



# Carolina Update

*NCLTA's Exclusive Report to its Members*

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## President's Message

*Jeffrey I. Hrdlicka*



I have never determined whether the Annual Convention should be referred to as the end or the beginning of the NCLTA year. Perhaps, we should just refer to it as the "Changing of the guard" or, to quote the

Rocky Horror Picture Show, "It's just a jump to the left, and then a step to the right." In any event, we stepped into the new year with a great annual convention and some real momentum for the challenges and projects that lay ahead.

Attendance was at near record levels for the convention at Wild Dunes in mid September. Sponsorship was clearly at record levels (with special thanks to Debbie Brittain for leading the sponsorship effort). Wild Dunes provided a relaxed and beautiful setting, not to mention an on-site title claim, as pointed out to us by Donald Cole.

A number of speakers addressed various issues that title companies and real property practitioners will face in the immediate future. Kim Gallimore, Chair of the Real Property Section of the Bar Association, discussed plans to keep real property practitioners an integral part of the closing process. Donald Cole reviewed national trends and how external matters, such as fraud, are affecting our industry. Ted Chandler, who serves on the Board of Directors of the ALTA, avoided the "canned" ALTA speech and discussed how that organization works, including the products and services that it

provides. Don Lampe provided insight into the type of affiliated business arrangements that will and will not violate RESPA laws. Paul Stock, who is counsel for the North Carolina Bankers Association, pointed out the importance of relationships when dealing with legislative matters.

A few weeks after the NCLTA Annual Convention, I attended the ALTA Convention in San Francisco. A few of the same issues were addressed, such as RESPA matters (any reform expected to be mild) and the new ALTA forms. In addition, a number of topics focused on the current political climate for the title industry. Ed Miller, Chief Counsel for ALTA, updated the group on the Government Affairs Office investigation. The GAO's report is expected in the near future. The overall expectation is that the report will eventually prove to be more helpful than harmful; however, there is a fear that the press will initially focus on the negative. As a result, title industry members will need to be prepared to explain the negative and point to the positive aspects of the report. The negative aspects will likely focus on the reinsurance matters that occurred in some western states.

A push is also underway for a National Insurance Act ("NIA"). ALTA generally opposes the NIA as it could preempt state law and allow products such as mortgage impairment, which violates state laws regarding title insurance, being approved under federal law.

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## New Executive Committee

**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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During the September 16, 2006, annual membership meeting in the Sweetgrass Pavilion of Wild Dunes Resort, Isle of Palms, SC, the following officers were elected:

President – Jeffrey I. Hrdlicka, Chicago Title Insurance Co.

Vice President – Kimberly Rosenberg, Attorneys Title/div. of United General Title

Treasurer – Candice Williams, The Title Company of NC, Inc.

Secretary – Carolyn Clark, Fidelity National Title Insurance Co.

The Attorney members also re-elected William E. Manning, Jr., as their Representative. Continuing on the Executive Committee will be Immediate Past President Sarah M. Friede, Statewide Title, Inc. David Bennington, Investors Title Insurance Co., was appointed General Counsel.



***New 2006-07 NCLTA officers, l. to r., Secretary Carolyn Clark, Treasurer Candice Williams, Vice President Kim Rosenberg, Immediate Past President Sarah Friede, President Jeff Hrdlicka, and Attorney Section Representative Ned Manning. Not pictured: General Counsel David Bennington.***

## Convention draws record numbers for CLE program

Although the total numbers did not break the Association's overall attendance records, the attendance during the CLE portion of the 2006 Annual Convention did. Nearly 75 real property attorneys, title company legal specialists, and other title professionals were at Wild Dunes Resort's newly opened Sweetgrass Pavilion on the Isle of Palms, SC, for the six hours of continuing legal education offered.

Real Property Section Chair Kim Gallimore kicked off Friday morning's educational sessions with some observations of the status of the practice of real property law in North Carolina. The Section is noticing an increase in title search claims and is working with Lawyers Mutual, the Bar Association's consumer protection attorney, and the title industry to provide better education and guidance on how to conduct title searches carefully, how to supervise paralegals, and how to conduct closing interviews. He noted that North Carolina ranks 44th in the nation in closing prices, and title insurance premiums are the lowest in the country.

The panel presentation on mechanics' liens reviewed a series of cases. It was noted that the statute does not allow for amending a form of lien; however, canceling a defective lien and substituting a revised one is allowable if it is filed within the statutory time frame.

Fidelity National Title's Donald Cole provided a national underwriting perspective. The slowing economy is causing increases in delinquencies, foreclosures, closing protection letters, fees, mortgage fraud, and speculators. He observed that real estate agents are re-listing properties at lower rates so it disguises how long a listing has been on the market. Other trends he noticed were the increased scrutiny on the title industry which does not have the clout that other parties to the real estate transaction have. ABA proposed rule 5.5 is causing out-of-state law offices to enter the market with multi-jurisdictional law practices.

*continued on page 3*

## Convention draws record numbers for CLE program

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The national viewpoint was continued with LandAmerica's Ted Chandler, ALTA board member, remarking that some states have a very strong perspective that title insurance rates are too high. The first waves of increased regulation have been seen in increased market conduct audits and oversight of affiliated business arrangements. Although HUD permitted AfBs, and states enacted corollary legislation, they missed the legislative and judicial history for a clear picture. Instead, it appears that title companies must be charging too high fees to allow for money to go to a middleman. (In contrast, the NC Rating Bureau has requested an increase in title insurance rates from the Department of Insurance.) There is a concern that if the National Insurance Bill allows for optional federal chartering of insurance companies, there could be an increase in mortgage impairment products. However, the momentum of banks entering the insurance field has not been as overwhelming as expected due to consumer backlash to the control occurring at the central, rather than local, level. Although still healthy, refinancing has trended downward into shorter term instruments. Since commercial real estate is not interest-rate dependent, it continues to be strong. Chandler also reported on staff changes at the national association with a new general counsel, new chief of operations, and new membership and marketing director. The June 2006 revision of the ALTA forms have made them more customer-friendly, more precise, and more logical.

RESPA reform has not really happened. The bill was enacted in 1973, and needed reform almost from the beginning. Attorney Don Lampe described RESPA "Reform Lite," noting that the settlement services industry has adapted and innovated without comprehensive reform due to the marketplace cry for "faster, better, and cheaper." For North Carolina, the packaging and bundling of settlement services is not as advantageous here because the system of approved attorneys adds a "wild card." Since NC has efficiency, low prices, and certainty—what is there to reform? The trend here is for builders, realtors, banks, and/or mortgage brokers to partner into affiliated business

arrangements. HUD, however, is getting serious with enforcement. Violation of RESPA's Section 8 is criminal with high penalties and full reimbursement. Civil violations incur penalties of \$10,000 each.

Lampe also discussed electronic mortgages. In the broadest sense, this means a completely electronic transaction. North Carolina has been putting the statutory pieces in place, including the Uniform Electronic Transactions Act, e-Notarization, and the Uniform Real Property Electronic Recording Act, so that both ends are covered: e-signatures, e-documents, e-notarization, and e-recording. Although parts of the process are electronic, current practice still requires an in-person signature at closing.

Paul Stock of the NC Bankers Association gave some pointers on how to best work with the state legislature. He noted that even small personal contributions (\$25 to \$100) were appreciated, but the real keys were finding out who knows whom and building those personal relationships in a non-issue environment. He suggested assigning association members to particular legislators and having them write personal congratulations letters on elections, expressing thanks for their willingness to serve, and offering to assist



***Incoming NCLTA President Jeff Hrdlicka (r.) presents outgoing President Sarah Friede with a plaque of appreciation.***



***Sponsorship Chair Debbie Brittain (l.) of Chicago Title Insurance Co. with Fidelity National Title's Donald Cole, the speaker on "National Underwriting Issues."***



***The winning golf tournament team was the LandAmerica Financial group, l. to r., Hunter Meacham, Laura Chandler, ALTA board member Ted Chandler, and Dennis Venedetti.***

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## Convention draws record numbers for CLE program

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with any questions related to title insurance issues. He emphasized honesty and timely responses which offer a simple, yet consistent message. He also suggested knowing where the sectors are from which likely support or opposition will occur and working out any compromise before issues hit the floor.

Closing out Saturday's educational sessions, Jim Pulliam of Nexsen, Pruitt, Adams, Kleemeier, LLC's Charlotte office, noted that although the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005" did not cause significant concerns for the title insurance industry, there were some changes worth noting.

Several attendees were delighted to find jelly beans as the candy provided on the classroom tables by the Resort during Friday's program. But one of the hits of the educational sessions was Donald Cole's "bus-man's holiday." Right outside the window was a title problem in the making as the latest addition to the Resort had already created a title claim that Cole had studied and incorporated into his talk.

The weather for the September 14-16 conclave couldn't not have been better—especially during hurricane season—with beautiful, sunny days and comfortable (for the Charleston area) evenings. A gorgeous sunset framed the Grand Pavilion for the opening reception, just like in the promotional photographs. The golfers, swimmers, and sightseers had two pristine afternoons to enjoy the Low Country area. Most delegates were very pleased with the accommodations at The Boardwalk Inn or nearby villas, the dining and amenities offered by the Resort and further into the Charleston area, the proximity of the beach and golf, and the overall quality of their experience at the convention, enhanced by the outstanding contributions of the many convention sponsors. (See list of sponsors on page 7.)



**Paul Stock (r.) of the NC Bankers Association palming around with Chris Burgess of Pendergrass Law Firm after the golf tournament.**



**Real Property Section Chair Kim Gallimore provided an update on Section news and views.**



**James Pulliam wraps up the educational sessions with a talk on Bankruptcy.**



**Attorney Don Lampe provided an overview of RESPA changes and E-Mortgages as they apply in North Carolina.**



**Convention chair Jeff Hrdlicka (far left) introduces the Claims Panelists (l. to r.): Jay Wilkerson, Steve Brown, Ed Urban, and John Bowers.**

## Around the State

*Tracy Bullock* has joined the staff of **Investors Title Insurance Company** in Chapel Hill. Her email address is [tbullock@invtitle.com](mailto:tbullock@invtitle.com).

**Chicago Title Insurance Company** has two new branch managers. In its Southport office, *Kristen Ellegood* replaced Jennifer Hall. In Wilmington, *Kaye Baggett* replaced Connie Lewis. Kaye was previously with Attorneys Title for 19 years. Kristen was in the Wilmington office as an underwriter for five years.

Attorney Member *Jeff Dunham* has joined the Greensboro law firm of Nexsen Pruet Adams Kleemeier. His new contact information is:

Jeff Dunham  
Nexsen Pruet Adams Kleemeier, LLC  
701 Green Valley Road Ste 100  
Greensboro, NC 27408  
*Guilford*  
Phone (336) 373-1600 Ext 5128  
Fax (336) 273-5357  
Email: [JDunham@nexsenpruet.com](mailto:JDunham@nexsenpruet.com)



*Toni Carroll*

**TSS Software Corporation** has opened the doors of its Carolina regional office to service North and South Carolina clients and has transferred long-time staff member *Toni Carroll* from its New Jersey

site to the new location in Waxhaw, North Carolina. As a TSS software consultant and sales representative, Carroll has regional responsibility for sales, implementation, and training. Toni Carroll can be reached at the TSS Carolina Regional Office through e-mail at [tcarroll@iwantTSS.com](mailto:tcarroll@iwantTSS.com) or by phone toll free at 888-268-0422 ext. 5626.

New address effective October 1 for Attorney Member Derek M. Wenzel, Wenzel & Wenzel, PLLC, 166 Branner Ave., Suite A, Waynesville NC 28786.

## Title Agent Licensing Exam Study Guide/ Title Insurance Underwriting Primer being readied for publication

The final touches are being added to a CD-ROM version of a new publication by the Association. Under the aegis of the NCLTA Education Committee's Study Guide Task Force, the current study outline for the title agent's licensing exam was expanded to a 32-page document, including definitions, legal and title examples, web links, and other useful title underwriting information for a new agent—either one studying to be licensed by the NC Department of Insurance or one seeking to review pertinent information for his or her job.

The CD is expected to be ready by year-end. Since the Study Guide was the result of a collaborative effort among the title companies to prepare and edit its content, five complimentary copies will be distributed to each member title company and one complimentary copy will be sent to each member attorney. Additional copies will be sold to NCLTA members at \$10 each for postage and duplication. Non-members will be able to purchase the CD-ROM for \$75.

The Study Guide Task Force consists of Kimberly Rosenberg, chair; Stacie Jacobs, Jay Williams, Marc Garren, and Sarah Friede, ex-officio.

# Draft report issued by the Electronic Recording Council for public comment

By Matthew James Powers, LandAmerica Financial Group-Lawyers Title and NCLTA liaison to the Secretary of State's Electronic Recording Council

The Electronic Recording Council (ERC) has completed its initial phase of drafting recommended standards to implement electronic recording in North Carolina. A copy is available on the NCLTA web site at [www.nclta.org/interest/09-12-06-Draft\\_eRecStandards.pdf](http://www.nclta.org/interest/09-12-06-Draft_eRecStandards.pdf).

The ERC accepted feedback and comments from the general public and interested agencies through November 6, 2006. The council has established an e-mail address for interested parties to post comments or concerns: [ncercfeedback@msn.com](mailto:ncercfeedback@msn.com). Following this comment period, the ERC will reconvene to discuss information received and make necessary changes to the recommended standards. Thereafter, the ERC will present recommendations for electronic recording standards to the North Carolina Secretary of State's office for review. A subsequent comment period will follow after the Secretary of State's office adopts standards for electronic recording.

## NCLTA recommends edits to NCDOI online Title Insurance Consumer Guide

The North Carolina Department of Insurance (NCDOI) has a "Title Insurance Consumer Guide" mounted on its web site. It has been discovered that there were some legal errors in the content of the *Consumer Guide*. NCLTA has submitted language corrections to the Department in order to have the information contained therein consistent with the state statutes for title insurance and real estate closings.

## Convention Calendar

### NCLTA 2007 Annual Convention

**\*\*30th Anniversary\*\***

August 8-11, 2007

Mid-Pines Resort, Southern Pines, NC

[www.pineneedles-midpines.com/page/216-7383.htm](http://www.pineneedles-midpines.com/page/216-7383.htm)

### NCLTA 2008 Annual Convention

August 14-16, 2008

Grove Park Inn Resort & Spa, Asheville, NC

[www.groveparkinn.com](http://www.groveparkinn.com)

2006 NC Land Title Association

### Annual Convention

Wild Dunes Resort, Isle of Palms, SC

September 14-16, 2006

## Thanks to our Sponsors:

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Nexsen, Pruet, Adams, Kleemeier, LLC

### Friday Reception

White & Allen, PA

### Saturday Reception

Lawyers Weekly

### Binders and Speaker

TSS Software Corporation

### Speakers

Maupin Taylor, PA

Pendergrass Law Firm, LLC

Roberts & Stevens, PA

Smith Moore, LLP

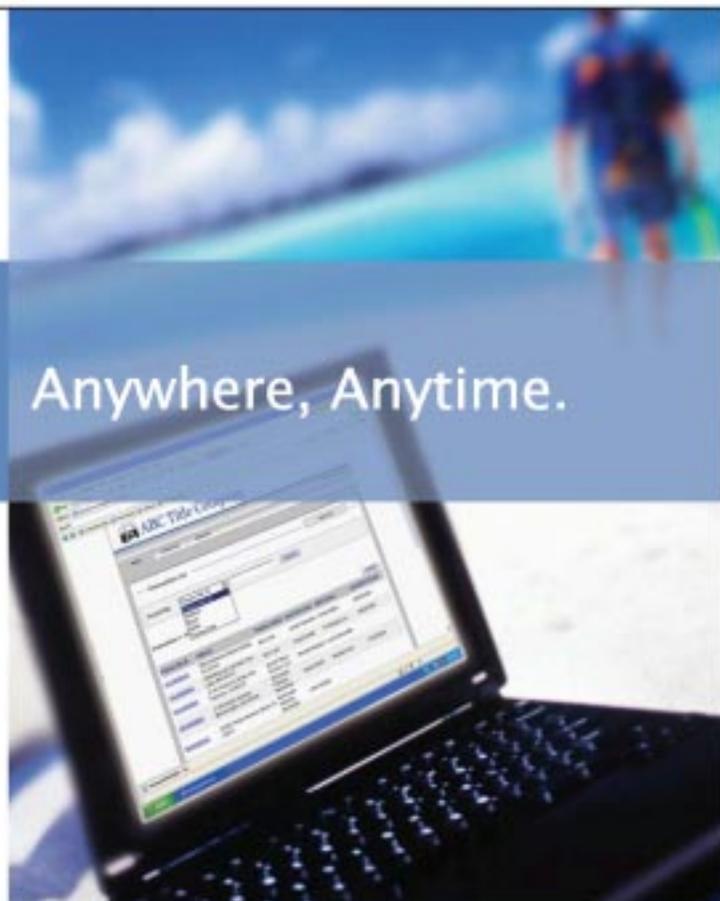
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# Welcome New Members

At its September 14, 2006, meeting the Executive Committee approved the following new Attorney members:

## Attorneys

### **James R. Holland**

Smith Moore, LLP  
2800 Two Hannover Square (27601)  
PO Box 27525  
Raleigh, NC 27611  
*Wake*  
Phone (919) 755-8742  
Fax (919) 838-3118

Email: [jay.holland@smithmoorelaw.com](mailto:jay.holland@smithmoorelaw.com)

### **James C. Huff**

Hutchins, Senter and Britton  
4317 Ramsey St.  
Fayetteville NC 28311  
*Cumberland*  
Phone (910)864-6888  
Fax (910)884-3925

Email: [jchuff@hutchensandsenter.com](mailto:jchuff@hutchensandsenter.com)

### **William J. Kellam, Jr.**

Kellam & Pettit, PA  
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### **W. Chris Parnell**

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## President's Message

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As both the NCLTA and ALTA conventions made clear, there will be a number of challenges facing our industry and organization this year. A few at the forefront include mortgage impairment, the GAO report, legislative efforts (E-Recording, Foreclosure reform, etc.), hiring a new lobbyist, claims by North Carolina Railroad, and the confusion created by Freeholder Transfer Fees. In addition, we will continue to try to improve the services we offer our members.

The good news is that over the past year the Executive Committee has made efforts to expand committees and involve more members. This has had the double benefit of keeping our members involved and enabled the group to better address the challenges of the industry. For example, the Education Committee has created a Study Guide for the title insurance licensing test and is looking at the possibility of presenting seminars for paralegals. The Legislative Committee has been also able to handle multiple issues without overwhelming one person.

I would like to see us continue to increase members' involvement at the committee level. It was clear to me in meeting with other state association representatives at the ALTA convention that the successful land title associations keep their members involved. I believe this is the best method to continue the organization's momentum and prepare us for whatever changes the industry may experience. A number of you let me know at the NCLTA convention that you are willing to volunteer. Some of you have already been put to work, and I promise to find spots for all others willing to help the organization. So, if you have not already, please volunteer to help, either by contacting me directly at [jeff.hrdlicka@ctt.com](mailto:jeff.hrdlicka@ctt.com), phone (336) 665-1314 or by contacting Executive Director Penney De Pas at [exec@nclta.org](mailto:exec@nclta.org), phone (919) 861-5584. Thank you.

# Ben Kuhn appointed Consumer Protection Attorney

The North Carolina Bar Association has retained Benjamin R. Kuhn of the Kuhn Law Firm, 127 W. Hargett St., Suite 500, Raleigh, NC 27601 (mail: PO Box 947, Raleigh, NC 27602), phone (919) 870-9101, fax (919) 870-9102, email [bkuhn@kuhnlawfirm.com](mailto:bkuhn@kuhnlawfirm.com), as its Consumer Protection Attorney.



## At Press Time

The North Carolina Department of Insurance has approved the recently revised (June 2006) American Land Title Association forms for use in NC, effective November 7, 2006, by NCLTA members.

Copies of the forms are available from [www.alta.org/forms](http://www.alta.org/forms).

## September Executive Committee meeting summary

Much of the focus of the September 14 Executive Committee meeting was the impending convention. However, Kim Rosenberg's Study Guide Task Force/ Education Committee report announced that all the parts of the Title Agent Licensing Exam Study Guide and Title Underwriting Resource Guide had been collated and was in the process of being proofread and formatted in a consistent matter. The Executive Committee voted to provide each member title company with five complimentary copies of the Guide (on CD-Rom) and each attorney member with one complimentary copy. Each additional copy would be available for purchase by members at \$10.00 each. The amount of the non-member fee was tabled until the October 25 meeting and then established at \$75 initially. There was also some discussion of the Association providing continuing education for paralegals, but no decision was taken.

Forms Committee Chair Gary Whaley requested feedback on the proposed changes to the Preliminary Opinion on Title (1-P) and Final Opinion on Title (1-F) Forms. Staff was still awaiting the final versions of the newly approved American Land Title Association (ALTA) forms before submitting them for approval to the N.C. Department of Insurance.

Legislative Committee Chair Hunter Meacham reported that the Association had hoped for repeal of the Medicaid Lien at the commencement of the Short Session, however, due to a technicality on legislative procedure, the most that could be done was to extend the implementation date until July 2007. This will, therefore, be on next year's legislative agenda. The Foreclosure Reform

committee met to address the problems of flips and fraudulent conveyances, and legislation in this area will need to be watched for next year. Matt Powers was expected to provide an update on the Electronic Recording Council during the annual meeting. Meacham also noted the resignation of Anne Winner as a lobbyist, and several replacements were suggested for interview during the October 25 Executive Committee meeting.

Land Records Task Force Liaison Jeff Hrdlicka reported that the Task Force had met in late August and considered NCGS 47-2.1 scrivener's error, discussed e-Recording (some members of the Task Force serve on the ERC with Matt Powers) and how it will work on a daily basis, and celebrated passage of the Notary Act technical corrections.

In his role as General Counsel, Meacham reported that the Supreme Court had declined to review the equitable subrogation case, so no *amicus* brief will be filed.

Secretary Candice Williams reported that she had found some legal errors on the NCDOI web site "Consumer's Guide to Title Insurance" and offered to submit corrections to the Department.

Executive Director Penney De Pas reported that she had been monitoring the impact of the new Lobbying/Ethics Law and noted that reporting of lobbying activity would increase from twice per legislative Session to monthly during Sessions and quarterly between Sessions. She also recommended that a members-only page be instituted for any legislative updates calling for grassroots lobbying after January 1.

# Executive Director's Annual Report

**Penney DePas, CAE**

A small crowd of 23 title company representatives and guests attended the September 16, 2006, annual membership meeting at Wild Dunes Resort. As of that date, the Association had the following numbers of members: 12 Underwriters (one new underwriter); 11 Agencies; 79 Branches; 37 additional Directory Listings; 77 Attorneys, five Associate members; and two Honorary members.



Legislative Committee Chair and General Counsel Hunter Meacham provided a short review of the Association's advocacy efforts during the Short Session. Matthew Powers gave a report about the work of the Electronic Recording Council. The members who responded to the e-Recording membership survey were thanked.

Education Committee Chair Kim Rosenberg reported that all the underwriters and some of the large agency members had provided input into preparation of a Study Guide for the title agent licensing exam which will also serve as a title underwriting resources. The Study Guides are expected to be distributed to the membership by year-end.

A "Frequently Asked Questions (FAQs)" page has been added to the Association's web site, [www.nclta.org](http://www.nclta.org).

The financial picture for the Association is improving. In 2004 NCLTA suffered a severe year-end loss of \$23,500 due to purchase of six agencies by one bank; \$8,000 in room block attrition costs at Boar's Head Inn; \$2,000 less in convention registrations and \$5,000 more in expenses; plus other miscalculations in anticipated revenues. The following year marked an increase in

underwriter dues, advertising revenues, and sponsorship income, with a net increase in net assets of \$15,472, representing an increase of \$13,261 for the government relations fund and of \$1,824 for the general fund.

For 2006, there has been a substantial increase in convention sponsorships and convention attendance for an expected net increase of \$12,500, which will substantially assist with the year-end bottom line. Special thanks go to Debbie Brittain who raised \$14,800 in sponsorships for the convention!

Attendance for the 2006 convention reached 105 with 39 title company representatives, 19 Attorneys, 10 speakers, 26 guests of members, and five guests of speakers, four youth, and two staff. This is the largest attendance in several years.

An advertisement for the law firm Horack-Talley. The top half features a black and white photograph of a group of seven professionals (four men and three women) in business attire, standing around a table with papers. Below the photo is the text "We Cover North Carolina." followed by "Efficient & effective service wherever our clients need us. We travel statewide to represent title companies, attorneys, owners, lenders, buyers & sellers." Below this is a list of services: "reformation actions, lien priority disputes, mechanics' lien issues, complex foreclosures, restrictive covenants, zoning disputes, contract disputes, bankruptcy implications, easements & access issues". The firm's name "HORACK-TALLEY" is in a dark box. At the bottom, the address "2600 ONE WACHOVIA CENTER - 301 S. COLLEGE STREET - CHARLOTTE - 704/377-2500" and website "WWW.HORACKTALLEY.COM" are listed.

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