

TITLE NEWS

JULY 2021

AMERICAN LAND TITLE ASSOCIATION

A man in a blue suit is climbing a vertical wire. The background is a digital space filled with binary code (0s and 1s) and numerous fishing hooks hanging from vertical lines, suggesting a digital fishing or trapping metaphor.

Constant Targets

Survey: Wire Fraud Attempted on a Third of All Transactions

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DON'T MISS THIS MONTH'S
DIGITAL ISSUE OF

TITLENews

The digital edition of **TITLENews** includes a webinar recording that details how the conflicting treatment between federal and state law makes closing transactions involving marijuana money more complex and prone to pitfalls.

Go to alta.org
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TITLENews

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People Remain the Greatest Asset

THE TITLE INDUSTRY HAS SEEN UNPRECEDENTED VOLUME DURING THE PAST 18 MONTHS.

Historically, companies have closely watched mortgage application numbers and other factors to help forecast the orders that will come in the door.

This also helps companies decide when to hire and fire. Through December 2020, the industry employed about 134,000 people. This is up from about 120,000 workers in 2018 as title agencies ramped up employment to handle the surge in refinances.

Economists predict total lending to drop 10% in 2021 and nearly another 30% in 2022—the decrease in refs being the main culprit as interest rates rise. With the shift to purchase orders, businesses will once again adjust staffing.

But owners may want to take note of a move American Airlines made in late June. The airline cancelled nearly 1,000 flights through mid-July, accounting for 1 percent of its total flights (American said it chose airports where passengers had other alternatives). Despite having full planes with eager travelers, the airline doesn't have enough people to fly them. Last October, American suspended service to 15 destinations and reportedly furloughed 19,000 employees, including 1,600 pilots.

According to the airline, all the pilots were called back in December thanks to the extension of the Payroll Support Program. Captain Dennis Tager, a pilot who heads communications for the Airline Pilots Association, warned during the furloughs that it might take 15 months for pilots to meet FAA retraining requirements. The warning seems to be coming to fruition. Taking a portion of your product off the market as demand spikes isn't something any company wants to do. The flight cancellations only magnify American's staffing problems.

What can be learned from this? One key point is to avoid accumulating too much debt. American has survived the pandemic by taking on \$22 billion of new debt, bringing its total obligation to \$50 billion—the most of all the large U.S. carriers. In turn, the larger debt could be why American was quicker to offer more flights than some of its peers as demand for air travel returned. Unfortunately, American learned it had a shortage of workers.

A second lesson is to not take for granted that employees will be available. It's been reported that many furloughed American pilots took other jobs and won't be returning. While your company may be a great place to work, employees now have more choices than ever. In what's been dubbed the "Great Resignation," a whopping 95% of workers are now considering changing jobs, and 92% are even willing to switch industries to find the right position, according to a recent report by jobs site Monster.com. A record four million people quit their jobs in April alone, according to the U.S. Labor Department.

Companies in all industries have often said their greatest asset is their people. As the market shifts to a more demanding, hands-on purchase market, now isn't the time to forget.



JEREMY YOHE

ALTA vice president of communications

| ALTA Board Approves 2021 Policy Forms

ALTA's Board of Governors on May 26 approved a recommendation to adopt the 2021 ALTA Policy Forms collection. The intended effective date of the 2021 ALTA Forms is July 1, 2021. These forms were posted for industry comment through June 11, 2021 and are subject to change before final publication.

The ALTA standard Policy Forms have been formally revised over the years to reflect changes in the marketplace brought about by evolving business practices, expectations of insureds, laws, regulations and legal decisions. Advancements in electronic notarizations, changes in certain consumer and creditor' rights law, and case law developments were primary drivers leading to the latest revision of the ALTA Loan and Owner's policies and numerous other ALTA forms.

For historical perspective, the 1970 policies were revised in 1984, followed by a complete rewrite in 1987. In 1990, the forms were modified again, adding the creditor's rights exclusion for the first time. A limited modification was made in 1992, followed by a complete rewrite of the base forms in 2006.

Forms may be downloaded at alta.org/policy-forms in the section titled "Recently Adopted Forms - For Public Comment by June 11, 2021 - Not Published."



As always, the forms have been developed by the ALTA Forms Committee and approved by the ALTA Board. An opportunity to review and comment was extended to ALTA members, Policy Forms Licensees and industry customers before final publication. The forms, in general, are made available for customer convenience. The parties are free in each case to agree to different terms and the use of these forms is voluntary unless required by law. The forms are copyrighted, and use is restricted to ALTA Policy Forms Licensees (including ALTA members) in good standing as of the date of use. Permission to reprint may be requested by contacting publications@alta.org.

| 2006 Operative Law Endorsements and Addenda Now Published

Effective April 2, 2021, the following Endorsements and Addenda to clarify the intended operative law for interpretation of the 2006 ALTA Policies have been published:

- ALTA Endorsement 47 Operative Law – 2006 Owner's Policy
- ALTA Endorsement 47.1 Operative Law – 2006 Loan Policy
- ALTA Endorsement 47.2 Operative Law – 2013 Homeowner's Policy
- ALTA Endorsement 47.3 Operative Law – 2015 Expanded Coverage Residential Loan Policy
- ALTA Addendum – Operative Law – 2012 Short Form Residential Loan Policy
- ALTA Addendum – Operative Law – 2015 Short Form Residential Loan Policy – Current Violations
- ALTA Addendum – Operative Law – 2015 Short Form Expanded Coverage Residential Loan Policy

These ALTA Forms are available at alta.org/policy-forms, in the "Forms Effective April 2, 2021" section.

These new Endorsements and Addenda have been designed to accompany the 2006 policies while those forms are still in use, where considered appropriate by the issuing title insurer.

Questions or Comments?

If you have comments or concerns, contact Steve Gold, ALTA's staff representative for the ALTA Forms Committee, at sgold@alta.org.



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ALTA ONE will offer in-person and virtual networking, CE and CLE credits, amazing inspirational speakers and much more.

ALTA ONE is the only title industry event that connects leaders to swap new business concepts and practices that actually work. The event for big, ready-to-use ideas, ALTA ONE brings strategy to life in ways that get you to tackle problems from a different perspective.



ALTA Announces Skyline Lien Search as an Elite Provider



Skyline Lien Search Inc. recently became the latest ALTA Elite Provider.

ALTA's [Elite Provider Program](#) features distinguished service providers committed to furnishing extensive benefits to the title insurance and settlement services industry. Elite Providers promote the highest industry standards and provide effective solutions for ALTA members' critical needs.

Skyline Lien Search reveals issues with real estate and tangible taxes, code enforcement and building violations, municipal utilities, permits and more. The company's TaxTrack system provides accurate information about how much, when and how to pay real estate property taxes. Skyline also offers homeowners' association (HOA) estoppels and HOA verification. The company now has a resolution department; trained agents reach out to municipalities and entities to obtain the detailed actions that must be taken to fix problems such as permits, code violations or other citations, allowing ALTA members to close transactions smoothly and quickly.

Skyline Lien Search will waive its service fee for the first five orders of ALTA members who utilize the company for the first time, valued at \$85 per order.

For more information about the Elite Provider program or to apply, visit alta.org/elite.

CALENDAR

2021 ALTA CONFERENCES

LARGE AGENTS CONFERENCE

July 11-13
Beaver Creek, Colo.

ALTA ONE

October 12-15
New Orleans, La.

2021 STATE CONFERENCES

UTAH

July 8-11
Park City, Utah

MICHIGAN

July 14
Virtual

NEW MEXICO

July 22-23
Albuquerque, N.M.

KANSAS

August 4-7
Lawrence, Kan.

MINNESOTA

August 5-6
St. Paul, Minn.

TEXAS

August 9-11
Round Rock, Texas

ALTA 2021 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 2021, \$333,339 has been pledged to TIPAC from 467 people. In addition, \$136,500 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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Constant Targets



*Survey: Wire Fraud
Attempted on a Third of
All Transactions*



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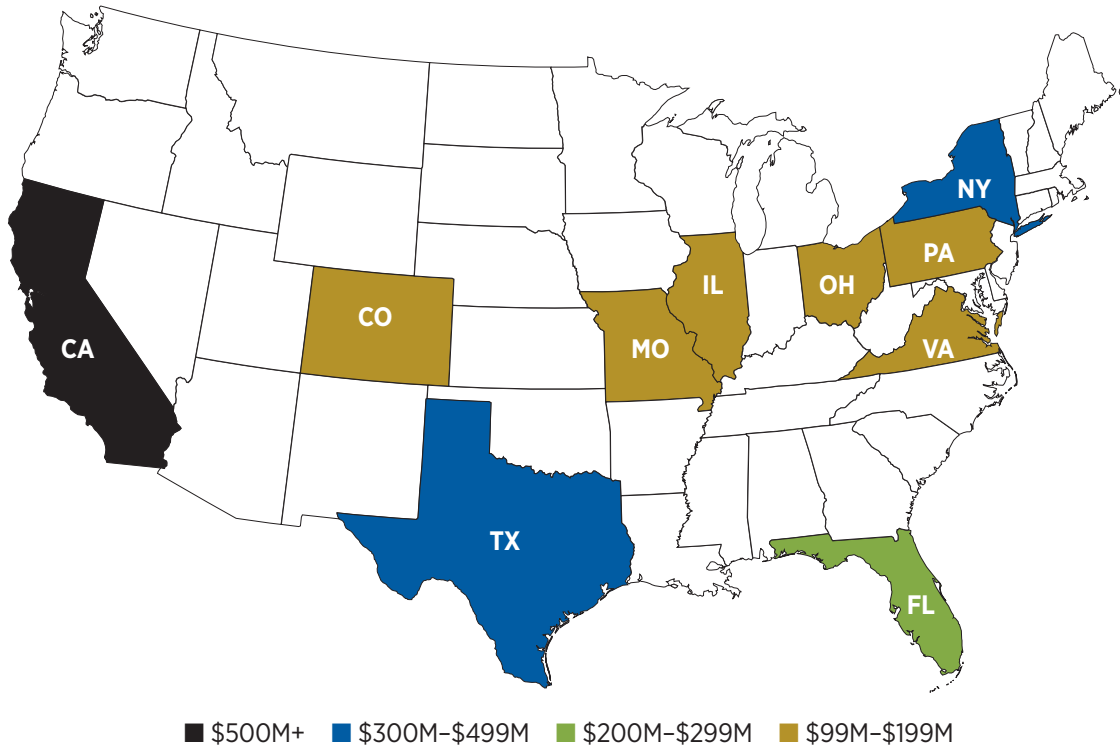
AS BUYERS face one of the most competitive homebuying markets in a generation, many are turning to cash offers in hopes of beating out other competing buyers. With the median price of a home in the U.S. now exceeding \$329,000, according to the National Association of Realtors, cash buyers are wiring large sums of money to title and escrow companies for closing.

Cyber perpetrators are aware of these market dynamics and are deploying scams to trick homebuyers into wiring closing funds to fraudulent accounts.

“We are seeing a sharp increase in the number of homebuyers being targeted for wire fraud scams and the per-victim loss amount continues to climb,” said Stephen Dougherty, with the Global Investigative Operations Center (GIOC) of the U.S. Secret Service. “Cybercriminals are getting smarter and are focused on larger amounts to divert to fraudulent accounts. Homebuyers paying cash for properties may have a higher risk of being tricked into sending funds to fraudulent accounts. Often the buyer shows up to the closing table only to learn that the funds they wired days before were not sent to the title company but instead to a fraudster masquerading as the title company in an email.”

According to the most recent [Internet Crime Report](#) published by the FBI’s Internet Crime Complaint Center (IC3), cybercrime complaints increased 69% between 2019 and 2020. As the country battled the COVID-19 pandemic during 2020, a record number of internet fraud complaints were reported to the FBI. According to the FBI’s report, the IC3 received 791,790, complaints with reported losses exceeding \$4.2 billion last year. This is up from \$3.5 billion in reported losses in 2019.

Phishing: 2020 Top States by Victim Loss



SOURCE: FBI

Business email compromise (BEC) schemes continued to be the costliest, with 19,369 complaints resulting in losses of \$1.8 billion. While this is a 19% decrease in BEC victims compared to 2019, Andy White, CEO of ClosingLock, pointed out the total amount lost increased 5% year-over-year, and the average loss per victim increased 29% year-over-year.

“While the recovery of assets has also increased during this time period, it still lags behind the staggering losses incurred in 2020,” White said. “It’s also important to remember that these statistics are only based on the internet crimes that were reported to the IC3. Many victims do not file FBI reports.”

In 2020, there were 13,638 victims of real estate fraud, with \$213,196,082 in reported losses. This compared to 11,677 victims resulting in reported losses of \$221,365,911 in 2019.

“We’ve assisted dozens of victims with the recovery of stolen funds and homebuyers continue to be the top victim profile for these crimes,” said Tom Cronkright, CEO of CertifID and former wire fraud victim. “Cybercriminals are stealing the life

savings of Americans in a single funds transfer—the impact is simply devastating on families.”

Real estate wire fraud is a sophisticated scam targeting individuals or companies making or accepting wire transfer payments during the homebuying process. As a result, victims unknowingly send wire transfers to the accounts of criminals who are pretending to be real estate and title industry professionals involved in the transaction. The FBI estimates only 12-15% of all wire fraud is reported.

“As a title company, it might not be a legal obligation to protect your customers, but there’s a moral duty to take the necessary steps to secure the closing process,” White said. “Customer education can only go so far when scammers are becoming increasingly sophisticated in their schemes.”

The top three crimes reported by victims in 2020 were phishing scams, non-payment/non-delivery scams and extortion. Victims lost the most money to business email compromise scams, romance and confidence schemes, and investment fraud. Notably, 2020 saw the emergence of scams exploiting the

COVID-19 pandemic. The IC3 received over 28,500 complaints related to COVID-19, with fraudsters targeting both businesses and individuals.

The FBI encourages businesses and consumers to immediately report suspected internet fraud with the [IC3](#). ALTA has created a [two-minute video](#) explaining how to submit a wire transfer fraud complaint with the IC3. Filing a complaint online allows the FBI to process a case more effectively than when victims contact a local field office. The video details the eight sections of the online form that needs filled out. Submitting complaints helps the FBI gauge the number and extent of the problem posted by wire fraud and other financial crimes.

“IC3 has continued to strengthen its relationships with industry and others in the law enforcement community to reduce financial losses resulting from BEC scams,” said Paul Abbate, deputy director of the FBI. “Through the Recovery Asset Team, IC3 worked with its partners to successfully freeze approximately \$380 million of the \$462 million in reported losses in 2020, representing a success rate of nearly 82%.”

New Targets

Criminals just aren’t targeting the funds involved in the closing. Mortgage payoffs are now a big focus of the attacks. In May, the U.S. Secret Service issued an [advisory](#) warning of a drastic increase in fraud involving mortgage payoffs.

According to the alert, cybercriminals impersonate lenders with the intent to elicit payment of mortgage payoffs. The Secret Service said the criminals send fictitious or altered mortgage payoff statements to title companies.

The Secret Service provided the following tips to help prevent this new type of fraud:


- Update policies and procedures to ensure proper verification of information before releasing funds.
- Independently obtain mortgage payoff statements and confirm with verified and trusted sources.
- Independently verify the authenticity of information included in correspondence and statements.
- Do not rely on third parties, such as mortgagors or other transaction participants, for information.
- Restrict wire transfers to known and previously verified accounts.
- Pay using checks when the information cannot be independently verified.
- Have a clear and detailed Incident Response Plan. ALTA has developed a Rapid Response Plan for Wire Fraud Incidents. Access the plan, as well as other wire fraud resources, [here](#).

Wire Fraud Impact on Title Companies

ALTA 2021 WIRE FRAUD AND CYBER CRIME SURVEY SUMMARY

76%

OF TITLE AGENTS REPORTED WIRE FRAUD ATTEMPTS STAYED THE SAME OR INCREASED



Over 550 title agents from across the country completed ALTA's 2021 Wire Fraud and Cyber Crime Survey and reported that the number of wire fraud attempts they experienced in 2020 was the same or higher than in 2019.

Wire fraud attempts and losses increased due to the pandemic according to the Federal Trade Commission and the FBI's Internet Crime Complaint Center (IC3). Real estate transactions remain a top target for cyber perpetrators.



1/3

OF ALL 2020 TRANSACTIONS INCLUDED TARGETED WIRE FRAUD SCAMS

71%


OF STOLEN FUNDS WERE NOT FULLY RECOVERED

A full recovery of stolen funds was possible in 29% of wire fraud cases.

75%

OF UNRECOVERABLE FUNDS WERE SENT BY AN EMPLOYEE


Funds wired by an employee to a fraudulent account were recoverable in less than 25% of cases.



TITLE COMPANIES MUST ACT QUICKLY TO RECOVER FUNDS

Cyber perpetrators are moving stolen funds between bank accounts and cryptocurrency wallets at a rapid rate. Time is of the essence to recover money that is diverted to fraudulent accounts.

For more information on ALTA's 2021 Wire Fraud and Crime Survey visit: <https://blog.altatitle.org/2021/04/survey-finds-professionals-targeted-for-wire-fraud-in-a-third-of-all-transactions.html>


CERTIFID Ready to protect wire transfers? Visit: certifid.com to learn more.

Remain Vigilant

Title insurance professionals reported cybercriminals attempted to trick employees to wire funds to a fraudulent account in a third of all real estate and mortgage transactions, according to ALTA's 2021 Wire Fraud and Cyber Crime Survey. However, training and education seem to be working as funds were only wired to a fraudulent account in a little over 8% of these attempts.



**NATIC is becoming Doma.
Find out what that means here.**

The survey of nearly 550 title agents nationwide was conducted in March 2021 by ALTA's Research & Analytics Work Group. It asked agents about their experience with cybercrime and wire fraud.

Nationwide, 76% of title agents reported wire fraud attempts were the same or increased in 2020. The survey results track with data from the Federal Trade Commission that showed the agency received more than 2.1 million fraud reports from consumers in 2020. Imposter scams were the most common type of fraud reported to the agency.

According to ALTA's survey, a full recovery of lost funds was only possible in 29% of cases. In 40% of cases less than 10% of the funds were recovered. Of companies that recovered funds, 58% started the process by contacting their bank. This highlights the need to quickly work with the financial institution involved in the wire and to report all criminal activity to the IC3.

Funds wired by an employee to a fraudulent account were only recovered less than a quarter of the time.

On a broader scale, the FBI reported that through its Recovery Asset Team, the IC3 worked with its partners to successfully freeze approximately \$380 million of the \$462 million in reported losses due to all types of wire fraud in 2020.

"IC3 has continued to strengthen its relationships with industry and others in the law enforcement community to reduce financial losses resulting from BEC scams," the FBI said.

While the availability of cyber insurance with phishing coverage has grown in the past few years, only 20% of companies that suffered losses were made completely or partially whole by insurance.

More Help Needed

Earlier this year, ALTA successfully worked with the Senate and U.S. House of Representatives to push several federal agencies to focus more on real estate wire fraud as part of Congress's annual appropriations process. An appropriation 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. Directing agencies to spend money on a specific topic or to produce a report is a critical way to elevate an issue with federal policymakers.

The language included in several appropriation bills in the Senate and House directs federal agencies like the FBI and FinCEN to produce reports on their current efforts on wire fraud and for suggestions of new legislative authority to help them combat these crimes. For the Department of Housing and Urban

Development (HUD), the language requires the agency to brief the committee on efforts to educate consumers about real estate wire fraud.

"The title and settlement industry continues to lead the charge raising awareness about wire transfer fraud, educating their staff and implementing procedures to safeguard real estate funds," said Diane Tomb, ALTA's chief executive officer. "Unfortunately, criminals continue to modify their tactics and prey on unsuspecting consumers. Working with our partners involved in the real estate transaction, along with government officials, our members continue to educate people about how they can protect their money when purchasing a home or refinancing a mortgage, so they can continue to trust and have confidence in our digital world." ■

Wire Fraud Resources

Of those who took ALTA's wire fraud survey, 81% work at companies with 10 or less employees. Creating and hiring staff solely focused on cyber security can be difficult for smaller organizations. ALTA has created several resources to help these organizations:

- **ALTA Outgoing Wire Preparation**

Checklist: Use this checklist as best practices for verifying outgoing wire information.

- **ALTA Rapid Response Plan for Wire Fraud Incidents:**

The standard ALTA Rapid Response Plan for Wire Fraud Incidents has been developed by the ALTA Information Security Committee. Download and customize:

- **ALTA Rapid Response Plan for Wire Fraud Incidents**

- Rapid Response Worksheet, available in **Excel Format** or **PDF**

- How to Complete an IC3 Report Video

- **ALTA Wire Fraud Infographic:** ALTA has produced this rack card explaining wire fraud that includes the steps a consumer should take to avoid becoming a victim of wire transfer fraud.

- **Wire Fraud Tips Video:** Share this one-minute video with homebuyers so they know how to protect their money.

- **ALTA Wire Fraud Video:** This two-minute video provides four tips on how consumers can protect their money. It also offers advice on what to do if they have been targeted by a scam.

Also, **ALTA's Marketplace** can help companies navigate many cyber-related vendors and services.

Title Agent Has No Insurance Coverage for Wire Transfer Fraud

ARE
COVERED

In the case [Authentic Title Services, Inc. v. Greenwich Ins. Co.](#), a New Jersey court held that an attorney title agent has no coverage under his errors and omissions insurance against a claim based on wire transfer fraud.

Authentic Title Services Inc. is a title agency operated by Mark Maryanski, a New Jersey attorney, who writes for Fidelity National Title. Greenwich Insurance Company issued a Title Professional Liability Errors and Omissions policy to Authentic.

In 2016, Authentic was hired to close a loan on property in South Orange, N.J., to be made by Quicken Loans. Quicken sent the loan money to Authentic, but the closing was delayed. Maryanski and Brittany Clark of Quicken exchanged emails about the return of the loan money to Quicken.

On April 4, 2016, Maryanski got an email from "BrittanyClark@quickenloans.com" instructing Maryanski to send the money back to the account listed on the attached wiring instructions. The email was a spoof. The account at JPMorgan Chase Bank was for the benefit of the fraudster. There were two email addresses copied on the email that were very similar to legitimate ones for other Quicken employees involved in the New Jersey loan.

Maryanski did not wire the money immediately. The next day, he got another email demanding the return of the money from yet another spoofed email address, purporting to be from another Quicken employee, Aloria Harris. That email address also was off by only one letter. That day, Maryanski sent the Quicken loan amount of about \$480,000 to the fraudulent account.

When Quicken had not received the money in its genuine account by April 12, Maryanski and Quicken talked and figured out what had happened. Maryanski contacted his bank, TD Bank, and also reported the incident to Fidelity, the FBI and JPMorgan

Chase Bank. By that time, the money had been withdrawn from the JPMorgan account by the fraudster, and was never recovered.

Fidelity advanced the amount of the loan to Quicken. The loan closed.

Maryanski filed a claim with Greenwich on April 18, 2016. In May 2020, Fidelity contacted Greenwich and demanded payment of its loss.

Greenwich denied the claim the next day, by a letter sent to Maryanski. The denial was based mainly on Exclusion 14(a), for claims based on "the commingling, improper use, theft, stealing, conversion, embezzlement or misappropriation of funds or accounts." The denial was also based on Exclusion 8, for "alleged criminal, intentionally wrongful, fraudulent or malicious acts or omissions." Exclusion 8, however, contained the limitation that it did not apply if the insured "did not participate or acquiesce in such act, error or omission," had no knowledge of it and gave prompt notice of the claim.

In 2017, Fidelity made a demand on Authentic for payment of the loan amount. Authentic submitted another claim notice to Greenwich, which issued another denial.

Authentic sued Greenwich and insurance broker American Insurance Professionals, LLC in 2018. The case was removed to federal court. Authentic dismissed the broker.

Greenwich moved for summary judgment, based on exclusion 14(a). It also relied on the policy's definition of "damages" as excluding "the loss of or unauthorized removal of funds" from the

YOU ERED



insured's account. The court granted the motion.

The crux of the dispute was whether Exclusion 14(a) applied only to "the commingling, improper use, theft, stealing, conversion, embezzlement or misappropriation of funds or accounts" by *Authentic*, or theft of money by anyone. The court said the important phrase was the preamble, which said the exclusion applied to *all* claims "based on or arising out of" the theft of money. It said that *Authentic's* claim "undeniably originated from or grew out of" the theft of *Quicken's* money, so the exclusion applied. *Authentic* said that the exclusion was ambiguous because it did not identify whose conduct was the source of the theft to which the exclusion applied. The court said the exclusion was not ambiguous. It said that the exclusion "is clear as written," and that it was *Authentic's* proposed interpretation that "would engraft a limitation absent from the text, that would introduce confusion."

The court also rejected *Authentic's* argument that Exclusion 14(a) should be read in light of Exclusion 8, which negates coverage for alleged criminal acts of the insured but with the proviso that the exclusion does not apply when the insured is falsely accused. *Authentic* argued that Exclusion 14(a) would be rendered "hopelessly ambiguous" and "illusory" if it negated all coverage for a fraud worked on the insured in which the insured was the victim, not the perpetrator. The court disagreed, saying:

... *Authentic's* invitation to read exclusion 14(a) in the context of the policy as a whole helps *Greenwich's* position rather than its own. *Authentic* argues that exclusion 14(a) must be read to reach only

conduct by the insured. But the language of other exclusions suggests that when Greenwich intended that result, it expressly said so. Exclusion 8, for example, includes the carve-out language discussed above. Exclusions 11, 15, and 16 also expressly refer to conduct by the insured. Exclusion 14(a) does not. As Greenwich argues, this indicates that the company intended it to apply to conduct regardless of whether the insured was involved; in other words, this is the intended result of the language, rather than an unintended ambiguity in it.


The court noted that neither party had supplied New Jersey authority interpreting this exclusion. However, it said *Accounting Resources, Inc. v. Hiscox, Inc.*, 2016 WL 5844465 (D. Conn. 2016) (unpublished) supported its conclusion, because in that case a similar exclusion was found to negate coverage for a third party's theft of the insured's money by means of fake invoices.

The court declined to address *Greenwich's* alternate argument, based on the definition of "damages" that carved out "the loss of or unauthorized removal of funds" from the insured's bank account.

Bushnell Nielson is a shareholder of the law firm *Reinhart Boerner Van Deuren* and editor of *Title Insurance Law Newsletter*. [Click here](#) to purchase this publication and get access to more reports on cases addressing title insurance coverage, class actions and regulatory enforcement, escrow and closing duties, agent/underwriter disputes, conveyancing law, and RESPA and TILA compliance and violations.

HOMEBUYER'S LIFE SAVINGS STOLEN IN WIRE FRAUD BUT RECOVERED FOR TIMELY CLOSING





Buyers involved in the home purchasing process are at risk of losing their life savings to cybercriminals seeking to divert wire transfers to fraudulent accounts. This type of fraud, commonly referred to as business email compromise (BEC) costs companies and consumers over \$3.5 billion in recent years, according to the FBI's latest Internet Crime Report. This accounts for nearly half of all cybercrime losses.

As a second-time homebuyer outside of Denver prepared for the purchase of his new home, he received an email appearing to come from the title company. The message asked him to wire his closing funds early in the transaction.

"The emails appeared convincing and included my exact amount for closing that had previously been discussed by the title company," said Taylor, a recent wire fraud victim whose last name has been omitted for privacy reasons. "I received the wiring instructions and wired just under \$80,000 as instructed.

Two days later, I was notified that the money did not arrive at the title company and that's when I realized my life savings had been stolen."

Fortunately for Taylor, his title company quickly engaged and advised him how to notify the financial institutions involved in the crime.

"We know that buyers may be approached by fraudsters at any time and when funds are transferred, it's hard to get them back—time matters," said Angela Lozano, general counsel for Title Forward, a Redfin title company. "We worked with the buyer to alert the banks and attempt to freeze the accounts so they could be returned."

Despite these efforts, two days had passed, and the banks provided no assurance that the funds were secure.

Realizing that time was running out, Lozano contacted funds recovery expert Tom Cronkright, CEO of CertifID, to assist in returning the funds. Within minutes of receiving the

request, Cronkright gathered the emails and bank information and deployed CertifID's Funds Recovery Services to launch a coordinated effort that involved the U.S. Secret Service.

"Time was truly of the essence, so we got to work in finding and freezing the account where Taylor's funds had landed," said Cronkright, who also was a wire fraud victim. "Within a few hours, we had confirmation that his funds had been secured and on track to be returned to him—a great result given the timing of everything."

Within a week of transferring his funds to cybercriminals, Taylor's life savings were safely returned to his bank account and he is now enjoying his new home.

"The entire experience was shocking, and I consider myself lucky to have been surrounded by professionals that selflessly jumped in to help me," Taylor said. "If I can be tricked, anyone can. Home buyers need to not only be aware of this risk in a general sense, but they also need to know what forms it can take; the latter part was what I didn't know. Having better knowledge and surrounding themselves with people who 'get it' will help protect them as they send money for closing. I was a lucky one."

This crime occurs as fraudsters use email phishing techniques to gain access to an email account of someone involved in a transaction. This access provides real-time transaction details, including amounts that buyers are required to transfer for the upcoming closing of their home. Armed with this information, the fraudsters impersonate the title company or other professionals involved in a transaction and send fraudulent wiring instructions to buyers with a request to send funds immediately or the transaction may be canceled or delayed.

Once the funds are stolen, they are hard to recover as cybercriminals use elaborate networks to launder funds to avoid detection and recall.

"We have seen a sharp increase in real estate wire fraud in recent months," said Stephen Dougherty, of the Cyber Investigations Division of the U.S. Secret Service. "Cyber criminals are using information found in compromised email accounts to trick consumers into sending funds to fraudulent accounts. Taylor had a favorable result because his title company was aware of the risk; most homebuyers are not as lucky."

Low inventory levels for existing homes have created one of the tightest housing markets in U.S. history, adding stress to buyers seeking to enter the market.

By the end of the process, buyers are often fatigued, making them more susceptible to falling victim to wire fraud as they are asked to send money for their closing. Education, awareness and securely exchanging wiring instructions can help lower this risk and keep buyers safe.

"Buyers should inquire as to how their real estate agent, title company and lender safeguard their respective email accounts and protect them from wire fraud—the threat of losing their life savings is too great to ignore," Cronkright said. "With heightened awareness, communication and security standards, all parties in a transaction can be safer from the threat of loss."



DON'T BE A CLUNKER

3 Reasons to Get Your Free ALTA Registry Listing
and Get Your Operation Running Like a Sports Car



With wire fraud still on the rise, lenders need to verify the identity of the title/settlements they are working with. This provides an enhanced level of security



If your company offers remote online notarizations, update your listing and to get a special icon next to your company name that lets lenders know you are RON Ready!



Title agents can show their lender partners they are in good standing with underwriter(s). This helps prevent policies from being issues by canceled agents.



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Flexible RON Service Options

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AGENT ADVANTAGE

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We work with a variety of top RON signing platforms, so Agents don't need to sign up and pay for multiple accounts. Our team of RON professionals can place your order with the platform that best fits the need of each individual transaction.

Signer Readiness and Support

In preparation of signing, our Agent Advantage support team will work with each party to make sure they understand the RON process and confirm they have the technical tools required for each platform.

Customer Service Coordinators

Our team of highly experienced Customer Service Coordinators communicates with all involved parties, regardless of location or time zone, ensuring a properly organized transaction. Includes coordinating signing schedule for all parties, and providing post-closing transaction support, as needed.

Contact the Agent Advantage RON Services team for more information: AgencyRON@firstam.com

*In most active RON states.

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Title Industry Asks Congress to Support Nationwide Use of RON

A record attendance of nearly 400 title professionals during the 2021 ALTA Advocacy Summit held more than 250 virtual meetings May 18-20 asking members of Congress to support nationwide use of remote online notarization (RON). On May 13, Sens. Kevin Cramer (R-N.D.) and Mark Warner (D-Va.) reintroduced the SECURE Notarization Act of 2021 ([S. 1625](#)).

“Remote online notarization is a transformative technology that offers consumers a convenient way to safely and securely complete important documents. While the COVID-19 pandemic presented a number of obstacles to essential tasks such as executing wills, completing financial documents, buying or selling a home, or purchasing or selling a car online, many states demonstrated how to effectively deploy this type of technology to meet the needs of Americans,” Sen. Warner said. “That’s why I’m proud to introduce this bipartisan bill, which would



The California delegation meets with Shelby Luce, a staffer for U.S. Rep. Salud Carbajal.

permit nationwide use of remote online notarization, while requiring minimum safety and security standards, and provide certainty for interstate recognition of transactions completed with remote online notarization.”

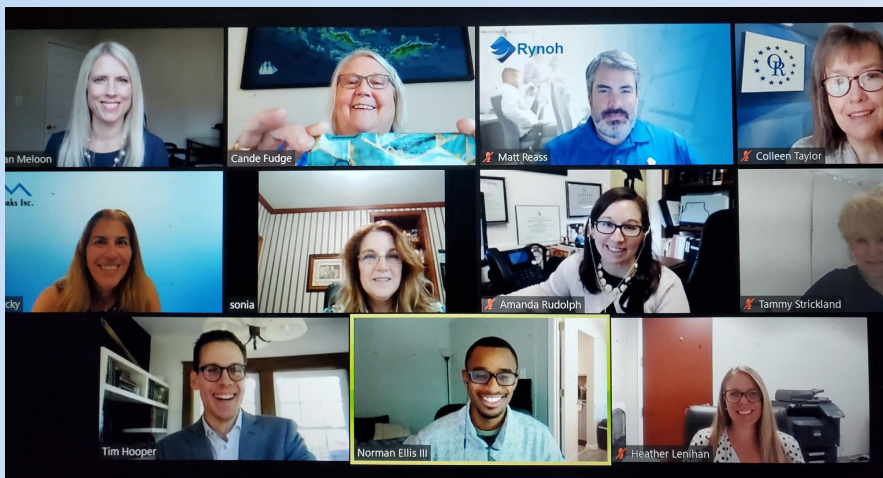
The bipartisan bill would allow notaries in all states to perform RON transactions.

Like the bill from the previous Congress, the SECURE Notarization Act of 2021 creates national standards requiring use of tamper-evident technology, multifactor authentication of a signer and retention of an audio-visual recording of the notarial act.

The bill would allow signers outside the U.S., such as military personnel and their families, to easily and securely notarize documents.

“The pandemic exposed several flaws and outdated methods used in the American economy, and the notary process is a prime example,” Sen. Cramer said. “Our bill would bring this process into the 21st century, allowing people to securely complete notarized documents remotely, just as they do with many other important forms.”

There have already been 35 states that have enacted laws enabling the use of RON. An additional three states recently passed RON legislation but have yet not promulgated regulations. The federal legislation would complement existing



The Virginia delegation meets with Norman Ellis III of U.S. Sen. Tim Kain’s office.

state laws, while allowing states the flexibility and freedom to implement their own RON standards. Additionally, the federal legislation follows a similar structure of complementary state/federal legislation, such as the Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA).

In addition to ALTA, the bill is endorsed by a wide array of organizations including the Mortgage Bankers Association (MBA), the National Association of Realtors (NAR) and the American Council of Life Insurers (ACLI).

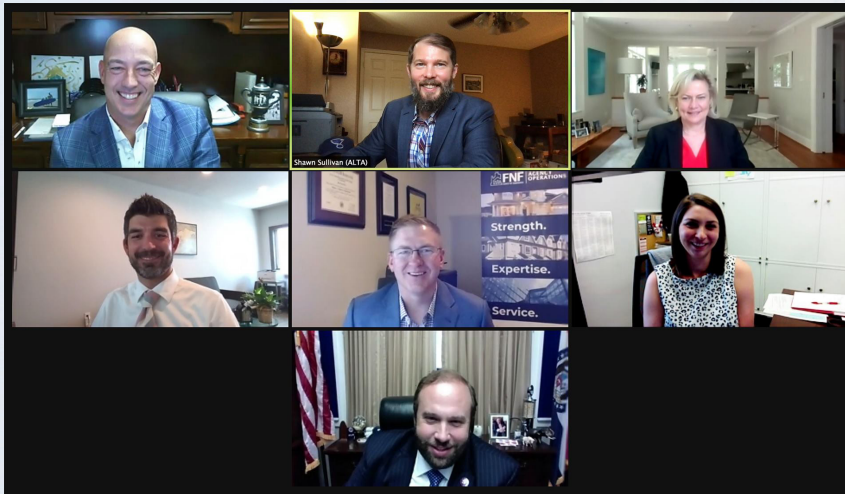
Thanks to ALTA's advocacy, the bill's minimum standards for RON are consistent with those provided in the ALTA-MBA model state RON bill and the Mortgage Industry Standards Maintenance Organization (MISMO) RON Standards.

The use of RON increased 547 percent in 2020, according to a survey ALTA conducted of vendors that offer this technology. This increase can be attributed to heightened demand for RON during



The Minnesota delegation meets with Rep. Dean Phillips.

chief executive officer. "We applaud the leadership of Sens. Warner and Cramer for recognizing the clear benefits of extending RON access to all Americans and introducing this bipartisan legislation, which offers a safe and secure alternative to execute real estate and mortgage transactions. By passing the SECURE

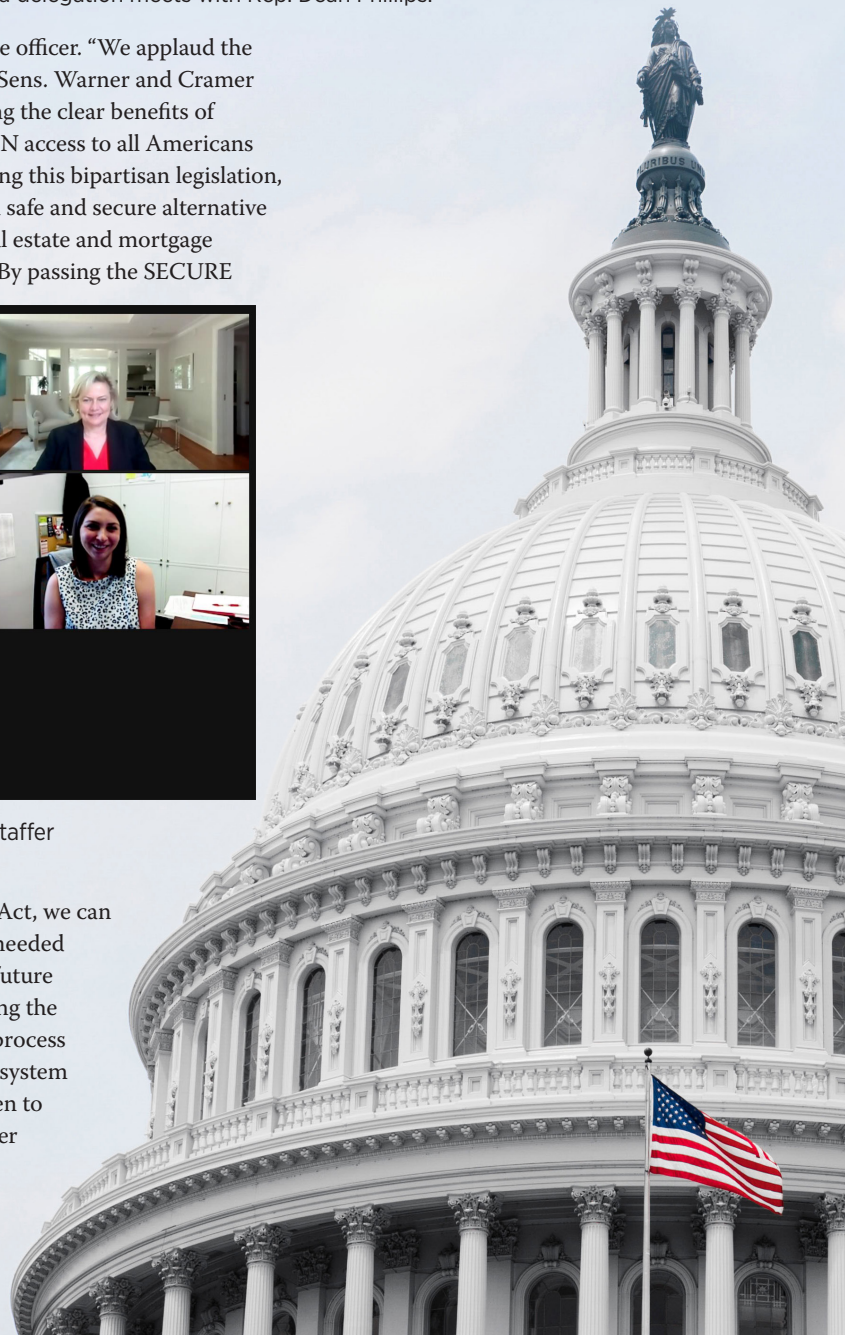


The Missouri delegation meets with Rep. Jason Smith and staffer Kathryn Chakmak.

the pandemic, in addition to the fact that 34 states have passed permanent laws authorizing its use.

"Since the onset of the pandemic, businesses have been forced to rapidly adapt to a new normal, and the real estate industry is no exception. One of the title industry's most important tools in this process has been remote online notarization," said Diane Tomb, ALTA's

Notarization Act, we can take a much-needed step into the future by modernizing the notarization process with a secure system that has proven to meet consumer needs and expectations."





ALTA ADVOCACY SUMMIT™ *Virtual*



WITH ALTA PRESIDENT BILL BURDING AND U.S. REP. ED PERLMUTTER

It's not every year when a title insurance champion is working in the hallowed halls of the Capitol Building. There's a title insurance champion working in the hallowed halls of the Capitol Building.

During the 2021 ALTA Advocacy Summit, ALTA President Bill Burding NTP kicked off the conference with a virtual discussion with U.S. Rep. Ed Perlmutter (D-Colo.).



Burding: Who would have thought when we first met in 1980, when you were a partner at the law firm, and I came in as an associate, that we'd be sitting here years later having this conversation—you as a senior member of Congress and me as the president of ALTA. Looking at a broad brush, what are your hopes for the Biden administration?

Perlmutter: The last few months have been pretty intense starting with January 6, which was a sad day for America. The good news is that the Electoral College was accepted by Congress and Joe Biden is now the president. Probably the most significant bill we ever voted on was the American Rescue Plan, which provides assistance for Americans of every stripe. From housing assistance—particularly rental and mortgage relief—to continued refinement of vaccines, it's a massive piece of legislation aimed at stabilizing the country. I sleep much better now and don't go wake up with some tweet coming out of left field that stirs things up. It's a calmer environment to make policy. Clearly, there's disagreement between Democrats and Republicans, but we can get down to basic pieces of legislation. I see that with this administration. I'm also pleased with the diversity of the Biden cabinet. Deb Haaland, from New Mexico, is the first Native American to serve as Secretary of the Interior and we see this across the board. It's important to have a diverse cabinet in America today.

Burdig: Congratulations on being chair of the House Financial Services Subcommittee on Consumer Protection and Financial Institutions. Can you tell explain a little bit about the jurisdiction of that subcommittee?

Perlmutter: It only took me getting elected eight times to be able to get to a subcommittee chairmanship. As you know from our practice, my experience was really in the financial services arena and I've been on the House Financial Services Committee since being elected in 2007. This subcommittee deals with everything banking, credit unions, trust companies and federal agencies. It also deals with consumer protection. It's a committee where we are looking at the solvency of the banking system and making sure that people aren't being fleeced by some type of abusive practice.

Burdig: How does the subcommittee fit in with the Consumer Financial Protection Bureau (CFPB)?

Perlmutter: It has jurisdiction over the CFPB. At this point we haven't had the chance to interview or have Rohit Chopra as a panelist because he's still waiting to be confirmed as the bureau director by the Senate. While that's waiting, we continually look at consumer protection laws and regulations. My hope is that there will be change from previous administration where there was a lack of protection enforcement. I hope Chopra will provide good insight for business as to what he expects, so it isn't consumer protection by enforcement. Having worked with title companies my entire professional career, and having my mortgage refinanced six months ago, and the title company taking care of the closing during COVID, the industry is very trusted. And it should be. I want to make sure when I talk to Mr. Chopra to tell him there should be a good line of communication, so everyone understands the rules.

Burdig: Thank you for your longstanding leadership on the SAFE Banking Act. Once again it passed the House by an overwhelmingly bipartisan vote of 321-101. Can you talk about the bill's prospects this year for enactment into law?

Perlmutter: The SAFE Banking Act provides a safe harbor for financial services businesses—such as insurance companies, banks, credit unions and lawyers—that provide services or products to the marijuana industry. At the federal level, it's still a Schedule I drug, meaning it's illegal. We have 47 states that have some level of marijuana legalization and we've got to understand this industry provides huge piles of cash. A former client had a building that had a dispensary in it. The marijuana business purchased the building and brought \$1.7 million in cash to the closing table in \$100 bills. This weighed 17 pounds. SAFE Banking is designed to get the cash off the streets and into the banks where it belongs. We've sent the bill to the Senate on several occasions now and we're hopeful it will pass now. ALTA is a well-respected organization and carries clout

in D.C. I know many members of Congress respect what you all have to say because you're in a trusted position in the title business.

Burdig: Colorado is a state that has implemented remote online notarization to help facilitate transactions using secure technology with strong consumer safeguards, as have 34 other states around the country. Any recommendations for the industry to help get the SECURE Notarization Act passed?

Perlmutter: I'm surprised it didn't pass during COVID as it would have been the perfect time. Even though Colorado has a version of RON, it's not enough. We need to get this done. A place where we may want to see it added is to the American Jobs Act, the big infrastructure package. There will be a lot of contracting and a lot of title business with this act. I also serve on the Rules Committee. This is the committee that considers every bill of any controversy. We say which amendments will be added and the terms when the bill finally goes to the floor. This is something where we can try to get it in the original committees in the House and Senate or we may want to tack it on in the Rules Committee. I think there's the fear of some type of hacking and that's a concern for some people. It's also the tradition of wanting to see the person in person, but given COVID and we're all comfortable with Zoom, I think it's an appreciate audience.

Burdig: ALTA has been working with appropriators in the House and Senate to encourage several agencies and departments to report to Congress not only on the scope of wire transfer fraud but also on the steps they are taking and tools they are deploying to combat it. Do you have any thoughts about additional efforts that could be taken to attack the problem?

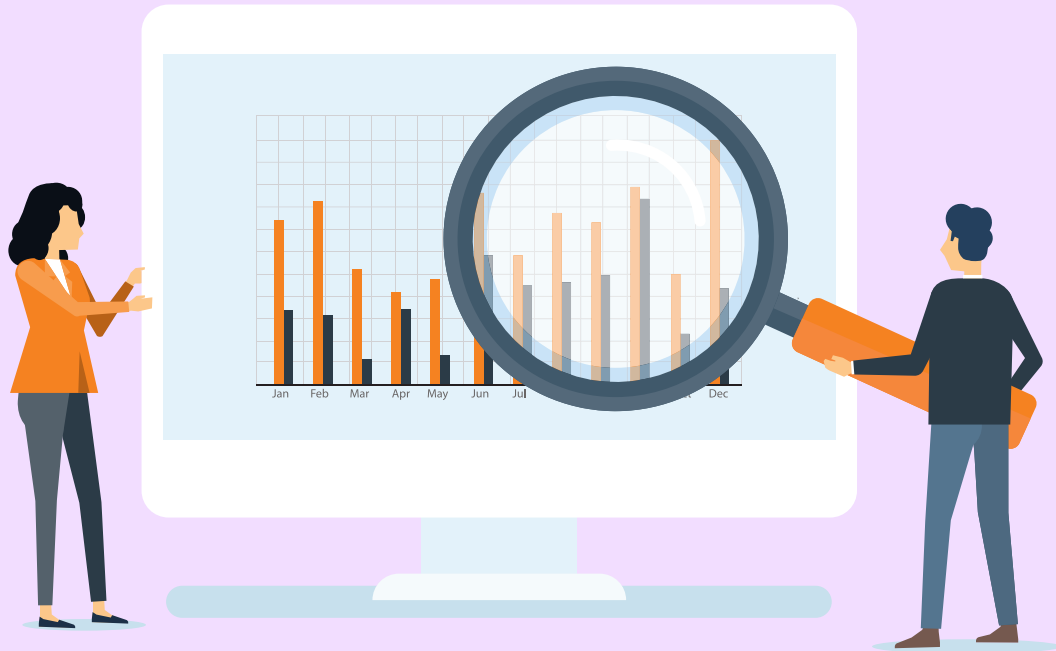
Perlmutter: You should reaffirm to your members of Congress how important it is to fight cybercrime for your industry and everyday Americans who may find their closing money stolen. Like the notarization issue, if you speak to your members about it, they will be very accepting because this is a subject that's on all of our minds. As a Congress and a country, we need to step up our fight against cybercrime because it's grown by leaps and bounds.

Burdig: I live in California, but I'm a Colorado sports fan. Are we going to get Aaron Rodgers?

Perlmutter: Much like cybersecurity, notarizations and COVID, in Colorado this is also on our minds. I was reading some sports articles looking at how much it's going to cost to get him and if the Packers are really going to trade him. We're definitely in the discussions to do this. If we do get him, we will be a pretty good team. We haven't been very good since (Peyton) Manning retired. I'm hoping we get Aaron Rodgers.

Title Premium Volume Jumps 45% During Q1 2021

Underwriters Report Strong Start to the Year



THE TITLE INSURANCE INDUSTRY GENERATED \$5.68 BILLION in title insurance premiums during the first quarter of 2021 compared to \$3.92 billion during the same period a year ago, according to ALTA's latest Market Share Analysis.

A strong purchase market and continued home appreciation helped drive the 44.8% premium volume increase compared to the first quarter of 2020. Total operating income was up 42.4%, while

operating expenses were up 40.0%, and loss and loss adjustment expenses were down 11.9%. This resulted in net operating income of \$489.9 million, compared to \$296.5 million for the first quarter of 2020, an increase of 65.2% and the highest first quarter ever.

The industry paid \$106.7 million in claims during the first three months of 2021. This is down from \$126.0 during the same period a year ago.

Here's a roundup of how the top underwriter families performed during the first quarter of 2021.

Fidelity

Fidelity National Financial reported that its title insurance segment generated pre-tax income of \$439 million during the first quarter of 2021. This compared to pre-tax loss of \$53 million during the same period a year ago.

"Our team continued to perform at a high level despite the challenging environment that we have all endured as they kept our operations running smoothly, while maintaining a steadfast focus on our customers," said Randy Quirk, Fidelity's chief executive officer.

During the first quarter, Fidelity direct operations opened 770,000 orders and closed 597,000 orders. This compared to 682,000 direct orders opened and 377,000 orders closed during the

Top 10 Underwriters by Market Share

1. First American Title Insurance Co., 20.5%
2. Old Republic National Title Insurance Co., 14.8%
3. Chicago Title Insurance Co., 13.5%
4. Fidelity National Title Insurance Co., 13.0%
5. Stewart Title Guaranty Co., 8.2%
6. Westcor Land Title Insurance Co., 6.8%
7. WFG National Title Insurance Co., 3.2%
8. Title Resources Guaranty Co., 2.3%
9. North American Title Insurance Co., 2.0%
10. Connecticut Attorneys Title Insurance Co., 1.0%

first quarter of 2020.

Fidelity paid \$46 million in claims during the latest quarter. This is down slightly from \$48 million in claims paid during the first quarter of 2020. However, Fidelity reserved \$81 million for claims during the latest quarter.

Mike Nolan, president of Fidelity, said the company continues to make progress rolling out technology initiatives that improve production and delivery of core title products and services.

"Our proprietary title automation technology and the engines that search, collect and process data remain at the core of our operations," he said. "Our digital inHere experience platform continues to be deployed and has been well received by our expert mobile, escrow and settlement employees, consumers and clients."

First American

First American Financial Corp. reported that its title insurance and services segment generated \$321.6 million in pre-tax income during the first quarter of 2021. This is up from \$73.0 million in pre-tax income during the first quarter of 2020.

"First American delivered outstanding results this quarter as the purchase, refinance and commercial markets were all strong," said Dennis Gilmore, chief executive officer at First American. "Our title segment posted a pre-tax margin of 17.1%, a record for the first quarter."

Gilmore said a transformation is underway in the real estate sector, as paper-intensive processes convert to digital.

"We continue to make significant investments in technology across all of our major businesses to enhance the customer experience through digital solutions," he said during the company's earnings call. "Many of these efforts are now finding success in the marketplace."

First American's direct operations opened 363,200 orders during Q1 2020. This is up from 354,400 direct orders opened during first quarter of 2020. First American closed 287,600 direct orders during the first three months of 2021. The company closed 202,700 direct orders during the same period in 2020.

First American's title segment paid \$40.0 million in claims during Q1 2021. This is down from \$42.7 million in claims paid during the same period in 2020.

Gilmore also touted First American's push to automate the manual data entry process and said 96% of the company's refinance transactions run through its automated underwriting engine. First American uses a fully automated underwriting decision process on 50% of these orders and a semi-automated process on another 40%.

"Given the success we've had with refinance automation, we have turned our attention to the purchase transactions," Gilmore said. "All of these initiatives, whether related to closing data or title production, will improve the experience of our customers and our own productivity."

Old Republic

Old Republic International reported that its title insurance segment generated \$103.7 million in pre-tax income during the first quarter of 2021. This compared to \$43.3 million in pre-tax income during the same period in 2020.

Carolyn Monroe, president of Old Republic's title insurance group, said the results for operating revenue and profit set a company record for first-quarter results.

"Our employees continue to effectively balance the challenges, although improving, of in-person commerce, with the opportunities provided by the current U.S. mortgage origination market," said Carolyn Monroe, president of Old Republic's title insurance group. "Having begun the year with a solid foundation, we remain optimistic for the remainder of the year."

The company reported a claims ratio of 3% during first-quarter 2021, which was a slight improvement from 3.1% in Q1 2020. Old Republic said this was influenced by favorable reserve development from prior periods. Old Republic paid \$29.2 million in claims during the latest quarter. This compared to \$21.5 million in claims paid during Q1 2020.

Stewart

Stewart Information Services reported that its title segment generated \$77.1 million in pre-tax income during the first quarter of 2021. This compared to \$14.8 million in pre-tax income during the first quarter of 2020.

"These results demonstrate that our plan to improve operational performance through targeted growth, focused management, and broader technology and services offerings continues to drive results," said Fred Eppinger, Stewart's chief executive officer. "The work our employees have accomplished last year and throughout the first quarter addressing the challenges of the pandemic conditions driving structural changes, integrating more valuable talent and asset additions, have all fundamentally changed our company."

Stewart's direct operations opened 157,918 orders during the first quarter of 2021. This is up from 122,708 direct orders opened during the first three months of 2020. The company closed 115,701 direct orders during Q1 2021. It closed 69,533 direct orders during the first quarter of 2020.

During the latest quarter, Stewart paid \$28.8 million in claims. This is up from \$18.6 million in claims paid during the same period in 2020.

"As we look at 2021 and 2022 and beyond, there is a level of uncertainty over the endurance of the cycle even as we continue to experience strong market demand," Eppinger said. "We know the refinancings will begin to slow at some point, even though the overall residential market is healthy and is expected to remain that way for some time as resale transactions driven by pent-up demand and favorable homeowner demographics will continue to show strength."

Andy Mahdavi Chief Data Scientist | Doma (formerly known as States Title)

Doma's Chief Data Scientist Strives to Take Title, Closing to New Galaxy



How does a person with a doctorate in astronomy and astrophysics land in the financial services sector?

It's not as uncommon as you'd think! Research labs around the country need many more graduate research assistants than there are future professor jobs available. Being two of the most well-funded areas, physics and astronomy produce hundreds of PhDs each year who immediately go on to do great things—like computing the value of complex financial instruments—in financial services! My own path was a little unusual in that I made the move after becoming a professor. Like most others who've made this switch, though, I was driven by a desire to get my head out of the clouds and work on something that could affect earthlings.

How long have you been in the title industry and how did you get started in this profession?

After helping launch a one-of-a-kind fraud prevention algorithm for Capital One Bank, I met Max Simkoff, CEO of Doma. He described a part of financial services that I had never heard of before, which was virtually untouched by decision science. Decision science is the set of mathematical methods used to predict the future in other areas of finance such as credit card lending or car insurance. If we could launch such a system for title, it would be a little like exploring a new galaxy. So, it was as exciting from a research perspective as it was potentially transformational for the process of home loan closing.

What's a day on the job like for you? What excites you about what you do or what is the most challenging aspect of your job?

The best part of my job is definitely my team. I work with some of the most talented data scientists I've ever met, and it's an exciting journey to be tackling the challenging subject area of settlement automation with them. When I log in each day, I have two main goals. First, are we doing everything possible to let machines do the boring and repetitive parts of settlement, leaving the complex and interesting topics for humans? Second, are my team members finding their jobs rewarding and satisfying? If I can answer "yes" to both questions, I consider it a successful day.

What are some innovative things Doma is doing to make it easier for people to purchase property and refinance mortgages?

Title and escrow professionals have a huge amount of subject matter expertise, but spend much of their time answering repetitive emails, checking mind-numbing lists of fees, or calling about irrelevant or invalid title defects, ad nauseam. By having machines do the most straightforward parts of these tasks, we have significantly shortened the time (and lessened the numbers of errors) involved in closing a home loan. This means that homeowners have a more streamlined closing experience already: an experience which will become smoother and faster as we continue to launch improvements regularly over time.

The title industry continues to innovate to deliver for its customers. What do you think the homebuying process will look like in five years?

I think in five years we could see many dramatic changes on the homebuying side. The idea of excellent service for millennials is very different than for past generations. For example, millennials value being able to conduct complex tasks purely via apps and without interacting with humans. So, I expect to see the likes of Zillow and Redfin grow in their ability to conduct both in-person and virtual home viewings and make offers (with and without lender integration), without the need to organize it all through a single person. I think we'll also see greater adoption of digital mortgage closings and that this will help significantly improve the homebuying process.

Why is the title industry a great career opportunity for those entering the workforce?

Land rights, land ownership, and rules around the transfer and the encumbrance of land are a fascinatingly complex topic, with rules that vary state-by-state. There are still many challenging and satisfying problems to solve in terms of automating the processing, comprehension, and communication of these complex topics. We need both talented technologists with a passion for automation, as well as legal and title subject matter experts to help inform the algorithms the technologists will build.

What advice do you have for professionals starting their career in the industry?

At social gatherings, when someone asks you what you do, tell them you take people through the process of closing on their homes in a trouble-free way. Do not say the word "title."

How has the industry evolved since you began your career? How has your company had to change in order to remain competitive?

We're seeing the expansion of data services around real estate, with many more high-quality title data sources available via technologies such as REST APIs (application programming interface designed to take advantage of existing protocols), with ever increasing and greater coverage. We've needed to be constantly on top of newer offerings to make sure we are leveraging the highest possible quality data sources.

What have you learned about yourself or your company since the start of the COVID-19 pandemic?

That I can hire someone, trust them and become friends with them when all I experience about them is pixelated video and audio. That's an incredible realization for the future of many jobs: that they can be carried out on what is truly a deeply human level by streams of audiovisual data.

Tell us something that others in the industry may not know about you.

I can make thin crust pizza from scratch in under 30 minutes.

If you could have dinner with anyone, who would it be and why?

Would love to meet up for dinner with Alexander the Great and learn more about his diplomatic prowess, influence and accomplishments.

What's your favorite book/movie/TV series? Why?

- Book: *The Miracle of Mindfulness* by Thich Nhat Hanh: I thought meditation was bogus before reading this book.
- Movie: *The Matrix*. Explored many of our modern ideas around AI and the human/machine interface while being extremely stylish. Still feels fresh.
- TV Series: *The Expanse*. Well-crafted characters in a sci-fi setting with minimal pretend magic.

What's in your music playlist?

Atmospheric/House/EDM music: Hybrid, BT, Unkle, Odesza, Driftmoon.

U.S. Interior Department Takes Steps to Restore Native American Land

The U.S. Department of Interior on April 27 issued an order that eases the ability of Native American tribes to take land back into trust.

Secretary of the Interior Deb Haaland issued [Order 3400](#) re-delegating the authority to review and approve applications to place land into trust to the Bureau of Indian Affairs regional directors. The order reverses steps taken in 2017 that elevated land-into-trust decisions to the department's headquarters staff, which caused delays. The order does not apply to gaming applications.

Taking land into trust is one of the functions the Interior Department undertakes on behalf of tribes.

"At Interior, we have an obligation to work with Tribes to protect their lands and ensure that each tribe has a homeland where its citizens can live together and lead safe and fulfilling lives," Haaland said. "Our actions will help us meet that obligation and will help empower tribes to determine how their lands are used—from conservation to economic development projects."

Federal policies dating back more than a century have eroded the land base of Native American tribes across the United States. By placing lands into trust status through the Department of the Interior, tribes can reacquire lands within or near their reservations, establish a land base for tribal communities and clarify jurisdiction over their lands. Tribes have faced delays and increasing costs in efforts to develop housing projects, manage law enforcement agencies and develop local economies because of unnecessary hurdles in the land-into-trust process.

"The patchwork of landholdings within existing reservation boundaries can make it difficult to develop coherent law enforcement and regulatory policies on reservations, restricting the ability to sustain community and economic development," said Bryan Newland, principal deputy assistant secretary for Indian Affairs. "These important actions are a step in the right direction to restore homelands that will strengthen tribal communities."

Second Circuit Clarifies That Fear of Identity Theft is Enough Harm to Bring Suit

In an April opinion, the U.S. Court of Appeals for the Second Circuit clarified when data breach plaintiffs can rely on fear of identity theft to establish Article III standing.

The case *McMorris v. Carlos Lopez & Associates, LLP* involved the inadvertent disclosure of personal data by an employee of Carlos Lopez & Associates.

The defendant offers mental and behavioral health services to veterans, service members and their families. At issue is an incident where an employee of Carlos Lopez accidentally emailed a spreadsheet containing Social Security numbers and other sensitive personal information of 130 current and former employees to other staff. The employees later brought a class action in the Southern District of New York on behalf of all employees and former employees whose personal information was erroneously emailed. The suit alleged negligence and violations of state consumer protection statutes.

Notably, the complaint did not allege that any plaintiffs were the victim of identity theft or that anyone outside the company had obtained the spreadsheet. Instead, the allegations centered on the "imminent risk of suffering identity theft" as the plaintiffs cancelled credit cards and purchased credit monitoring.

Originally, the Southern District dismissed the complaint

on grounds the plaintiff had not asserted an injury sufficient to establish Article III standing. On appeal, the Second Circuit reversed, holding that fear of identity theft can be sufficient, but held that the plaintiffs hadn't established a substantial risk of identity theft in this particular case.

In the opinion, the court set out three factors to consider when determining if fear of identity theft rises to a level to provide standing for a lawsuit:

1. Whether the plaintiff's data was exposed.
2. Whether other consumers' data that was also exposed has been misused.
3. Whether the data is sensitive and of a type likely to be misused.

At the same time, the court found that paying out-of-pocket expenses to guard against identify theft does not automatically create standing.

While other circuits also have held that a substantial risk of identity theft is sufficient for standing, no other circuit has developed a set of analytical factors. *McMorris* is likely to get cited as more cases of incidental exposure of personal information occur.

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CFPB Issues TRID FAQ on Build Act Partial Exemption

The Consumer Financial Protection Bureau (CFPB) on May 14 [issued](#) an update to its TILA-RESPA Integrated Disclosure (TRID) rule FAQs to address a partial exemption added by the Building Up Independent Lives and Dreams Act (BUILD Act), which became law in January 2021.

Regulation Z of TILA includes a partial exemption from the Loan Estimate and Closing Disclosure requirements of the TRID rule for subordinate housing assistance loans that met certain conditions. The BUILD Act added a partial statutory exemption from such requirements for similar transactions. The FAQs indicate to qualify for the BUILD Act partial exemption, a transaction must meet all of the following criteria:

- The loan must be a residential mortgage loan.
- The loan must be offered at a 0% interest rate.
- The loan must only have bona fide and reasonable fees.
- The loan must be primarily for charitable purposes and made by an organization described in Internal Revenue Code section 501(c)(3) and exempt from taxation under section 501(a) of that code.

Foundation Title & Escrow Expands Into Georgia

Tennessee-based Foundation Title & Escrow LLC has expanded into Georgia.

The Georgia branch, which opened in June, is managed by title industry veteran Kristie Parker.

“Foundation Title & Escrow is excited to serve a new state with our first office in Georgia,” said Chris Cantrell, CEO of Foundation Title & Escrow. “Our growth into this new region is a significant milestone for our company and comes

as we look forward to further expansions of the Foundation Title & Escrow brand in 2021. We offer customer-focused, innovative title and closing services, and the Georgia real estate market will be well served by our team of industry professionals.”

Foundation Title & Escrow’s entrance into Georgia follows its recent expansions into Alabama and Florida’s Emerald Coast. The title company also operates in Kentucky, Virginia, Mississippi and Indiana.

Fathom Holdings Acquires Technology Platform LiveBy

Fathom Holdings Inc. completed its \$9 million acquisition of hyperlocal data and technology platform LiveBy.

LiveBy’s technology pairs local data with its geospatial boundaries to create insights that help boost website engagement, inform and attract consumers, and nurture agent leads. Fathom intends to fully integrate LiveBy into Fathom’s proprietary IntelliAgent software suite.

Fathom entered the title space in 2020 with the acquisition of North Carolina-based Verus Title Inc. Fathom is a holding company that primarily operates through its wholly owned subsidiary, Fathom Realty LLC, a national, cloud-based residential real estate brokerage. Verus Title is a technology-based provider of title insurance services. The company, which operates in 19 states utilizing a virtual model with minimal offices, underwrites with WFG, Fidelity and Stewart.

Stewart Obtains Cloudvirga to Strengthen Digital Footprint

Stewart Information Services Corp. acquired fintech company Cloudvirga in

a move to bolster its digital footprint and serve customers in the mortgage finance space.

Founded in 2016, Cloudvirga is a customer engagement platform and digital origination platform that powers lenders, originators and brokers while also automating back-office tasks. Several of the largest lenders in the country rely on Cloudvirga as their digital front-end solution.

“By bringing Cloudvirga’s capabilities and solutions to the Stewart family, we further demonstrate our commitment to creating an industry-leading platform for customers to drive ease of use throughout the real estate transaction,” said Stewart CEO Fred Eppinger. “Combined with our newly acquired capabilities such as RON, a notary network and valuation services, Cloudvirga’s platform will accelerate our digital offerings in all markets, complement our existing capabilities and enhance our ability to provide customers with end-to-end mortgage services and solutions.”

Shaddock Acquires Majority Interest of Kansas-based Continental Title

Shaddock National Holdings has finalized a majority equity acquisition of Continental Title Co., which is headquartered in Overland Park, Kan., and has over 20 locations across Kansas and Missouri.

The acquisition of Continental Title Company represents Shaddock National Holdings’ first retail presence in the states of Kansas and Missouri. Matt McBride, president of Continental Title, will continue to run the company after the acquisition, along with all current staff.

“Continental Title will serve as a critical Midwest brand for our national expansion strategy,” said Mike Rubin, president of Shaddock National Holdings. “We are elated to have the opportunity



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to partner with Matt and his outstanding management team. For more than 20 years, Continental Title has provided excellence to its customers, employees, and the community at large. Our hope is that this partnership will only serve to expand that excellence into new and exciting markets.”

Access Title Agency Grows Florida Presence

Access Title Agency has opened a new office in Bonita Springs, Fla.

Randi Benge has been named manager of the office. She brings 22 years of title and escrow experience to the operations.

The announcement was made by Karen L. Kohler, president of Access Title, and Greg Kosin, principal and owner of H. B. Wilkinson Title, the parent company of Access Title Agency.

“I’m proud to bring on an experienced team to carry on the tradition of our core values of providing responsive, reliable results,” Kohler said. “It’s not often a new office can open with such experienced people. We are leveraging their experience and customer service expertise to our company’s competitive advantage.”

Access Title and H. B. Wilkinson provide services in Illinois, Wisconsin, Michigan, Iowa, Florida and across the country.

Snapdocs Raises \$150 Million in Funding

Digital closing platform provider Snapdocs raised \$150 million in Series D funding. The company said the new round will accelerate its vision of building a digital

infrastructure that connects lenders, settlement service providers and borrowers together to digitize mortgage closings at scale.

The round was led by Tiger Global with participation from Sequoia, Y Combinator, F-Prime, Maverick, Alkeon and Wellington Management. This brings Snapdocs’ total funding to \$260 million and increases valuation to over \$1.5 billion.

Snapdocs enables lenders to connect with all parties and technologies involved in a mortgage transaction to complete the entire closing process online. The technology manages the entire cross-party workflow, appointment scheduling, status updates and notifications necessary to provide a seamless closing experience. The platform connects and integrates with all major real estate technologies, working natively with leading loan origination, point of sale, title production, eNote and remote online notary solutions.

“Closings require tight coordination between many parties in a fragmented ecosystem, all of whom have their own systems and processes,” said Aaron King, founder and CEO of Snapdocs. “Snapdocs is in the background doing the hard work of connecting the ecosystem to orchestrate the perfect close.”

First American, Offerpad Partner to Provide 24-hour Closing for iBuyer

Offerpad recently partnered with First American Title Insurance Co. to help a home seller close escrow on their sale in just one day.

Offerpad’s 24-Hour Close option allows home sellers more freedom,

flexibility and certainty with a cash sale. First American Title’s close cooperation with Offerpad made the companies’ first next-day close of escrow a reality for a Nevada customer who wanted to quickly qualify for his next home purchase.

“First American is committed to leading the digital transformation of the title and settlement industry. Completing a next-day closing with Offerpad and supporting the ongoing pilot program reflect our advantages in technology, the efficiency of our operations, and the commitment of our people to delivering for our customers,” said Dennis Gilmore, CEO at First American Financial Corp. “We continue to invest in new and innovative approaches to enhance the real estate closing transaction experience for all the parties involved.”

The 24-hour close option is available as a pilot program in Offerpad’s Las Vegas, Phoenix and Tucson markets.

AccuTitle Purchases TrackerPro

AccuTitle announced it recently acquired New York-based TrackerPro, which provides a paperless office solution for the title insurance industry.

In addition to this technology, AccuTitle also provides the technology platforms TitleFusion, Closers’ Choice, Landtech and MagramOnline. TrackerPro clients will remain on their current platform, which will continue to be supported by the team at TrackerPro.

“We are excited to welcome the entire team at TrackerPro into the AccuTitle family,” said Bill Bartzak, CEO of AccuTitle. “We are a rapidly growing organization and are eager to bring more great people aboard with the common mission to offer leading technology and state-specific expertise to our clients. We are always looking for like-minded title professionals to join us in providing unique solutions and high-touch customer service.”



NEWS TO SHARE?

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

SimpleNexus Enhances eClose Solution With RON Capabilities

SimpleNexus announced that its closing platform now supports remote online notarization (RON). With the addition of RON to SimpleNexus eClose, lenders can provide borrowers with a fully digital, single sign-on homebuying experience from application to closing. Currently, 35 U.S. states have passed RON legislation. SimpleNexus has partnered Notarize, a MISMO-certified RON provider, for the initial rollout. SimpleNexus said it will partner with additional RON vendors in the future.

Recent Integrations

- **SoftPro** recently integrated with **CertifiD**, a digital identity and device verification solution that prevents wire fraud. The integration allows settlement agents to send, confirm or collect wiring instructions for secure transfers through the SoftPro 360 business exchange portal.
- **RamQuest's** Closing Market digital network is now integrated with **SearchCONNECT**, an affiliate of Investors Title and National Investors that provides search solutions in Florida, Georgia, South Carolina, Tennessee, Texas and Virginia. This integration will enable customers to place online orders for SearchCONNECT's title search and policy-typing solutions without leaving their RamQuest production platform.
- **Dotloop** and **Notarize** have partnered to enable remote online notarization (RON) for real estate agents and their clients. Within dotloop's transaction management system, real estate agents can initiate a request for a remote online notarization meeting within the Notarize platform, which includes remote identity proofing and an audio-video session with a commissioned notary.

Housing Market Potential

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

6.01 SAAR

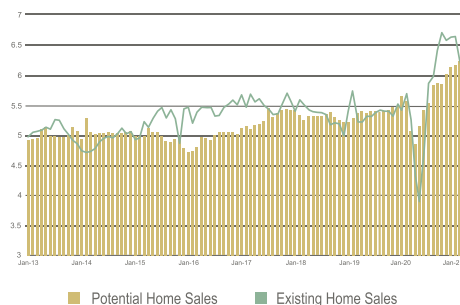
Existing Home Sales

6.23 SAAR

Potential Home Sales

-3.5%

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

March 2021

\$502,031

House-Buying Power

+10.9%

Year-Over-Year

Where House-Buying Power is Strongest

Top States and Cities

States

1. New Jersey: **\$654,399**
2. Maryland: **\$646,959**
3. Hawaii: **\$639,101**
4. Massachusetts: **\$617,166**
5. California: **\$600,056**

Cities

1. San Jose, CA: **\$1,052,985**
2. San Francisco, CA: **\$887,039**
3. Washington, DC: **\$820,846**
4. Boston, MA: **\$725,540**
5. San Diego, CA: **\$641,869**

Source: Mark Fleming, Chief Economist at First American Financial Corporation



Kenneth DeGiorgio

First American Financial Appoints President

First American Financial Corp. named Kenneth DeGiorgio as president. In his new position, DeGiorgio will have oversight responsibility for the corporation's operating groups, including title insurance, specialty insurance and data and analytics businesses. DeGiorgio joined the company in 1999. With the separation of First American from its former parent in 2010, he was named to his most recent position as executive vice president. In that role, he oversaw several corporate functions, including mergers and acquisitions, legal, compliance, information security, enterprise risk management, and marketing and communications.



Roy Poll

Westcor Hires Southwest Region Manager

Westcor Land Title Insurance Company recently hired Roy Poll as vice president and Southwest region manager. Poll has worked in the title insurance industry for 25 years, serving title agents since 2000 in multiple roles including underwriting and claims counsel. He has held agency management roles in 15 states and Guam. Poll also has owned his own title agency and been a partner in a law practice.



Liz Fox

North American Title Names Florida Agency Manager

North American Title Insurance Co. (NATIC) added Liz Fox as state agency manager for Florida. In this role, she will serve NATIC agents and approved attorneys throughout Central Florida. Prior to joining NATIC, Fox worked as agency account manager for a regional title insurance underwriter. She is a second-generation title professional whose father owns a title company.

AmTrust Selects Texas Agency Manager

AmTrust Title Insurance Company announced Mike Watson has joined the company as Texas agency manager. In this new role, he will be responsible for

the servicing and growth of AmTrust's Texas agency partner network. Prior to joining AmTrust Title, Watson spent over 20 years at another national title insurance underwriter, most recently serving as vice president and senior agency services manager for the Texas Gulf Coast Division and Louisiana.

SoftPro Names Chief Technology Officer

SoftPro announced the addition of title and escrow veteran Gorkem Kuterdem as its new chief technology officer. Kuterdem has over 15 years of experience specific to the title industry. In his most recent position, Kuterdem served as senior vice president of strategy and product development for another closing and title software company. In his new role at SoftPro, Kuterdem will focus on long-term research and development strategy as well as ensuring the security and integrity of SoftPro's current software and service offerings.

First National Title Names Agency Manager for Mid-Atlantic Region

First National Title Insurance Company (FNTI) has hired Anthony Nalbene as senior vice president and agency manager for the company's Mid-Atlantic region. In this role, Nalbene will provide support services to FNTI's agents in the District of Columbia, Maryland, North Carolina, South Carolina, Virginia and West Virginia. This includes multi-state and nationally licensed title agencies. Previously, Nalbene held the position of vice president of national strategic partnerships for a leading venture capital backed start-up national title agency.

ClosingLock Hires New COO

ClosingLock recently hired Weston Conway as its new chief operating officer. Conway has more than 10 years of experience in sales management and SaaS sales. He has worked in sales leadership roles at Procure and Dropbox, two venture-backed software companies. At both companies, he was involved in everything from growth to IPO. Before that, Weston worked in investment banking at Duff & Phelps.



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What's Your Name?

THINGS CONTINUE TO SLOWLY GET BACK TO NORMAL.

Most travel restrictions have been lifted and the travel industry is inching closer to pre-pandemic numbers. Beaches seem to be a popular destination for this summer. Disney has started doing its fireworks displays again.

The American Automobile Association (AAA) estimated that 47.7 million Americans traveled between July 1 and 5, with 43.6 million traveling by car. In terms of total traveler volume, it's expected to be the second highest on record for any Independence Day weekend — but it's expected to be the highest on record for drivers, as more Americans are choosing road trips instead of traveling by plane, train or bus.

In June, ALTA's Board of Governors met in-person for the first time since February 2020. The meeting was held in my home state of California. Also in June, I spoke live at the annual conferences for the Oklahoma Land Title Association and the American Escrow Association.

You still need to wear a mask in the airport and plane, but the rest of the travel was nearly how I remembered—a cancelled flight and two others delayed. Now THAT feels like we are getting back to normal!

It was great to network in person once again. It also meant I needed to remind myself to work a little harder to remember peoples' names. There are always going to be situations where there are more faces than you can put a name to. It can make some awkward moments, but how you deal with those moments can make a difference. The old saying "It's better to say nothing and be thought a fool than to open one's mouth and remove all doubt" definitely applies in these situations.

Better options include asking a question such as "How are you?" You can always introduce yourself first. Or you can simply admit you don't remember their name.

You can always take time to learn someone's name in the first place. This is networking 101. The main thing to do is to repeat their name when they introduce themselves. Repeat it in your head. Drop it into the conversation if possible. The point is to get some practice associating that name with the person in front of you. Once you've made that connection, remembering it the next time you meet will be that much easier.

You could always go the fun route and use mnemonics. Things like, "Margaret ... sounds like Margarita, which is made with my favorite drink, tequila." This process may be more difficult, but if it works for you, go for it.

We will have an opportunity to remember each other's names and share stories once again during [ALTA ONE](#), (Oct. 12-15). The past year ushered in a historic level of transactions for the industry. Most of us are still firing on all cylinders to provide the highest customer service. ALTA ONE is your chance to recharge and invest in yourself as a professional. It's your chance to dive into trends and policies shaping the title industry. And it's your chance to reconnect with your peers and ignite your passion for what lies ahead.

I hope to see you in New Orleans. And please forgive me if I forget your name.



BILL BURDING NTP
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Title and Escrow Claims Guide

Need advice on how to handle claims on land title insurance policies, closing protection letters and closing mistakes? Available in print and electronic versions, the two volume book is the ultimate resource and the preferred research tool for land title claims professionals and retained counsel. The Claims Guide, authored by industry veteran J. Bushnell Nielsen, includes form letters regularly used by claims professionals (the print version includes a CD containing the form letters). It is also a great resource for title companies to use when training new employees in claims, underwriting and title examination.

Price per copy:

Digital: ALTA members: \$200 | Nonmembers: \$300
Print: ALTA members: \$270 | Nonmembers: \$370

Title Insurance Law Newsletter

This monthly newsletter is the source of information about current law affecting the title insurance industry around the United States. The digital newsletter reports on important cases and decisions regarding title insurance coverage, class actions and regulatory enforcement, closing protection letters, escrow and settlement duties, agent/underwriter disputes, conveyancing law and RESPA and TILA compliance and violations. Author J. Bushnell Nielsen offers insightful analysis. Should you want a sample of the newsletter prior to purchase, please contact cperez@alta.org.

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