

Carolina Update

NCLTA's Exclusive Report to its Members

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President's Message

By William B. Webb, Jr.

I used to think that the weather forecasters had the best job. Make a prediction and so what if it is wrong?

Have you ever wondered what it would be like to be as wrong in the title business as the local weather forecasters? Premium rates would skyrocket. Claims departments would quadruple in size.

Economic analysts have about the same track record recently. All we've heard about for months is gloom and doom. Yet everybody I talk to in the title industry across our state is busy. *Very busy*. What's up? Are we recession-proof? Is this as bad as it gets? We certainly hope so. The next months will definitely be interesting. I predict a 62.3457 percent chance of a change in the economy.

Our Annual Convention is just around the corner. Your registration packages should have arrived by now. Nancy Ferguson has planned an excellent convention. I look forward to hearing all of the speakers, particularly Sheldon Hochberg. His comments should be very timely in light of the recent comments by HUD Secretary Martinez

about his frustrations in refinancing his home and in light of the bundling issues we all see in the market. Hope all of you will make it to Charleston.

We are all being bombarded with notices from various insurance companies with their GLB Privacy notices. One of the benefits of your membership in this Association is that we were able to work together to lessen the effect of the burden on the title industry in the recent state legislation. Special thanks to Don Lampe on his invaluable assistance and Nancy Ferguson for her input on this effort.

As this is my last opportunity to write this letter, I want to express my sincerest thanks to Penney De Pas and Lauren Copan for all of their assistance and guidance through the years. Without them, this association would not be able to function.



Skyline of Charleston, S.C.

Title Insurance and Real Estate Closings—the times they are a-changin’!

News you need *now* at the NCLTA convention

Carolina Update is the official publication of the North Carolina Land Title Association. It is distributed quarterly to title insurance company members, attorney members, and other persons interested in the title insurance industry. Readers are encouraged to submit articles to the newsletter. The opinions and statements of guest writers do not necessarily reflect the policies or opinions of NCLTA.

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Trying to come to grips with all the state and federal laws and regulations affecting the title industry and real estate? Concerned with settlement packaging and the increased speed in settlement services? Overwhelmed with employee problems? Not sure how much exposure you or your client will have when a title problem is insured over? Can't keep up with which company owns which company or who works for whom? We can't promise we can answer all your questions, but the NCLTA annual convention, August 9-11, 2001, in Charleston will give you access to experts in these areas ... those who are on the frontlines of these concerns daily.

The convention offers six hours of educational sessions combined with ample opportunities for informal networking with your colleagues and the new faces in the business at the premiere hotel in Charleston—Charleston Place. Escape to a hotel that offers world-class luxury accommodations, a



full-service European Spa, award-winning dining, and exclusive boutiques in the heart of the historic district, to get a fresh perspective on title matters.

Registration information has been mailed (and emailed) to members. The hotel reservation deadline was July 10, but the hotel is still accepting reservations at the convention rate! Don't delay. Send in your reservation and registration now and prepare yourself for an extraordinary conference in an extraordinary setting!

NC Department of Insurance renews Advisory Organization License

The North Carolina Department of Insurance has again renewed the Advisory Organization License of the N.C. Land Title Association for the purpose of NCLTA filing ALTA-approved forms on behalf of its title company members for the period July 1, 2001 through June 30, 2002.

By filing the ALTA forms for title insurance underwriters in the state, NCLTA saves both the individual title companies and the insurance department considerable duplication of effort.

When a form is adopted by ALTA, NCLTA files the form with the insurance department for all its members with one application. Title company members of NCLTA who wish to use the generic ALTA form may use it without any further filing with the NC Department of Insurance. In addition, because NCLTA is only filing in North Carolina, it is not required to answer questions about form filings in other states, whereas individual title companies must research and report that information. In turn, the insurance department staff need only review one form filing instead of multiple filings of the same (or slightly varied) form(s).

Routine topics discussed by executive committee

The usual agenda of business was discussed when the NCLTA executive committee met May 23 in Raleigh. The three topics that generated the most discussion were the convention expenses and regulatory developments at the national level, especially with regard to the U.S. Department of Housing and Urban Development (HUD) and changes to creditor's rights proposed for state insurance laws by the National Association of Insurance Commissioners (NAIC), and access by NCLTA members to the Preliminary and Final Opinion on Title Forms that are jointly copyrighted by NCLTA and the NC Bar Association.

NCLTA General Counsel Joseph Parker, former president of the American Land Title Association, who continues to serve as an advisor to the ALTA's Government Affairs Committee, reported on the following topics:

Banks Entering the Real Estate Business under Powers Granted by the Gramm-Leach-Bliley Act

The Federal Reserve Board and the Treasury Department have issued a controversial proposed ruling that would allow banks to engage in real estate brokerage and management activities. This has triggered a battle between the Bankers Association of America and the National Realtor Association. The ALTA at first backed off from making any statement on either side of this controversy since our industry works closely with both of these groups. However, subsequent to the ALTA's recent Board of Governors meeting, Ann vom Eigen, Legislative Counsel to the ALTA, was authorized by the Board to write a letter to both the Federal Reserve and the Treasury opposing the banks' entry into the real estate business. The banks claim that the real estate business is financial in nature and therefore comes under the powers granted to the banks under GLB. Vom Eigen's letter states that this expansion of power into commercial powers such as real estate was not intended when Congress passed the Act. It also stated that this concentration of powers would not be beneficial to the consumer. It is thought that this concentration of power in the banking industry would, in fact, affect the competitive balance which exist between

banks and real estate brokerage firms to keep consumer prices for real estate services down.

The title industry and others are just now adjusting to the changes in the marketplace that resulted from passage of GLB. The extension of GLB into commercial services such as real estate and the concentration of so many powers into one industry would have its effect on the title insurance industry and other settlement services. This is essentially the ALTA's position.

Packaging or Bundling of Services and the Banks' Quest For An Exemption to Section 8 to Allow Discounting of Bundled Settlement Services

There will be further hearings on RESPA before the Senate and House Banking Committees on this topic but probably not this year. The banks want to package settlement services including title insurance but feel they would need an exemption to Section 8 of RESPA in order to package the services and offer them at the cheapest rate possible.

ALTA continues to oppose the modification of Section 8 as being against consumer interest and benefit and the consumer's right to price each component of a settlement package. However, ALTA does not oppose market-based packaging that is now offered by all national underwriters or their subsidiaries but does not involve a Section 8 exemption.

NAIC Concern with Offering of Creditors' Rights Coverage

The 1992 ALTA standard form of policies now contains a creditors' rights exclusion. However, underwriters and agents are continually asked either to delete this exclusion or to issue the 1970 policy which does not contain such exclusion. In a movement started by the California Department of Insurance, the National Association of Insurance Commissioners "ha[s] now formed a Creditors' Rights Working Group" with the idea of ruling that title insurance companies should not be extending creditors' rights coverage. The reasoning being that title companies are not in a position to offer

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Calendar of Events

NCLTA 2001 Annual Convention

August 9-11, 2001
Charleston Place
Charleston, SC

ALTA 2002 Tech Forum

February 17-19, 2002
Fairmont Hotel
New Orleans, LA

ALTA 2001 Annual Convention

October 10-13, 2001
Marriott Desert Springs
Palm Desert, CA

NCLTA 2002 Annual Convention

August 8-10, 2002
Sheraton Atlantic Beach Resort
Atlantic Beach, NC

NCLTA 2003 Annual Convention

August, 2003
Williamsburg Lodge
Williamsburg, VA

Ten title companies sponsor Real Property Section convention events

The following companies participated in sponsoring the social events at the NCBA Real Property Section annual convention in Williamsburg, April 20-21:

Chicago Title Insurance Co.
Commonwealth Land Title Co. of NC
Fidelity National Title Ins. Co. of NY
First American Title of the Carolinas, LLC
First American Title Ins. Co.

Investors Title Insurance Co.
Lawyers Title of NC, Inc.
Parker Title Ins. Agency, Inc.
Statewide Title, Inc.
The Title Company of NC, Inc.

Welcome New Members

At its May 23, 2001, meeting the executive committee of the N.C. Land Title Association approved the following new members:

Agency Members

Randall M. Sauls
ATI Title Co.
104 S William Street (27530)
P.O. Drawer J
Goldsboro, NC 27533-9709
(919) 736-4423
(800)248-0580
FAX (919) 736-4570
Email: rsauls@firstam.com

Kirkwood Otey
Stewart Title of the Carolinas
112 S. Tryon St., Suite 620
Charlotte, NC 28284
(704) 331-0438
(800) 368-5983
FAX (704) 332-9325
Email: kotey@stewart.com

Associate Member

Regina Hudson
AH Communications, Inc.
12104 Soapstone Circle
Raleigh, NC 27614
(919) 848-2434

Routine topics discussed by executive committee

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such high risk coverage and do not have the necessary reserves to protect themselves. Furthermore, creditors' rights coverage is definitely not a matter of title, and it is against California's and other states' rules in regard to the violation of the monoline provision of the insurance code. The insurance commissioners will be ruling on this matter soon if they have not done so by our annual convention.

HUD Commission-Split Guidance

HUD has issued guidance indicating that the commission on the premium of title insurance agents should be itemized in the dollar amount on the HUD-1 closing form. ALTA and its Agents' Section have met with HUD officials stating the inappropriateness of this requirement. The Massachusetts Bankers Association first raised the question. The ALTA meetings with HUD did not change HUD's position in regard to the published guidance. In some areas of the country, specifically New England, the title insurance agent's commission on the premium is now required on the HUD-1 statement.

In other parts of the country, the agents prepare the HUD-1 closing statement. This could be difficult to enforce in North Carolina where the HUD-1 is for the most part prepared by approved attorneys with no knowledge of the agent's commission.

Vendor Management Group

Parker also reported that during the ALTA Federal Conference in April there was a report given by three representatives of vendor management groups. These are groups that offer a computerized package of settlement services including title insurance on a national basis. Their customers are lenders for the most part. There is probably more difficulty in offering this type of service in North Carolina because our laws require that, prior to the issuance of a title policy, an attorney submit an opinion of title.

Staff presented three new members for approval, reported that the contract had been signed for the 2002 annual convention in Atlantic Beach, and noted web site changes and improvements. The association's web site, www.nclta.org, is consistently receiving an average of over 200 visits per month. Approved forms, membership applications, and convention registration information are all available from the site, as well as links to web sites of title companies and related organizations.

Around the State

H. Anderson ("Skip") Berry, III, has joined **Commonwealth Land Title Co. of NC's** Charlotte office as vice president and counsel. Berry is a graduate of the University of North Carolina and the Washington and Lee (VA) Law School. Previously, Berry was in private law practice.

Judith Farrell has joined **First American Title of the Carolinas, LLC**, in Charlotte. Previously, Farrell was the branch manager of the Charlotte office of Commonwealth Land Title Co. of NC.



Five reasons to plan to attend the NCLTA 2001 annual convention

National Changes in Closings From Two Perspectives – Get a chance to talk with the experts!

- The closing of real estate transactions is changing at a national level, in Congress and at HUD – from RESPA to Vendor Management Corporations to Guaranteed Settlement Services and beyond. Do you know what is happening, who the power brokers are and how you will need to adapt? Hear from and talk with the experts:
 - Nationally recognized RESPA expert Sheldon Hochberg – The “Big Picture”
 - Charles Kovaleski, CEO of an attorney-owned title underwriter, Attorneys’ Title Insurance Fund, Inc., (the nation’s seventh largest title insurance company and the leading underwriter in the state of Florida – www.thefund.com)

Claims – how they really affect you

- Many title insurance claims arise from a title problem which is “insured over” rather than addressed at closing. Do you know what the real cost to your client is – the part that is not covered by title insurance – and, therefore, the potential exposure for you and your law firm?

Problem Employees

- Everyone has had problems with employees of all kinds. Do you know what to do, when and how to address these problems before you start losing clients and your own peace of mind?

North Carolina cases and legislation

- Do you know the latest legislative initiatives and cases that affect you and your practice, such as access to prior policies under the new privacy regulations, conversion of manufactured homes to real property, enforceability of liens of foreign or unlicensed contractors and interpretations of restrictive covenants?

Your Source for Information

- The place to get the answers to these questions is ... the NCLTA Annual Convention. Learn about these crucial issues in a non-threatening environment, with people who understand the business, complete with opportunities for informal networking (receptions, golf) as well as formal CLE education.

**You should come to the North Carolina Land Title Association
Annual Convention, August 9-11, 2001.**

Join us in Charleston!

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