



# Carolina Update

*NCLTA's Exclusive Report to its Members*

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## Executive Director's Message

**Penney De Pas, CAE**



*Photo by Stephen Adcox*

I so rarely get the chance to address the membership through the newsletter, but with Sarah Friede's baby due any day now, the likelihood of getting a "President's Message" from her any time soon was probably next to nil, so I am taking this opportunity.

I am very pleased to report that all our Underwriter title company members and all but one Agency member renewed their membership in the Association for 2006. (And we have a new Agency membership pending.) In addition, we are pleased to welcome Ticor Title Insurance Company of Florida as a new Underwriter member. We also had a high percentage of Attorney members renewing, losing only three this year, and gaining three new ones. So at this point, we are even with last year's membership and only have room to grow!

Despite the continuing "Going concern" note in our financial statements from the independent CPA firm, our 2005 financial year ended in the black with a strong attendance for the convention at the Grove Park Inn. We hope you are already making plans for the 2006 convention at Wild Dunes Resort off the coast of Charleston, South Carolina, September 14-16. (See *related article on page 3.*)

The continuing strength of this Association is also demonstrated by the number of individuals who support our work in a voluntary capacity. In addition to your elected and appointed officers serving on the Executive Committee, we'd like to thank the following for serving this year...

### **Legislative Committee:**

Hunter Meacham, Chair  
Ryan Wainio (Investors)  
Mark Griffith (Chicago)  
Chris Burti (Statewide)

### **Study Guide Task Force:**

Kim Rosenberg, Chair  
Stacie Jacobs  
(The Title Co. of NC)  
Marc Garren (Investors)  
John McLean (Lawyers)  
Jay Williams (Chicago)

A special thank you goes to Debbie Brittain of Chicago Title for assisting our staff and Executive Committee members in the areas of membership and sponsorship.

Finally, with the American Land Title Association (ALTA) reaching its 100th anniversary in the coming year, each state title insurance association was asked to submit a list of 10 people ALTA could interview about the history of the industry. Every one of the 10 NCLTA past presidents in North Carolina that I asked very willingly agreed to be included in our list of interviewees. We are blessed to have access to the experience and knowledge of so many "senior statesmen."

# Renunciation amendment proposed

*Nancy Short Ferguson, Chicago Title Insurance Company*

The General Statutes Commission has proposed amendments to Renunciation Act, N.C.G.S. 31B-1 et seq., to become effective January 1, 2007, if enacted. This proposal was initiated primarily because of issues (protections) of renunciations by fiduciaries.

Aside from some technical, conforming language types of changes, the more immediate concerns are regarding the effect on real estate interests for failure to file timely with the Registers of Deeds, renunciation of tenancy-by-entirety or joint tenancy with right of survivorship interests, determination of the entitled parties, and notices and rights of third parties (such as judgment creditors, deed of trust noteholders, tax authorities and spouses). The current proposal still does not adequately address two key issues for real property practitioners:

- (1) the conundrum of the renunciation by the surviving tenant by the entirety or joint tenant with right of survivorship (i.e., 1/2 interest or entire interest, and to whom does it pass if the survivor is the alternate heir/devisee as well?)
- (2) the effect of a late filing with the Register of Deeds on third parties and on the renouncer and the alternate taker(s).

For a copy of the current (15th) draft, dated January 23, of this amendment, please contact Penney De Pas at NCLTA headquarters at [exec@nclta.org](mailto:exec@nclta.org) or (919) 861-5584 or Nancy Ferguson at Chicago Title at [nancy.ferguson@ctt.com](mailto:nancy.ferguson@ctt.com) or (336) 665-1314. Comments and suggestions about the proposed amendment may be submitted to Nancy Ferguson as well. Unless there are further changes, the General Statutes Commission will most likely approve this version at their May meeting.

**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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## February Executive Committee Meeting summary

The NCLTA Executive Committee met on February 21. President Sarah Friede, who was on maternity bed-rest, joined the meeting by conference call, while Vice President Jeff Hrdlicka presided. Our lobbyist, Anne Winner, presented an overview of the legislative timing and process, and legislative strategy for 2006 was discussed. Winner also encouraged the Association to begin planning its 2007 legislative strategy. The Executive Committee appointed Nancy Ferguson as NCLTA's representative to the Future Advances Task Force and Chris Burti as NCLTA's representative to the Notary Act technical corrections working group. Matt Powers is representing NCLTA on the Secretary of State's Electronic Recording Council.

The Executive Committee reviewed the 12/31/05 year-end financial statement prepared by the CPA firm of Joyce and Company.

The Executive Committee approved plans recommended by the Study Guide Task Force to prepare a title licensing exam study guide that would also serve as a basic resource for title company employees and others wishing to become licensed.

Convention Chair Jeff Hrdlicka presented some speaker and topic ideas for the CLE-portion of the 2006 convention, September 14-16, at Wild Dunes Resort and reported on the NC Land Records Task Force meeting in January. Mid-Pines Resort was selected as the 2007 convention site, August 8-11. (2007 is the Association's 30th anniversary, and its earliest recorded convention took place at Whispering Pines Resort.) NCLTA will return to the Grove Park Inn in Asheville for its 2008 convention, August 14-16.

The next meeting of the Executive Committee will be on May 23 at the Association's headquarters office in Raleigh.

## Experience Wild Dunes for the 2006 Convention

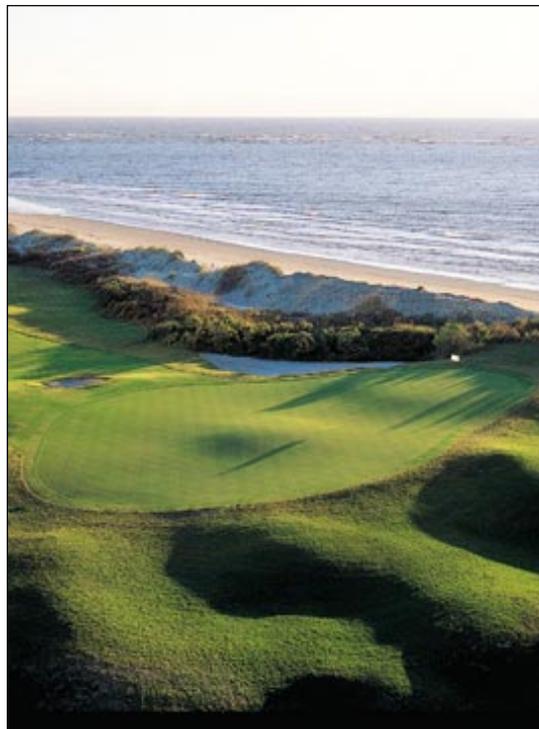
Combining the classic elegance of Charleston with the casual atmosphere of the islands, The Boardwalk Inn at Wild Dunes Resort, on the Isle of Palms, will welcome the NC Land Title Association's 2006 annual convention, September 14-16. A boutique style hotel with only 93 deluxe guest rooms, the hotel features a boardwalk lined by shops and a "Rainbow Row" of three- and four-bedroom villas leading straight to the Grand Pavilion and the pristine beach. NCLTA will also be treated as one of the first groups to experience the newly redesigned and refurbished Sweetgrass Pavilion, just steps from the Inn, and featuring the covered porches and landscaping characteristic of the Low Country lifestyle.

NCLTA is slated to play the towering sand dunes of the Links Course with its scenic 18th hole on the Atlantic Ocean. Ranked as one of the top 10 resorts by *Tennis* magazine, Wild Dunes has 17 Har-Tru courts with five courts lighted for night play and world class instruction.

If the beach, two junior Olympic pools and one lap pool, billiards, spa treatments, and lounging around lose their appeal, lots of other activities are nearby, including downtown Isle of Palms and turtle-watching, kayaking, the South Carolina Aquarium, Boone Hall and Magnolia Plantations, harbor cruise on the Spirit of Charleston, the Old Exchange, The Battery, horse-drawn carriage rides, barrier island eco-tours, Mt. Pleasant, Sullivan's Island, and much, much more.



**Wild Dunes Resort with the Grand Pavilion in the foreground, Boardwalk villas, and the Boardwalk Inn in the background. Photo courtesy of Wild Dunes.**



**Renowned golf architect Tom Fazio designed both the championship caliber golf courses. Fazio's Links Course boasts two finishing holes on the Atlantic Ocean. Photo courtesy of Wild Dunes.**

## Real Property Section Sponsors

A record 12 title company members of NCLTA have pledged to sponsor the North Carolina Bar Association's Real Property Section annual convention social events, May 6-7, 2006, at the Hilton Hotel at Kingston Plantation in Myrtle Beach, SC.

### Many thanks go to:

Attorney's Title Insurance Agency, Inc.

Chicago Title Insurance Company

Commonwealth Land Title  
Insurance Company

Fidelity National Title Insurance  
Company

Investors Title Insurance Company

Lawyers Title Insurance Corp.

Statewide Title Exchange  
Corporation

Stewart Title Guaranty Company

Stewart Title of the Carolinas

Surety Land Title, Inc.

The Title Company of North  
Carolina

United General Title Insurance  
Company

## Around the State

*Debbie Brittain*, state manager for **Chicago Title Insurance Company**, relocated her state headquarters office from the company's Charlotte branch to the Raleigh branch in mid-April.

*Nicholas Long, Jr.* has joined **The Title Company of North Carolina** (TCNC) as State Counsel. He will be located in the Raleigh office of the company. He was formerly in private practice in Henderson, NC, for 23 years.

Attorney member *Mark S. Hartman* has joined the law firm of **Helms Mullis & Wicker in Wilmington**. His new address is 127 Grace Street (28401), PO Box 599, Wilmington, NC 28402, phone (910) 254-3800, fax: (910) 254-3900.

## NCLTA licensed as a "Statistical Organization" for Insurance Dept.

Last October 1, the enactment of NC House Bill 733 renamed the statutory entities of rating and advisory organizations as "statistical organizations." Since 1990 NCLTA had been licensed as an "advisory organization" to the NC Department of Insurance for the purpose of filing generic ALTA policy forms and endorsements on behalf of its title underwriter members to save both the Department and the underwriters unnecessary duplication of paperwork and staff time. NCLTA has reapplied to the Department to be licensed under the new "Statistical Organization" law and was granted such until March 1, 2007.

## ALTA appoints National Arbitration Forum for Title Insurance Arbitrations

After a comprehensive review of its Title Insurance Arbitration Rules (TIAR) and arbitration system, the American Land Title Association has revamped its arbitration process for title insurance disputes and appointed the National Arbitration Forum as its new administrator. ALTA expects that the new system and administration will create greater efficiencies and lower costs through arbitration. For more information, on TIAR and the National Arbitration Forum, check out [www.alta.org/press/release.cfm?newsID=3662](http://www.alta.org/press/release.cfm?newsID=3662).

# National Notary Association publishes e-Notarization paper

The National Notary Association (NNA) has recently published a paper on the timely topic of "Electronic Notarization: Why It's Needed, How It Works, and How It Can Be Implemented to Enable Greater Transactional Security." The paper's author, Daniel J. Greenwood is the director of the Massachusetts Institute of Technology's e-Commerce Architecture Program.

In the document, Greenwood urges immediate action by governments, industry, professional associations, and academia

to create a "sound strategy" with the same level of security as paper documents to enable e-notarization for a vast array of transactions.

Copies of the paper are available at: [www.nationalnotary.org/media/index.cfm?Text=mediaReleases&newsID=833](http://www.nationalnotary.org/media/index.cfm?Text=mediaReleases&newsID=833) or by contacting NNA's Executive Director, Timothy S. Reiniger at (818) 739-4032 or [treiniger@nationalnotary.org](mailto:treiniger@nationalnotary.org).



## At Press Time

## House Committee to hold hearing on title insurance, AfBAs

On April 26, the House Financial Services Subcommittee on Housing and Community Opportunity will hold a hearing entitled, "Title Insurance: Cost and Competition." It is speculated that the hearing may have been scheduled to coincide with the release of the GAO's preliminary report on their investigation into the title industry.

—*RESPANews.com*,  
April 18, 2006

## Convention Calendar

### NCBA 2006 Real Property Section Convention

May 4-6, 2006  
Hilton Hotel at Kingston Plantation  
Myrtle Beach, SC

### NCLTA 2006 Annual Convention

September 14-16, 2006  
Wild Dunes Resort  
Isle of Palms, SC  
[www.wilddunes.com](http://www.wilddunes.com)  
[www.sciway.net/city/islepalms.html](http://www.sciway.net/city/islepalms.html)  
[www.isle-of-palms.sc.us/action.lasso?-response=index2.html](http://www.isle-of-palms.sc.us/action.lasso?-response=index2.html)

### ALTA 2006 Annual Convention

October 11-14, 2006  
Westin St. Francis  
San Francisco, CA  
[www.alta.org/meetings/annual/index.cfm](http://www.alta.org/meetings/annual/index.cfm)

### NCLTA 2007 Annual Convention

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

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# ALTA Federal Conference addresses RESPA and other financial regulations

**Source: American Land Title Association**

The American Land Title Association's Federal Conference was held March 6-9, 2006, in Washington, DC. One of the key topics was proposed RESPA reform.

According to an ALTA e-News summary of the issues addressed during the conference, attendees heard from Gary Cunningham, HUD's Deputy Assistant Secretary for Regulatory Affairs, and Ivy Jackson, Director of RESPA and Interstate Land Sales for HUD, who reported that RESPA continues to be an important part of HUD's mission to create homeownership and housing opportunities, although, there is currently no timeframe for reform proposal. However, HUD has increased its enforcement staff, Cunningham said, and is focusing on the more significant and pervasive violations. HUD completed 14 major investigations with \$6.7 million in settlements by settlement service providers in 2005, several involving title companies and affiliated business arrangements. He noted that HUD will pursue those who have paid referral fees and who have accepted them.

With regard to regulating Freddie Mae and Fannie Mac, the Acting Deputy Director of the Office of Federal Housing Enterprise Oversight, Alfred Pollard, said that OFHEO is interested in issues of home prices, appraisals, and RESPA. In order to understand the framework of the mortgage marketplace, Pollard recommended that ALTA meet with OFHEO once a year. (He also had no idea when a proposed RESPA regulation will be presented.)

The Internal Revenue Service's David Alito answered questions about individual cases of problems with IRS field agents. Alito said that the department was recently centralized, and lien payoffs should take only two weeks. He reported that liens should contain the last four digits of the person's Social Security number to use for identification. The only way the IRS has to follow up on the liens to ensure they are paid before prop-

erty changes hands is through the title industry. Members with specific questions about problems or concerns with IRS tax liens should call 800-913-6050.

Another hot topic during the conference was proposed federal regulation of insurance. An attorney with Collier Shannon Scott, John Fielding, and the American Bankers Association's Kevin McKechnie discussed the SMART Act which sets federal standards for state insurance regulation, including rate setting and product approval, and proposed legislation to create an optional federal insurance charter. The title insurers in the audience insisted that the

*continued on page 9*



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## ALTA Federal Conference addresses RESPA and other financial regulations

*continued from page 7*

title insurance industry is different, locally based, and that a federal regulatory system would be both unfair and probably unworkable. Both speakers agreed that there would be difficulties applying a federal system to title insurance and that an exemption may be necessary.

Lawrence Mirel, a partner with the law firm of Wiley Rein & Fielding, stressed that title companies handling financial information must have a security plan for data protection in place. This includes showing the policy to consumers and having procedures in place and staff dedicated to making sure the plan is working. Mirel suggested verifying that your liability insurance covers security breaches, and, if not, consulting legal counsel to make sure the plan meets all local and federal laws.

Blaming the slowness to adopt electronic closing systems partly on the high volume of recent refinances, the panel on eClosings, consisting of representatives from Fannie Mae, Freddie Mac, the Mortgage Bankers Association, and PRIA, predicted that with the refinancing market slowing down, more lenders will find the benefits in eMortgage and eClosing technologies. Although most eRecordings today are still the result of regular closings using ink signatures (with those signed documents later scanned and recorded electronically), eventually the industry will move to secure document technologies that allow the deed or note to be signed electronically and the data conveniently contained in the same file as the documents to facilitate extraction for indexing and other purposes. Title companies will benefit from eClosings since they will be able to control the flow of data and the process of the closing. Currently, 23 states and 70 jurisdictions are accepting some type of eRecording.

## Welcome New Members!

During an Executive Committee teleconference on April 17, 2006, the following new members were approved:

### Underwriter

**Ticor Title Insurance Company of Florida**  
**Marion ("Mimi") Keener**  
330 E. Coffee St,  
Greenville, SC 29601  
Phone: (866) 518-4267  
Fax: (864) 527-5949  
Email: [marion.keener@ticortitle.com](mailto:marion.keener@ticortitle.com)

### Attorneys

**James O. Rice, Jr.**  
**Evans & Rice, PLLC**  
16 Eagle St., Suite 100  
Asheville, NC 28801  
*Buncombe*  
Phone: (828) 258-1590  
Fax: (828) 258-2335  
Email: [jim@evansricelaw.com](mailto:jim@evansricelaw.com)

**Susan L. Evans**  
**Evans & Rice, PLLC**  
16 Eagle St., Suite 100  
Asheville, NC 28801  
*Buncombe*  
Phone: (828) 258-1590  
Fax: (828) 258-2335  
Email: [susan@evansricelaw.com](mailto:susan@evansricelaw.com)

## Directory Update

*Mary W. Livengood* of **Statewide Title** in Raleigh has had an email address change:  
[maryl@statewidetitle.com](mailto:maryl@statewidetitle.com).

*(The new address has the letter "L" inserted.)*

# Sam Mann Memorial Award

The purpose of this award is to recognize a new generation of leaders in the title industry. The award winner will demonstrate the special qualities of Sam Mann in terms of contributions, encouragement, and support of the title industry.

- Put people at ease, inclusive, and caring; willing to listen
- Approach life with wisdom, dignity, courage, and a sense of humor
- Dependable, honest, loyal, and trustworthy
- Willingly seek leadership opportunities

The award will honor a person new to the title industry. Candidates will be considered annually by the Nominations Committee and those selected presented with a plaque at the annual meeting. The postmark deadline for nominations is May 15, 2006. Please submit your nominations to the NCLTA Nominations Committee, c/o NCLTA, 1500 Sunday Drive., Suite 102, Raleigh, NC 27607-5163, fax 919/787-4916, email: [exec@nclta.org](mailto:exec@nclta.org), phone 919/787-5181.

I hereby submit a nomination for the SAM MANN MEMORIAL AWARD for:

Nominee's Name \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

Number of Years Working in Title Industry: \_\_\_\_\_

Please attach a narrative of why you feel that individual demonstrates the qualities of Sam Mann, a biography or other summary of work history and contributions, reference letters, a photograph, and any other information you feel would be pertinent to the selection committee.

Signed by Nominator: \_\_\_\_\_ Date \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_