

AMERICAN
LAND TITLE
ASSOCIATION



ALTA 2013

National Update

Washington Land Title Association Education Seminar
Everett, Washington
November 2, 2013

BILL BURDING
BOARD OF GOVERNORS
EXECUTIVE V.P. & GENERAL COUNSEL
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Future of the Industry

- Working groups helping to identify steps to ensure the title industry continues to identify and meet evolving expectations of consumers, regulators, and policyholders
 - Industry communication and best practices
 - Model Agency Contract
 - Insurer solvency
 - Agency solvency and bonding
 - State law and claims experience
 - Producer oversight for property & casualty
 - Causes of escrow theft
 - Market conduct



Market Forces

- **Federal Regulators Remind Lenders of Their Liability**
 - Consumer Financial Protection Bureau Created – June 2011
 - Office of Comptroller of Currency – 2001
 - Federal Deposit Insurance Corp. – 2006
 - Federal Government and state attorneys general – 2011-2012
 - CFPB Service Provider Bulletin - April 2012
- **CFPB Enforcement Action**
 - American Express - \$85 million
 - Discover - \$200 million
 - Capital One - \$210 million
- **The Message:** Lenders are responsible and liable for acts of third party providers that harm consumers



Best Practices

- **ALTA Response to Market Demands**
 - **Best Practices Framework**
 - Title Insurance and Settlement Company Best Practices
 - Assessment Procedures
 - Certification Package



Best Practices

- **Title Insurance and Settlement Company Best Practices**
 - Comply with All State and Local Licensing
 - Procedures and Controls Regarding Escrow Trust Accounts – Reconciliation
 - Physical and Network Security—Protecting Confidential Customer Information and Trust Accounts
 - Recording and Pricing Procedures
 - Title Policy Delivery, Premium Reporting and Remittance
 - Errors and Omissions Insurance / Fidelity Coverage
 - Dealing with Consumer Complaints



Best Practices

- **Establish and Maintain Current License(s) as Required**
 - **Purpose:** Maintaining state mandated insurance licenses and corporate registrations (as applicable) helps ensure the Company remains in good standing with the state.
- **Procedures to meet this best practice**
 - Establish/maintain applicable business license(s)
 - Comply with licensing, registration or other requirements with applicable state regulatory body
 - ALTA Policy Forms license



Best Practices

■ **Written Procedures and Controls for Escrow Trust Accounts**

- **Purpose:** Appropriate and effective escrow controls and staff training help title and settlement companies meet client and legal requirements for the safeguarding of client funds. These procedures help ensure accuracy and minimize the exposure to loss of client funds.
- **Procedures to meet this best practice**
 - Monthly three way reconciliations
 - Separation of duties
 - Employee background checks



Best Practices

- **Written Privacy and Information Security Program to Protect Non-Public Personal Information**
 - **Purpose:** Federal and state laws require title companies to develop a written information security program that describes their procedures to protect non-public customer information. The program must be appropriate to the company's size and complexity, the nature and scope of the company's activities and the sensitivity of the customer information the company handles.
 - Gramm Leach Bliley - 1999
 - Reasonable procedures based on company size and book of business
- **Procedures to meet this best practice**
 - Physical & network security
 - Disposal of company records
 - Disaster management plan



Best Practices

- **Adopt Written Policies Ensuring Compliance with Federal and State Consumer Financial Laws (as applicable)**
- **Purpose:** Adopting appropriate policies and conducting ongoing employee training helps ensure a real estate settlement company can meet state, federal and contractual obligations governing the settlement process and provide a safe and compliant settlement.
- **Procedures to meet this best practice**
 - Submit documents for recording within 2 days of closing
 - Procedures to ensure consumers are charged established rates
 - Post closing quality check



Best Practices

- **Adopt Written Procedures Related to Policy Production, Delivery, Reporting and Premium Remittance**
- **Purpose:** Appropriate procedures for the production, delivery and remittance of title insurance policies helps ensure title companies meet their legal and contractual obligations.
- **Procedures to meet this best practice**
 - Policies delivered within 30 days of closing/settlement
 - Premiums remitted by last day of month following closing/settlement



Best Practices

- **Maintain Appropriate Professional Liability Insurance and Fidelity Coverage**
 - **Purpose:** Appropriate levels of professional liability insurance ensure that title agencies and settlement companies have the financial capacity to stand behind their professional services.
 - **Procedures to meet this best practice**
 - Professional liability or E&O insurance
 - Fidelity/Surety coverage as required



Best Practices

– Adopt and Maintain Written Procedures for Resolving Consumer Complaints

- **Purpose:** A process for receiving and addressing consumer complaints helps ensure reported instances of poor service or non-compliance do not go undiscovered.

- **Procedures to meet this best practice**
 - Standard complaint form
 - Single point of contact
 - Maintain log of complaints and resolutions



Best Practices 2.0

- Meant to be Living Document
 - Improvements were based on conversations with agents, underwriters, lenders, regulators and other stakeholders.
- What Changed?
 - Removed employee credit checks
 - Simplified insurance requirements
 - Clarified recording timelines



Assessment Procedures

- **What is the Assessment?**
- **How does it work?**
- **Who will conduct these assessments?**
- **How often do I need to undergo an Assessment?**



Certification Package

Three Part Product:

1. Open letter to customers
2. Certificate
3. Copy of insurances



ALTA Best Practices Framework: Certification Package
Agency Letter (Part 1)

[Instructions: Print on Company letterhead and update references to "Company" to actual Company name]

Date: **[Insert Date]**

Subject: ALTA Best Practices Framework Dated July 19, 2013.

We are providing this letter in connection with the ALTA Best Practices Framework ("Framework") dated July 19, 2013. We intend that it be considered by any consumer, mortgage originator or mortgage servicer doing business with our company during the 24-month period following the date of this letter.

"Company" has implemented the ALTA Title Insurance and Settlement Company Best Practices ("Best Practices") dated July 19, 2013, listed in the attached ALTA Best Practices Certificate. As of the date of this letter, we comply with the Best Practices in all material respects.

We represent that, during the 24 month period commencing on the date of this letter, we will remain in material compliance with each of the Best Practices.

Attached to this letter, please find (i) an ALTA Best Practices Certificate issued to us pursuant to the Framework, and (ii) a copy of the current Declarations Page for our errors and omissions or professional liability insurance.

Sincerely,

_____, President

"Company"



Certificate

- From the company that conducts the assessment to the title company
- Two parts
 - Information Security and Privacy
 - Everything else
- Like audits, it is not intended to be relied upon by anyone other than the Company itself



ALTA Best Practices Framework: Certification Package
Certificate (Part 2)

Certificate

Issued to:

ACME Title Agency, Inc. "the Company"

Blank Company performed the assessment procedures enumerated in the ALTA Best Practices Framework: Assessment Procedures dated July 19, 2013 ("Procedures"). These Procedures were agreed to by the Company to assist it in evaluating compliance with the ALTA Title Insurance and Settlement Company Best Practices, dated July 19, 2013 ("Best Practices"), as of _____.

Procedures executed related to the following ALTA Best Practices:

- 1. Licensing
- 2. Escrow Accounting Procedures
- 4. Settlement Procedures
- 5. Title Policy Production & Delivery
- 6. Professional Liability Insurance Coverage
- 7. Consumer Complaints

- 3. Privacy and Information Security

Our performance of such Procedures rendered a resulting grade of:

PASS

The scope of our engagement was limited to performance of the Procedures. We neither express an opinion regarding (i) the sufficiency of the Procedures for any particular purpose, nor (ii) compliance with the Best Practices.

This certificate is intended solely for the use of the Company. It is not intended to be relied upon by anyone other than the Company itself. Use of or reference to this certificate other than by the Company is at the user's sole responsibility and risk.

Blank Company

By: _____
Authorized Signatory



Insurance Information

- Copy of declarations page of E/O or Professional Liability insurance
- Evidence of other insurance maintained by the Company



Workbook

- **Assessment Preparation Workbook**
 - Tool for title companies to assist in understanding readiness for the Best Practices assessment.
 - Provides guidance on each of the Best Practices.
 - Workbook for each pillar of Best Practices



Workbook Sample

TITLE INSURANCE & SETTLEMENT SERVICES - REQUIRED LICENSES AND REGISTRATIONS

Criteria	Question Response		Control/Procedure NOT Documented?	Control/Procedure Compliance NOT Documented?
	YES	NO		
In what jurisdictions does the Company do business?				
Has the Company created a procedure to determine, at least annually, the current licensing and registration requirements for applicable jurisdictions? If yes, list the person(s) responsible for this procedure in the Descriptions/Comments Section.				
What resources are used to determine the current licensing and registration requirements for applicable jurisdictions?				
Are current licensing and registration requirements documented and maintained?				
Has the Company created a procedure to determine, at least annually, whether the Company and its employees comply with current licensing and registration requirements?				



What's Next from ALTA

- **Policies & Procedures Drafting Guide**
 - Guide for agents as they create written procedures necessary to execute the policy of adhering to Best Practice
 - Important for each company to craft own policies and procedures
 - Cookie-cutter policies not helpful



Best Practices

■ Get Started Now

- Compile your current processes
- Create a list of all IT products
- Set deadlines for completion
- Communicate with your lenders
- Send questions to bestpractices@alta.org

For more information, go to www.alta.org/bestpractices



- **Dodd-Frank Act**

- Created Consumer Financial Protection Bureau

- Purpose: “Protect consumers by carrying out Federal consumer financial laws.”
 - Single agency for enforcement
 - RESPA moves from HUD

- Mandate on RESPA/TILA disclosures

- Replace the existing disclosures required by RESPA and TILA with a single disclosure.
 - Replace early TIL and GFE with a single form
 - Replace final TIL and HUD-1 with a single form



What CFPB Did



**1,099 pages
of regulations**



What CFPB Did

• Loan Estimate

- Three pages long
 - Combines two-page TIL and three-page GFE
- Who provides?
 - Two options: lender or mortgage broker
- When?
 - Within three days of application
- Still subject to tolerances

• Closing Disclosure

- Five pages long
 - Combines three-page HUD-1 and two-page TIL
- Who provides?
 - Two options: lender or combination of lender and settlement agent
- When?
 - Three days before closing



What Congress Did Not Do

- Did not revise RESPA and TILA to be mutually consistent
- Did not provide CFPB direction about how to reconcile the two statutes/regulations
- Did not clarify liability for lenders or settlement agents under RESPA or TILA:
 - Different penalties
 - Different enforcement mechanisms



What ALTA Has Done

- Meetings & conversations with CFPB
- Small Business Review Panel
- Testify before Congress
- Lobby Congress
- Coordinate with mortgage bankers, Realtors, credit unions, community banks





ALTA Comment Letter

- Protect consumers by maintaining an independent third-party at the closing table
- Broaden the exceptions for re-disclosure
- Clarify that the liability and penalty provisions of RESPA and TILA are distinct
- Help consumers make better informed financial decisions
- Make simple formatting changes



Three-day Letter

- Reps. Steve Stivers (R-OH) and Ed Perlmutter (D-CO)
 - Urge CFPB to ensure the rule doesn't harm consumers
 - Ask Bureau to explore options that balance the intent of the three-day rule with how it would apply to consumers in the market and give the rule flexibility in its application
 - Over 80 House of Representatives; Senate next



ALTA Study

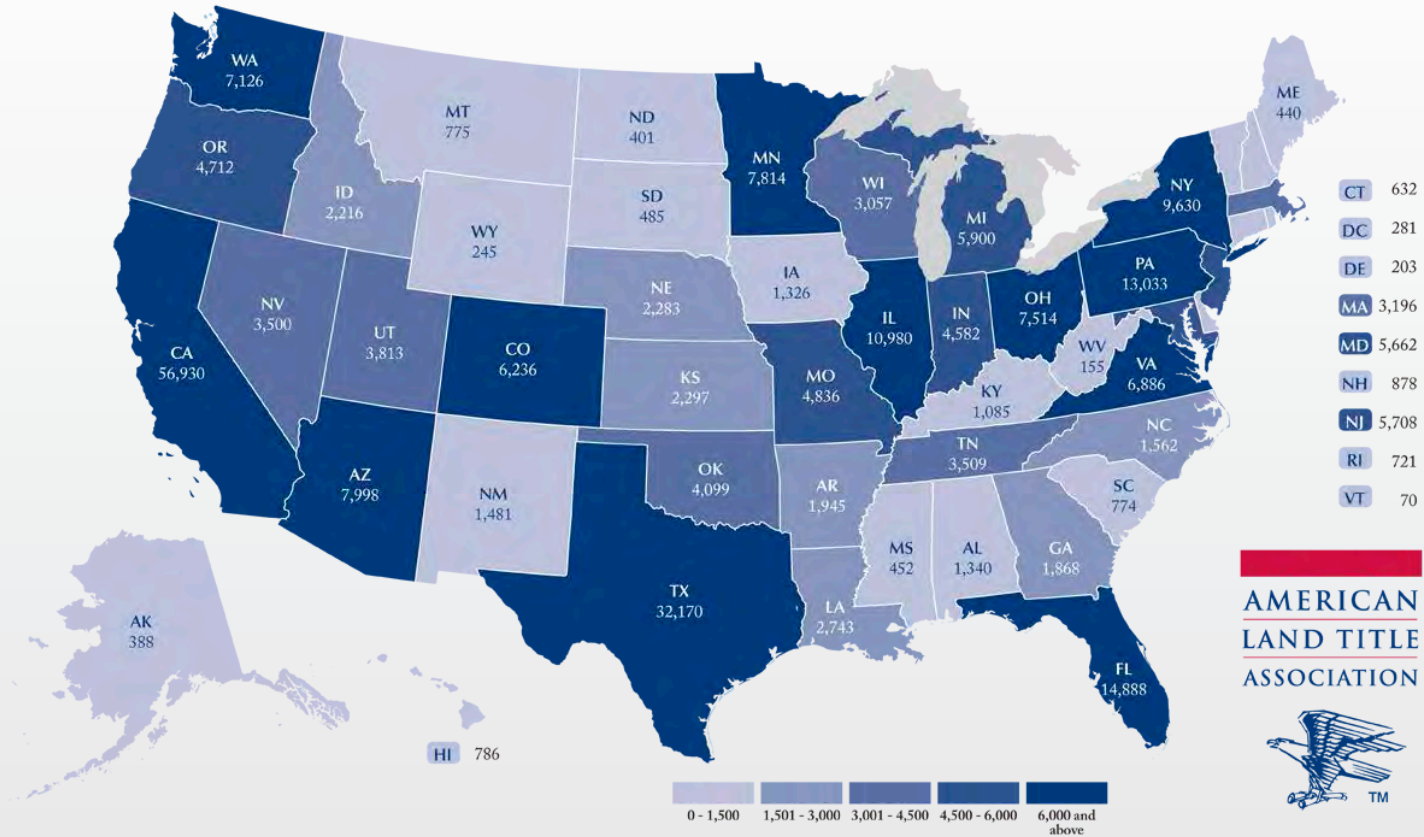
■ Economic Impact of Title Industry

- The title insurance and real estate closing industry help consumers sell, purchase, and refinance nearly 10 million real estate transactions worth more than \$2 trillion annually across the country
- Title insurance and real estate closing industry generates nearly \$7.9 billion in wages per year to 156,730 American workers
- 65% of settlement agents are small businesses
 - Employ an average of three people
 - Generate \$214,801 in revenue per year
- The direct and indirect economic contributions of the industry to the U.S. economy include more than \$50 billion in economic activities and nearly \$12.7 billion in wages to support 318,601 American jobs across the country



ALTA Study

American Land Title Industry Creates Jobs for America





Negative Impacts

- **Three-Day Waiting Period**
 - \$1 billion per year to consumers in longer interest rate lock-in to avoid loan cancellation
 - \$193 million to consumers who are delayed when selling their home
 - \$64 million to consumers who are delayed when refinancing their home
 - \$1 million each day to state and local governments for delayed transfer taxes and fees
- **Lenders Preparing Closing Disclosure Forms**
 - Market inefficiencies – mortgage lenders for borrowers; settlement agents for all-cash buyers
 - Fewer choices for consumers and less price competition
 - Increase mortgage fraud and misrepresentation
 - Increase systemic risks
 - Damage the integrity of the settlement and recording processes



Industry Cost to Implement

- **\$157.4 million**
 - 2010 changes, including \$13.7 million in software, \$97.6 million in training costs, and \$53.2 million in productivity losses.
- **Around \$100 million**
 - 2012 CFPB estimated cost to industry
- **Nearly \$315 million**
 - 2012 industry's low-end estimate
- **\$472 million**
 - Total 2010 and 2013 compliance costs for the industry
- **\$8,345 per settlement agent**
 - 65 percent of settlement offices are small businesses, employing an average of three people and generating \$214,801 per year. Thus, the initial upfront cost for a three-person office would be \$25,035, accounting for 11.7 percent of annual business revenues.



CFPB: What's Next

- October-December 2013 – CFPB is expected to release final rule
- ALTA will continue to work with Congress, CFPB and coalition partners
- Once rule is issued, ALTA will educate and help you implement
- 2015 estimated implementation
- www.alta.org/cfpb
 - View proposed forms with page references to rule
 - Presentations/webinars on proposed forms



Advocacy Priorities

- **GSE Reform**

- What is ALTA doing?
 - Push to include ALTA language in GSE reform legislation
- Communicate ALTA members' interests on GSE reform
 - Fair competition for small businesses



Advocacy Priorities

– **Corker/Warner bill in Senate**

- wind down Fannie Mae and Freddie Mac over five years
- replace FHFA with a new government agency: FMIC
- recognizes importance of title insurance

– **Hensarling PATH Act in House**

- Establishes Utility to facilitate mortgage loan securitization
 - includes title insurance requirement
- Creates National Mortgage Data Repository
 - includes language requiring document to be recorded at local jurisdiction first as required under state or local law
- Allows consumers to waive TILA's 3-day disclosure requirement
 - ALTA helped craft language that will help consumers and ALTA members prevent costly closing delays



Advocacy Priorities

- Qualified Mortgage (Ability to Repay)
 - Creditors must make reasonable effort to determine consumer can repay loan
 - Lender must consider and verify eight factors

CFPB Director Richard Cordray: “Low- and no-doc loans will be effectively prohibited ...”

- 3% Provision
 - Limits the amount of fees and points that lenders can charge, including affiliated title insurance or settlement services companies.
 - ALTA will serve as a resource to its members and offer advice if they want to advocate on this issue, regardless of their position.



Advocacy Priorities

- Qualified Residential Mortgage (QRM) Rule
 - “Skin in the game”
 - Requires mortgage securitizers to retain a 5% interest in each mortgage
 - Down payment requirements
 - Will likely include lower down payment requirement than 20 percent included in original proposal



Title Action Network

- Energized movement of land title professionals promoting industry's value and protecting consumer rights
 - Quick and easy to join
 - Focused on ensuring state and federal legislators understand value of the land title industry
 - Won't clog your email or take up your time
 - Easy-to-understand and provides brief advocacy updates on issues important to you
- Goal of 5,000 members in 2013
 - More than 3,200 so far
 - 25 state LTA partners
- Join at www.titleactionnetwork.com
- “Like” us on Facebook! www.facebook.com/titleactionnetwork

TITLE
ACTION
NETWORK





TIPAC

- **The Title Industry Political Action Committee (TIPAC)**
 - the voluntary, non-partisan PAC of the America Land Title Association
- 100% of your contribution to TIPAC helps elect and re-elect candidates who support our industry and understand our issues
- 2012: Raised \$352,657 from 638 contributors
- 2013 goal: \$350,000
- Your state's 2012 contribution
- Contact Jessica McEwen at jmcwen@alta.org





National Title Professional

- Purpose – Designation recognizes professionalism and raises awareness of value nationally
- Qualifications and requirements
 - Member or employee of member company
 - Minimum of five years
 - State license (if applicable)
 - Participation in state LTA and ALTA
 - ALTA volunteer, committee/presenter/author
 - Education: Land Title Institute
 - Exam
- State certification/designation coordination
- 3-year renewal
- www.alta.org/ntp





Attorney Membership

- Eligibility – individual real estate attorney who practices real estate law and provides title, closing and/or settlement services
- Benefits
 - Title Law Quarterly focusing on key lawsuits affecting real property law
 - weekly email updates
 - Advocacy
 - Title Counsel meeting and CLE opportunities

Cost \$250 per year
(includes license)



ALTA Growth

- Record membership three consecutive years
 - More than 4,600 member companies as of August 2013
 - 90% increase over past decade
 - Diverse membership base, with majority of members being small-sized title agents
 - Also retain high percentage of members
 - Title professionals value advantages of being an ALTA member
- To join or renew membership: www.alta.org/membership



2012 Market Share Analysis

- **Business Growing**

- Title insurance premium volume up 21 percent
 - \$11.4 billion in 2012
- To Compare
 - \$9.6 billion in 2009
 - \$17.6 billion in 2006
- 48 states and D.C. all reported increases
- Top states
 - California (\$1.7 billion, up 25 percent)
 - Texas (\$1.4 billion, up 24 percent)
 - Florida (\$893 million, up 24 percent)
 - New York (\$825 million, up 15 percent)
 - Pennsylvania (\$505 million, up 23 percent)
- Your state (\$xx, up xx percent)
- www.alta.org/industry/financial

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Thank You!

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