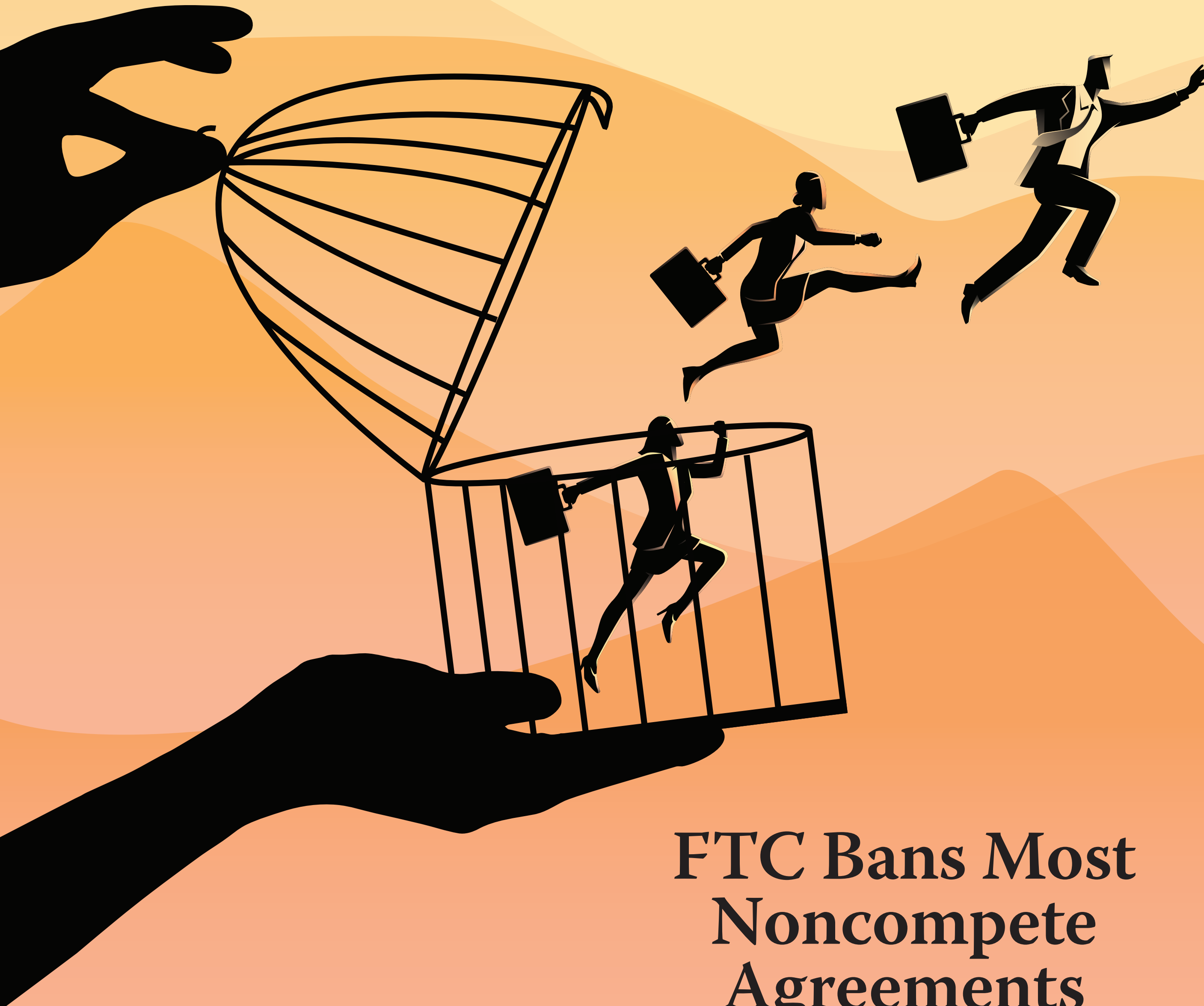
JULY 2024

TITLE News

AMERICAN LAND TITLE ASSOCIATION



FTC Bans Most Noncompete Agreements

Rule Opens Door for Title Agencies to Focus on Better Ways to Retain Employees

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

The digital edition of [TITLENews] includes a webinar recording that provides a forecast for the 2024 housing market. The outlook for the next year is heavily dependent on the path of inflation and the health of the economy. First American Chief Economist Mark Fleming offers his analysis can expect from the housing market over the next year.

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TITLENews

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Develop Your Game Plan

JEREMY YOHE
ALTA vice president of communications

THE FEDERAL TRADE COMMISSION (FTC) ESTIMATES THAT ABOUT 20% OF U.S. WORKERS are bound by non-compete agreements. The figure is higher in some industries. As our cover article discusses, the FTC in April approved a sweeping rule affecting roughly 30 million workers that bans most new noncompete clauses in employment contracts..

Since publication of the Final Rule, three lawsuits have been filed in federal courts challenging the FTC's authority to ban non-compete agreements. Earlier this month, a federal court in Texas held the FTC likely lacked statutory authority to issue its rule. In addition, the Supreme Court's ruling in the Chevron case could make it more likely that courts curtail the FTC's recent attempts to expand its authority—including the non-compete rule.

As litigation against the rule plays out, however, employers are advised to revisit their restrictive covenants to ensure compliance, consider whether business interests can be protected with properly tailored nonsolicitation or confidentiality clauses and limit trade secret access only to those who need it.

"Employers concerned about the FTC rule and broader legislative and regulatory efforts to restrict the use of noncompete agreements may look to other options to protect their confidential information and business relationships," added Melissa McDonagh, an attorney in the Boston office of Littler. "This could include nondisclosure and nonsolicitation agreements, though it's still important to ensure that those agreements comply with local, state and federal laws."

The Society for Human Resources (SHRM) opposes the rule. Emily M. Dickens, chief of staff and head of government affairs for SHRM, said "blanket bans on noncompete agreements pose significant challenges for HR professionals tasked with safeguarding their employers' intellectual property and preventing unfair competition." In comments to the FTC, SHRM suggested less restrictive alternatives, such as establishing a minimum salary threshold for workers, limiting the types of employees who can enter into non-compete agreements, and prohibiting the use of non-competes in certain industries.

This new regulation, which is expected to go into effect Sept. 4, 2024, barring a successful legal challenge before then, will have a significant impact on the title industry as these contract clauses are used throughout the country. All current state laws limiting non-competes would be preempted unless they provide greater worker protection than the FTC rule.

On Aug. 14, Risa Boerner, a partner with the law firm Fisher & Phillips LLP, will provide a webinar to help members learn what companies should be doing to comply with the rule. The presentation will dig into non-competes, types of employees the rule covers, exceptions and alternatives to non-competes. Click here to register.

As you'll read in this edition's cover article, the rule change could be an opportunity for companies to focus and develop better ways to retain employees. It should be noted that federal courts in recent years have halted other efforts by the Biden administration to impose sweeping obligations on employers. While this rule could face the same fate, employers should consult experienced employment and antitrust counsel to consider how to proactively address existing non-compete agreements.

ALTA News

AMERICAN LAND TITLE ASSOCIATION

HAPPENINGS, NEWS, UPDATES & EVENTS

Presenting the ALTA ONE Summer Savings Event

Now through Friday, July 19, you can save $400 off the standard registration rate for ALTA ONE, which will be held Oct. 15-18 in Orlando, Fla. No code is needed; *price online is reflective of discount.*

Check out the new schedule! You'll notice longer breaks so you can network or check in at the office. The event now wraps up at noon on Friday so you can get home to enjoy the weekend (or stay and start your Disney vacation in Orlando).

This October, prepare to ignite your power and spark magic! Challenges provide the perfect opportunity to kindle innovation, transformation and creativity in our businesses. Today, government oversight, title insurance alternatives, economic conditions and real estate scams might be giving us the evil eye, but ALTA ONE inspires us to surpass our circumstances and navigate the evolving landscape with confidence. This annual event conjures an environment where possibilities are plentiful, and something special can be ignited from our imagination and ingenuity.

Contact Paul Martin regarding sponsorship and vendor opportunities.

Click here to register.

ALTA ONE

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Oct. 15-18

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Apply for a Grant from the ALTA Good Deeds Foundation

AMERICAN LAND TITLE ASSOCIATION GOOD DEEDS FOUNDATION

If you volunteer for or financially support a nonprofit organization that could use a bit of help, apply for a grant on the nonprofit's behalf from the ALTA Good Deeds Foundation! The grant application process is open now through July 31, and applicants will be notified of all decisions in September. Take a look at the kind of charities we support in this award-winning video!

As a title insurance professional, you can apply for a grant on behalf of recognized 501(c)(3) organizations that you support either financially or through volunteer efforts. The number and amount of grants awarded each year will vary. You do not need to be an ALTA member to apply.

To date, the Foundation has awarded $982,000 to 169 community charities in 41 states and the District of Columbia! If you applied for a grant in prior cycles but your organization wasn't awarded a grant, you can apply again now. Make sure to highlight your involvement with the non-profit organization in your application.

Eligible organizations must align with the Foundation's mission: "Good deeds grow communities. The ALTA Good Deeds Foundation supports the charitable efforts of title professionals as they work to build and strengthen their local communities and exemplify the title industry's values of We Lead, We Deliver, We Protect." Additionally, organizations should be nonpolitical and nonpartisan and focused on benefiting local communities.

Preference will be given to housing-related charities. For more information, see the FAQs.

See How You Stack Up: Complete ALTA's Compensation Index Today

An organization is only as good as its people, so one of the best decisions you can make is to hire and retain top talent! Whether you're looking to attract the best and brightest, retain your team, improve productivity or boost morale, the Compensation Index can support you. Made possible by Stewart, ALTA's 2023 Compensation Index is the comprehensive tool that allows you to benchmark yourself against your competitors, make informed decisions and stay on top of industry trends.

Click here to get started.

ALTA Wins Four Telly Awards

ALTA recently was recognized in four categories of the 45th Annual Telly Awards. The accolades were awarded for an impactful video highlighting ALTA's charitable foundation as well as ALTA's innovative branding campaign.

ALTA was honored with two Silver awards in the "Not for Profit" and "Fundraising and Appeals" categories for its video highlighting the ALTA Good Deeds Foundation, a registered 501(c)(3) charitable organization to support title professionals as they build and strengthen their local communities. The video focused on a specific grantee, Convergence Memphis. An initiative led by the Mortgage Bankers Association, Convergence Memphis aims to promote affordable housing and increase black homeownership. The video shows how the work of the two nonprofit organizations helped a single mother purchase her first home.

ALTA also took home the top honor, Gold, in the "Branding" category as well as Bronze in the "Internal Communications" category for its recent branding campaign. In October 2023, ALTA unveiled its new brand identity—redesigned for the first time in 60 years to reflect how the title industry has adapted in the digital age. The branding campaign included a four-part video series that told the story of two title industry "secret agents" sending an animated ALTA eagle mascot on a mission to observe the title industry on his journey across the United States. Click here for more on ALTA's branding campaign.

"ALTA is proud to be honored with these four Telly Awards," said ALTA CEO Diane Tomb. "The ALTA Good Deeds Foundation supports the meaningful work of title insurance professionals all across the United States, and the video allowed us to highlight the importance of this work, particularly in moderate- and low-income communities. Additionally, ALTA's branding campaign exemplified what the title insurance industry does: It serves as an advocate and protector of property rights and is committed to meeting the ever-evolving needs of its customers. ALTA poured a lot of hard work – and love – into these projects, and it is gratifying to see those efforts rewarded."

The Telly Awards honor excellence in video and television across all screens and is judged by leaders from video platforms, television, streaming networks and production companies. This year's winners include Adobe, Calvin Klein, ESPN, LinkedIn, Mother Jones, MTV Entertainment Studios, NASA, PlayStation Studios and more.

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: 14
- Title Agents: 10
- New Attorney Members: 1
- New Associate Members: 3
- State With the Most, New Members: Florida with 5
- Total Members: 5,743

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 $394,000 from 495 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.

CALENDAR

2024 ALTA EVENTS

LARGE AGENTS CONFERENCE
July 21
Park City, Utah

ALTA ONE
Oct. 15-18
Orlando, Fla.

STATE CONVENTIONS

MICHIGAN
July 14-16

ILLINOIS
Aug. 6-8

KANSAS
Aug. 7-10

MINNESOTA
Aug. 16-17

INTRODUCING

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FTC Bans Most Noncompete Agreements

BY JEREMY YOHE

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Rule Opens Door for Title Agencies to Focus on Better Ways to Retain Employees

THE FEDERAL TRADE COMMISSION (FTC) in April issued a final rule banning most noncompete agreements nationwide. The rule goes into effect Sept. 4, 2024. Immediately following the announcement, the U.S. Chamber of Commerce and other business associations sued the FTC to block the rule. Earlier this month, a federal court in Texas held the FTC likely lacked statutory authority to issue its rule.

Under the rule, existing noncompetes for the vast majority of workers will no longer be enforceable after the rule's effective date. For existing noncompetes, employers will only be able to enforce them against "senior executives." The rule does not apply to noncompetes negotiated as part of the sale of a business with the prior owner.

The rule does three main things:

1. Businesses will no longer be able to enter into noncompete agreements with workers.
2. Businesses can no longer enforce existing noncompete agreements—unless they cover certain senior executives.
3. Businesses must provide explicit notice to both current and former employees that their noncompetes are no longer enforceable.

"Noncompete clauses keep wages low, suppress new ideas, and rob the American economy of dynamism, including from the more than 8,500 new startups that would be created a year once noncompetes are banned," said FTC Chair Lina M. Khan. "The FTC's final rule to ban noncompetes will ensure Americans have the freedom to pursue a new job, start a new business, or bring a new idea to market."

Cindy McGovern, CEO of Orange Leaf Consulting, sees this as an opportunity for employers to re-energize their teams.

"As a leader, the goal is to create an environment where people want to work, contribute, feel valued and their ideas are welcomed," she said. "While the world is not always an even playing field and sometimes money does talk, research shows that people leave because of management, not money. So, we have an opportunity to use this change to prompt more conversation about professional development and career paths and to proactively show our team members they are seen, heard, valued and cherished."

McGovern also reminds companies that they aren't just competing with others in the title industry to keep employees, but the entire job market.

"This new rule is a great time for us all to look at our recruiting and hiring practices as well as our employee retention strategies so that we can continue to attract new talent to our industry," she added. "I have always been a fan of attracting talent outside of the industry, as it brings fresh perspective and new ideas. This rule is an opportunity to seek that talent."

Craig Haskins, president and CEO of Knight Barry Title Group, agreed that the rule provides an opportunity for title agencies to focus on better ways to retain employees by offering career advancement and more competitive salaries and benefits.

"Title agency owners should think creatively about how they can foster a work environment that naturally encourages retention without relying on the contractual limitations of a noncompete," Haskins said.

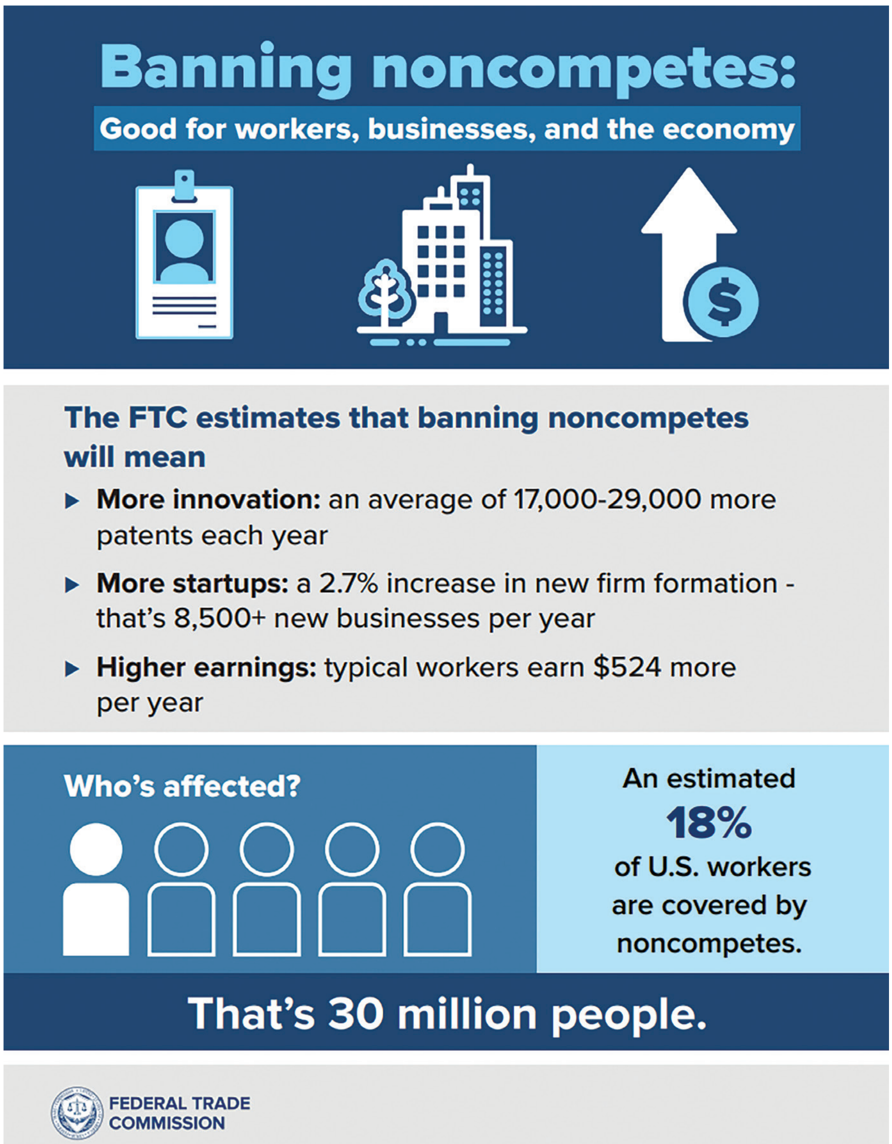
Knight Barry has more than 400 employees and operates in Wisconsin, Minnesota, Florida, Texas and Michigan. The company hasn't asked an employee to sign a noncompete in over a decade, but Haskins is paying close attention to the impact the rule will have on the industry. He estimated half of Knight Barry's competitors use noncompetes.

"For us, this is a real chance to zero in on what makes our company such a cool place to work," Haskins added. "We're keeping our focus on career development, building a workplace culture that really supports one another, and continuing to provide benefits that really hit the mark for everyone."

Executive search firm Anderson|Biro encourages companies to consult legal counsel to understand the implications of the noncompete ban. Noncompetes are often enforced inconsistently across states, which sometimes complicates career transitions for many professionals. This new ruling seems to standardize employee protections, leveling the playing field and potentially opening more job opportunities, according to Cory Biro, an executive recruiter with Anderson|Biro.

"Noncompete agreements have been common in many industries, including the real estate and financial services sectors, often restricting professionals from exploring new opportunities," Biro said. "The FTC's ban is expected to increase job mobility and potentially lead to higher wages and a surge in innovations."

The FTC proposal was spurred by the Biden administration's executive order encouraging agencies to enact a "whole government" approach to encouraging



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competition. The final rule was approved by the FTC by a 3-2 vote along partisan lines.

Under the rule, employers may continue to enforce noncompetes entered into before the effective date of the rule with senior executives. After the effective date, all noncompetes are banned pursuant to the FTC's power to outlaw unfair and deceptive practices. This is the same authority the FTC is using for its proposed rule banning so-called junk fees. ALTA commented on that proposal earlier this year.

For employees other than "senior executives," employers must notify all other current and former workers that any existing noncompetes are no longer enforceable. The FTC has developed model notices to meet this obligation. Those who use the model notices are granted a "safe harbor" for compliance.

What Is a Noncompete?

The rule defines "non-competition agreements" as any term or condition of employment that prohibits a worker from, penalizes a worker for or functions to prevent a worker from seeking or accepting employment with another business or operating a business.

Who Are Senior Executives?

There is a two-part test for determining who qualifies as a senior executive for purposes of existing noncompetes. A senior executive is someone in a policy-making position who earns more than $151,164 annually. The rules define policy-making authority to mean a company's president, CEO or officer who has final authority to make policy decisions who control significant aspects of a business entity. It does not include individuals who only possess a right to advise on significant decisions or that only make policy decisions for a subsidiary of the entity seeking to enforce the noncompete. According to the FTC, fewer than 1% of workers are estimated to be classified as senior executives under the final rule.

Exceptions

There are two primary exceptions to the final rule. First, the FTC's authority only extends to for-profit enterprises and doesn't cover non-profit enterprises. Second, businesses can still obtain noncompetes from owners as part of the sale of a business entity.

Alternatives to Noncompetes

The FTC found employers have several alternatives to noncompetes that still enable firms to protect their investments without having to enforce a noncompete.

Trade secret laws and non-disclosure agreements (NDAs) both provide employers with well-established means to protect proprietary and other sensitive information. Researchers estimate over 95% of workers with a noncompete also have an NDA.

The FTC also finds that instead of using noncompetes to lock in workers, employers that wish to retain employees can compete on the merits for the worker's labor services by improving wages and working conditions. ■

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

ALTA Responds to CFPB's Request for Information on Closing Costs

Title insurance Comprehensively Regulated at the State Level

ALTA responded to the Consumer Financial Protection Bureau's public inquiry into mortgage closing costs by explaining the services provided by title professionals and the ongoing protection of a title insurance policy are some of the most essential, but least expensive, parts of the homebuying process.

On May 30, the bureau issued a request for information (RFI) seeking input to understand why closing costs are increasing, who is benefiting, and how costs for borrowers and lenders could be lowered. The CFPB cited cost for credit scores, credit reports and employment verification as examples. The bureau also mentions lender's title insurance and in the RFI said "title insurance is one of the costliest settlement services at closing."

"In a period of increased inflation, thanks to industry innovation, the cost of title insurance coverage has decreased 5% over the last five years alone," said Diane Tomb, ALTA's chief executive officer. "We appreciate the opportunity to educate federal agencies as to how the title insurance market works and collaborate with policymakers on thoughtful approaches to the important issue of housing affordability."

Fees for title insurance and other closing costs must be provided and disclosed to consumers under the TILA-RESPA Integrated Disclosure (TRID) rule that the CFPB developed in 2015. Lumping title insurance and settlement services into the category of "junk fees" conflicts with the White House's own definition, which cites the lack of disclosure of the fee being charged.

The CFPB's research from 2020 shows these disclosures are working to educate consumers about closing costs. The bureau's report praised its own rule for improving "consumers ability to locate key information, compare terms and costs between initial disclosures and final disclosures, and compare terms and costs across mortgage offers."

Title insurance is comprehensively regulated at the state level by departments of insurance. Title insurance companies are required to file their policies and rates with state regulators to ensure they are fair, non-discriminatory and adequately protect consumers. Insurers must justify their rates using actuarially supported data.

ALTA has shared that the title industry does more than just issue insurance policies. The industry performs vital work to cure defects in the chain of title and collects $3 billion annually in delinquent federal income taxes ($2.4 billion), delinquent property taxes ($600 million) and unpaid child support ($55 million). The industry also helps combat wire and deed fraud to protect consumers.

ALTA will be responding to the RFI. Comments must be sent to the CFPB by Aug. 2.

Specifically, the CFPB seeks information to the following:

1. Are there particular fees that are concerning or cause hardships for consumers?
2. Are there any fees charged that are not or should not be necessary to close the loan?
3. Provide data or evidence on the degree to which consumers compare closing costs across lenders.
4. Provide data or evidence on the degree to which consumers shop for closing costs across settlement providers.
5. How are fees currently set? Who profits from the various fees? Who benefits from the service provided? What leverage or oversight do lenders have over third-party costs that are passed onto the consumer?
6. Which closing costs have increased the most over the past several years? What is the cause of such increases? Do they differ for purchase or refinance? Please provide data to support if possible.
7. What is driving the recent price increases of credit reports and credit scores? How are different parts of the credit report chain (credit score provider, national credit reporting agencies, reseller) contributing to this increase in costs? What competitive forces are or can be brought to bear on these costs? What are the impacts on consumers of the increased costs?
8. Would lenders be more effective at negotiating closing costs than consumers? Are there reports or evidence that are relevant to the topic?
9. What studies or data are available to measure the potential impact closing costs may have on overall costs, housing affordability, access to homeownership, or home equity?

Federal, State Legislators Question Title Waiver Pilot

Groups Say Administration's Proposal Undermines State Law Governing Title Insurance

Legislators at the federal and state level have questioned the Federal Housing Finance Agency's (FHFA) misguided title insurance waiver program.

ALTA has said the pilot pushes the government-sponsored enterprises (GSEs) into the title insurance business, a primary market activity for which Fannie Mae and Freddie Mac are not chartered, licensed, regulated or reserved to provide. Many legislators have now voiced concerns with the pilot, since title insurance is comprehensively regulated at the state level.

In a letter to the FHFA, Texas Rep. Tom Oliverson, president of the National Council of Insurance Legislators (NCOIL), expressed deep concern about the unwise plan. He said his association opposes implementation of the pilot because it violates the McCarran-Ferguson Act and is another "unnecessary and unauthorized federal encroachment" on the states' regulation of insurance.

NCOIL is a bipartisan legislative organization comprised of legislators serving on state insurance and financial institution committees around the nation. They often write model laws pertaining to insurance and focus their efforts on preserving state jurisdiction over insurance while serving as an educational forum for public policymakers and interested parties.

In addition to federal encroachment into the state-based system of insurance regulation, the NCOIL president also reminded FHFA Director Sandra Thompson that title insurance is an important part of the proven state-based system of insurance, a system that has effectively protected consumers and helped create the largest, most competitive and innovative insurance market in the world.

"For decades, title insurance has helped protect property owners and lenders against future claims for any title defects in the title to the property," Oliverson wrote. "Claims can arise as a result of fraud, forgery, unpaid real property taxes, judgments, liens, or other encumbrances that were not discovered during a search of the property's title history conducted before the sale. Rather than recognizing and embracing this strong record of consumer protections at the state level, the [p]ilot seeks to insert a Government Sponsored Enterprise (GSE), Fannie Mae, that has no experience in the title insurance area into critically important consumer financial transactions."

Oliverson posted on X about the letter, saying the rights of the states to regulate the business of insurance is being infringed upon. "As President of NCOIL, I will continue to monitor this situation and ensure the states' sovereignty over their insurance markets."

Meanwhile, the American Legislative Exchange Council (ALEC) recently published a great blog post that says the title waiver pilot threatens property rights, makes homeownership riskier and undermines state law governing title insurance. ALEC also points out how the pilot transfers risk to prospective homeowners and Fannie Mae and Freddie Mac, which translates into hardworking American taxpayers footing the bill when something goes wrong. ALEC is a voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism.

At the federal level, U.S. Rep. Wiley Nickel (D-N.C.) led a coalition of 18 Democratic lawmakers who drafted a letter to President Biden expressing concerns about the pilot.

The letter was signed by 17 of Rep. Nickel's Democratic colleagues, including Reps. Jake Auchincloss (D-Mass.), Lou Correa (D-Calif.), Jim Costa (D-Calif.), Joe Courtney (D-Conn.), Angie Craig (D-Minn.), Henry Cuellar (D-Texas), Vicente Gonzalez (D-Texas), Josh Gottheimer (D-N.J.), Joe Morelle (D-N.Y.), Scott Peters (D-Calif.), Brittany Pettersen (D-Colo.), Deborah Ross (D-N.C.), Brad Sherman (D-Calif.), Ritchie Torres (D-N.Y.), Marc Veasey (D-Texas), Jennifer Wexton (D-Va.) and Nikema Williams (D-Ga.).

"While well-intentioned, this pilot program will not address the true issue of housing affordability in our communities and puts homebuyers at risk," the members wrote. "Title insurance professionals halt fraudulent real estate transactions such as impersonation scams, elder financial exploitation, and attempts to defraud spouses, partners, or other property heirs. Under the new program, consumers and lenders will be forced into a completely experimental claims resolution process with the GSEs, ultimately risking being forced into property sale or foreclosure."

The pilot has faced bipartisan backlash from members of Congress since being revived ahead of the State of the Union. In March, three Republican members from the House Financial Services Committee—Warren Davidson (R-Ohio), Bill Huizenga (R-Mich.) and Andrew Garbarino (R-N.Y.)—wrote a letter to the FHFA questioning whether the program conflicts with the agency's Prior Approval for Enterprise Products rule.

The letter also announced the opening of an investigation into the FHFA's decision to approve the pilot.

"Congress has a duty to ensure that the decisions made at FHFA, particularly those with the potential to increase GSE risks to taxpayers, are transparent, independent and consistent," the letter said. "As such, we are informing you that the Committee intends to fully investigate this matter to understand how FHFA arrived at its decision, why the appropriate regulatory procedure was not followed, and the involvement of officials at FHFA or elsewhere, including the White House, who participated in the process to fast-track the timing or approval of this new pilot program."

Nevada Supreme Court Holds No Coverage for Post-policy HOA Liens

Citation: *Deutsche Bank National Trust Company v. Fidelity National Title Insurance Company, Nevada Supreme Court Case No. 84161 (Oct. 12, 2023)*

By Kevin Sinclair

Facts

At the height of the "Great Recession," many Nevada homeowners who lived in common interest communities defaulted on their HOA assessments. The HOAs turned to a then-little-used remedy—foreclosing upon statutory assessment liens. Nevada's version of the Uniform Common-Interest Ownership Act (UCIOA), which the Nevada Legislature adopted in 1991, provided that an HOA assessment lien had priority over all other liens, except for the lien of a first security interest recorded before the date on which the assessment sought to be enforced became delinquent (NRS 116.3116(b)). However, another portion of the statute established a superpriority lien over such first security interests for nine months of assessments (NRS 116.3116(c)).

In 2014, the Nevada Supreme Court decided *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, wherein it held that NRS 116.3116 established a "true" superpriority lien, the foreclosure of which would extinguish such a first security interest described in NRS 116.3116(b). The Nevada Supreme Court also held in the 2014 SFR Investments decision that so-called "mortgage savings clauses" and "mortgage protection clauses" which purported to modify the statutory superpriority scheme were ineffective.

The *SFR Investments* decision led to a massive wave of litigation in Nevada between national lenders, on the one hand—and the winning bidders from HOA foreclosure sales—on the other hand. Based on the *SFR Investments* decision, the winning bidders contended that HOA foreclosure sales had wiped out the first security deeds of trust held by the various national lenders.

The national lenders, in turn, submitted title insurance claims to different underwriters, claiming that one of the most common loan policy forms (the ALTA 1992 loan policy of title insurance) with two common endorsements (the ALTA 5/CLTA 115.2 endorsement and the ALTA 9/CLTA 100 endorsement) covered losses stemming from the foreclosure of HOA assessment liens. These title insurance claims ultimately led to more than 100 different lawsuits in Nevada state and federal courts. This case involves one such insurance coverage dispute.

Deutsche Bank obtained an assignment of a deed of trust recorded in 2004 to secure a loan that non-party New Century Mortgage Corporation made to non-parties James and Sharon Lutkin. Fidelity issued a loan policy of title insurance to New Century. Deutsche Bank alleged that it had become the insured under the policy by virtue of the assignment.

After the Lutkins defaulted on their obligation to pay HOA assessments in 2011, their HOA foreclosed on their home in August 2012. Deutsche Bank filed a lawsuit against the winning bidder for a declaratory judgment that its deed of trust survived the foreclosure sale. At that time, Deutsche Bank also submitted a title insurance claim to Fidelity, which denied the claim. Deutsche Bank ultimately sued Fidelity for breach of the policy and insurance bad faith.

Fidelity moved to dismiss, and the trial court granted Fidelity's motion. Deutsche Bank appealed to the Nevada Supreme Court.

Holding

The policy at issue in this case included both the CLTA 115.2 endorsement and the CLTA 100 endorsement. Deutsche Bank argued that language from the two endorsements (paragraph 2 of the CLTA 115.2, as well as paragraphs 1(a) and 2(a) of the CLTA 100) afforded coverage for its claim.

In the words of the Nevada Supreme Court, "CLTA 115.2 insures losses sustained 'by reason of ... [t]he priority of any lien for charges or assessments at Date of Policy in favor of any [HOA] ... over the lien of [the] insured mortgage.'" The Supreme Court continued: "A natural reading of the endorsement is that rather than modifying the 'priority' language, the 'at Date of Policy' language modifies the 'any lien for charges or assessments' language, as it more closely precedes the 'at Date of Policy' language."

Fidelity underwrote the policy in 2004, and the Lutkins did not default on their obligation to pay HOA assessment liens until 2011. Pursuant to NRS 116.3116(1), "[t]he association has a lien on a unit for … any assessment levied against that unit … from the time the … assessment … becomes due." However, NRS 116.3116(9) provided that, "[r]ecording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required."

Fidelity argued the assessment lien did not arise until 2011 (years after the date of the policy), based on NRS 116.3116(1). Deutsche Bank, on the other hand, argued that the assessment lien arose when the Lutkins' HOA recorded its declaration of conditions, covenants, and restrictions (years before New Century made its loan and Fidelity underwrote the policy). The Nevada Supreme Court agreed with Fidelity, that the lien did not arise until the delinquency in 2011, and therefore fell outside of the scope of the ALTA 5/CLTA 115.2 endorsement.

The Nevada Supreme Court then analyzed the provisions of the CLTA 100 endorsement. "CLTA 100(1)(a) provides coverage for losses sustained "by reason of ... the existence of any ... [CC&Rs] under which the lien of the mortgage ... can be cut off, subordinated, or otherwise impaired." In reliance on the final part of this sentence, the Nevada Supreme Court explained the coverage requires the at-issue CC&Rs to cut off, subordinate or impair the insured mortgage. By virtue of NRS 116.3116(3) (regarding superpriority) and the Nevada Supreme Court's decision in the 2014 SFR Investments case (to the effect that a declaration of CC&Rs cannot vary or modify rights created by statute, rendering mortgage savings clauses and mortgage protection clauses invalid), it was the statute (and not the declaration) that adversely affected Deutsche Bank's deed of trust. For that reason, no coverage arose under paragraph 1(a) of the CLTA 100 endorsement.

Finally, the Nevada Supreme Court addressed paragraph 2(a) of the CLTA 100 endorsement. "CLTA 100(2)(a) insures losses sustained 'by reason of ... [a]ny future violations on the land of any [CC&Rs] occurring prior to acquisition of title to the estate or interest ... by the insured, provided such violations result in impairment or loss of the lien of the mortgage ... , or result in impairment or loss of the title to the estate or interest ... if the insured shall acquire such title in satisfaction of the indebtedness secured by the insured mortgage.'" Having concluded that any loss occurred as a result of NRS 116.3116 (and not a violation of the declaration of CC&Rs), the Nevada Supreme Court concluded that paragraph 2(a) of the CLTA 100 endorsement did not cover Deutsche Bank's claim, either.

The Nevada Supreme Court therefore affirmed judgment in favor of Fidelity.

Importance to the title industry

As mentioned above, disputes such as this one led to the filing of more than 100 lawsuits in Nevada state and federal courts against many different underwriters. This decision likely disposes of that litigation.

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Title Tech 2.0: Navigating the Next Phase of Digital Transformation

Agents Need Technologies That Can Be Tailored to Customers' Specific Needs

By Terri Hanson

THE TITLE INDUSTRY STANDS AT THE GATEWAY TO A NEW PHASE OF ITS DIGITAL TRANSFORMATION. There's no longer any question as to whether the future of the title agent will lean on technology and automation. Now, as the industry evolves past the basic adoption of title production platforms or rudimentary tech stacks, a new set of questions (and challenges) is emerging.

Settlement services firms today wrestle with issues such as cybersecurity, adaptability, futureproofing, and above all, determining which combination of technologies will best suit their unique needs. As we move deep into a dramatically different era of mortgage lending and digital settlement services, it's becoming clear that title decision-makers will need to continuously assess the ever-changing needs of their clients. These leaders also need to evaluate what's available in the way of technology solutions and how to best combine them without the need for expensive customizations or integrations.

The Next Phase of Title Automation Starts With the Ability to Pivot

As the capabilities of emerging technology only accelerate in their development, it's imperative that title agents become and stay adaptable. The era of the 10-year refinance boom is likely over, and title-related businesses will need the capability to quickly pivot not only to serve rapidly changing client needs or new compliance requirements, but to maintain a competitive edge as well. The title business of today and tomorrow will require a strategic focus that includes dynamic, adaptable technology and workflow. Agents will need to be ready to implement and integrate emerging technologies, update existing systems and react quickly to changing requirements. Owners and decision-makers will need to deploy solutions that are not only effective right now, but which also have the flexibility to evolve with the industry, ensuring longevity and relevance in the face of rapid technological advancements.

Futureproofing: Anticipating Tomorrow's Challenges

The most successful title firms will prove they're able to plan beyond the present or current market cycle. While that sometimes seems a nearly impossible task—especially during down market cycles–the challenge is not to determine exactly what the future will be, but instead, to be able to quickly reallocate resources and reprioritize the use of existing technology to maintain optimal operations during any period of substantial change.

Futureproofing involves much more than anticipating industry trends, regulatory changes and technological advancements. It's just as important to find solutions that offer flexibility as circumstances change. While the emergence of SaaS and the widely adopted use of cloud technology offer great potential in that regard, it's just as important for decision-makers to utilize technologies developed by brands that are always evolving to anticipate future needs.

Tailoring Tech Stacks to Meet Unique Needs

It's not a novel concept. No two title agencies are alike. No two title agencies have the exact same client base, serve the exact same markets or service the exact same product mix. Ours is truly an industry that, in spite of being labeled by some as "commoditized," demands granularly customized services. Accordingly, any effective operational strategy, including the composition of one's tech stack, must absolutely start with an introspective and objective evaluation. "What do our clients need? What do our markets demand? What do we really do well, and where do we need improvement?"

One size does not fit all in the realm of title tech. The one-time Holy Grail of title technology—the "end to end, cradle-to-grave platform"—can probably only be found in the same place you'd find the Yeti, the Loch Ness Monster and perhaps a unicorn or two. It's not coming any time soon, either. Every title business has its own set of challenges, processes and client expectations. Now, combine those unique models with their unique mix of lender, real estate agent and builder clients. The next phase of the digital transformation will demand that successful title firms move beyond generic solutions that don't quite fit (but work "well enough") or which create as many inefficiencies as they solve. Agents will need to deploy technologies that can be tailored to their specific needs.

Customization should not be a burdensome, costly endeavor but a flexible adaptation of technology to align seamlessly with existing workflows. This approach will finally start to put an end to some of the clunkiest tech stacks, built around the "shiniest new technology" rather than the one best suited to meet agency needs. It will help eliminate more of the gaps between technology that are so often bridged by humans keying and rekeying data. Ultimately, it will also result in solutions that serve as facilitators rather than inhibitors or chokepoints.

Pros and Cons of Today's Technology

The Rise of Open API: Building Interconnected Systems

The next stage of title's digital transformation will include the era of Open API (Application Programming Interface), providing a solution to the integration challenges that often bring unanticipated costs and delays to title firms with less-than-optimal tech stacks. Open API allows different software systems to communicate seamlessly, enabling a modular approach to technology adoption. Settlement services firms will be better able to 'stack' technologies without a need for gaps or workarounds, combining the most appropriate technologies with the ability to efficiently customize them for their unique needs. This interconnected ecosystem should result in improved agility as well as an ability to adapt swiftly to emerging market and client needs.

Avoiding Vaporware—Determining the True Value and Utility of New Technology

How often have we seen it? A decision maker or owner, won over by a flashy demo or sales pitch, invests in a cornerstone technology, only to find out it overlaps what some of their existing systems already do or, worse, doesn't come as advertised. Suddenly, that shiny new technology is a sunk cost. Title agents must be able to distinguish between effective technology and mere vaporware.

The most successful agents do their due diligence methodically and effectively to truly determine the practical value and impact of each solution. They're willing and able to ask difficult questions and demand honest answers. They're truly aware of their own needs. Also, pilot programs, user feedback, peer or contact referrals and industry reviews can help decision makers to decide if a technology is right for them, ensuring that the technologies in which they invest will deliver tangible benefits rather than empty promises.

Embracing Cybersecurity in the Digital Age

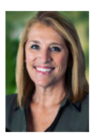
There's no way around it. In today's environment, a title agency's technology plan must include cybersecurity and business continuity planning. That will only grow more important as the threats increase and evolve. The secret is out that title-related businesses house a treasure trove of sensitive information, making them prime targets. That reality mandates a proactive approach to cybersecurity, emphasizing not only the implementation of state-of-the-art security protocols but also fostering a culture of cybersecurity awareness among employees. Training programs, regular assessments and continuous updates to counter emerging threats are integral components of a comprehensive cybersecurity strategy.

Collaboration and Partnership

The second wave of the digital transformation of the title industry will also see an increasing number of innovative and creative partnerships. Ours is a historically competitive industry, but there are any number of successful examples of "coopetition" or even firms in different markets working together in some areas. Sharing insights, best practices and collectively addressing common challenges can accelerate the pace of innovation. Collaborative platforms and multi-brand partnerships can also provide a space for agents to exchange ideas, learn from each other's experiences and further improve their efficiencies.

As the title industry moves well beyond the question of "do we need to automate?" and into the next phase of exploring how technology can further improve its performance, adaptability and futureproofing, the ability to discern a technology's true value and cybersecurity will be the key ingredients to finding the answer.

Tailoring technology to a firm's unique needs, leveraging Open API for interconnected systems, and fostering collaboration will all be critical paths to navigating this new phase of digital transformation. In so doing, title agents will capture the opportunity not only to streamline their processes and optimize their chances for success, but also to ensure that advantage is sustainable.



TERRI HANSON *has more than 25 years of experience in the title and escrow industry providing leadership in the implementation, training and support of a number of software solutions. She can be reached at* thanson@vizionx.com.

ALTA Recommends Changes to Property Tax Foreclosure Laws

Across the nation, homeowners are losing their homes and the equity they've built in them due to unpaid property tax debts, and older adults, those on a low or fixed incomes, and Black and Latino/Hispanic households are most at risk.

To help with this, ALTA, along with AARP and the National Consumer Law Center (NCLC), have [issued recommendations](#) for states to revise their laws to protect property owners from unnecessary tax foreclosures and promote sustainable homeownership.

In 2023, the U.S. Supreme Court ruled in [Tyler v. Hennepin](#) County that it is unconstitutional for a local government to take a property in a tax foreclosure and keep the surplus after the tax debt and costs are paid. However, many states have yet to revise these out-of-date laws.

"Homeownership sustainability is a key part of wealth creation and preservation," said Elizabeth Blosser, vice president of government affairs at ALTA. "Good public policy should promote preventative measures to avoid the loss of property to tax foreclosure sales. This is a critical component of housing opportunity and long-term affordability."

One of the most important steps a state can take to prevent tax foreclosure is requiring clear, comprehensive, plain-language notices at every stage of the tax foreclosure process. States should ensure that notices delivered to homeowners are translated into the consumer's language of choice and include information about remedies and assistance programs available. Such notices should also spell out the consequences of each stage of the tax foreclosure process.

"States must enact laws that protect those most at risk of losing their homes to tax foreclosure, particularly lower-income homeowners and those aged 65 or older," said Andrea Bopp Stark, senior attorney at NCLC. "States should actively promote available tax relief programs that include prepayment and repayment plans, affordable interest rates and limited penalties on past due taxes and reasonable time periods and terms to redeem the property."

Additionally, heirs' property—property passed down among family members without going through probate—is too often lost in a tax sale when heirs fail to receive notification of the tax sale foreclosure and lack access to tax relief programs.

Highlighting this [problem](#), a retired grandmother lost her home after she could not pay a tax debt of around $9,000, which ballooned to nearly $30,000 with interest and fees. Her home later sold for $242,000, and she was not given any of the proceeds from the sale.

To ensure homeowners receive the maximum amount of their home's equity, ALTA, AARP and NCLC are calling for states to require that municipalities attempt to sell properties using a real estate agent before conducting a public auction and return any excess sale proceeds to the former owner—including heirs, if the former owner is deceased—and create a simple process for claiming the excess proceeds.

"States must ensure that the tax foreclosure process leaves the consumer who lost their home in the best position to recover financially," said Jenn Jones, vice president of financial security and livable communities at AARP. "Property tax debts are often well below the value of a home, and many foreclosed homes sell for more than 10 times the amount owed in unpaid taxes. And in some states, homeowners do not receive any of the proceeds from the sale. AARP is working in statehouses across the country to ensure this money is rightfully returned to homeowners."

Recommendations from the group include:

- Requiring clear, meaningful notice at every stage of the tax foreclosure process.
- Ensuring the owners, including those who have inherited an ownership interest, receive notice of the foreclosure stages.
- Making redemption costs affordable and accessible.
- Establishing alternatives to tax sales.
- Protecting older adults and low-income households who struggle to pay property taxes to help prevent foreclosures.
- Creating and improving property tax exemptions.
- Requiring market-driven tax foreclosure processes for owner-occupied/involved residential properties if there is a tax sale.

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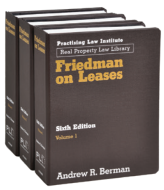

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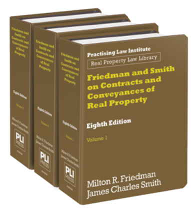

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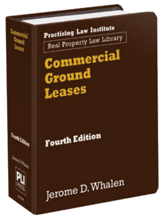
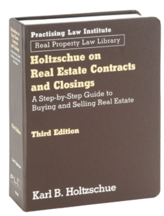
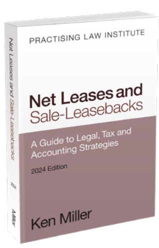


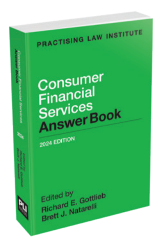
Commercial Ground Leases is a definitive guide to drafting, negotiating, and finalizing equitable, error-free leasing documents that address the needs of both landlord and tenant. The book covers the full range of relevant commercial ground leasing issues.



Holtzschue on Real Estate Contracts and Closings offers clear, practical guidance for smooth residential and commercial deals. This practice guide covers financing for purchasers and mortgage provisions for sellers.



Net Leases and Sale-Leasebacks provides comprehensive insights into these specialized transactions, covering ownership, financing, taxation, and accounting, and offering practical guidance and sample documents for real estate professionals.



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Industry Update

CFPB Creates Registry for Repeat Nonbank Corporate Offenders

The Consumer Financial Protection Bureau (CFPB) finalized a rule to establish a registry to detect and deter corporate nonbank offenders—including settlement service providers—who have broken consumer laws and are subject to federal, state or local government or court orders.

The bureau said the registry will also help identify repeat offenders and recidivism trends. The new registry is part of the CFPB's ongoing focus on holding lawbreaking companies accountable and stopping corporate recidivism.

The CFPB expects the registry to be used by state attorneys general, state regulators and a range of other law enforcement agencies. The registry will also assist investors, creditors, business partners and members of the public conducting due diligence or research on financial firms bound by law enforcement orders, according to the bureau.

The Consumer Financial Protection Act gives the CFPB authority to register nonbanks. This is the first rule by the CFPB to use the authority to register nonbank entities.

The final rule requires covered nonbank companies to:

- **Register with the CFPB when they have been caught violating consumer law:** Generally, covered nonbanks will report certain final agency and court orders and judgments to the CFPB. These orders include consent and stipulated orders brought under consumer protection laws.
- **Provide an attestation from a senior executive that the company is not flouting orders:** For nonbank companies supervised by the CFPB, the entity subject to an order will provide a written attestation from an executive that confirms compliance with any relevant orders.

Previously, the CFPB established a Repeat Offender Unit. This team is responsible for designing and executing oversight of supervised entities subject to CFPB law enforcement orders. The Repeat Offenders Unit is actively ensuring that a company, its senior management and its board of directors are not treating any orders as suggestions.

Mother Lode Acquires Wisconsin Title Service Company

Mother Lode Holding Company recently acquired Wisconsin Title Service Company Inc.

The deal included Wisconsin Title Service Company's sister company, Wisconsin Title Closing Service Inc., as well as its title plants in Milwaukee, Waukesha, Walworth and Washington counties.

"We are pleased to welcome Wisconsin Title Service Company into the Mother Lode family," said Lisa Steele, chief operating officer of Mother Lode. "Their commitment to customer service and innovation mirrors our own, providing a unique opportunity to expand our coverage in key markets, while bringing added capabilities to Wisconsin Title Service Company's clients."

Wisconsin Title Service Company President Carrie Hoyer and Vice President Mark Ciborowski will continue to lead the company, which will now operate as a wholly owned subsidiary of Mother Lode. Wisconsin Title Service Company has been in operation for 75 years.

"Joining Mother Lode Holding Company will provide new opportunities for our staff as we continue to provide our customers with the same outstanding service they expect from us, with the added value and capabilities of an industry leader," Hoyer said. "We're also pleased to join a company that similarly values fostering a world-class culture, which is reflected in Mother Lode's parent company, First American, being named one of the 100 Best Companies to Work For by Great Place to Work and Fortune Magazine for the ninth consecutive year."

CloseSimple Unveils Integrated Identity Verification and Wire Fraud Solutions

CloseSimple unveiled multiple new portal features designed to fight seller impersonation fraud and wire fraud.

Integrated into the CloseSimple portal, these features enable title companies and real estate attorneys to consolidate the consumer closing experience under one platform.

"We all know that wire fraud and seller impersonation fraud continue to run rampant in our industry," said Paul Stine, CEO and co-founder of CloseSimple. "Over the last two years, we've been proving that we can drive consumer engagement through our portal at an unprecedented rate. That engagement is creating an avenue for introducing new and innovative ways to educate buyers throughout the closing process. It's also creating new opportunities for us to identify fraudulent sellers far earlier in the process."

CloseSimple's wire fraud and identity verification solutions are now available through integrations with SoftPro, RamQuest and Resware. The solution also features the mobile-friendly CloseSimple collaboration portal.

"The solutions that CloseSimple has

developed have become the first line of defense in our constant fight against seller impersonation fraud," said Mike Hayden, a CloseSimple customer and assistant vice president at Pioneer Title Agency in Arizona. "We now know within seconds of opening a file if a seller poses a threat, and over the past year the CloseSimple solution has played a big part in successfully identifying multiple bad actors who have attempted to sell properties fraudulently."

National Integrity Title Agency Expands Into Florida

National Integrity Title Agency (NITA) expanded its geographic footprint beyond New Jersey and Pennsylvania and opened its first office in Florida.

Founded in 1992 as Integrity Title Agency, NITA is a privately-owned title insurance agency. The company was acquired in 2015 by Fran Turchi and George Duffield Sr., and has grown to more than 40 team members.

In a state where both selling and buying agents can choose the title insurance agency, this is one of the key reasons the co-owners chose Florida.

"We did a good deal of research and believe our experience in supporting agents' marketing efforts can make a difference in a market where other title insurance agencies are traditionally more reactive," Turchi and Duffield Sr. said. "Our proactive approach and creative collaboration is already being well-received over the past several months."

Fidelity Launches Tool to Detect Seller Impersonation

The FNF Family of Companies unveiled a service aimed at reducing seller impersonation fraud by raising potential red flags as early as possible in the real estate home closing process.

Called ionFraud, the tool allows title agents to verify a myriad of property information when they open a new order, including owner name, owner's mailing address, occupancy, assessed value and estimated mortgage balance.

"Typically, title agents must manually research several websites to obtain the information. ionFraud quickly puts that data at your fingertips," said Joe Grealish, president of National Agency Operations for the FNF Family of Companies. "This new offering is a nationwide tool and it's designed to be easy to use. Having the ability to potentially identify fraud early in the transaction will save our title agents valuable time and resources while protecting our real estate partners, property owners, and transaction participants."

Also known as fake seller or vacant land fraud, seller impersonation was one of the fastest-growing scams nationwide in 2023. The trend is continuing this year. According to a recent industry survey, 73% of real estate firms reported an increase in seller impersonation attempts.

Here's how ionFraud works. Users can generate a property ownership report, together with an automatically generated "Notice of Pending Real Estate Transaction" letter. If the title agent identifies potential warning flags for the transaction, they can send the letter to the owner of record to make the owner aware of the pending transaction.

Fidelity National Financial's direct operations use a similar tool that has resulted in early success regarding claims and claims exposure. One FNF operation noted success "stopping several transactions each week before time and resources are spent on full searches and exams, as well as stopping seller impersonation fraud transactions from getting to the closing table."

Proof Launches AI-powered Fraud Detection Tool

Proof launched a fraud detection product powered by artificial intelligence (AI) built to combat the $81 billion in annual losses in the U.S. caused by falsified records, forged signatures, and identity theft.

Called Defend, the tool can detect more than 100 risk signals to identify fraudulent activity at every stage of the transaction. When using Defend, businesses receive a risk score for each transaction, highlighting specific fraudulent issues behind every authorization, signature, notarization or identity verification. Defend is purpose-built to detect traditional forms of identity fraud as well as emerging methods like synthetic identities and deepfakes. Coupled with Proof Certificates, Defend allows businesses to trust that both the people and the documents involved in a Proof transaction are valid and secure.

"We couldn't be more excited about this game-changing technology that Proof is bringing to its platform," said Aaron Davis, CEO of Florida Agency Network. "Real estate fraud threatens the integrity of our industry. As a title agency, we sit on the front lines and we need tools like Defend to ensure that we can protect our customers' most precious assets with the documents we collect, get signed, and notarize at the closing."

Proof said Defend can identify attempted forgery across all types of transactions. When Defend learns of new behaviors and attacks, it can reduce the operational overhead of internal fraud teams by automatically remediating risks, reducing the cases that need to be manually reviewed and ultimately helping more customers securely sign with their identity. The platform leverages thousands of data attributes sourced from the Proof platform, credit networks, identity databases, public records and other proprietary sources.

TitleLOOK Releases AI-assisted Knowledge Title Curation

TitleLOOK by Mainspring Services released artificial intelligence (AI) enhancements for the curation of its knowledge model for the title industry. Leveraging the advanced capabilities of Azure AI services, this upgrade significantly reduces document-to-data classification time and also results in a more comprehensive taxonomy of the underwriting language and the curative actions essential for effectively cleaning title, the company said in a release.

"The titleLOOK platform was developed from the understanding that title agents are not just document gatherers, but knowledge providers who assemble relevant data, take action against defects, and communicate the clearance effort to all parties involved in the transaction," said Matt Johnson, director of product for titleLOOK. "The deployment of AI assistance empowers our subject matter experts to more quickly and accurately curate the knowledge embedded in the exceptions, requirements and notes language of title commitments and policies."

While the titleLOOK knowledge model is currently exclusive to the platform, Mainspring Services is planning to extend access to other industry vendors. This includes title plants, search and exam programs, and starter exchanges. This will enable integration of advanced classification into their products.

Premier One Develops Cybersecurity Solution

Premier One has introduced its SMB Defender platform, which offers businesses a suite of essential cyber defense tools tailored for small and medium-sized businesses.

Powered by Blackpoint Cyber, the cybersecurity solution combines managed detection and response (MDR), cloud Response for Microsoft 365 and managed application control (Zero Trust) to protect against a wide range of cyber threats. The platform features real-time threat detection and neutralization and provides comprehensive monitoring to facilitate immediate incident response.

SMB Defender is available on a monthly per-device subscription basis. According to Shawn Fox, Premier One's chief revenue officer, the solution is scalable, rapidly deployable and easily onboarded by users.

"Many of our clients are small to mid-sized title companies or depositories, which means they need to be flexible and able to pivot almost immediately based on market conditions," Fox said. "But market conditions don't slow cyber threats. SMB Defender is a great way for businesses that are watching their expenses to maintain robust and updated defenses without any risk of sunk costs."

Settlor Rolls Out Enhanced Security Features for Customer Portal

Settlor released new security features for its customer portal to further safeguard customer data and prevent wire fraud.

In addition to multifactor authentication via both email and phone, Settlor offers the ability to add wire instruction delivery details, providing safe access to view this sensitive information. Further, the document scanning protection technology already embedded in Settlor's production applications is now available to users of Settlor's portal.

"We know the communication of wire instructions represents the greatest source of anxiety and threat of wire fraud for our customers and their consumers," said John E. Freyer Jr., co-founder and president of Settlor. "We developed Settlor's portal and its security features with the intent of creating a simple, safe and efficient process for both users and consumers to share and access wire instructions. Settlor users can now confidently direct their customers and consumers to only trust wire instructions received through the portal."

With wire instructions woven into the overall safety functionality of the portal, customers can configure their portal so that wire instructions can be displayed, or not, based on the order type. If wire instructions are displayed, Settlor will automatically provide the wire instructions for the bank account associated with a specific order, the company said in a release.

Other safety features of the portal include restricting who can access certain types of order information, specifically the ability to control displaying information that is valid per that user on any given order.

Alanna.ai Introduces Secure DocLink

Alanna.ai, which provides a conversational artificial intelligence-powered virtual assistant for title agents, has introduced a secure document delivery system that creates a temporary, convenient means to connect real estate agents, buyers and sellers to their title and closing documents without the need for a password or creation of a new account.

Secure DocLink uses secure links through "passwordless authentication" to provide the equivalent of a secure pathway, opening access for agents, brokers and consumers who need to review or download title or closing documents. For the title agent, there is no need to expose the documents to or store them with third parties (with any associated potential NPI risks), the company said in a release. Instead, Secure DocLink opens a virtual pathway between the user and the document, without any need to alter where or how that document is stored. The Secure DocLink pathway can be set to expire at a time of the title agent's choosing. For the user, it means there is no need to create a new account, download a new app or remember a series of passwords to access their documents.

"Real estate agents and title agents alike are constantly telling us that it's a burden to have a different means of communication or document sharing for each and every firm or, in some cases, even transaction," said Hoyt Mann, co-founder and president of alanna.ai. "Secure DocLink is a simple and frictionless, but extremely secure means for real estate agents or consumers alike to get into the document they need, and do what they need to. For title agents, it's a layer of elite security without having to rely on a third (or even fourth) party."

Viking Sasquatch Unveils 24|Seven Fees

Viking Sasquatch, a SOC II Type 2 certified national leader in custom software solutions and consulting services, launched a comprehensive fee calculator called 24|Seven Fees.

24|Seven Fees, also SOC II Type 2 certified, provides real-time recording fees, transfer taxes, custom branding and data.

"At Viking Sasquatch, we've combined our passion for advanced technology with our extensive expertise in the title industry to create a product that addresses the most pressing challenges faced by our clients," said Pat Carney, CEO of Viking Sasquatch. "24|Seven Fees is the result of our unwavering commitment to innovation and our deep understanding of the complexities of multi-state, multi-underwriter, and multi-tier operations."

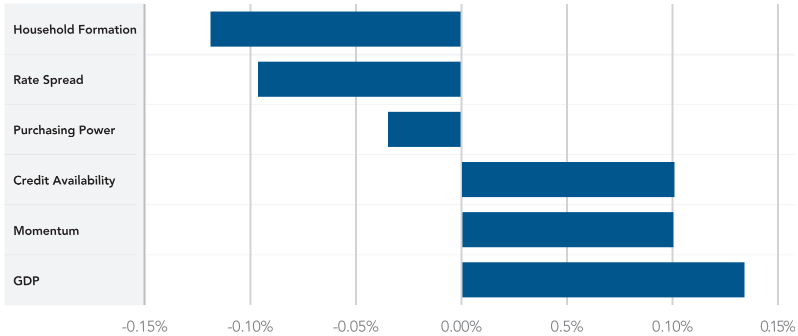
The solution integrates with loan origination and title production software.

Recent Integrations

- **SoftPro** released a new ionFraud enhancement to F**NF Family of Companies**' agentTRAX integration in the free SoftPro 360 vendor portal. The ionFraud tool is designed to assist agents of FNF's underwriting brands combat seller impersonation fraud.
- **SoftPro** released a new integration with **TitleLogix Solutions LLC** for tax and homeowner association (HOA) certificates. SoftPro customers can order tax certificates and updates from TitleLogix directly through SoftPro 360.

Existing-Home Sales Outlook

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



4.14 SAAR
Existing Home Sales in April 2024

4.14 SAAR
Existing-Home Sales Outlook for May 2024

0.09%
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

April 2024

$345,213
House-Buying Power

-2.8%
Year-Over-Year

Where House-Buying Power is Strongest

Top States and Markets

Rank	State	House-Buying Power	Rank	Market	House-Buying Power
1	New Jersey	$482,132	1	San Jose, CA	$720,262
2	Hawaii	$471,858	2	San Francisco, CA	$612,908
3	Massachusetts	$468,245	3	Washington, DC	$589,135
4	Maryland	$445,950	4	Denver, CO	$499,177
5	Rhode Island	$445,292	5	Salt Lake City, UT	$495,147

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

Movers & Shakers

Iain Bryant

Stewart Names Group President of Agency Services

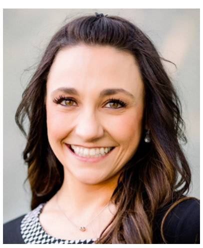
Stewart Information Services Corp. promoted Iain Bryant to group president of Agency Services.

Bryant joined Stewart in 2021 through the company's acquisition of A.S.K. Services, where he was principal and co-owner. Since 2022, he has served as the Central States agency district manager overseeing the products and services provided to Stewart's independent agent partners in 17 states. Bryant is a past board member of the Michigan Land Title Association. Bryant succeeds Tara Smith, who has accepted a position outside of Stewart.

National Integrity Title Agency Names Director of Operations

New Jersey-based National Integrity Title Agency (NITA) appointed Diane King as director of operations. A 35-year title industry veteran, King will seek to uncover areas of improvement with the goal of creating greater efficiencies, streamlined processes and enhanced communication. This will be key to her strategic role while handling day-to-day responsibilities that include managing teams and overseeing the title processing, production and closing processes.

Prior to joining NITA, she worked as a commercial title insurance examiner and underwriter with Fidelity National Title Group for nearly a decade. Before that, she was assistant vice president within the Congress Title Division of Fidelity National Title Insurance Co. Her career began at Dominion Title Services Inc., a family business owned by her mother and mentor.



Alison Larkin

True Title Hires Commercial Division Counsel

Missouri-based True Title Co. LLC hired Alison Larkin to serve as commercial escrow officer and commercial division counsel.

Larkin has been in the commercial title industry for 10 years.

Viking Sasquatch Adds Product Manager

Sasquatch, a SOC II Type 2 certified provider of custom software solutions and consulting services, announced the addition of Stephanie Davis as product manager.

In this role, she will serve as the liaison between industry professionals who use 24|Seven products and its developers. Her main focus is to help build up the 24|Seven product suite by identifying gaps and pain points in the market and implementing enhancements based on client feedback.

Prior to joining the Viking Sasquatch team, Davis spent 14 years at Rynoh.

TitleWave Appoints Production Regional VP for Midwest/Southwest

TitleWave Real Estate Solutions has named Christina Sparks Pancake as Midwest/Southwest production regional vice president.

In this role, she will manage title production in 11 states, including Missouri, Kansas, Ohio, Michigan, Indiana, Utah, Colorado, Minnesota, Nevada, Illinois and Wisconsin. She reports to Leanne Zinn, president of TitleWave, which is a division of Fidelity National Financial Inc. Pancake brings more than 25 years of title industry experience to TitleWave. She spent the majority of her career with Old Republic and is a licensed title producer in Indiana, Missouri, Ohio and Utah).

Fidelity Names Chief Artificial Intelligence Officer

Fidelity National Financial (FNF) appointed Jason Nadeau as chief artificial intelligence officer.

As chief digital officer, Nadeau has already been playing a critical role in leading the strategic implementation and governance of artificial intelligence (AI) within the FNF family of companies. In this expanded role, he will continue to focus on maximizing the potential AI technologies have to enhance business operations and customer experiences. Nadeau joined FNF in 2018 and has played a critical role in shaping the development of the company's technology strategy.

AMERICAN LAND TITLE ASSOCIATION

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Pressure Mounts Against Title Pilot

DON KENNEDY
ALTA president

MEMBERS OF CONGRESS ONCE AGAIN shared similar concerns with the title waiver pilot during a hearing on June 26 titled "Housing Oversight: Testimony of the HUD and FHFA Inspectors General." House Financial Services Housing and Insurance Subcommittee members pressed FHFA Inspector General Brian Tomney to investigate the handling of two controversial pilot programs—including the title waiver pilot—that would expand the government's role in the housing market.

U.S. Rep. Warren Davidson (R-Ohio), chair of the subcommittee, opened the hearing by pointing out that the FHFA approved the title waiver pilot without any transparency or analysis to support it. Davidson also questioned the approval of a pilot by Freddie Mac to purchase certain single-family closed-end second mortgages. The FHFA regulates Fannie Mae and Freddie Mac.

"If only there were a precedent to learn from. Clearly, there is," Davidson said, referring to actions Fannie Mae and Freddie Mac took that helped lead to the 2007 financial crisis. Davidson added that the housing market needs "stability, certainty and transparency." He ticked through several items where the FHFA isn't following its own rules regarding the government-sponsored enterprises (GSEs).

U.S. Rep. Mike Flood (R-Neb.) also raised concerns with the pilots, saying they push the GSEs into private markets and beyond their core mission. Flood questioned whether the FHFA is following its own rules and asserted that the inspectors general provide a reliable source of oversight. Flood also pointed out that Fannie Mae and Freddie Mac are still in conservatorship stemming from the fallout of the financial crisis.

With housing affordability continuing to be a challenge nationwide, effective solutions to address this issue must focus squarely on the expansion of housing supply and the reduction of regulatory barriers to development. In a positive move to help ameliorate supply issues, the administration in June announced $85 million in funding for communities to help eliminate barriers to building housing, production and launch innovative strategies to address local housing needs. Funding will be provided to 21 communities actively taking steps and demonstrating progress in reducing needless local housing barriers to housing production.

While the Consumer Financial Protection Bureau (CFPB) issued a request for information in May on closing costs, Fannie Mae pressed forward with its title waiver pilot by formally issuing its Request for Proposal (RFP) on June 27 to identify potential companies to participate in the program. As we've said before, the pilot allows Fannie Mae to go beyond its congressional charter and increase risk for lenders, homeowners and American taxpayers. It should receive the scrutiny of a transparent regulatory process, including public comment, review and robust analysis as authorized under the FHFA's Prior Approval for Enterprise Products rule.

Making homeownership more affordable for Americans is a top priority for the title insurance industry. We believe there should be transparent discussions about how that can be achieved without taking protection away from low to moderate potential homebuyers who need it the most.

To help support the industry, I encourage you to join the Title Action Network or host a member of Congress at your office. Reach out to Leah Shimp Vass, ALTA's director of grassroots and political affairs, for more information.