environment. They just need to be coached to be self-motivated, responsive, independent and have a high work ethic.

"If employees are not able to develop these characteristics, we need to consider the consequence that this has on the overall team contribution," Strickland said.

On the flip side, managers can succeed in this environment as well. Many supervisors already manage multiple offices and multi-floor buildings. Employees are not always in line of sight. Strickland believes said there is a popular perception that a remote manager needs a different skill set.

"Being remote just makes us double down on the fundamentals of good management to be intentional, organized and work hard to establish trust within the teams," she said.

According to Strickland, the first step to building a successful remote team is to define the work and set objectives. This can include:

- Defining the goals per week or month
- Brainstorming all the tasks required to complete the goals/objectives
- Assigning estimated times to all tasks
- Listing dependencies and risks
- Selecting an end date
- Estimating a few completion milestones

"Mapping out tasks and workflow is usually a very insightful exercise and you not only have the documentation, you are able to spot inefficiencies that simply happen over time," Strickland added.

In this knowledge economy age, Strickland said it's important for managers to focus on results, not how, when or where employees accomplish established goals. This maintains accountability while trusting people to get things done on their own terms, which is especially important during these uncertain times.

Holding employees accountable can be a simple process, according to Strickland. She encourages companies to develop an individual work overview/status report asking these questions:

- What did I do last week to move the team forward to the next milestone I was assigned?
- What am I going to do next week to move the team forward to the next milestone that I am assigned?
- What are my issues and risks?

Each member of the team should provide this information to the entire team on a weekly basis. "The team performance is the team's business, and everyone should be aware," Strickland said. "It's the concept of 'responsible to the team, not just their manager.'"

Strickland said managers should schedule monthly performance conversations with each employee as well as the team to discuss highlights and low points from the previous month's work, areas for improvement and plans to improve performance. This allows for small corrections, which is important as people continue to get their bearings with remote work. Managers should also consider scheduling a "virtual coffee break" once a week to allow employees to have time for free discussion.

Andrew Acker, chief operating officer for D. Bello, said the two most important factors in connecting teams will be communication and convenience. There are many platforms and applications companies can utilize to keep employees connected. When selecting a system, Acker said to consider what bottlenecks it will resolve and the opportunities it will promote.

"Now is a great time to look at what you can change and what you can improve," Acker said. "As you start to look at various solutions, I'd encourage you to consider how these solutions can fit into your long-term model too. What I know from looking at technology solutions is that there is no one-size-fits-all model. The end goal is to find the sweet spot in what systems will work best."

Things to consider when creating a work from home action plan:

Checklist to Support Remote Teams

Coach Remote Employee: All employees can be successful remote employees. It is a learned skill and the transition can be coached. The qualities that are necessary for a remote employee are the same qualities for high performance within an office:

- Self-motivated and independent
- Great work ethic
- Highly responsive
- Resourceful
- Collaborative

There is a greater responsibility for a virtual worker to document their work, be available and share their status. As leaders, we must provide the tools for them to do this without adding additional burden to their normal work (frictionless tech):

- Uphold the commitment to the organization—40 hours is minimum commitment for a salary
- Document the contributions you made in exchange for your salary
- Workers should be responsible to be present and make a great contribution without being supervised

Remote Manager: A remote manager needs the same skill set as a successful onsite manager:

- Ability to manage projects; Define meaningful process and working plan
- Manage by results—not hours
- Transparent communication
- Ability to create stability and trust within teams

Ability to Manage Projects; Define Meaningful Process and Working Plan

- Define the goals/objectives (if first starting, define for a week or a month)
- Team brainstorm all tasks required to complete the goals/objectives
- Estimate the time for each task
- List dependencies and risks
- Select completion date
- Choose milestones for reporting

Effectively Plan and Manage by Results

- Set clear/measurable objectives
- Gain agreement projections are relevant and achievable
- Hold individuals accountable for their delivery

Manage by Results, Share the Results:

- Institute a work overview to report on the status of their agreements:
  - What did I do last week to move the team forward to the next milestone?
  - What am I going to do next week to move the team forward to the next milestone?
  - What are my issues and risks?

Transparent Communication:

- In the short term, schedule daily stand-up meetings for the team.
- Single place to find team information/documentation
- Have performance conversations individually and with the team to discuss what is going well and what needs improvement.

Promote Your Virtual Teams – we do not want to become invisible:

- Create a bulleted executive overview to share your team's contributions
- Understands the benefits and limitations of technology for virtual teams
- Text-based media is generally more useful for sharing basic daily information, while video chats and telephone conversations are better for brainstorming, problem-solving and relationship-building.
- Evaluate what technology works and what needs to be changed, both in the short term and long term
- Ensure that you're not creating digital burnout with your team
- Don't assume you're 'secure' just because you're at home. Perform an at home/remote security audit.

Make Time for Connection of the Team

- Check In "virtual coffee break"
- Thank and praise them for their accomplishments—handwritten thank you notes
- Send care packages
- Celebrate via video or when we have returned to life as we know it, send remote employees a gift card or check for drinks, dinner or a night out on their town
- Ask for feedback on how to better serve your remote employees
- Employee volunteering is another effective way to boost engagement and morale. Remote teams can identify causes they care about and how they want to participate.

- Agreements on deliverables for today, this week or this month.
- Hold daily stand-up calls.
- Allow for flexibility: Find the schedule when the individual can be most productive; recognize children, space, privacy and choice issues are short-term issues.
- Implement end-of-the-day reports.
- Support and trust (don't micromanage).
- Decide who can work from home: maybe some level of training/experience is necessary prior to working from home.
- Define expectations.
- Is a separate home office a requirement?
- Define the schedule—will on-site be required?
- Choose means of communication/team collaboration.
- Ensure data and device security
- Clarify what expenses you're going to cover

One of the problems of working from home is that your work is always with you. Establishing an end-of-the-day routine is a good suggestion to avoid burnout.

As title agents look toward the future and assess how the recent evolution in real estate technology and working remotely has affected their business, Acker recommends three technology efficiencies for companies moving forward:

- **Think Long Term:** Everyone has done a great job of coming up with creative and swift solutions to new work requirements. If you've implemented video conferencing, project management tools or other new tech to help during the COVID-19 pandemic, think about how you can continue to make them part of your regular company routine going forward. The best way to avoid future tech fatigue from your team is to keep using these tools in your day-to-day moving forward. There is likely great long-term value from many new solutions, and they don't have to be a temporary fix.
- **Perform a Tech Audit:** While your team is more open to using technology and systems that might otherwise be overlooked, perform an audit of all your technology. Create lists of the tech you invested in previously versus the technology you implemented during this health crisis. Determine what you no longer need, what your team likes and dislikes, and also what technology you want to increase after COVID-related health concerns are under control.
- **Consider Remote Production Options:** Help your team keep pace with workflow demand by finding a production partner that can mimic your internal operations. This allows your team to get back to work on what's most important while your remote production team does the busy work on your behalf.

Avoid Burnout

With people working from home and unfinished tasks constantly at everyone's fingertips, the potential for burnout is significant. The National Bureau of Economic Research surveyed 3.1 million people working at 21,000 companies in North America, Europe and the Middle East to compare two eight-week periods of employee behavior—one before COVID-19 lockdowns, and one during. According to the study, the workday has increased by 48 minutes, meetings are up by 13 percent, and 1.4 more emails are being sent daily. In a survey conducted in May by Monster.com, a job search and careers website, about half of 1,251 respondents said they were experiencing burnout.

"One of the problems of working from home is that your work is always with you," Strickland said. "Establishing an end-of-the-day routine is a good suggestion to avoid burnout, because it's important to have that mental break from work and technology."

For those falling prey to always being on, Acker recommends picking a spot where you perform your daily work. This will help reduce the threat of working constantly. Taking breaks and "building a commute" in the day can also help retain focus. Acker calls this "the bite of ginger between sushi bites."

He recommends resetting expectations. This is important for leaders to understand that staff with children at home or spouses also working remotely, might not be quite as efficient. "Now is the time for extended grace," he added.

Batching time and activities can help avoid distractions. While employees in customer-oriented roles might not be able to shut off email for three hours to work on a project, organizing time for social media or reading news can help reduce extra fatigue.

"I like to do what I call start well by ending well," Acker said. "When wrapping up a day, look for the big three items for the next day. When I wake up, I don't want to wake up and think about it. I want to have a plan. There will be fires that pop up, but this will give your mind some peace. That simple step goes a long way." ■

JEREMY YOHE *is ALTA's vice president of communications. He can be reached at jyohe@alta.org.*

Ignoring Red Flags of Elder Fraud is One of Five Big Mistakes Agents Make

According to the U.S. Census Bureau, there were 40.3 million Americans age 65 and older in the 2010 Census. In 2018, that number was estimated at 52 million, representing 16 percent of the U.S. population. Today's estimate is 73 million, a number driven by the aging of the Baby Boomers born between 1946 and 1964. The growth of this demographic, in part, explains why in the last few years, the title industry has seen a dramatic increase in elder financial abuse claims, with a large number of them coming from California.

Historically, allegations for elder abuse have targeted the primary wrongdoer, such as the financial advisor, caregiver or relative, who **took advantage of the elderly's mental vulnerabilities** in order to obtain control over the victim's assets. Even though the underwriter and title agent may have no direct contact with the borrower to know his or her age, the title professional is now often included as collateral defendants by victims in what are typically last-ditch efforts to maximize recovery of a loss of life savings.

Due to these lawsuits, courts are now starting to grapple with the question: What duty of care do title professionals owe those individuals age 65 or older?

While this question lingers, the more frequent concern is claims created by elder abuse victims who file litigation to invalidate a lender's security interest or quiet title against a new owner. Keep in mind these parties may have had nothing to do with the scam against the victim. Under their title insurance policies, the lender and new owner in this scenario can file claims with the title insurance underwriter, tendering their defense.

As this type of litigation can frequently involve intra-family disputes and voluminous discovery, the costs associated with defending the insureds are high as are the potential losses resulting from its resolution.

The mistake here is made when the title agent fails to investigate a **red flag** that could potentially lead to a discovery of elder abuse and prevention of a claim. If a red flag is ignored or otherwise missed, a title insurance underwriter may seek recoupment for their losses from the agent.

This mistake is one of five that NATIC has identified in its newly released article, **"Five Big Mistakes Agents Make That Lead to Claims."** The article details troublesome areas in the real estate transaction that lead to hefty or frequent claims; specifics about the mistakes made and how to avoid them; elder abuse red flags; and a tip sheet for avoiding one of the most costly and prevalent type of claim seen today.

Reveal the other four mistakes at the link below.

View NATIC's

Five Big Mistakes Agents Make That Lead to Claims HERE.

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Congress created the Paycheck Protection Program (PPP) to provide a financial incentive for small businesses to continue employing workers during the COVID pandemic. The way the program is structured, PPP loans will be fully forgiven if the funds are used for certain business costs. At least 60 percent of the forgiven amount must have been used for payroll. (This includes health care, retirement, etc.) Loan payments will also be deferred for six months. No collateral or personal guarantees are required. Neither the government nor lenders will charge small businesses any fees. The Small Business Administration (SBA) opened the forgiveness portal for its Paycheck Protection Program loans the first week of August.

Loans issued prior to June 5 have a maturity of two years. Loans issued after June 5 have a maturity of five years. All loans have an interest rate of 1 percent.

PPP loans allow companies with 500 employees or less to borrow up to 2.5 times their average monthly payroll.

Forgiveness is based on the employer maintaining or quickly rehiring employees and maintaining salary levels. Forgiveness will be reduced if full-time headcount declines or if salaries and/or wages decrease.

Eligible Spending

Businesses can use funds from the program loans to cover expenses including:

- Payroll costs, including compensation to employees
- Payments for vacation, parental, family, medical or sick leave
- Severance payments
- Payments required for group healthcare benefits (including insurance premiums, as well as payments toward vision and dental benefits), retirement benefits, and state and local employment taxes
- Interest payments on any mortgage obligations or other debt obligations incurred before February 15, 2020 (but not any payments or prepayments of principal)
- Rent
- Utilities

Things Money Can't Be Used For

- Compensation of individual employees, independent contractors or sole proprietors in excess of an annualized salary of $100,000
- Compensation of employees with a principal place of residence outside the United States
- Leave wages already covered by the Families First Coronavirus Response Act.

Reductions to Loan Forgiveness

- Loan forgiveness may be reduced if the average weekly number of full-time equivalent (FTE) employees is reduced, or salaries and wages are cut by more than 25 percent for any employee who made less than $100,000 annualized in 2019.
- Reductions in FTE: Reduction in number of full-time equivalent employees (FTEs) during covered period after origination of loan.
    - Period for calculating FTEs is average number from either (A) Feb. 15, 2019 to June 30, 2019 or (B) January 1, 2020 to Feb. 29, 2020.
    - Number of FTEs determined by calculating average number

How to Determine PPP Forgiveness Eligibility

Small Business Administration Opened Forgiveness Portal as Program Ended Aug. 8

of FTEs for each pay period falling within a month.

- Reductions in Payroll: Reduction in pay of any employee making less than $100,000 by more than 25% compared to last complete calendar quarter.
  - No limit to amount of reduction in pay of employees who make over $100,000.

Repairing Reductions in Payroll

There is no penalty for salary reductions from Feb. 15, 2020 to April 26, 2020 if salaries are restored to original amount by Dec. 31, 2020, per Paycheck Protection Program Flexibility Act (PPPFA).

- Example: On Feb. 15, 2020, Company A decreased the salaries of employees making $75,000 to $50,000. If Company A increases the salaries of those employees back to $75,000 by December 31, 2020, there will be no penalty regarding the amount of loan forgiveness.

It's important to keep in mind that this possible reduction in loan forgiveness applies only to employees who make less than $100,000 per year.

A company is still eligible for

ALTA Supports House Bill to Help Small Businesses

ALTA joined a coalition of more than 140 trade groups representing small business borrowers and lenders asking Congress to streamline Paycheck Protection Program (PPP) forgiveness for the smallest borrowers.

In a letter, the coalition pushed for passage of the bipartisan Paycheck Protection Program Small Business Forgiveness Act (H.R. 7777), which was introduced by Reps. Chrissy Houlahan (D-PA) and Fred Upton (R-MI). A companion bill (S. 4117) was introduced in the Senate by Sens. Kevin Cramer (R-N.D.), Bob Menendez (D-N.J.), Thom Tillis (R-N.C.) and Kyrsten Sinema (D-AZ).

H.R. 7777 would require the Small Business Administration (SBA) to develop a simplified one-page forgiveness application for borrowers of PPP loans in amounts less than $150,000. Rather than provide comprehensive documentation of how the business used the funds, the borrower would simply have to provide an attestation that they spent the funds in accordance with PPP guidelines to retain employees. PPP loans of $150,000 and under account for 86 percent of total PPP recipients, but less than 27 percent of PPP loan dollars.

Expediting the loan forgiveness process for many of these hard-hit businesses will save more than $7 billion dollars and countless hours of paperwork. Based on statistics released in early July, roughly 81 percent of title companies that received PPP loans were provided $150,000 or less and would benefit from this bill.

The SBA launched its forgiveness portal on Aug. 10. The deadline to apply for a PPP loan was Aug. 8.

forgiveness if it tried to rehire people who were furloughed and couldn't be replaced. Yes. If you have documentation that any furloughed worker did not accept an offer to be rehired, and you can demonstrate that you were unable to hire a similarly qualified employee for the unfilled position on or before Dec. 31, or that your business was unable to return to a level of business activity you achieved before Feb. 15, this requirement will be exempted from your forgiveness application.

In order to prove this, ensure every step of the offer to rehire a furloughed worker is documented and that your business made a good faith effort to fill the position, if you were able to do so under CDC and OSHA guidelines.

Additionally, businesses do not have to rehire the same worker to be eligible for forgiveness. No. The application requires comparing your FTE headcount on Feb. 15 with the headcount during the period chosen on your PPP Schedule A form on line 11.

Paycheck Protection Plan Loan Statistics: Title and Settlement Companies

Loan Amount	Number of Companies	Jobs Served	Amount Borrowed
Total	5,148	51,396	$486,581,447-$935,881,447
Under $150,000	4,154	17,466	$176,981,447.40
Over $150,000	994	33,930	$309,600,000-$758,900,000
Over $1 million	90	11,081	$116,000,000-$254,000,000
Over $2 million	23	4,533	$49,000,000-$120,000,000
Over $5 million	1	7	$5,000,000-$10,000,000

Source: Treasury Department

PPP Helps 5,100 Title and Settlement Companies

More than 5,100 title and settlement companies received funds from the Paycheck Protection Program, according to data released July 6 by the U.S. Small Business Administration and Treasury Department.

The government only identified businesses that received more than $150,000. The average loan amount for the program is about $100,000, according to Treasury.

"The PPP is providing much-needed relief to millions of American small businesses, supporting more than 51 million jobs and over 80 percent of all small business employees, who are the drivers of economic growth in our country," said Treasury Secretary Steven Mnuchin.

Overall, more than 5 million businesses received funding, accounting for $525 billion, according to Small Business Administration data as of Aug. 8—the last day the program was available.

Specific to the title industry, data shows that the average amount borrowed ranged between about $98,000 to $189,000 (depending on the value of each loan). For companies receiving loans under $150,000, the average was about $43,000. Florida has the most borrowers with 746, followed by Texas with 378 and New York with 341. In total, the loans saved more than 51,000 jobs, the Treasury reported.

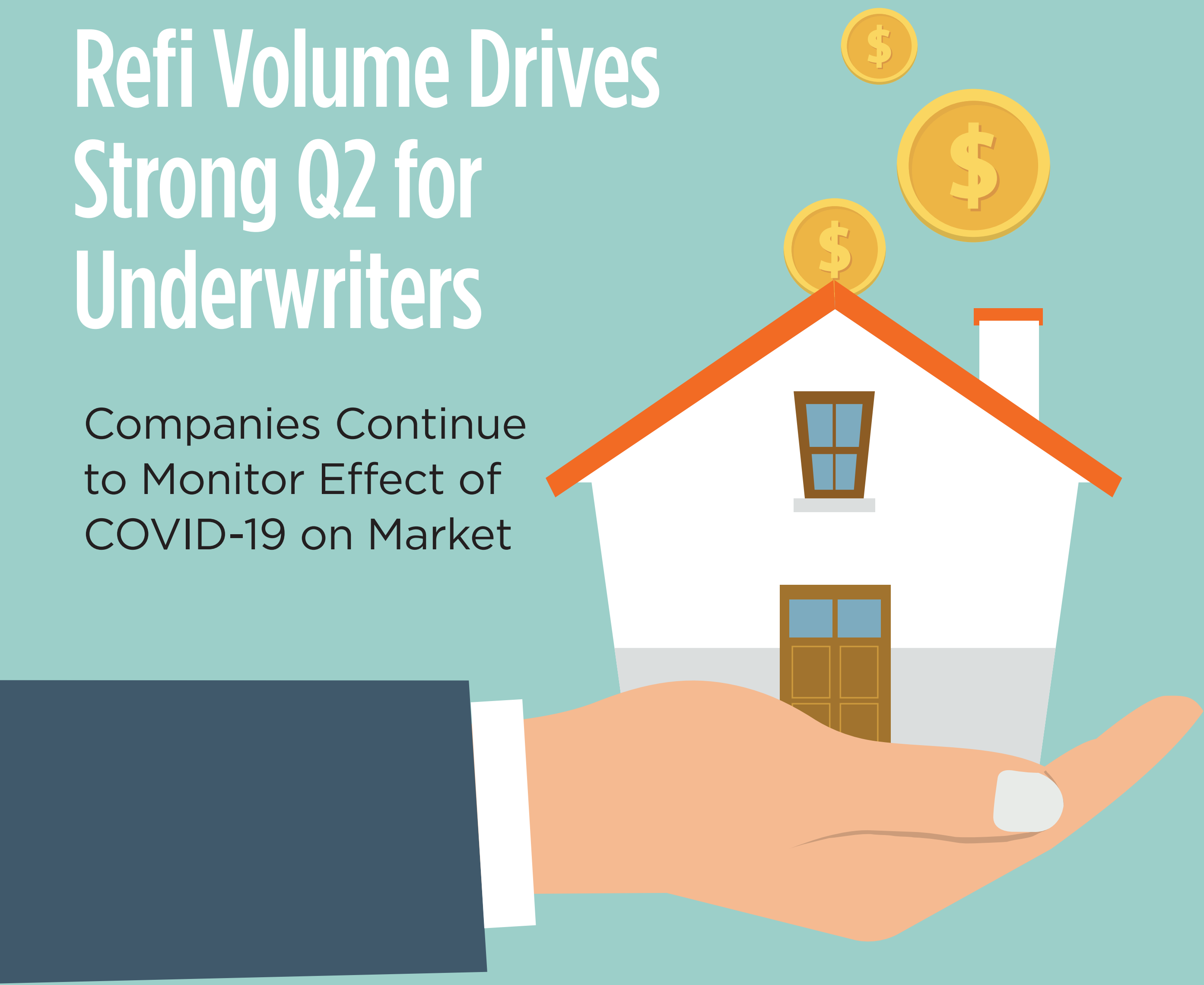
Information includes loan-level data, including business names, addresses, NAICS codes, Zip codes, business type, demographic data, non-profit information, name of lender, jobs supported, and loan amount ranges as follows:

- $150,000-$350,000
- $350,000-$1 million
- $1-2 million
- $2-5 million
- $5-10 million

The categories account for nearly 75 percent of the loan dollars approved. The data also includes overall statistics regarding dollars lent per state, loan amounts, top lenders and distribution by industry.

Refi Volume Drives Strong Q2 for Underwriters

Companies Continue to Monitor Effect of COVID-19 on Market



DESPITE THE ONGOING HEALTH CRISIS, the housing and mortgage market remained strong during the second quarter of 2020, buoyed by a continued surge in refinancing activity and a spike in existing home sales.

Earlier this summer, low mortgage rates pushed refinance volume to a 17-year-high. The Mortgage Bankers Association anticipates refinance originations to increase to $1.35 trillion in 2020—the highest level since 2012. Meanwhile, the National Association of Realtors reported that sales of previously owned homes rose 20.7 percent in June over the prior month to a seasonally adjusted annual rate of 4.72 million. This was the largest monthly increase on record since 1968. Overall, Doug Duncan, Fannie Mae chief economist, has updated his origination forecast for 2020 to hit $3.14 trillion—the highest since 2003.

The strong market resulted in solid earnings results from each of the four publicly traded underwriters. Here's a recap of second-quarter earnings.

Fidelity

Fidelity National Financial reported that its title insurance segment generated $528 million in pre-tax earnings during the second quarter of 2020. This is up from $387 million in pre-tax earnings during the same period a year ago. This was Fidelity's best second-quarter results since 2003.

"Our second quarter benefited from strong refinance volumes compared with the 2019 comparable period, despite the ongoing COVID-19 pandemic," said Bill Foley II, chair of Fidelity. "Our operational capabilities have ensured that our security and productivity have not been impacted even as approximately 70 percent of our employees continue to work remotely. As the pandemic intensified in March, we aggressively managed our expenses through the second quarter and will remain focused on order volumes looking forward as we maintain our culture of expense discipline."

Overall, during the second quarter, Fidelity's direct operations opened 693,000 orders and closed 487,000 orders. This compared to 544,000 direct orders opened and 359,000 orders closed during second-quarter 2019. Meanwhile, refinances comprised 65 percent of all opened direct orders. Fidelity reported that second-quarter refinance orders opened increased 111 percent on a daily basis and refinance orders closed increased 158 percent on a daily basis versus the second quarter of 2019.

During the earnings call, Fidelity Chief Executive Officer Randy Quirk said the company recently purchased for $90 million the remaining 21 percent interest in ServiceLink. This gives Fidelity full ownership in the provider of centralized, residential refinance title and closing and default management services.

"While we are very encouraged by our second-quarter volumes, it remains difficult to forecast the rise of COVID-19 cases and the resultant impact on the residential and commercial real estate markets," said Fidelity President Mike Nolan. "Fortunately, our team has significant experience operating through challenging times and through our investments in technology, we have been able to tactically keep our business operating as usual for our clients and partners while maintaining a tight grasp on our expense structure."

During the latest quarter, Fidelity paid $61 million in claims. This was down slightly from $62 million in claims paid during the second quarter of 2019.

First American

First American Financial Corp. reported that its title insurance segment generated $237.8 million in pre-tax earnings during the second quarter of 2020. This is up from $232.8 million during the same period a year ago.

Dennis Gilmore, First American's chief executive officer, said the company was performing much better than expected back in April, with purchase open orders returning to positive growth in June following steep declines earlier in the quarter. He said the commercial market also performed better than expected in the second quarter. Given low mortgage rates, Gilmore expects refinance activity to remain at elevated levels for the remainder of the year.

"The investments First American has been making over the past few years to secure its data leadership, accelerate title automation and enable digital closings has put us in a superior position to add value for our customers as digital innovation transforms the mortgage and home-buying experience," Gilmore said.

In response to the COVID-19 pandemic, First American reported that its two main priorities were to keep employees safe, while meeting all the service needs of its customers.

"Early on, we activated our business continuity plan, which enabled most of our people to work from home," Gilmore said. "Currently, approximately 80 percent of our workforce is working remotely. It is likely it will remain in this posture until the end of the year."

During the company's first-quarter earnings call, Gilmore shared First American's "no layoff commitment." He said this proved to be a good decision.

"Our most recent surveys revealed record levels of employee engagement," Gilmore said. "As importantly, when order volumes rebounded more quickly than expected, we had our trained workforce in place to fulfill the needs of our customers."

ALTA Helps Convince FHFA to Delay Refinance Fee

Following input from ALTA and a broad coalition of associations, the Federal Housing Finance Agency (FHFA) on Aug. 25 directed Fannie Mae and Freddie Mac to delay implementation of an adverse market refinance fee until Dec. 1, 2020.

The 50 basis-point fee on most refinance mortgages was previously scheduled to take effect Sept. 1, 2020.

"ALTA thanks the FHFA for listening to concerns from a broad coalition of organizations—ranging from consumer groups to policymakers—and delaying implementation of the Adverse Market Refinance Fee," said Diane Tomb, ALTA's chief executive officer. "Doing so ensures homeowners can continue to take advantage of historic low mortgage rates and lower their monthly payments during the pandemic. ALTA will continue to work with FHA, Fannie Mae and Freddie Mac during these challenging times to find a balance between managing risk while giving borrowers access to affordable refinance options."

In a letter to the FHFA, ALTA and the broad coalition said the additional fee would increase the cost to refinance by about $1,400. The groups said the announcement conflicted with recent executive actions urging federal agencies to take all measures within their authority to support struggling homeowners. ALTA and the other trade groups said that despite the fragility of the national economic recovery, the mortgage market has been able to withstand many of the most severe effects of the COVID-19 pandemic.

FHFA is also announcing that the government sponsored entities (GSEs) will exempt refinance loans with loan balances below $125,000, nearly half of which are comprised of lower income borrowers at or below 80 percent of area median income. Affordable refinance products, Home Ready and Home Possible, are also exempt.

According to FHFA, the fee is necessary to cover projected COVID-19 losses of at least $6 billion at the GSEs. Specifically, the actions taken by Fannie and Freddie during the pandemic to protect renters and borrowers are conservatively projected to cost the GSEs at least $6 billion and could be higher depending on the path of the economic recovery.

First American experienced a rebound in May when title orders were down 10 percent. However, the company reported 5 percent growth in June and orders were up another 6 percent in July when First American shared earnings results.

"Buyers who postponed purchases in the spring have returned during the summer, as the traditional seasonality curve has shifted," Gilmore said.

Compared to last year, closed title orders are up 29 percent, driven by a 160 percent increase in refinance orders. During Q2 2020, First American's direct operations opened 351,300 orders and closed 254,500 orders. This compares to 296,200 direct open orders and 196,600 closed orders during Q2 2019. Of all residential orders closed during the second quarter, 63 percent were refinances.

First American reported that its provision for policy losses and other claims was $56.4 million in the second quarter, or 5.0 percent of title premiums and escrow fees. This was an increase from a 4.0 percent loss provision rate in the prior year. During the second quarter, incurred title claims were $29.2 million, a 26 percent decline relative to 2019, First American reported.

Old Republic

Old Republic International Corp. reported that its title insurance segment generated pre-tax income of $65.4 million during the second quarter of 2020. This compares to $60.2 million in pre-tax income during the same period a year ago.

"Although the COVID-19 pandemic and the associated governmental responses caused substantial disruptions to financial markets in the final weeks of this year's first quarter, improved market performance had a significant positive impact on the second quarter's financial results," Old Republic said in a release.

Old Republic's title insurance operating revenues were up nearly 10 percent during the second quarter and 16.2 percent for the year-to-date period. The company said the health crisis could affect future premium and fee revenues in its title insurance segment.

Old Republic paid $17.7 million in claims during the latest quarter. This compared to $18.1 million in claims paid during the second quarter of 2019. The claims ratio declined from 2.7 percent to 3.1 percent during Q2 2019.

Old Republic reported its claim ratio trended lower for the second quarter, reflecting an increase in favorable development of prior years' claim reserves estimates. Underwriting expenses remained generally aligned with revenues from premiums and fees for all periods presented.

Carolyn Monroe, president of Old Republic National Title Holding Co., said the company has transitioned a portion of its workforce back to the office, "but we are maintaining our nationwide work-from-home capabilities. Our high standard of service commitment and execution remain regardless of the location of our employees."

"Despite all the unknown surrounding COVID-19, we remain cautiously optimistic going into the third quarter with a robust order count in both purchase and refinance transactions, a strong real estate market with 30-year mortgage rates remaining historically low around 3 percent and expectations for these favorable rates to continue for the foreseeable future," Monroe said.

While Old Republic has adjusted to doing business during COVID-19, Monroe said the company remains mindful of the challenges ahead. She recognized the hard work of Old Republic's employees and title agents contending with the daily challenges of the pandemic.

"Our accomplishments are achieved with the commitment of our employees and the support of our agents," she added. "As with past challenges, we rely on the same guiding principles of integrity, managing for the long run, financial strength, protection of our policyholders and the well-being of our employees and customers that served us well over the last 100-plus years."

Stewart

Stewart Information Services reported that its title segment posted pre-tax earnings of $54.8 million during the second quarter of 2020. This is up from $39.0 million in pre-tax earnings during the same period a year ago.

"Our strong quarterly performance was made possible by the loyalty of our customers and the tremendous work of our employees in the face of the pandemic," said Fred Eppinger, Stewart's chief executive officer. "Stewart employees tirelessly and creatively provided quality service to our customers despite a challenging environment in so many of our communities. I express gratitude to them for their efforts and perseverance."

During the company's earnings call, Eppinger paid homage to Stewart's employees and agents who have continued "to prioritize the health and safety of their customers and peers while tirelessly conducting business under challenging conditions."

"I would also like to thank our customers who have remained loyal to Stewart," he added. "We are gratified to see more agents returning their underwriting business to Stewart as they value the unparalleled service that defines our brand and our company."

During the second quarter, Stewart's direct operations opened 133,147 orders and closed 91,979 orders. This compared to 104,282 direct opened orders and 69,654 closed orders in Q2 2019. Of the closed orders during the second quarter of 2020, 56 percent were refinances.

"The second quarter was one of the strongest in recent history as refinance transactions remained strong and purchase transactions began to recover in the back half of the quarter," Eppinger said

During the latest quarter, Stewart paid $21.5 million in claims. This is up from $18.8 million in claims paid during the same period last year. As a percentage of title revenues, the title loss expense in the second quarter 2020 was 4.3 percent, compared to 4.1 percent from the prior year quarter, Stewart reported.

"We are in extraordinary times with uncertainty dominating our daily lives for the foreseeable future," Eppinger said. "While the possibility exists that a full recovery may not take place until after the vaccine is found, a major part of it will, as always, I believe, be grounded in the health and stability of our real estate market."

OLD REPUBLIC TITLE

THANK YOU

Old Republic Title would like to thank our valued agents for the remarkable resilience they have shown during the COVID-19 pandemic. You embraced unprecedented, ignored impossible and found innovative ways to navigate our new business environment. Thank you for your dedication. We are honored to take this journey with you.

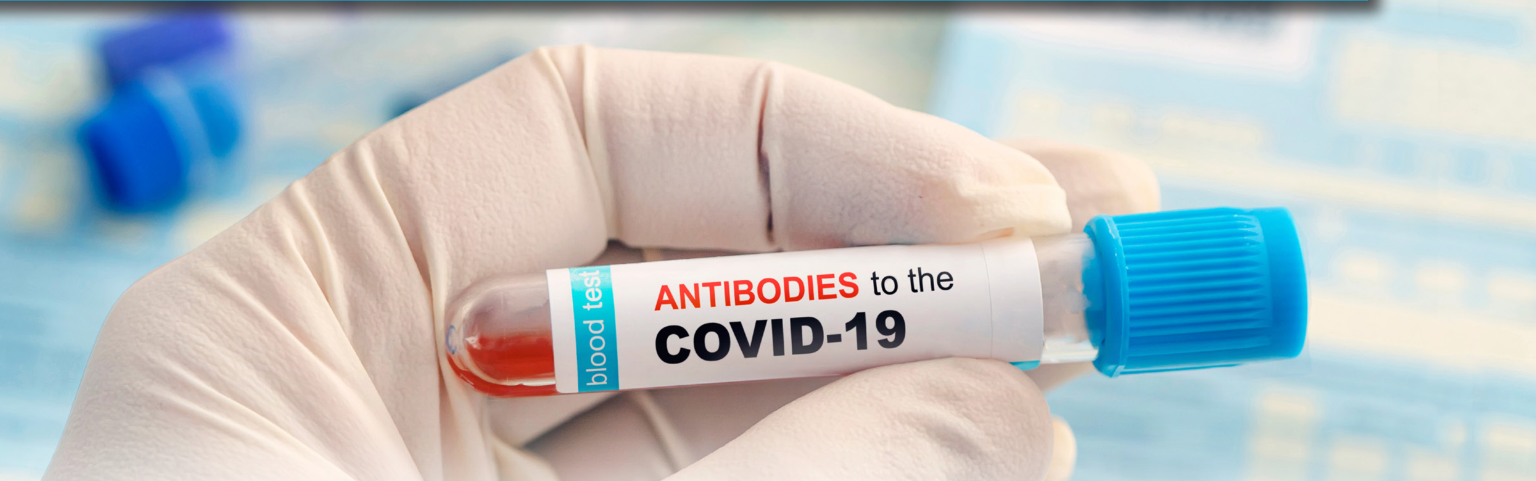
Our Company has seen its share of challenging times since opening our doors in 1907. And yet, we have persevered because our focus has always been forward. Old Republic Title is managed for the long run, so we can be prepared for whatever the future holds. We are proud to stand by our agents and offer you the peace of mind that comes with over a century of experience, strength and stability.

As we transition into fall, you can be assured that Old Republic Title is fully staffed, accessible, and here for you and your customers.

Thank you again for your support.

OLD REPUBLIC INSURANCE GROUP

EEOC: Employers Can't Require COVID-19 Antibody Tests



The Equal Employment Opportunity Commission (EEOC) released new guidance for employers during the COVID-19 pandemic that follow current Centers for Disease Control (CDC) guidelines.

In its guidance, the EEOC stated employers are not allowed to require employees to take antibody tests for COVID-19 before allowing them to return to work. While employers are allowed to require viral tests, which test for active infections, an antibody test is not considered job-related and is prohibited under the Americans with Disabilities Act (ADA).

Additionally, the EEOC announced that accommodations for many employees must follow ADA guidelines. For example, under ADA guidelines, employees who have family members that are considered to be at high risk for severe illness if they contract COVID-19 may not receive special accommodations. If accommodations are necessary for some employees, they must be requested under existing ADA rules.

Here's a look at additional guidance issued by the EEOC:

Employees with High-Risk Family Members or Acting as Caregivers

Additionally, the EEOC has recently said that employees are not entitled to accommodations under the ADA in order to avoid exposing family members who may be at high risk of severe illness if they contract COVID-19. The ADA only provides accommodations if the employee is the one with a disability that puts them at high risk, not their family members. However, employers are still able to be flexible and provide their employees these accommodations as long as they avoid disparate treatment of other employees. If an employee is acting as a caregiver during this time, such as for school-age children, employers may offer flexibility for them in working remotely but should be careful to avoid Title VII violations, such as using gender-based assumptions of women serving as the primary caregivers for children.

Harassment of Asian Employees

The EEOC has also been made aware of harassment of Asian employees due to COVID-19. They have advised that employers be alert to any remarks that may be derogatory and aimed at employees of Asian heritage and suggested that employers remind management of Title VII rules against harassment, as well as processes for reporting incidents that may occur.

Requesting Accommodations

For employers anticipating a return to the workplace, the EEOC has stated that employers may inform all employees of the process they should use if they want to request accommodations. If appropriate, such accommodation requests should be handled in the same way as any other accommodation under the ADA or the Rehabilitation Act. Such requests may require medical documentation if the employer has been previously unaware of the employee's disability.

Employees Over Age 65

If an employer has employees over the age of 65, the EEOC has advised that employers may not prohibit those employees from returning to work, even if the goal is to protect them from COVID-19. The Age Discrimination in Employment Act (ADEA) prohibits any employment discrimination based on age, and still applies during this pandemic. The ADEA has no exception for reasonable accommodations due to age. This means employers may only offer flexibility to employees over 65, not any requirements based solely on their age.

Pregnancy

The EEOC stated that excluding an employee from the workplace involuntarily due to pregnancy would be a violation of Title VII because it is considered discrimination based on sex. However, if you do have pregnant employees, they may be able to be accommodated under the ADA or Title VII if the accommodations follow the usual rules under the law.

‘Dueling Dinosa
Fifth-round S

Murray v. BEJ Minerals, 20

FACTS: In 2006, the Murrays discovered an extremely rare and highly valuable trove of dinosaur fossils on their ranch, including a complete Tyrannosaurus rex skeleton and a specimen of two dinosaurs who appear to have been locked in combat when they died approximately 65 million years ago (“the Dueling Dinosaurs”). BEJ Minerals owned an interest in the subsurface mineral rights and asserted partial ownership of the fossils, claiming they were “minerals” under the terms of the mineral deed. The action was initially filed in state court, then removed to federal court under diversity jurisdiction. The federal district court found for the Murrays (the undisputed owners of the surface estate) on summary judgment (*Murray v. Billings Garfield Land Co.*, 187 F. Supp. 3d 1203 (2016)), and then a 9th Circuit panel reversed in a 2-1 decision over a vociferous dissent (*Murray v. BEJ Minerals, LLC, 908 F. 3d 437 (9th Cir., 2018)*). The en banc 9th Circuit granted rehearing (*Murray v. BEJ Minerals, LLC, 920 F. 3d 583 (9th Cir., 2019)*) and, upon rehearing, certified the following question to the Montana Supreme Court (Murray v. BEJ Minerals, LLC, 924 F.3d 1070 (9th Cir., 2019)):

> *Whether, under Montana law, dinosaur fossils constitute "minerals" for the purpose of a mineral reservation.*

Following determination of the certified question, the 9th Circuit entered an order finally disposing of the federal court action (*Murray v. BEJ Minerals, LLC, No. 16-35506 (9th Cir., June 17, 2020)*), but this review will focus on the Montana Supreme Court case.

HOLDING: The Montana Supreme Court split 4-3 in holding that, under Montana law, dinosaur fossils do not constitute "minerals" for the purpose of a mineral reservation. The majority held “the best method for determining whether a substance fits within the ordinary and natural meaning of “mineral” is to

aurs’ Ends With Split Decision

020 MT 131 (May 20, 2020).

use contextual cues, e.g., an analysis of the term as used in the instrument; whether the material’s mineral content makes it rare and valuable; and the material’s relation to, and the effect of removal on, the surface.” The majority opinion then embarked on a lengthy analysis of each of those elements. In contrast, the dissent “reframed” the question as: “[w]hether, under Montana law, ***these*** dinosaur fossils constitute ‘minerals’ for the purpose of a mineral reservation?” [emphasis supplied]. Using that formulation, the dissent felt that existing Montana precedent required the opposite result than that reached by the majority. One aspect of the case that all the courts seemed to take for granted was the status of fossils as “real property,” rather than chattels.

RELEVANCE TO THE TITLE INDUSTRY: While this case was pending, the Montana legislature declared by statute that fossils are not “minerals,” see MCA §§ 1-4-111, 1-4-112 and 82-1-501 (2019). Other state laws on fossils, paleontology and geology vary tremendously in scope and detail, while federal law pertaining to fossil collection and ownership on federal lands is subject to a bewildering maze of statutes, regulations and overlapping agency jurisdiction. Given the divisive nature of the issue (as seen by the multiple close splits), it is unclear how much influence *Murray* will have on similar cases in other jurisdictions. Unless the applicable background principles of law are so well established as to entirely eliminate the risk, title insurers would be well advised to consider adding one or more “fossil exceptions” to new policies tailored to those jurisdictions where such issues are likely to arise.

LANCE POMERANTZ, *a New York-based sole practitioner who provides expert testimony, litigation consulting and strategic advice in land title disputes, can be reached at lance@landtitlelaw.com.*

Vendors Launch New Remote Online Notary Platforms

Qualia, PropLogix Launch Digital Closing Options

Qualia and PropLogix both launched new remote online notarization (RON) platforms to offer digital, contactless home closings during a time when it's necessary to protect the health of employees and customers during a real estate transaction.

Qualia RON is built into the company's cloud-based title and escrow software platform.

"The pandemic has accelerated the need for a contactless, digital home buying experience, turning what was once viewed as a luxury into a necessity," said Nate Baker, co-founder and CEO of Qualia. "I am proud of our team for devoting the last few months to developing Qualia RON and bringing to market an easy-to-use product to support our real estate ecosystem toward more seamless, digital real estate closings."

With Qualia's RON solution, title companies can leverage Qualia's existing secure document sharing and e-signing features in its client communications portal, Qualia Connect.

"With advances in remote online notarization technology and RON permissible in many states across the country, we finally have the capability to make a fully digital, secure and cost-efficient home closing possible," said Baker. "The launch of Qualia RON marks an important turning point for the industry as we move away from the in-person notary model."

PropLogix's ProperSign features video conferencing, knowledge-based authentication, tamper-evident document sealing and long-term storage. Beyond meeting the Florida requirements to facilitate RON and remote ink-signed notarization (RIN) signings, ProperSign can be used to facilitate fully digital or hybrid real estate closings. The digital closing platform was developed in just under three months at the start of the COVID-19 health crisis.

"We saw an immediate need to provide a tool that allows our customers to close securely and safely, and knew it had to be really easy to use," said Jesse Biter, CEO of PropLogix. "Beyond offering signers a safer and more secure option, ProperSign improves the closing experience for everyone involved."

Qualia users also have other remote notarization options, including Qualia Connect Video Chat, which can be used for remote ink-signed notarizations. The platform also provides the ability to access RON-authorized notaries through Qualia's online vendor marketplace. In states where RON is allowed, title companies that want to use a RON-enabled software platform will need to become RON certified and register with their state.

"Remote online notarization will result in significant time and cost savings, and it will increase revenue potential for agents like us by helping us expand territories," said Lisa Nichols, CEO of Virginia Title Solutions. "Most importantly, RON will mitigate current health and safety concerns for both closers and consumers by reducing potential for the spread of COVID-19."

Industry Update

ALTA Members Help Close First RON Transaction in North Carolina

Amrock partnered with North Carolina-based law firm Brady & Kosofsky, PA to help complete the first remote online notarization (RON) mortgage closing in the state.

With the recent passage of the Emergency Video Notarization law in North Carolina enabling the implementation of RON, the precedent has been set for consumers and notaries in the state to securely sign electronic documents remotely from different locations, creating a convenient and safe solution for all parties involved in the mortgage transaction.

"We are focused on innovations that remove pain points from mortgage transactions and make the process easier for the end client," said Brian Hughes, CEO of Amrock. "I salute North Carolina's secretary of state's efforts to move the mortgage closing experience online and enable clients and closing agents to quickly, securely and safely work together."

The spread of COVID-19 highlighted the need for enhanced digital solutions in the mortgage industry. Currently, 27 states have legislation in place permitting RON, with 17 of them actively using the technology. Nearly all of the remaining states have enacted emergency legislation or executive orders providing temporary authorizations for notaries to perform electronic closings of some sort—including North Carolina.

Earlier this year, ALTA, along with the Mortgage Bankers Association and the National Association of Realtors, developed a draft model emergency notarization order to help create uniformity and provide legal certainty for the use of remote notarizations. ALTA also has created principles for notarizations conducted remotely.

Hawaii Passes Remote Online Notarization Bill

Hawaii has passed a bill that allows for remote online notarization (RON) in the state.

SB 2275, which awaits the signature of Gov. David Ige, will go into effect Jan. 1, 2021. Hawaii becomes the 27th state to pass RON legislation.

The legislation updates the state's notary public laws to conform to the Revised Uniform Law on Notarial Acts (2018), the Hawaii Uniform Electronic Transactions Act, other state notary laws, and current notary practices.

According to the legislation, a remote online notary located in the state may perform a notarial act using communication technology if the notary has:

- Personal knowledge of the identity of the individual
- Satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the remote online notary public, or
- Obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing

According to the legislation, the audio/video recording of the RON must be retained for 10 years unless a different period is required by an adopted rule.

The legislation says a notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic documents. No person shall require the use of a platform that notary has not selected. Notaries must notify the state's attorney general of the type of technology that will be used to perform RON. The technologies selected by a remote online notary public to perform RON shall conform to the attorney general's standards.

First American Calls Cybersecurity Charges by N.Y. Regulator 'Unreasonable'

First American Title Insurance Co. said it will defend itself "vigorously" against charges by the New York State Department of Financial Services (NYDFS) alleging the company exposed documents with consumer non-public personal information (NPI).

"At First American, security, privacy and confidentiality are of the highest priority, and we intend to vigorously defend ourselves against the Department's unreasonable charges," First American's statement said.

A hearing at the NYDFS office has been set to begin Oct. 26, 2020.

On May 24, 2019, the company learned about a design defect in one of its production applications that allowed for the possible unauthorized access to customer data. In June 2019, First American said the Nebraska Department of Insurance examined the company's information security program and concluded that controls are suitably designed and operating effectively.

First American also hired an independent data forensics company to investigate. The firm identified 32 consumers whose non-public personal information likely was accessed without authorization. First American said these consumers have been notified and offered complimentary credit monitoring services.

"Our investigation into the incident, conducted with an outside forensics firm, identified a very limited number of consumers whose nonpublic personal information likely was accessed without authorization and otherwise found no evidence of misuse of any nonpublic personal information," First American said in a statement. "None of these identified consumers were New York residents."

NYDFS alleges the documents contained consumers' sensitive personal information including bank account numbers, mortgage and tax records, Social Security numbers, wire transaction receipts and drivers' license images. The agency also alleges multiple failures in First American's handling of the data exposure.

In March 2017, NYDFS unveiled regulations that set out how financial services companies licensed to operate in New York should construct their cybersecurity programs. The rules include regular risk assessments, timely notifications of incidents, and ensuring that companies limit access to sensitive customer information.

Knight Barry Title to Expand Into Texas

Knight Barry Title Group (KBT) announced it is now licensed in Texas and will open its first office near Houston next month.

Knight Barry Title hired local title expert Andi Bolin to lead its first Texas office. She most recently served as the president of a title company in the Houston market. Bolin is a member of the Houston Association of Realtors, the Texas Land Title Association (TLTA) and ALTA. She is the chair of ALTA's Homeowner Outreach Program committee.

"I've known and respected Andi for many years," said Craig Haskins, Knight Barry Title's chief operating officer. "Partnering with her is the perfect way to bring the KBT brand to the Lone Star State. Many Houston Realtors and loan officers love and trust Andi already, and I'm excited to have her on our team. She's the definition of a perfect fit."

The office will be in Katy, Texas. Bolin and Haskins are confident Texas can be the second chapter in the company's ongoing story of successful southern expansion. In March 2019, Knight Barry Title acquired its first Florida location in Pensacola. Now, there are six company offices in the state. More important to Haskins is the fact his Florida team has already built a respected reputation in such a short amount of time—a feat Bolin is poised to duplicate.

"I'm thrilled to be the face of KBT here," Bolin said. "While the company is new to Texas, I wouldn't be jumping on board if I didn't believe in how much more we can offer our customers and communities. Making personal connections and delivering the best customer experience has always been paramount to me and that mission will continue under the Knight Barry Title name."

Indiana Now Requires Separate 'Proof' to Record Due to Unintentional Bill Error

Indiana now requires a second "proof" in order to record a document due to an unintentional drafting error when making a last-minute change to a bill.

When modifying Senate Enrolled Act 340, an "or" was deleted and an "and" was added in its place.

Two notarizations—the acknowledgment and a proof—are now required on each paper or electronic instrument submitted for recording. The change goes into effect July 1.

In a statement, Indiana Land Title Association (ILTA) President Kurt Laker said ILTA has retained law firm Krieg DeVault to represent the association in a potential suit against the state, with the hope of preventing SEA 340 from being enforced.

"In the case of SEA 340, the relevant bill language was consistent and correct throughout the normal process through both chambers of the General Assembly, where we have some sort of a seat at the table," Laker said. "The change from 'or' to 'and' was made in conference committee, the last stop before the act goes to the governor. It is not a public process, and changes during this process are very rare. We believe this change was made at the last minute, behind closed doors, without an understanding of the effect it would have on the law and without the association having a real opportunity to weigh in."

Laker added that, to ILTA's knowledge, no other trade associations were aware of this issue and that ILTA had no reason to believe the proponents of the amendment understood the legal impact of the change or intended that recorded documents should now contain an additional "proof."

"In short, this was a drafting mistake, and one that did not originate from ILTA," Laker said. "There is widespread agreement and cooperation among interested trade associations to take remedial action now, and ILTA is grateful for their support and partnership as we work to correct this problem. Nevertheless, the potential impact of the law is real, and the association is taking the lead in the efforts to correct the problem."

Closings with a mobile notary can still occur, but a disinterested witness must be present to witness the execution of any recordable instrument and must sign the instrument with a notarial officer completing a notarial certificate related to that witness to have a proper proof. In addition, remote notarizations can be completed if a disinterested witness is present through audio/visual communication to witness the execution of any recordable instrument. The witness must electronically sign the instrument with a RON notarial officer completing the related notarial certificate to that witness to have a proper proof.

To help its members, ILTA developed a FAQ. Title and settlement agents are encouraged to reach out to their underwriters with questions about how this may affect execution of recorded documents.

Global Closing Expands Coverage in Florida

Florida-based Global Closing Co. has expanded coverage with four new offices in Brevard County. Founded in 2018, Global Closing also has offices in Orlando, Wellington, West Palm Beach and Fort Lauderdale.

"The expansion into Brevard County

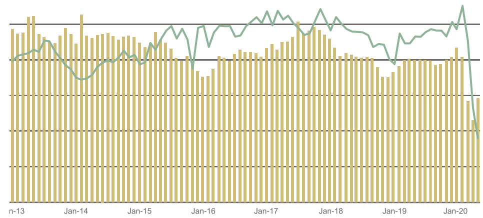
Housing Market Potential

Existing and Potential Home Sales* (in Millions, Seasonally Adjusted Annualized Rate)

3.91 SAAR
Existing Home Sales

4.47 SAAR
Potential Home Sales

-12.5%
Market Performance Gap



*Potential home sales measures what a healthy market level of home sales should be based on the economic, demographic and housing market environments.

National Consumer House-Buying Power

How much home one can afford to buy given the average income and the prevailing mortgage rate

May 2020

$455,703
House-Buying Power

+15.9%
Year-Over-Year

Where House-Buying Power is Strongest

Top States and Cities

States

1. New Jersey: **$615,277**
2. Maryland: **$591,991**
3. Massachusetts: **$550,880**
4. Connecticut: **$550,608**
5. Hawaii: **$549,926**

Cities

1. San Jose, CA: **$818,843**
2. San Francisco, CA: **$737,895**
3. Washington, DC: **$735,823**
4. Boston, MA: **$639,345**
5. Seattle, WA: **$558,632**

Source: Mark Fleming, Chief Economist at First American Financial Corporation will focus on technology, outstanding service and unmatched title knowledge," said Benjamin Bell, co-founder and managing owner. "Brevard County is rapidly growing, and we are very excited to become a key player in this market. We have built a business model that is easily replicable in any Florida market."

DataTrace Launches Nationwide Title Automation Solution

DataTrace Information Services LLC announced the launch of a title automation solution that unifies multiple processes for expedited nationwide title report production.

TitleIQ Enterprise is powered by a network of real estate title plants, tax data and recorded property data, including seven billion land record images. According to DataTrace, TitleIQ Enterprise delivers a unique combination of nationwide data sources, unified title search workflows, automation efficiencies, a robust examination workbench and end-to-end integrations with leading title production systems.

"Today's market is evolving faster than ever, and to remain successful, title and settlement services companies must employ efficient, innovative technologies coupled with accurate, complete title data and trusted expertise," said Robert Karraa, president of DataTrace. "By leveraging advanced automation efficiencies in a national single-source title solution, TitleIQ Enterprise unlocks new technology automation advantages—surpassing anything on the market today—enabling clients to drive growth."

Indecomm Releases Automation Software

Indecomm Global Services announced the release a collection of software "robots" that are pre-programmed to emulate human computer interaction functions for specific standardized processes, tasks and workflows in the mortgage industry.

BotGenius robots are a part of Indecomm's automation continuum framework for the mortgage industry. BotGenius automates tasks across the mortgage life cycle. In the title and settlement services industry, Indecomm's solution addresses the life cycle from order intake through commitment and report preparation.

WAULT Offers Digital Signature Solution

Connecticut-based WAULT has released a digital signature capability, making it more secure to sign documents online. Digital signatures, because of their increased level of security, are routinely used by the healthcare industry and government. A digital signature applies a private key to a document, which creates a 'hash' which can then be validated using the corresponding public key. When signing a document using WAULT, a digital version of the signer's government ID signature is embedded, allowing the customer to securely sign any document when required.

Now, individuals and business of all sizes can experience the same level of security by using WAULT. The WAULT app can be found on GooglePlay and Apple's App Store. The app is free for individual and business use during the COVID-19 period and through 2020.

SYNRGO Attains Certifications for E-closings from GSEs

SYNRGO announced that its remote online notarization (RON) and e-closing platform has been certified by Fannie Mae and Freddie Mac.

The LiveSign platform allows lenders, title companies and attorneys to conduct electronic, contactless closings by utilizing two-way audio/visual communication and a notary.

"Having Fannie Mae and Freddie Mac certify our LiveSign platform is a testament to the secure and innovative platform that we are providing to the industry," said Ben Sherman, president of SYNRGO. "We are proud to provide a secure, easy to use, and compliant closing solution for our industry as we all operate in a new environment."

JetClosing Raises $9 Million to Expand Digital Platform

JetClosing recently raised $9 million to fuel continued expansion of the company's cloud-based digital platform.

JetClosing utilizes fully encrypted workflows for secure document transfers, wire transactions, remote online notarizations (RON) and e-signatures. User information is further guarded using multi-factor authentication, which introduces safe, transparent and remote digital home closings and refinancings for the first time.

"In light of the current economy, this funding demonstrates unequivocally that there is a real market need for a digital workflow to facilitate home closings for resale and refinancing transactions," said Dan Greenshields, CEO of JetClosing. "Pandemic or not, consumers expect a technology-first closing process that's catered to their on-demand and mobile lifestyles. This investment will allow JetClosing to expand into new markets while continuing to add features and bolster our platform's user experience."

Recent Integrations

- **PropLogix** is now integrated with the **E-Closing** and **E-Closing DT** title production platforms. Through the integration, users can order municipal lien searches from PropLogix without leaving the E-Closing or E-Closing DT software.
- **Simplifile** and **DocMagic Inc.** have partnered to further digitize the closing process, including post-closing automation. Through the partnership, loan closings done through DocMagic's Total eClose platform can now be automatically routed to the settlement agent thorough Simplifile for electronic closing coordination.

Movers & Shakers

Fidelity Hires SVP of National Agency Division

Chuck Cain

FNF Family of Companies announced it has hired Chuck Cain senior vice president of its National Agency Division. His focus will be on relationships and providing agents with educational programs and information on industry and regulatory trends to enable them to grow their businesses. Cain has more than 35 years of experience in the title industry. Cain managed title agencies in the Cincinnati, market for 18 years and worked for LandAmerica first as regional direct operation manager and then for eight years as affiliated business manager for the Midwest and Northeast. Most recently, he served as executive vice president of national agency with another national title underwriter.

Westcor Hires Regional Underwriting Counsel

Shannon Skurner

Westcor Land Title Insurance Co. announced it hired of Shannon Skurner as regional underwriting counsel covering Texas, New Mexico, Oklahoma, Arkansas and Louisiana. In this role, Skurner will assist in the continuation of the Texas region's growth with her continued commitment to providing customer service and education to Westcor agents. Westcor reported the Texas region is its fastest growing area in the country. She has over 23 years of experience in real estate and the title insurance industry, previously serving as underwriting counsel and corporate counsel at two national title insurance underwriters.

Alliant National Title Names State Manager

Tyrone Johnson

Alliant National Title Insurance Co. announced the hiring of Tyrone Johnson as assistant vice president and state agency manager for Arizona, Colorado, Nevada and Utah. In his role, Johnson will be responsible for servicing and managing the company's existing agent base, growing the agency network; and consulting with agents to provide education, marketing, sales and strategic growth support. Johnson brings more than 20 years of experience to Alliant National. In his past work, he was a state agency manager for the Southwest & Midwest Region at Attorneys Title Guaranty Fund. Prior to that, he served as state agency manager for the Mountain West Region at North American Title Insurance Co.

North American Title Names Managing Director for Florida Region

North American Title Co. announced that it named Richard Yankowski as managing director of its Florida business. Yankowski has over 30 years of industry experience. In his new role, he will be responsible managing all associates and branch operations in Florida. Most recently, Yankowski was senior division president at Stewart Title where he managed business across Florida, Oklahoma, Alabama and Arkansas. Prior to joining Stewart Title, he served as president and CEO of Executive Title Insurance Services.

PropLogix Names Chief Marketing Officer

PropLogix announced it has promoted Becky Tassell to the newly created position of chief marketing officer. Tassell joined the company in 2017 as marketing director. Since then, PropLogix has more than doubled in size and added several new due diligence services and launched a remote online notarization software. Under Tassell's direction, the marketing department has been responsible for conducting an annual State of the Title Industry survey and report, a robust webinar and continuing education program for title agents, a weekly real estate news show, and more recently, a weekly podcast series, Title Talks.

Westcor Appoints Michigan Underwriting Counsel

Westcor Land Title Insurance Company announced the hiring of Brian Kasiborski as Michigan underwriting counsel. In this role, Kasiborski will provide underwriting support to Westcor's agents in Michigan. Prior to joining Westcor, he worked for a large national underwriter, providing counsel and education classes to independent title agents in Michigan.

A Culture of Protecting

MARY O'DONNELL
ALTA president

IF WE'VE LEARNED ANYTHING DURING THESE TRYING TIMES, it's that hindsight is definitely 2020! We saw our industry turn on a dime to transform closings and meet the needs of customers during this ongoing health pandemic caused by COVID-19.

This virtual and contactless world has provided us some big, long-term lessons for businesses of all sizes. The first is flexibility. The process of making and revising plans to meet customer needs and adapt to conditions are crucial—especially during a crisis. A second takeaway is a long-term focus on process efficiency.

There a couple of good examples in the fast-food industry, which makes money by selling as much high-margin food to as many people they can. McDonald's had focused on drive-thru sales long before the pandemic. This gave the hamburger chain a big advantage over the past few months. Many other businesses have copied them, adapting to a drive-thru or curbside pickup model. Chick-fil-A has unleashed an impressive experience, dedicating a team of employees working outside to serve customers.

This has become a paradigm in our industry as well, providing drive-thru closings or full-digital closings where possible to keep everyone healthy and safe, while continuing to facilitate real estate and mortgage transactions.

We've also made internal process changes. Meetings are virtual, employees are working from home and business is still getting done. It might be rare that a team goes back to sitting around a table staring at conference phones and listening to remote participants without video or document sharing. We've learned about many new useful digital tools that can help us to do things better, faster and at lower cost than before.

This definitely was not how I envisioned my year as ALTA president. I expected to see many of you in person at ALTA's live events or at the 10 or so state land title association conventions I was scheduled to speak at. While not ideal, COVID-19 brought the industry together. ALTA responded by amplifying your stories through the #GoodDeeds campaign. While it's been challenging, it has also been a rewarding year. And at the virtual ALTA ONE in October, ALTA plans to launch something new and exciting that will help amplify members' efforts to support their local communities. I hope you join me during the virtual ALTA ONE for this announcement. (You can register at **alta.org/one**.) Together, we can make a difference and bring positive change. Despite the circumstances, it's been my pleasure to serve as your president. You can be sure that President-elect Bill Burding will continue to serve and represent our industry well.

With his leadership and the digital transformations your team has made this year, you will be positioned for success. By understanding and applying what we've learned in 2020, you'll have the foresight to shape your future during normal times and even through a crisis.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