



# TITLENews

AUGUST 2024

AMERICAN LAND TITLE ASSOCIATION

## Impact of the NAR Settlement

*Title Companies Should Be Adjusting  
Business Strategies*



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# iNThis Issue

VOLUME 103 | NUMBER 8 | AUGUST 2024

## COVER STORY

### 10 Impact of the NAR Settlement

Title Companies Should Be Adjusting Business Strategies

## FEATURES

### 14 Treasury Proposes Rule to Expand Review of Real Estate Transactions Near Military Installations

### 16 Report Highlights Court Battles Over Wire Fraud Liability

Title companies, Law Firms and Banks May Have Responsibility If Client Funds Are Diverted to Fraudulent Accounts

### 20 The Three Rs to Cyber Defense and Response

### 22 50-year Industry Veteran Still Going Strong

Member Profile: Bill Ronhaar.

### 26 Less Than Half of Consumers Feel Confident About Mortgage Process, Survey Shows

Provides Opportunity to Educate Homebuyers About Title Insurance and Closing Process

## DEPARTMENTS

- 5 Publisher's Desk
- 6 ALTA News
- 28 Industry Update
- 32 Movers & Shakers
- 35 Closing Comment



**DON'T MISS THIS MONTH'S  
DIGITAL ISSUE OF**

# TITLENews

The digital edition of **TITLENews** includes a webinar recording that considers the immediate, practical impact of the NAR settlement agreement, and how title and settlement companies should be adjusting business strategies and, most importantly, educating consumers about the benefits of title insurance.

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*Digital TitleNews Today.*



*TitleNews* is published monthly by the American Land Title Association. United States and Canadian subscription rates are \$100 a year for members and \$300 a year for nonmembers. For subscription information, call 800-787-ALTA.

Send address changes to *TitleNews*, American Land Title Association, 1800 M Street, Suite 300 S, Washington, D.C. 20036-5828.

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

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# TITLENews

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## Importance of Relationships

### MANY OF US UNDERSTAND THAT PEOPLE TEND TO DO BUSINESS WITH OTHERS THEY KNOW, LIKE AND TRUST.



**JEREMY YOHE**  
ALTA vice president of communications

Successful selling comes from building strong, long-lasting relationships with your customers and providing them with positive solutions and outcomes.

Developing relationships is equally important in advocacy. ALTA's Congressional Liaisons program helps our members build relationships with their members of Congress. Congressional Liaisons are on the front lines of advocacy for our industry. Legislators need info and you are the experts. Members of Congress—new members, especially—need to learn how the title industry affects constituents in their district. To help you build these important relationships, we offer training sessions, tips and talking points.

With campaign season underway, members of Congress will be in their districts for most of the late summer and fall. This is a great time to reach out and schedule a meeting. Most elected officials announce town hall meetings, constituent coffees, local site visits, fundraisers and other events through regular emails. If you're not sure where to start, call your elected official's office and ask when their next public event in the district is scheduled.

By attending these events, you can start to develop a relationship with your elected officials and their staff. Don't be afraid to attend events with the staff of your elected officials, either. Staffers in Washington, D.C., and in district offices really "run the show." They schedule meetings, go to events on behalf of their member, and so on. Whenever possible, reach out to them by introducing yourself, asking questions, offering to lend a hand and be their resource on land title issues in your district. This relationship will become invaluable and assist ALTA, through your connections and our staff, to better advocate on behalf of the industry.

In June, Lisa Steele, a member of ALTA's Board of Governors and chief operating officer of Mother Lode Holding Co., along with Randy Bradley, CEO of Mother Lode, hosted Rep. Kevin Kiley (R-Calif.) at the company's office in Auburn, Calif. Rep. Kiley met with Mother Lode staff and toured the office to gain a better understanding of the title industry's work to protect consumers. Steele and Bradley also discussed many of ALTA's policy priorities with Rep. Kiley, including concerns with the FHFA title waiver pilot program and the need to pass the Protecting America's Property Rights Act.

Earlier this year, U.S. Rep. Angie Craig (D-Minn.) met with The Title Team and DCA Title. ALTA Board of Governor Richard Welshons, who is the Twin Cities manager for The Title Team and DCA Title, said the representative originally only had 20 minutes to visit, but ended up spending 45 minutes learning about the title industry and touring the office. After the meeting, Rep. Craig joined 17 other Democrats in a letter to President Biden expressing concern with the administration's program that will waive the requirement for lender's title insurance on certain refinances.

You can play a key role in shaping the work of Congress, build relationships, be an educator to these politicians and be a protector of the title industry. Please reach out to Leah Shimp, ALTA's director of grassroots and political affairs, at [lshimp@alta.org](mailto:lshimp@alta.org) if you are interested in hosting a member of Congress at your office.

## | ALTA Reports Q1 2024 Title Premium Volume

The title insurance industry generated \$3.35 billion in title insurance premiums during the first quarter of 2024 compared to \$3.37 billion during the same period a year ago, according to ALTA's latest [Market Share Analysis](#).

Total operating income was down 0.8% during the first quarter of 2024 compared to Q1 2023. Despite the decrease in net income, the industry continued its strong financial position. Total assets were almost \$11.3 billion, while the statutory surplus was at \$5.1 billion and statutory reserves were \$5.7 billion. The industry paid \$161.1 million in claims during the first three months of

2024. This is down slightly from \$162.6 during the same period a year ago.

### Top 10 Individual Underwriters by Market Share

- First American Title Insurance Co., 22.6%
- Old Republic National Title Insurance Co., 14.2%
- Fidelity National Title Insurance Co., 13.9%
- Chicago Title Insurance Co., 12.8%
- Stewart Title Guaranty Co., 9.9%
- Westcor Land Title Insurance Co., 3.8%
- Commonwealth Land Title Insurance Co., 3.6%

- Title Resources Guaranty Co., 2.8%
- WFG National Title Insurance Co., 2.5%
- Doma Title Insurance Co., 1.9%
- First American Title Guaranty Co., 1.7%

### Top 5 States

- Texas: \$492,939,114, -5.7%
  - Florida: \$421,668,094, 0.0%
  - California: \$292,673,711, 3.1%
  - New York: \$190,591,630, -10.6%
  - Pennsylvania: \$128,441,365, -3.6%
- ALTA expects to release its second-quarter Market Share Analysis around Sept. 1.

## | Hear Inspirational Polar Explorer Alison Levine at ALTA ONE

Why do some people experience fear and anxiety following stressful events, while others come out of it as a better version of themselves? In her Omni Session at ALTA ONE, [sponsored by FNF Family of Companies](#), history-making polar explorer Alison Levine will discuss the specific tactics we can use to stack the deck in our favor so we experience growth from tough times vs. feeling overwhelmed by stress and doubt.

Levine has climbed the highest peak on every continent, served as the team captain of the first American Women's Everest Expedition and skied across the Arctic Circle to the geographic North Pole. In 2008, she made history as the first American to follow a remote route across west Antarctica for 600 miles to the South Pole, even completing the arduous journey on skis while hauling 150 lb of gear and supplies in a sled harnessed to her waist. Join ALTA ONE attendees at the Omni Session on Thursday, Oct. 17, to hear her story!

Also, be sure to check out [our new schedule!](#) You'll notice longer breaks so you can network or check in at the office, and the event now closes by noon on Friday so you can get home to enjoy the weekend (or stay and start your Disney vacation in Orlando).

Join us for [ALTA ONE](#) in vibrant Orlando, Fla., Oct. 15-18, and feel the real-world magic of an industry united to protect property rights. Prepare to spark magic with 1,000 of your title professional peers!



### ALTA 2024 TIPAC Donors

The Title Industry Political Action Committee (TIPAC) is ALTA's voluntary, nonpartisan 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 2024, TIPAC has raised \$410,920 from 512 people. In addition, \$142,500 from 20 companies has been pledged to the TIPAC Education Fund. Check out who has supported the industry at [alta.org/tipac](#).

## New Online Course on ALTA/NSPS Land Title Surveys

Now is a good time to learn new skills and brush up on specialized topics! New in the ALTA Learning Center: A three-part series on ALTA/NSPS Land Title Surveys will introduce you to the fundamentals of surveying and help you perform your job more efficiently to reduce errors and the likelihood of adverse action against a title.

Part 1 introduces the 2021 minimum standard detail requirements. Part 2 also will introduce you to Table A, which covers optional survey responsibilities and specifications. Part 3 addresses advanced survey matters and teaches students how to properly format a legal description.

Up to three CE credits are available with this course. Don't forget, your ALTA membership provides you with special pricing: The course is \$150 for members and \$225 for non-members.

The courses include videos, reading materials, quizzes and/or a resource guide as well as a certificate of completion. The ALTA Learning Center makes title education as convenient as possible: Study at your own pace and in your own place!

[Click here](#) to learn more.

## ALTA Bylaws Revised as Part of Regular Governance Review

ALTA's Board of Governors will vote on proposed amendments to the ALTA Bylaws when it meets Oct. 16 during ALTA ONE. ALTA's last bylaws revision came in 2021, when the board approved changes to align with ALTA's recently modified engagement structure.

The Bylaws Committee, which recommended the changes, considers all proposals to amend the bylaws and engages in a biannual review to ensure alignment with ALTA governance and operations. Bylaws are crucial for any association as they serve as the governing documents that outline the rules, procedures and structure of the organization.

[Click here](#) for more information.

## 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: 36
- Title Agents: 19
- New Attorney Members: 4
- New Associate Members: 7
- State With the Most, New Members: Florida with 7
- Total Members: 5,839

# CALENDAR

## 2024 ALTA EVENTS

### ALTA ONE

Oct. 15-18  
Orlando, Fla.

### CONSUMER MARKETING WORKSHOP

Oct. 15-18  
Virtual

For more information, go to [alta.org/events](https://alta.org/events).

## STATE CONVENTIONS

### COLORADO

Sept. 4-6

### NORTH DAKOTA

Sept. 5-7

### WISCONSIN

Sept. 11-13

### MISSOURI

Sept. 12-14

### NORTH CAROLINA

Sept. 12-14

### NEW YORK

Sept. 15-18

### PENNSYLVANIA

Sept. 15-17

### INDIANA

Sept. 15-17

### NEW ENGLAND

Sept. 15-17

### ARIZONA

Sept. 18-20

### SOUTHEAST

Sept. 19-21

### NEBRASKA

Sept. 20-22

### MARYLAND

Sept. 21-23

### NEW JERSEY

Sept. 22-25

### OHIO

Sept. 23-25



# Get Ready for Your Best School Year Yet with FNF!

As summer winds down, the educational resources are heating up at FNF Family of Companies – featuring 24/7 resources for any experience level.







## Title Journey & Escrow Journey

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Everyone – you can find specific content for YOUR states at FNF. Reach out to your local FNF contact to learn more!



**It's not the end of summer! It's the beginning of  
YOUR continued educational journey, and FNF has  
everything you need!**

[nationalagency.fnf.com](http://nationalagency.fnf.com)



# Impact of the NAR Settlement

## *Title Companies Should Be Adjusting Business Strategies*

By Jeremy Yohe

**T**HE IMPACT of the recent proposed \$418 million settlement agreement the National Association of Realtors (NAR) reached to end litigation of claims brought on behalf of home sellers related to broker commissions is only beginning to reverberate through the industry.



The agreement releases over one million NAR members and various other groups from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions. NAR also agreed to a new rule prohibiting offers of compensation on a Multiple Listing Service (MLS). Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. Sellers can offer buyer concessions on an MLS—reductions for buyer closing costs for example.

In addition, NAR agreed to require MLS participants working with buyers to enter into written agreements with their buyers before touring a home. (NAR has additional information at [nar.realtor/the-facts](https://www.nar.realtor/the-facts))

The settlement, which is subject to court approval, makes clear that NAR continues to deny any wrongdoing in connection with the MLS cooperative compensation model rule (MLS model rule) that was introduced in the 1990s in response to calls from consumer protection advocates for buyer representation.

It remains to be seen whether the Department of Justice will accept the settlement or pursue further action. Until then, the impact on the title industry will probably not be immediately seen, but title companies should see this as an opportunity to support and assist real estate brokerages and showcase their value proposition.

“While the impact on the real estate industry remains unknown, the settlement will nonetheless affect how title companies get business, as well as their marketing

and education efforts,” said Linda Grahovec NTP, senior vice president for the FNF Family of Companies, Fidelity National Agency Solutions (FNAS) Division. “There’s a lot of miscommunications in the field and unknowns on how the real estate ecosystem will respond, but title agents need to really understand how this could impact their source of business from Realtors.”

Mike LaRosa, an attorney and chief operating officer for Florida Agency Network, agreed that title agents should take advantage of the opportunity to connect with real estate brokerages and show value.

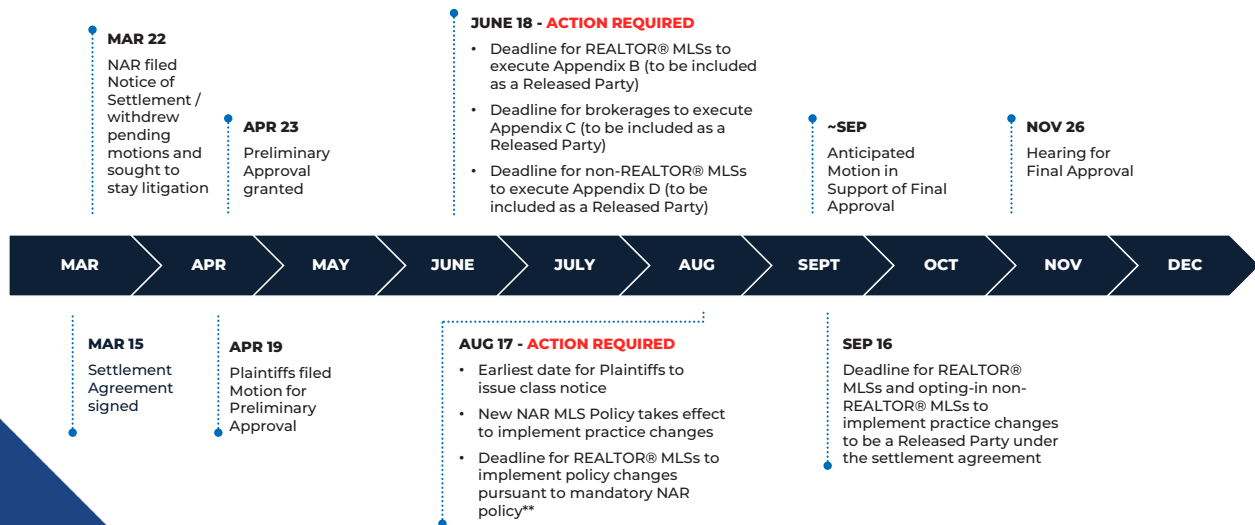
“There’s opportunity in chaos and the best Realtors will be fine,” LaRosa said. “There will be an obvious shift nationally toward a listing-driven market. For title agents, the trend toward mega real estate teams is on the horizon.”

## How Will Brokers Get Paid?

Real estate brokers will continue to get paid at or after the closing as they did prior to the agreement depending on the local practices or settlement variables by state. Now, however, title agents will need to know if there was a seller concession to the buyer broker or if the buyer is paying the buyer’s broker on his/her own at closing.

Beginning Aug. 17, an MLS participant “working with” a buyer will be required to enter into a written agreement with the buyer prior to touring a home, including both in-person and live virtual tours. Pursuant to paragraph 58(vi) of the NAR proposed settlement

## NAR SETTLEMENT TIMELINE\*



\*As of May 7, 2024. Please refer to the settlement agreement for detailed information on deadlines.  
 \*\*NAR encourages all MLSs to implement the practice changes by August 17, 2024.  
 More information on the effective date of practice changes can be found in our FAQ at [facts.realtor](https://www.facts.realtor).



## IMPACT OF THE NAR SETTLEMENT

agreement, written buyer agreements must include four components concerning compensation:

- Specify and conspicuously disclose the amount or rate of any compensation the MLS participant will receive from any source, or how this amount will be determined
- The amount of compensation must be objectively ascertainable and may not be open-ended (e.g., “buyer broker compensation shall be whatever amount the seller is offering to the buyer”)
- The agreement must include a statement that MLS participants may not receive compensation from any source that exceeds the amount or rate agreed to with the buyer
- Agreements must disclose in conspicuous language that broker commissions are not set by law and are fully negotiable
- Such agreements must include any provisions required by law

These new buyer/broker agreements will vary by state. Grahovec said one large brokerage in the Midwest is considering a tiered rate for its broker agreements versus a flat fee or on a percentage basis. If a seller doesn't provide a concession, the buyer will have to pay the Realtor the compensation stipulated in the agreement.

The brokerage eXp Realty released a listing agreement specifying that it “does not share commissions with a buyer's broker. The listing agreement still allows for buyers to request concessions from sellers. The concessions can go toward broker commissions.” According to eXp, the agreement serves to effectively move commission negotiations from the brokers for the seller and buyer to the buyer and seller themselves. It's been reported eXp will not do pre-determined compensation, but will instead provide a menu of options for listing agents to offer clients.

Title agents also need to know these dynamics because there are a lot of title companies that request broker statements prior to closings, according to Grahovec. It may be a good practice for title agents to request a copy of the offer to purchase or

real estate contract so that any negotiations on the contract can be reflected on the Settlement Statement.

“We should reach out to the listing agent and get their broker statement and the buyer's agent to get their broker statement, and make sure they match,” Grahovec said. “This will tell title agents if there was a concession and if it comes out of the seller side or the borrower's bottom line.”

An unknown to this is how lenders will handle this disclosure on the Loan Estimate. The buyer will need to be communicating with the lender about any seller concessions. If lenders become interested in directing title orders, according to LaRosa, it's not outside the realm of possibility there may be some financing component where they offer buyer-representation services or flat-fee services.

“I could see a world where there are opportunities to lump those fees into the loan financing and save homebuyers out-of-pocket money,” he added.

### Broker Consolidation

Real estate agents will remain essential to the transaction. The ones who really understand what's going on and can communicate their value will be the most successful. Realtors know their markets and what drives prices up and down. There's an

advantage to having someone negotiate on your behalf because it takes the emotion out of it, according to Grahovec.

Real estate brokerages will have to provide and show value. For the bigger teams that can afford it, these brokerages may add buyer representation to their offerings. LaRosa expects the trend of mega brokerages to grow, along with the sharing of resources and compensation to offset shrinking margins.

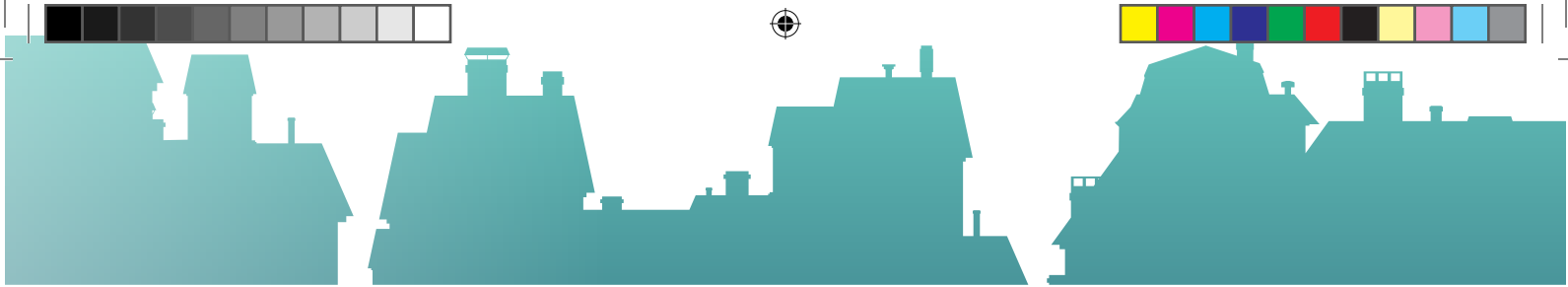
“Smaller real estate brokers and title companies will struggle to survive unless they are willing to adapt more quickly than their competitors,” he added. “More traditional brokerages will give way to more tech-forward models due to the need to find efficiencies to make up for the shrinking margins. Overall, I'm expecting consolidation in the real estate and title space. There's just so much regulation.”

Brokers will need to clearly state what's provided in representation. This opens the door for Realtors and brokerages to offer a better experience. They could also charge more because they take on services that traditionally were on the buy side.

“There will be different pricing structures and it will evolve quickly,” LaRosa said. “I'm concerned it could become a race to the bottom. The whole point is helping with affordability. The

### How NAR Settlement Impacts the Title Industry

The image shows a video player interface for ALTA Insights. The main title is "ALTA inSIGHTS REAL TIME | ON-DEMAND". The video title is "How the NAR Settlement Impacts the Title Industry" with a date of "July 24, 2024". The video player includes a play button, a progress bar showing 0:52 / 1:02:03, and various control icons. On the left side of the video player, there are three small video thumbnails showing different speakers. On the right side, there is a lightbulb icon with a house inside it, symbolizing ideas or insights.



people who need representation the most are probably the first-time buyers and those who are more economically challenged. I don't want to see a situation where you get what you pay for, and these buyers get less than what they need."

## Does the Settlement Change How Title Companies Get Business?

The impact the decision will have on how title companies will get business in the million-dollar question. While it's still to be determined, the short answer is "yes."

"If more buyers go with no or less representation, we may have to focus more of our marketing on the lenders and listing brokerages," LaRosa said "We're going to have to help educate them—especially in the beginning. There's value in knowledge."

The path forward could also be a more consumer-driven and direct-marketing approach. While few consumers know about or care much about selecting their title provider, this could open up a path the title industry traditionally hasn't taken.

Homebuyers have already had the ability to choose their title company. The agreement only opens the door further to the continued need for the title industry to educate consumers.

"It's been my mission in my title career to educate the consumer directly and provide them needed information and education at the start of their buying cycle," Grahovec said. "One day, I would love to see something related to title insurance on Super Bowl Sunday! Realtors are so important to this process and to consumers seeking valuable professionals who know their local markets better than anyone or any algorithm. They become the consumer's trusted liaison for the transaction. This is why ALTA put together the Homeowner Outreach Program (HOP), which includes a suite of resources and documents to educate consumers about the benefits of title insurance."

ALTA members have access to many items available through HOP to educate consumers and Realtors.

Since real estate is locally driven, Grahovec said title agents should raise their hand to local Realtor boards or local MLSs and ask to participate in their webinars. Title agents should get familiar with the new buyer brokerage agreements that their Realtor customers will be using and other related local board or local MLS forms. This will empower title agents to know what to ask or how to better assist their Realtor customers on marketing themselves and their value to the consumer.

"More than ever, if buyers are going to go this alone, they need to pick a really educated Realtor and title company as well. Title will need to step up and provide value and education," LaRosa said.

The younger purchasing community is not intimidated by the online research. These consumers need to know this information about title insurance and the closing process. They just want it on their terms.

With consumers possibly being underrepresented on the buy side, title companies may look to fill this void by having an

attorney on staff. There's a fine line, though, according to LaRosa, because providing guidance may wade into the unauthorized practice of law. Having an attorney on staff could allow title companies to offer contract preparation at a fraction of the price of a traditional commission.

"If sellers are represented and buyers are not, questions will come up," he added. "You must expect delays and contract questions. Title companies may want to have someone to provide guidance. We need to bring value and educate people. It just needs to be provided legally."

LaRosa said there's always a cottage industry that pops out of every opportunity. It will just be a fine line to walk, which will make it more challenging.

"Even if you have an attorney on staff, assistance with explaining a form and how to fill it out is one thing, but interpreting the form is legal advice, so it will be tricky," LaRosa said. "Part of the education will be to tell them to speak to their lender or talk to an attorney outside of the closing."

While some title companies may consider having an attorney on staff, others may contemplate having a real estate agent on staff.

In many states, both sides of a transaction have attorneys at the closing table. However, Grahovec said Realtors can't explain a form and offer advice on signing or not. The same holds true for a settlement agent. "You explain the form and ask them to sign the form," she added.

## More Affiliated Businesses?

Simply put, it's already happening. Existing affiliated business arrangements may need to be restructured in states where the buyer directs title. Forward-thinking real estate brokerages are trying to get ahead of what they anticipate will be shrinking margins on the commission side of the business.

"If you have an affiliated business arrangement in a state where it was traditionally buyer directed, you're going to need to rethink how that will perform and you're going to need to partner with some listing-side brokers to still be viable," LaRosa said.

It's not just about the ancillary revenue stream with title joint ventures, brokerages will simply need to find additional income from other sources. LaRosa believes this need will be seen across the board, including title, property and casualty and property management. "That's the practical result. The market will meet the needs, but we will have to see how this plays out," he said.

Grahovec added, "In the front end, this may not directly impact a title agent. It's important the industry has this knowledge when things start changing at the closing table and businesses have to consider changing relationships and changing business models." ■



**JEREMY YOHE** is ALTA's vice president of communications. He can be reached at [jyohe@alta.org](mailto:jyohe@alta.org).

# Treasury Proposes Rule to Expand Review of Real Estate Transactions Near Military Installations



The U.S. Department of the Treasury [issued](#) a Notice of Proposed Rulemaking (NPRM) that would expand its jurisdiction over certain transactions by foreign persons involving real estate in the United States.

As chair of the Committee on Foreign Investment in the United States (CFIUS), the Treasury has the authority to review certain real estate transactions near specified military installations and to act in appropriate circumstances.

This proposed rule would add over 50 military installations, across 30 states, to the existing list of installations around which CFIUS has jurisdiction, including over land purchases. This latest update would vastly expand the reach of CFIUS's real estate jurisdiction.

CFIUS jurisdiction over real estate transactions, provided by Congress in the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), allows CFIUS to review the purchase or lease by, or concession to, a foreign person of real estate in the United States that is in close proximity to a military installation or another facility or property of the U.S. government:

- Is sensitive for reasons relating to national security
- Could reasonably provide the foreign person the ability to collect intelligence on activities being conducted at such an installation, facility or property
- Could otherwise expose national security activities at such an installation, facility, or property to the risk of foreign surveillance

The CFIUS regulations governing real estate transactions identify a subset of military installations around which certain real estate transactions are covered under CFIUS's jurisdiction.

The U.S. Department of Defense, a member of CFIUS, continuously assesses its military installations and the geographic scope established under the CFIUS regulations to ensure appropriate application in light of national security considerations. This proposed rule is the result of a recent comprehensive

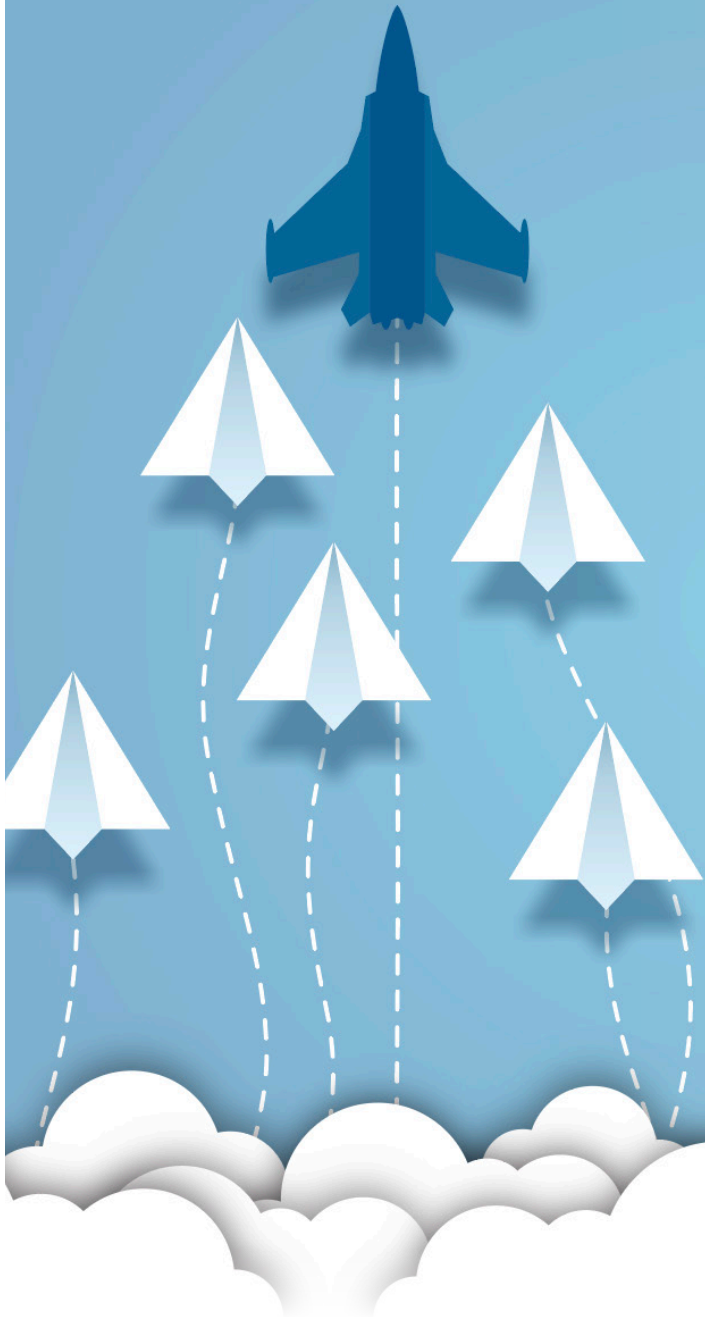
assessment conducted by the Department of Defense regarding its military installations. The proposed rule would enhance CFIUS's authority through the following key changes:

- Expand CFIUS's jurisdiction over real estate transactions to include those within a 1-mile radius around 40 additional military installations
- Expand CFIUS's jurisdiction over real estate transactions to include those within a 100-mile radius around 19 additional military installations
- Expand CFIUS's jurisdiction over real estate transactions between 1 mile and 100 miles around eight military installations already listed in the regulations
- Update the names of 14 military installations already listed in the regulations to better assist the public in identifying the relevant sites; and
- Update the location of seven military installations already listed in the current regulations to better assist the public in identifying the relevant sites.

Treasury encourages the public to submit written comments in response to the proposed rule. Comments will be accepted for 30 days following the NPRM's publication in the Federal Register.

## ALTA Efforts

Real estate transactions represent approximately 13% of U.S. gross domestic product. ALTA has created [sample legislative text](#) to help prevent the voiding of past transactions or the creation of long-term impediments to the future transfer of impacted real estate. Given the importance of real estate to the U.S. economy, ALTA believes any law regarding foreign ownership should establish specific processes and procedures to protect valid property interests and avoid penalizing legitimate sellers, creditors and future owners of property.



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# Report Highlights Court Battles Over Wire Fraud Liability

## Title companies, Law Firms and Banks May Have Responsibility If Client Funds Are Diverted to Fraudulent Accounts

There's been an alarming rise in real estate wire fraud, and it's having a devastating impact on the title industry as well as consumers. Those victimized by such scams are turning to the courts to seek damages after their life savings or business liquidity is stolen by scammers.

With this increasing pressure in and out of court, real estate firms can no longer be passive observers. The fallout from a single fraudulent transaction can lead to lost business and a tarnished reputation that takes years to rebuild. This means that the onus is on professionals to understand their risks and take action to prevent fraud before it happens.

In a new report titled [Sued for Wire Fraud](#), CertifiD analyzed more than 100 real estate wire fraud cases, and concluded that it's becoming clear that title companies, law firms, banks and real estate professionals may bear potential liability if client funds are diverted to fraudulent accounts.

"Even though it's criminals who are orchestrating the business email compromise scams, recent court decisions suggest that the professionals involved in a real estate transaction are required to do more to protect consumers from wire fraud scams or face a potential court judgment for damages," the report said.

### Bank Liability: UCC Article 4a

UCC Article 4A governs the rights and responsibilities of parties involved in electronic funds transfers. Within the UCC Article 4A framework, certain procedural and security requirements are missing, including:

- No mandate for account matching
- No duty to vet new account openings
- No requirement to identify, monitor or report suspicious account activity.

Banks are protected against wire fraud losses under UCC 4A, provided they adhere to commercially reasonable security procedures—which include the verification of account ownership or authority before funds are transferred out of an account.

The cases CertifiD analyzed ran the gamut of possible factual scenarios that could have led to some form of bank liability including irregularities in account activity, failure to respond and

render assistance after being notified of an unlawful transfer, failure to verify the status of funds before returning them back to a victim and the failure of suspending or canceling accounts with unusual activity.

Courts are not in title companies' favor when their clients lose money due to fraud.

"No matter the scenario or how shocking the fact pattern that was pleaded the courts seem to move quickly to provide summary judgment in favor of banks, time and time again," the report said.

"As we discovered in our case analysis, if your organization is suing a bank, it doesn't matter whether you are a consumer or real estate company—you," according to CertifiD. "There is no practical way to hold a bank responsible for wire fraud losses if the account holder or authorized representative initiated the transfer. Likewise, unless there is specific insurance coverage for stolen funds and all requirements to coverage in an insuring contract are satisfied, a claim for damages will be denied."

### When Could a Bank Be Liable?

A bank could potentially be held liable, according to CertifiD's analysis, if the person requesting the transfer is a bad actor and the movement of money can be traced back to flawed verification measures or a security failure that allowed hackers into the bank's system—though we have not seen any such cases come to light. A bank may also be held liable if they have actual "knowledge" of a mismatch between the beneficiary's name and account number and still process the transaction, as made evident in [Studco Building System U.S., LLC v. 1st Advantage Federal Credit Union](#).

In this case, Studco was tricked into sending a large payment to a personal account of an unwitting money mule even though the ACH payment included a business name and specifically referenced a commercial transaction as part of the transfer.



Despite receiving alerts and having actual knowledge of potential fraud due to a mismatch between the account name and number, and placing a commercial payment into a personal account, the bank processed the transfer. The court ruled that the bank's failure to act on these red flags made it liable for the fraudulent transaction. CertifID reported that while this decision may suggest that banks may have some sort of liability for name matching, it is contrasted by other decisions where courts have held that banks may solely rely upon account number matching and essentially disregard any notice of name mismatches.

company handled the funds, the title company owed no duty to notify the plaintiff about the risk of wire fraud. The courts ruled in favor of the title company partly because the plaintiff sued the wrong party.

## Conclusions

A consumer's ability to obtain a legal judgment for monetary damages due to wire fraud against the professionals involved in their real estate transaction will depend largely on the facts and circumstances surrounding their loss and the jurisdiction where the case is filed, CertifID concluded. Violation of state consumer protection act laws appears to be unsuccessful at the moment, but counts of breach of duty, professional negligence, and express or implied contract appear to have the likelihood of raising issues of fact that will require a judge or jury ruling.

There have been cases where it's determined no explicit escrow agreement is needed to apply a heightened negligence standard. Some courts lean heavily into the assumed duty of care argument, while others pick apart steps the consumer could have taken to prevent harm—and find no material point of fact in the claim. As it stands, there is not enough legal precedent or overarching laws to establish what is required of real estate parties in transactions involving wire fraud.

If there's a silver lining, as the report highlights, federal law enforcement has focused on investigating and helping to recover funds. Notably, the U.S. Secret Service has recovered \$210 million in stolen real estate funds since 2019.

## Risk Mitigation

Decisions of wire fraud liability are still subject to individual district court scrutiny. As the industry awaits further legal precedent, it's important to take steps to mitigate the risks.

■ **Education:** Notably, in *Mago v. Arizona Title*, the Arizona Supreme Court stated: "An escrow agent cannot close her eyes in the face of known facts and console herself with the thought that no one has yet confessed fraud," and further suggested that scrutinizing and verifying email addresses could be interpreted as a reasonable standard of care. The failure to spot trickery is a common thread in every single case of wire fraud.

- In *Authentic Title Services v. Greenwich Insurance*, harm could have been mitigated if Maryanski had noticed the email sender was Brittany "Clork" instead of Brittany Clark.
- Similarly, a mimicked seller email address in *Mago v. Arizona Escrow* inconspicuously substituted the letters "rn" for an "m."
- Ms. Sylvia in *Bain v. Platinum Realty* confessed

*As it stands now, there is not enough legal precedent or overarching laws to establish what is required of real estate parties in transactions involving wire fraud.*

## Recent Legal Battles

According to the report, recent court cases suggest title companies could be on the hook for some (or all) of the loss if funds are diverted into a fraudulent account—even if the company was not responsible for the transfer of funds.

In *Conor Hoffman v. Atlas Title Solutions*, Atlas Title sent unencrypted wire instructions, leading to interception and a loss of \$289,772.19 for the plaintiffs. An appeals court in Ohio dismissed breach of contract, due to the absence of a material contract, but allowed negligence and breach of fiduciary duty claims to proceed. The court said: "The escrow agent is a fiduciary agent for both parties to a purchase agreement ... Although the [economic-loss rule](#) sweeps widely, it does not preclude all tort claims for economic damages."

According to CertifID, even without an escrow agreement, title companies may be obligated under breach of contract or fiduciary duty if the buyer loses their savings to wire fraud. The Ohio court held that escrow agreements need not be formal or in writing, and "may be deemed to exist where there are only closing instructions."

Meanwhile, in *Wheeler v. Clear Title Co.*, the plaintiff sued the title company for emotional distress due to a fraudulent wire transfer. Though the claim was brought in good faith, the court ruled that Wheeler failed to prove Clear Title's conduct was "extreme and outrageous, outside all possible bounds of decency." This case also highlights the importance of understanding state laws. In Nevada, there are separate title and escrow licenses. Because the escrow





she could've been more diligent in reviewing her contact's email address before passing along fraudulent wiring instructions to her client.

- A series of emails littered with spelling, punctuation and capitalization irregularities were at issue in *Otto v. Catrow Law*.

■ **Update Standard Operating Procedures**

- As highlighted in *Cook v. McGraw*, businesses sometimes rely on outdated security measures and don't realize how far their wire transfer procedures veer from industry standards and modern security protocols—until it's too late. Demonstrating adequate security measures "according to industry standards" is likely to come up in court.
- The series of events in *Wheeler v. Clear Title* brought up a number of pertinent questions: Should the title company have told the client they hadn't sent out wire instructions prior to their in-person meeting? Looked over the alleged instructions? Educated the consumer on the dangers of potential wire fraud? State laws vary, but putting protective procedures in place costs precious little—while saving you a ton of trouble.
- A few simple steps to lower risk include editing contracts to make sure they are clear and understood by all parties, implement verification technology or fraud protection software, use multi-factor authentication, flag errors and slow down.

## First-party Insurance

If you try to sue your insurer for breach of contract, the court will dissect your policy's explicit terms—most often, not in your favor, as CertifiD shared from the case *Helms v. Hanover*. Title companies should know what's in their policy by asking their agent the following questions:

- **What type of bond do I have?** Ensure you have either a fidelity bond or an escrow security bond, distinct from a surety bond. Fidelity bonds, also referred to as escrow security bonds, safeguard businesses from losses due to employee theft, dishonesty, or fraud—which is particularly advisable for firms handling client funds or sensitive data.
- **Do I have coverage for wire fraud?** The insurance industry typically does not cover wire fraud. Where you don't have coverage, you'll need a technology partner to cover your liability. Insurance carriers may discount your premium if you have a technology solution for wire fraud.
- **Do I have coverage for owner/seller fraud?** The insurance industry also typically lacks coverage for owner/seller fraud, which is another reason to

consider partnering with a tech solution provider.

- **What are my policy exclusions?** Insurance contracts typically have a long list of exclusions specifying coverage limits. For instance, your insurance policy may exclude coverage for situations where there's an unintentional violation of the terms outlined in the title underwriting contract. Look specifically, for language that excludes claims based on "wire fraud," "social engineering," "breach of underwriting authority" or "negligent failure to prevent dishonest conduct" by any known or unknown non-insured party.

■ **If I do have coverage, what are the sub-limits?**

Even if wire fraud is covered, it may still be subject to a sub-limit. For instance, socially engineered wire fraud might be covered in a cyber policy with a \$1-million limit. However, it could be capped at \$100,000 or \$250,000 with a higher deductible. Despite having insurance, the insured could still face significant losses. If you have a sub-limited policy, you may consider purchasing cyber gap insurance to help mitigate potential losses that exceed the primary policy limits.

*Your insurance policy may exclude coverage for various situations. Look specifically, for language that excludes claims based on "wire fraud," "social engineering," "breach of underwriting authority" or "negligent failure to prevent dishonest conduct."*

■ **What are my conditions precedent to coverage?**

While terms are unique to each particular policy, every insurer will have some sort of stipulation that ensures you did your part to prevent fraud. Key conditions could include:

- Timely reporting
- Detailed documentation of the incident and proof of loss
- Full cooperation with the insurer's investigation, providing evidence as requested
- Meeting any and all agreed-upon conditions set forth by the policy
- What are my reporting duties? Most contracts stipulate that you report to the insurer any circumstances that could possibly give rise to a claim within 30-60 days. There may be additional documentation steps you must take in order to secure coverage for your claim.





# The Three Rs to Cyber Defense and Response

By Rick Diamond and Reese LaCasse

**THE “THREE RS” REFER TO THREE BASIC SKILLS TAUGHT IN SCHOOLS:** Reading, wRiting and aRithmetic. In the arena of responding to a cybersecurity intrusion, there are also three Rs: Resilience, Recovery and Reset.

### The Challenge

Think back to when you were in school. If you could read but not write, you might get by for a while, but eventually you will have issues getting ahead in life. The same holds true for a strong cybersecurity defense and response program. You must plan for the “three Rs” to be RESILIENT in your drive to keep your plans up to date and learn from past mistakes, know how you will RECOVER from a future attack and RESET your ability to conduct business.

### What’s at Stake?

Everything! A company that fails to take cyber defense and cyber recovery seriously will be doomed to fail. It is not a matter of IF you will ever get hacked, it is just a matter of WHEN. In 2023, the number of data compromises in the U.S. financial services industry reached 744, up from 138 such incidents in 2020. The financial services sector was the second-most targeted industry by

cybersecurity incidents resulting in data compromise.

### FBI 2022 Internet Crime Report (IC3)

- Approximately \$400 million was lost across 11,727 victims in the real estate industry.
- Phishing: 300,497 victims with \$52,089,159 loss
- Personal data breach: 58,859 victims with \$742,438,136 loss
- Identity theft: 27,922 victims with \$189,205,793 loss
- Spoofing: 20,649 victims with \$107,926,252 loss

### How much did the real estate industry lose to cyber attacks over the past three years?

- 2020: \$213,196,082
- 2021: \$350,328,166
- 2022: \$396,932,821
- Total: \$960,457,069





## What You Can Do

### ■ Resilience: Create a Disaster Recovery Plan

This is NOT just your IT department or IT person's job. Yes, they have a lot to plan for, but the business needs to decide what systems and what data are the most critical to recover first. All systems and data need a plan for recovery and testing of that recovery on a regular basis. Implement proper backup procedures and testing. Ensure your backups are [immutable](#). Conduct a full, encrypted backup of your data on each computer and mobile device regularly. Think about how quickly information changes and whether your company could function if that information were lost. Test your backups on a regular basis! Don't limit your effort to IT—include critical partners, business connections and processes. Key contact information, including insurance, should be printed or kept available outside of your network so it is accessible in the event of a full outage.

### ■ Recovery: Business Continuity Plan

Recovering from a cyber-attack is a multifaceted and challenging process that requires a comprehensive recovery plan. This is almost entirely a task for the business. How will you continue to do business should all your systems be down for a prolonged period of time? Establish communication protocols outside of your network to enable communication (personal emails, texts, video conferencing, temporary website to provide information to stakeholders). Disabling communications is the first goal of the hacker. Understand your cyber insurance coverage and know who to call first. Some carriers have a protocol to follow for coverage. Think "outside the box" and do NOT just rely on technology to come back up! Document everything and have it written in a way that will make sense to all stakeholders and communicate it so that everyone will know what to do when needed. Have a physical copy of the key contacts and phone numbers to call if systems are offline or inaccessible. Conduct a tabletop exercise and test your recovery processes and plans (incident response, business continuity and disaster recovery) at least annually.

### ■ Reset: Review and Update Your Incident Response Plan

Cyber incidents can have consequences like financial loss but also can damage to your reputation and customer trust. You need to take effective action after an attack by demonstrating a commitment to data security and recovery, potentially mitigating some of the negative impacts. Conduct a comprehensive

*You must plan for the "three Rs" to be RESILIENT in your drive to keep your plans up to date and learn from past mistakes, know how you will RECOVER from a future attack and RESET your ability to conduct business.*

post-mortem analysis. Garner feedback on critical points. What worked well? What faltered? After a cyberattack, it's essential to review and update your incident response plan. Analyze the effectiveness of your response efforts and identify areas that need improvement to enhance your organization's preparedness for future cyber incidents. While communication is critical in the Recovery phase, in the Reset process it is equally important to share lessons learned and changes that need to be made.

Here's a great [template](#) to develop a disaster recovery plan.

## ALTA Resources

ALTA has [developed several tools](#) to help members protect their systems, plan for a rapid response in case of an incident, and prepare employees, clients and customers to be aware and vigilant.

■ **ALTA Cybersecurity Incident Response Plan:** Use this tool to help your team to establish and maintain secure systems and be prepared to act quickly if an incident occurs. Leverage these resources to begin to create Resilience in your operation:

- [ALTA Cyber System Overview:](#) Use this narrative to improve your understanding of a cyber system inventory, to explain why it is important to cybersecurity efforts, and how to create and maintain your company's inventory.
- [ALTA Cyber System Inventory](#) Workbook: Use this model workbook to create and customize your company's inventory.
- [ALTA Business Impact Analysis:](#) Use this guide to examine your software applications, determine which resources are critical to your operation and discover when to add resources to minimize the business impact of downtime.

**RICK DIAMOND** is vice president of agency technology for Fidelity National Financial. **REESE LACASSE** is senior vice president and chief information officer for CATIC. Both are members of ALTA's [Information Security Work Group](#). Diamond can be reached at [rick.diamond@fnf.com](mailto:rick.diamond@fnf.com) and Lacasse can be reached at [rlacasse@catic.com](mailto:rlacasse@catic.com).

## MEMBER Profile

Bill Ronhaar | Whatcom Land Title Company, Bellingham, Wash.

# 50-year Title Industry Veteran Still Going Strong



years when I buried myself in the daily examinations of title. The research, the technical aspects of the industry, the knowledge of real estate law—that is how I would prefer to spend my days!

### What's your best industry "war" story? (e.g., difficult search, interesting closing)

My favorite story occurred when my lovely wife, Sallie, was working for a mortgage company in Bellingham, while I was managing a title company in a different county. She had a particular problem that she chose to talk to me about rather than the title officer for that transaction. I had spent 10 years as a title officer in that market but hadn't worked there for many years. She started to describe the problem to me in general terms, and I asked her, "Is this the Smith property on Northwest Avenue?" She said that was the property in question but asked how I knew that. My reply was that I remembered working on that particular property in the past, so it sounded familiar. There was a pause, and then she replied, "I can't send you to the store with more than three things on a list or you'll forget something, but you can remember a property you examined 15 years ago!"

### Why is the title industry a great career opportunity for those entering the workforce? Where are you finding new employees?

This is such a unique industry because it offers, at least in the state of Washington, two distinctly different career opportunities—title or escrow—with really no place to go beforehand to get knowledge or experience. On-the-job training is how most people learn and grow, and it either gets in your blood or it doesn't! I started in title, switched to escrow for a short while, then spent the rest of my career on the title side before entering management and administration. Over the years, I have discovered there are certain personality traits that seem to be consistent on both sides of the industry in people who succeed, and it is those traits I look for during the interview process.

### How has the industry evolved since you began your career?

We've gone from thick, paper files to paperless electronic files.

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

At the age of 19, I started working as a loan officer for a small, local mortgage and escrow company that had just opened in Bellingham, Wash. Unfortunately, the business struggled, and I had to wait to cash my paycheck a couple of times so it wouldn't bounce! So, I contacted the manager of a local title company and asked him for a job. The rest is history! This is my 50th year in the industry!

### 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?

What my day is like has changed over the years. It is much more administrative now than I would prefer. But there were many



From correcting Selectric typewriters to computers with intricate and industry-specific software. From slow, meticulous research to computer generated lists of documents to examining as fast as possible. The one thing that hasn't changed is the importance of keeping the customer coming back through exceptional service and the knowledge necessary to solve or mitigate their title problems.

### **How does your company support its community?**

We emphasize the fact that we are locally owned and support our community by encouraging our employees to participate in local community events sponsored by the organizations that our employees participate in personally. We also allow some volunteering in these events during office hours, while the company will make monetary contributions as well.

### **Why are you a member of ALTA?**

Over my 30-plus years of active participation, ALTA has always been the "voice of the title industry" for national issues and a strong supporter of Washington state issues pertinent to our industry. They emphasize education and are the watchdogs of the legislative process that keeps our industry vibrant and strong! Why wouldn't I be a member? The more active I became in the Washington Land Title Association, the more I saw the benefit of active participation on a national level as well. It made me aware of trends that may have begun in other parts of the country, so that I was prepared to deal with them when they arrived in my local market.

### **Which ALTA committees do you participate in? Why do you participate?**

I served for over 20 years on the Education Committee and had the opportunity to chair that committee for a few years as well! There are many products I see available today that are a direct result of intensive efforts of that committee. Working with Pat Berman, Kelly Romeo and Deirdre Green is proof of how ALTA's staff functions at the highest levels of integrity and professionalism, while having a wonderful time doing it! Active participation over the years helped me make life-long friends with them and the others on the committee as well. I also tried to keep my hands in the Government Affairs Committee (GAC), though not at the same level as I did to education.

### **Why is it important to advocate for the industry?**

Being a political science major in my college days, my favorite event has always been the ALTA Advocacy Summit. This is where

you can have a hands-on experience meeting with members of Congress from your state or district, or their staff members, and advocate for matters that could directly affect our livelihood. We get prepared by people with knowledge of the facts, who help us prepare so we can be intelligent on those matters we are advocating for. I love helping make a difference and becoming a point of information for the industry with those legislators or staff for future matters as well.

### **What is something that others in the industry may not know about you?**

I am a both a recovering alcoholic and a member of the Church of Jesus Christ of Latter-day Saints, which comes as a surprise to some. Most people know Mormons don't drink and wonder how a Mormon could be an alcoholic. The simple truth is that I was an alcoholic before I joined the church. I personally attribute a great deal of my success to not having to drink any more thanks to the grace of God as well as being able to change my friends from those that did drink to those that did not.

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

I would choose to have dinner with my best friend and eternal companion, my wife, Sallie. Just she and I, with no children or grandchildren or great-grandchildren around. Together, we have raised six children, one of whom is still at home. Due to the untimely and tragic death of one of our daughters, we are now raising three beautiful and extremely active granddaughters, ages 6, 10 and 12. There just doesn't seem to be any time or opportunities for Sallie and me to be together, alone. I'd love to be able to talk like we did when we first met, to express my heart-felt love and appreciation to her for the wonderful wife, mother, and "Nana" that she is, without being interrupted. I'll keep dreaming!

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

I am an avid reader who loves the spy, action-type books such as Ludlum, Baldacci, Child, etc. We have also been known to binge-watch Downton Abbey. Currently, we are captivated with The Chosen, having watched the first three seasons twice, and are watching them again in between watching the new Season 4 episodes as they come out!

### **What's in your music playlist?**

I have a 35-minute commute twice each day, and find that Sirius XM Symphony Hall gives me the most enjoyment and relaxation, interspersed with The Blend, the Bridge, and 70s on 70!



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[alta.org/legal-publications](http://alta.org/legal-publications)

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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. It is updated every year and new features include access to the content on our website and search capabilities that allow the review of summary results and links to specific content. The Claims Guide, authored by well recognized industry expert J. Bushnell Nielsen, Esq., includes form letters regularly used by claims professionals. It is also a great resource for title companies to use when training new employees in claims, underwriting and title examination.

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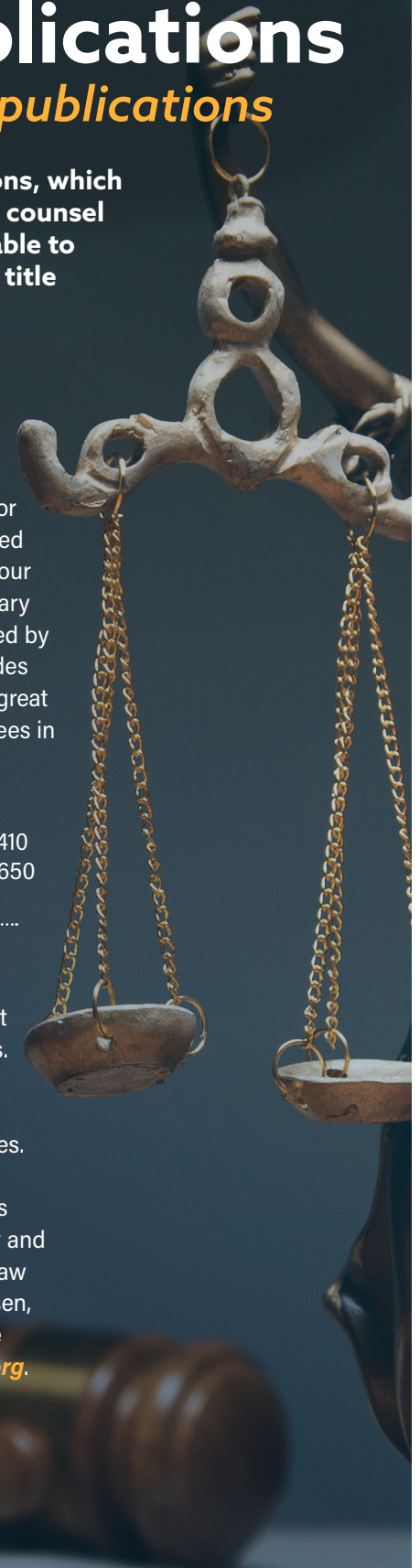
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# Less Than Half of Consumers Feel Confident About Mortgage Process, Survey Shows

## There's an Opportunity to Educate Homebuyers About Title Insurance and Closing Process

Most consumers believe homeownership remains important and consider it a future goal, but only 19% feel now is a good time to purchase a home compared to 62% in 2018, according to Fannie Mae's Mortgage Understanding Survey.

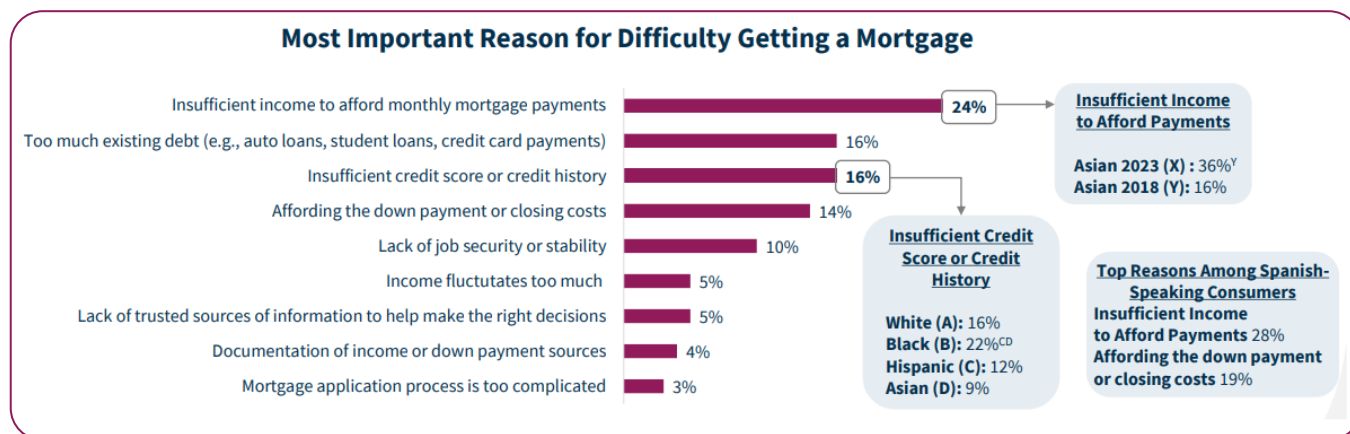
For those currently renting, 21% are working on preparing themselves financially for future homeownership (an increase of 5% from 2018).

Notwithstanding financial uncertainties and the impact of increased costs and rates, 74% surveyed say they will purchase a home on their next move, and 25% are actively looking to purchase in the next three years.

### Most Important Reason for Difficulty Getting a Mortgage

The top reason consumers believe they would have difficulty getting a mortgage is insufficient income to afford monthly payments (24%), the survey showed. The next top two reasons are too much existing debt (16%) and insufficient credit score or history (16%). Only 14% of those surveyed say affording the down payment or closing costs would make getting a mortgage difficult.

While online resources are frequently used, the survey showed consumers still consider real estate professionals—especially lenders—to be the most influential resource for information about the mortgage process.



### Information Sources Used Most Often

- Websites: 50%
- Lenders: 48%
- Realtors/real estate agents: 40%
- Family and friends: 35%
- Mass media: 32%
- Social media: 24%

### Most Influential Resources

- Lenders: 29%
- Family and friends: 18%
- Realtors/real estate agents: 15%
- Financial planners and advisors: 15%
- Websites: 10%
- Social media: 3%

### Education Resources

- The results highlight that there is ample opportunity to educate consumers about the homebuying and closing process. ALTA members have access to a host of [resources to educate consumers](#), many of which can be branded with company information.
- **Consumer Marketing Workshops:** ALTA is hosting two virtual workshops to help members re-invigorate their marketing while gaining a competitive advantage in their market. The workshop aims to help members position their company in a digital world and reach new customers. [Click here](#) for more information.

- Additionally, to help members communicate with homebuyers who may not speak English, ALTA has translated its most popular consumer marketing materials into [multiple languages](#). Seven flyers, rack cards and blogs have been translated into 12 different languages. The translated files can be branded with an ALTA member's logo and downloaded to print or share digitally.
- **HomeClosing101.org:** ALTA members may link to this [website](#) to educate homebuyers about title insurance and the closing process, and to generate new business. ALTA members are displayed in the "Find a Company to Help You" Search Directory.

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## 30 States Have Passed Bills Protecting Consumers From Unfair Real Estate Fee Agreements

Connecticut, Illinois, Louisiana and Minnesota became the latest states to pass bills protecting homeowners from the practice of filing unfair real estate fee agreements in property records, known as Non-Title Recorded Agreements for Personal Services (NTRAPS).

NTRAPS have been recorded in property records since 2018. The practice preys upon homeowners, offering small cash gifts in exchange for decades-long contracts for the rights to sell the properties. Submitting NTRAPS for inclusion in property records characterized as liens, covenants, encumbrances or security interests in exchange for money creates impediments and increases the cost and complexity of transferring or financing real estate in the future.

ALTA partnered with state land title associations and AARP in each state to get the bills passed. Additional states that passed versions of bills addressing



NTRAPS include Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maryland, Maine, Nebraska, Nevada, North

Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Utah, Virginia, Washington and West Virginia.

## FinCEN Adds New FAQs to Help Compliance With Beneficial Ownership Rule

The Financial Crimes Enforcement Network (FinCEN) updated its list of [frequently asked questions](#) (FAQs) to help companies comply with the Beneficial Ownership Information (BOI) reporting rule that went into effect Jan. 1.

The rule requires many companies to report to the U.S. government information about the individuals who ultimately own or control the company.

The new FAQs address questions about Native tribes, homeowners associations and identification needed under the reporting requirements, among other issues.

A federal judge in Alabama ruled in March that the Corporate Transparency Act, which imposed the disclosure requirements, is unconstitutional. The government is appealing the ruling, which prevents the Treasury Department from enforcing the CTA



against the plaintiffs. In a [release](#), FinCEN said it will comply with the court's order for as long as it remains in effect.

[Click here](#) for more information and to learn if you need to report.



## VA Issues Notice on Commissions Paid to Real Estate Agents

The U.S. Department of Veterans Affairs (VA) announced that eligible veterans, active-duty service members and surviving spouses who use the VA-guaranteed home loan benefit can pay for certain real estate buyer-broker fees when purchasing a home beginning Aug. 10, 2024.

The [update](#) was prompted by inquiries concerning the settlement agreement by the National Association of Realtors in the *Burnett et al* and *Moehrl et al* cases. In a release, the VA said the temporary measures will help ensure that veterans are not negatively impacted by the class-action settlement.

The VA will continue to monitor how the settlement affects the brokerage market and looks forward to pursuing a rulemaking.

In April, [Fannie Mae](#) and [Freddie Mac](#) both issued industry notices on April 15 addressing the current treatment of buyer real estate agent fees paid by the seller.

## Near North Title Group Purchases NorthStar Title

Chicago-based Near North Title Group has acquired NorthStar Title Group, LLC (NST) in a move that enhances Near North's footprint in Minnesota. The acquisition provides NST's southern Minnesota lender, Realtor and attorney customers with additional title and escrow service capabilities, supported by Near North's national platform.

Near North's operations have expanded continuously from both organic growth as well as strategic acquisitions. In 2023, Near North acquired Doma's Midwest retail operations. Near North's Minnesota

operations trace their roots back to Title Protection Inc., founded in 1990 in LeCenter.

"When the opportunity to acquire NST presented itself, Near North was excited to create the partnership and extend its Minnesota reach," said Near North CEO Daniel Fowler. "The integration of NST's team into Near North's operations represents an important development opportunity to provide increased service offerings throughout Minnesota, where we partner with and protect our customers."

## AgentHome Acquires Corinthian Title

AgentHome, a national network of independent title agents, has acquired San Diego-based Corinthian Title Company Inc.

Corinthian Title is licensed to issue title insurance policies in 28 counties in California. The company has 10 locations throughout Southern California.

"We are excited to join AgentHome," said Michael Godwin, president of Corinthian Title. "They will provide us with the support and platform to continue to grow our company throughout California, further expanding our ability to serve our customers, while preserving our legacy, brand name, and culture."

## MISMO Seeks Public Comment on Updates to Remote Online Notarization Standards

MISMO is seeking public comment on the [updated Remote Online Notarization \(RON\) Standards V2 document](#). The 60-day public comment period runs through Aug. 27, 2024.

The RON Standards V2 is the result of industry collaboration to update the standards to include essential updates identified during the implementation process. ALTA's Digital Closing and Digital Process Impact workgroups are reviewing the updates.

Key revisions to the standards include requirements changes to:

- Identity verification
- Title insurer requirements
- Remote online notarization provider information
- Audio/video recordings and notarial records
- Remote Online Notarization events in the audit trail

The public comment period allows those who participated in the proposal at least 60-days' notice prior to final release to review and disclose any applicable patent rights (as defined by [MISMO's 2018 Intellectual Property Rights Policy](#)).

MISMO requests any organization that may have any patent or patent applications, or other intellectual property rights that might be infringed upon by an organization that uses or is compliant with these proposed MISMO products, to disclose them at this time in writing. All comments and disclosures are due by Aug. 27, 2024, and should be directed to [info@mismo.org](mailto:info@mismo.org).

## True Title Expands Missouri Presence

True Title Company LLC recently opened offices in St. Louis and Montgomery City, Mo.

Angel Upchurch, escrow closing officer, will lead the team in the new St. Louis office. Angel has been an escrow closer and manager in St. Louis for the past 25 years. She most recently served as regional manager for another title company in the St. Louis metropolitan area.

Erin Oakley, escrow closing officer, will



## INDUSTRY Update

lead the company's office in Montgomery City. The office will primarily serve Montgomery and Warren counties, performing mobile closings in Warren as needed. In addition, the Montgomery City office will support Gasconade, Audrain and Lincoln counties.

Clayton, Mo.-based True Title, which opened in 2012, has 16 satellite offices and 60 employees throughout St. Louis and Denver. The company is licensed to write title insurance policies in Missouri, Illinois and Colorado and facilitates closings throughout all 50 states.

### RamQuest Offers New Remittance Feature for Old Republic Integration

RamQuest released a new feature available for its Closing Market digital network integration with Old Republic Title to deliver new remittance capabilities that will streamline the transmittal of policies.

With the addition of ezJacket Remit, title agents can sort by date range to identify and select outstanding files for submission. Then, remittance information is seamlessly and digitally transferred from RamQuest's production solutions to Old Republic Title. Additionally, documentation is automatically added to the file once the process is complete.

### Radian and BatchService Partner to Offer Digital Title Solution

Through a partnership, Radian Group Inc. will offer access to Titlegenius—its digital title and home closing platform—to BatchService's community of real estate investors and customers.

"BatchService's community of real estate professionals deserves seamless, transparent, and cost-effective title and closing services," said Mary Dickerson, Radian's chief people and operating officer. "We are delighted to add value to their workflows by reducing inefficiencies, allowing them to focus on what truly matters for their businesses."

Titlegenius combines Radian's national title and settlement services with proprietary technology. The platform provides acquisition and securitization capabilities for real estate investors' portfolios, as well as a centralized management of all transactions with real-time status updates at each stage of the closing process.

### Premier One Earns SOC 2 Type II Certification

Premier One, a national IT, cybersecurity and web services provider, has been designated with the American Institute of Public Accountants' (AICPA) SOC 2 Type II certification. This marks the 10th consecutive year the company has received the certification.

The audit and certification were performed by national compliance services provider A-LIGN.

The SOC 2 Type II designation is an auditing measurement indicating robust controls in the protection of confidential data and financial information from known and emerging threats. These controls pertain to security, availability, processing integrity, confidentiality and privacy. For each year it received the designation, Premier One underwent an extensive audit after which an independent accounting and auditing firm confirmed that its processes, procedures and controls meet the standard.

### Fitch: U.S. Title Insurers Raise Capital Position Despite Operating Headwinds

Capital positions at the four largest U.S. title insurance underwriters improved materially at year-end 2023 despite continued pressure on top-line revenues, according to a new report from Fitch Ratings.

Expense reductions amid declining title insurer revenues in 2022 and 2023 and low levels of title claims drove an improvement in both risk and non-risk-adjusted capital metrics. The aggregate risk-adjusted capital (RAC) ratio for the four largest U.S. title insurance underwriters increased to 190% from 168% in the prior year.

"Title insurer capital levels are expected to remain broadly consistent in 2024 as mortgage originations are nearing the low point of the cycle," said Fitch Senior Director Christopher Grimes.

The longer-term picture for title insurers is expected to improve as forecasts are calling for a 10% increase in mortgage originations driven by expectations for a decline in the 30-year mortgage rate and a slight drop in median new home prices.

### FCT Broadens Support for Cross-border Commercial Real Estate Transactions

FCT, a national service provider in real estate technology and title insurance, has broadened its capabilities to help facilitate and close cross-border real estate transactions to include multi-location deals valued over \$1 billion.

The expanded capabilities build on FCT's 20-year history of supporting cross-border transactions and increasing collaboration with First American Title



Insurance Co. The joint capabilities of the two companies can help clients navigate the complexities of closing even the largest real estate transactions across international jurisdictions.

“Given our deep expertise in closing and insuring large, complex commercial real estate transactions in Canada and First American Title’s U.S. capabilities, FCT is uniquely positioned to help facilitate and close the most intricate and ambitious transactions,” said Michael LeBlanc, CEO at FCT. “Our team’s unwavering dedication to providing top-tier service empowers our customers to navigate multifaceted international transactions with confidence.”

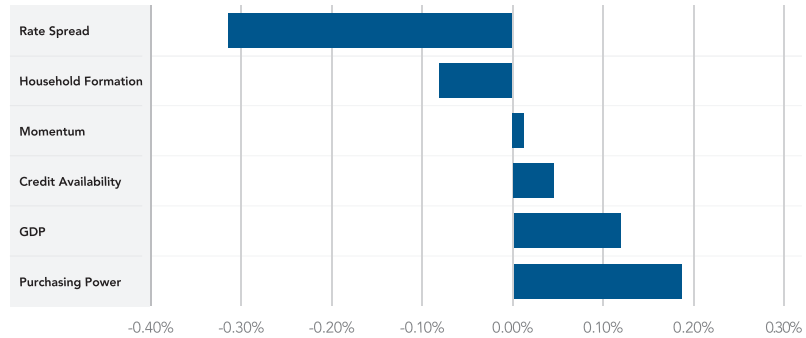
For example, FCT and First American Title provided transaction support and title insurance for a \$1.3 billion, multi-location cross-border industrial real estate purchase by a U.S. entity.

## Recent Integrations

- **SoftPro** recently released a new integration with **DomiDocs Inc.** SoftPro users can provide homeowners secure digital delivery, permanent cloud-based storage of their closing documents and immediate fraud protection with the DomiDocs Homeowner Enablement Platform.
- **SoftPro** released a new integration with **Rexera** for ordering homeowner association (HOA) certificates, mortgage payoffs and municipal lien searches. SoftPro users can electronically place and receive Rexera orders via the free SoftPro 360 vendor portal that links SoftPro users to a nationwide network of third-party service providers.

# Existing-Home Sales Outlook

Percentage-Point Contribution to Monthly Change in Existing-Home Sales



## 4.11

SAAR  
Existing Home Sales  
in May 2024

## 4.11

SAAR  
Existing-Home Sales  
Outlook for June 2024

## -0.03%

Monthly Growth

\*The Existing-Home Sales Outlook nowcasts existing-home sales based on the historical relationship between existing-home sales and U.S. demographic data, house-buying power, financial and economic conditions, as well as momentum, the weight assigned to past values.

## National Consumer House-Buying Power

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

May 2024

\$344,152

House-Buying Power

-2.5%

Year-Over-Year

## Where House-Buying Power is Strongest

Top States and Markets

- |  |   |
|--|---|
| <p><b>1</b> New Jersey<br/><b>\$479,766</b></p>    | <p><b>1</b> San Jose, CA<br/><b>\$726,536</b></p>       |
| <p><b>2</b> Massachusetts<br/><b>\$467,737</b></p> | <p><b>2</b> San Francisco, CA<br/><b>\$606,447</b></p>  |
| <p><b>3</b> Hawaii<br/><b>\$466,753</b></p>        | <p><b>3</b> Washington, DC<br/><b>\$582,382</b></p>     |
| <p><b>4</b> Rhode Island<br/><b>\$443,305</b></p>  | <p><b>4</b> Denver, CO<br/><b>\$494,464</b></p>         |
| <p><b>5</b> Maryland<br/><b>\$442,568</b></p>      | <p><b>5</b> Salt Lake City, UT<br/><b>\$489,664</b></p> |

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



# Movers & Shakers



Mark Mills

## Futura Title Promotes Chief Executive Officer

Futura Title & Escrow promoted Mark Mills to chief executive officer following Larry Matney's retirement. As CEO, Mills will focus on growing market share, improving operational efficiency, driving innovation in service offerings and strengthening customer relationships. Mills started with Alliance Title & Escrow Corp. in 2003 as the controller. He has held several leadership roles since joining the Futura family. In his most recent role as CFO, Mills oversaw financial reporting, payroll, banking, accounting services and the corporate title and escrow ancillary teams. He has also played a key role in Futura's expansion, leading the merger and acquisition process.

processing and closing. For the past seven years, she has worked in the home warranty industry as a senior account executive.

## Westcor Appoints Agency Rep in Texas

Westcor Land Title Insurance Co. has named Megan Hunt as its agency representative in Texas as part of the South Central States region. Hunt has 25 years of industry experience. Starting on the direct side of a national underwriter, she grew her skill-set by expanding to the agency side of operations. Her roles have included regional agency manager, vice president of sales and business executive.



Bette Rivera-LeMay

## WFG Bolsters Sales Team in North Texas Region

WFG National Title Insurance Co. appointed 18-year industry veteran Bette Rivera-LeMay as senior vice president for sales and strategic growth for the company's North Texas operations. In this role, Rivera-LeMay will be responsible for recruiting and hiring new sales and escrow personnel and leadership for the company's North Texas region, as well as training and managing the region's sales team members and generating additional revenue opportunities. Rivera-LeMay began her real estate career in new home sales, after which she became a Texas licensed Realtor in the Dallas-Ft. Worth area. In 2017, she transitioned into title insurance sales.

## Huntington Insurance Names New President

Huntington Bancshares Incorporated recently appointed Angie Klett as president of Huntington Insurance Inc. In this role, Klett will be responsible for the growth of the insurance business and oversee all aspects of Huntington Insurance, including title and captive insurance, commercial insurance, employee benefits, life insurance and personal lines insurance. Klett's appointment follows Mary Beth Sullivan's retirement from Huntington on July 1. Prior to joining Huntington, Klett most recently served as senior vice president of corporate development at Nationwide Insurance, where she led mergers and acquisitions, ventures and strategic partnerships.



Heidi Goff

## Doma Names Agency Manager for Alabama, Louisiana, Mississippi

Doma Title Insurance, Inc. has appointed 25-year title insurance industry veteran Heidi Goff as agency manager for Alabama, Louisiana, and Mississippi. In this role, she will develop Doma's agents and approved attorneys, and assist them with closing their transactions in a timely manner and expanding their market share. Launching her career in the title insurance industry in the 1990s, Goff was employed for more than a decade by Investors Title Co. in St. Louis, where she started as a policy typist and later moved into preparing commitments, abstracting,

## Kensington Vanguard National Land Services Adds to Sales Team

Kensington Vanguard National Land Services recently announced that Anuska Amparo and Laura Gilbert have joined its New York office. Amparo was named vice president of sales and marketing, while Gilbert was appointed senior vice president of business development. Amparo has over a decade of specialized title experience in sales and marketing. She is the 2024 president of the Board of Directors for the Commercial Real Estate Women of NY.





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**Since 1992, no other title insurer has had higher overall financial strength ratings than Old Republic Title.**

The value of our services is backed by financial strength that is unsurpassed in the title insurance industry.

In addition to our solid financial performance, we pride ourselves on providing unparalleled customer support to our title agents. From simple residential closings to complex commercial transactions, we have the experience, expertise, and tools to help our agents succeed.

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## Navigating the 2024 Housing Market

**GREETINGS, FELLOW TITLE PROFESSIONALS!** As we embark on a new



**DON KENNEDY**  
ALTA president

year, it's natural to cast our gaze forward, contemplating the shape and dynamics of the housing market in 2024. The real estate landscape is ever evolving, shaped by economic currents and unforeseen circumstances. So, what can we expect as we journey into the real estate market of the future?

While the housing market is a dynamic ecosystem, some challenges remain constant. Affordability remains a persistent concern, particularly in the face of high interest rates and fluctuating economic conditions. Striking a balance between meeting the demand for housing and ensuring affordability will be a delicate dance for policymakers and industry stakeholders alike. Our top priority in collaborating on initiatives to address housing affordability and sustainability challenges will be to ensure property rights are properly protected with title insurance.

The influence of technology on real estate is not a new phenomenon, but the year 2024 promises a deeper integration that could reshape the entire transaction process. From chatbots and virtual assistants to artificial intelligence and local large language models, technological advancements are set to enhance the efficiency and accuracy in our industry.

Demographic shifts continue to influence the housing market. As millennials become a dominant force in the homebuying arena, their preferences are reshaping the landscape. Additionally, the needs of an aging population are contributing to the popularity of accessible and age-friendly housing options. A nuanced understanding of diverse demographics will be crucial for industry professionals navigating the 2024 market.

The global landscape is marked by uncertainties, and the real estate market is not immune. Geopolitical events, economic fluctuations and unforeseen crises can impact the trajectory of the housing market. However, the resilience demonstrated by the real estate sector over the years is a testament to its ability to adapt and recover. Anticipating these uncertainties and developing strategies to navigate them will be essential for industry professionals in 2024.

The 2024 housing market is poised for transformation, fueled by technological innovations, affordability challenges, demographic shifts and the ever-present specter of uncertainty. As we embark on this journey, staying informed, adaptable and innovative will be the keys to success in the dynamic world of real estate. You can always expect ALTA to be there for you and its members to help meet new business and customer expectations.

Wishing you a prosperous and insightful year!



# SPARK MAGIC

ORLANDO, FLORIDA  
**October 15-18, 2024**

