



TITLE WAVE

June, 2012

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DLTA—SETTING THE STANDARD FOR ETHICS, KNOWLEDGE AND SUCCESS



Have you ever thought about why we do what we do? Is it the big money we make in the title industry? Is it the bullet proof job security we enjoy in these economic times? Is it the high esteem in which we are held or the absolute respect we receive from real estate agents and mortgage bankers? Maybe, we do what we do because we toil in a low risk field with little exposure to liability. Obviously, none of these statements are true. So, why do we do what we do?

Before we can answer why we do what we do, we must first answer "what?" is it that we do. At the ALTA Charleston Convention last fall, we had a speaker on this very subject. She queried, "Have you ever been to a party or school meeting and been asked what you do for a living?" Did you, like most of us, say "I'm in the title business." Maybe, you responded, "I close property." Perhaps, you said, "I insure the title to property."

Ever wonder what those responses mean to those hearing them from your lips? Maybe, just maybe, "in the title business" means you loan cash against automobile titles. Maybe, "I close property" infers that someone left the gate to their place open, or that you are in the fence business. Its anybody's guess what "I insure title to property" means to one not in our industry. Our ALTA speaker gave us a few suggestions to use in answering the what you do for a living question. A couple of those suggested responses have stuck with me. When asked, respond with your own question, i.e. "You know how when you drive through your neighborhood, there are so many houses for sale? Well, I turn those houses into homes." Another great answer also involves a rhetorical question: "You have heard about the nightmares people sometimes have in closing a home purchase? Well, I make that process painless."

So, why do we do what we do? Consider these two items:

DLTA Vision Statement:

Dixie Land Title Association sets the standard for ethics, knowledge, and success in the land title industry.

DLTA Mission Statement:

The mission of DLTA is to promote the safe and efficient transfer of real property ownership through education, public awareness, and legislative advocacy.

As your DLTA President, I believe that we do what we do because we care about preserving the American dream of home ownership. I opine that we strap it on every morning and head to our respective workplaces because we excel at setting the standard for ethics, knowledge, and success. We sincerely strive for the safe and efficient transfer of real property ownership. In a nutshell, we do what we do because we love it!

Roy Perilloux, DLTA President

MID-YEAR EVENT SUCCESSFUL

The Mid-Year Meeting of Dixie Land Title Association was held Thursday, March 14th, at the Capital City Club in Downtown Jackson, Mississippi.

The event was a great success with over 60 members and non-members attending. Speakers at the seminar included Claudia Kiernan, Warren Laird, John Kosogof, Donald G. Ogden, Danny Croftwell, and Donald Alan Windham, Jr.

Participants earned 6.0 CLE credits by attending the seminar. Credits were awarded by the state Bars in

Mississippi, Alabama and Georgia.

Special thanks to our vendor sponsors who supported the event:

Investment Property Exchange Services

Landtech Data Corporation

M & F Bank

ReRequire Release Tracking

Softpro

TSS Software



Speaker John Kosogof receives gift from Roy Perilloux



New DLTA member Tommy Tucker meets with Roy Perilloux and long time member DLTA Bobby Ellis

BREAKING NEWS

Following the ALTA Federal Conference, when members from across the country flooded the Senate and House office buildings, the U.S. House approved a bill on May 30 extending the National Flood Insurance Program (NFIP) for 60 days. This bill will give the Senate more time to approve a longer-term extension. Members approved the National Flood Insurance Program Extension Act, H.R. 5740, by voice vote after brief

debate. The House resolution was expected to pass after the Senate approved a 60-day extension last week. The program expires on May 31, but once President Obama signs the bill into law, it will expire at the end of July.

Those visits with members of Congress and their staff during the ALTA Federal Conference worked!

“... extending the National Flood Insurance Program (NFIP) for 60 days.”

DLTA 46th Annual Convention

September 13-15, 2012

Radisson Hotel Opryland—Nashville, TN

SAVE THE DATE!



Top 10 Things

TO DO AT THE DLTA CONVENTION

- 1. MOONSHINE TASTING & BARBECUE**
- 2. VISIT THE DLTA HOSPITALITY SUITE**
- 3. OBTAIN 6.0 CLE WORKSHOPS**
- 4. ALTA NATIONAL PRESIDENT CHRIS ABBINANTE PRESENTS A NATIONAL OVERVIEW OF INDUSTRY**
- 5. RECEPTION AT THE TN SPORTS HALL OF FAME**
- 6. DINNER & DANCING AT THE WILD HORSE SALOON**
- 7. GOLF TOURNAMENT AT THE TED RHODES GOLF COURSE**
- 8. VIKING COOKING SCHOOL**
- 9. NATIONAL MOTIVATIONAL SPEAKER BARBARA DOOLEY, WIFE OF COACH VINCE DOOLEY**
- 10. PRIVATE DINNER CRUISE AND INSTALLATION BANQUET ABOARD THE MUSIC CITY QUEEN**

COACH BOB PATTERSON CELEBRATES HIS 80TH BIRTHDAY

DLTA’s Coach Bob Patterson marked his 80th birthday on May 19, 2012. The Austin Law Firm and Security Title Guarantee Corporation of Baltimore surprised the “Ole Coach” with a noon surprise birthday party on Monday, May 21st. Austin Law Firm hosted the party at their office in Southaven, Mississippi. In addition to a large turn out of Coach’s friends and Security Title agents, Mrs. Terry Kozel traveled from Baltimore to be with Coach as the representative of Security Title. DLTA extends its birthday wishes and hopes for many more to come!

Happy Birthday Coach!



Unsuspecting Coach walks into his 80th Birthday



Mary Monteith, Esq. Partner in The Austin Law Firm pins a birthday pin on the “Crowned Coach”



Imperial Margarine Man? No, it is just our beloved Coach



Mrs. Terry Kozel traveled from Baltimore as the representative of Security Title Guarantee and to celebrate with Coach.

INSURING THE TITLE TO *America’s Dream* FOR OVER 60 YEARS



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Coach huffs and puffs. Teeth stay in and candles go out!

ALABAMA LEGISLATIVE UPDATE

BY: WARREN LAIRD, CHAIR, ALABAMA GOVERNMENTAL AFFAIRS COMMITTEE



The 2012 Regular Session of the Alabama Legislature has adjourned, netting some major results for the title insurance industry in Alabama. Not only was the primary goal of this year's agenda achieved, but the title industry in Alabama was also the recipient of a surprise.

The Alabama Governmental Affairs Committee, comprised of Chris Bobo, Warren Laird (Chair), Gina Mathews, Amy Niesen, Joe Powell, Donna Snider, and Rebecca Turner, embarked on an aggressive agenda for 2012. Among its legislative goals were:

1. To strengthen the residency requirements of the Title Insurance Act of 2001; and
2. To reform the mechanics' and materialmen's lien provisions of the Alabama Code.

I. Strengthening Residency - History

The concept of strengthening the residency requirement of the 2001 legislation began as a conversation at the 2010 DLTA Convention in Panama City. Rebecca Turner initiated the conversation with agents from around the state, emphasizing the need for stricter residency requirements, which would also include stricter licensing requirements and mandatory continuing education requirements for licensees in order to make the residency requirement work. These ideas began to take a life of their own as the conversation spread and work began on draft legislation. DLTA President Jeff Lees approved a plan that resulted in the creation of task force made up of agents from across the state. This task force convened in 2011 and began working on a plan that would result in Act 2012-397. Amy Niesen served as chair of the twenty-five member Task Force. She also served as chair of the subcommittee that ultimately drafted the final bill and negotiated with the Department of Insurance on key provisions. The final version received approval from the department and unanimous approval of the task force. The bill became HB 460 in the State House of Representatives. Coincidentally, the Senate version carried the same bill number – an unusual occurrence for companion bills. But it was HB 460 that won the day, having passed the House before the Senate bill was reported out of committee. HB 460 is now Act 2012-397 (hereinafter referred to as "Act"), which was signed by Governor Bentley on May 14, 2012. It becomes effective January 1, 2013.

Briefly, *the Act prohibits any individual or business entity from conducting the business of title insurance in Alabama unless licensed in accordance with Chapter 25 of Title 27.* It also provides for the qualifications and procedures for the licensing of title insurance agents, to require title insurance agents to pass a written examination unless exempted; to require title insurance agents to complete minimum continuing education on a biennial basis; to authorize the Commissioner of Insurance to promulgate rules; and provides the Commissioner to phase in the provisions of the Act.

What follows is a brief analysis of the significant provisions of the Act. More information will follow in the weeks and months ahead from the Alabama Education and Governmental Affairs Committees as well as the Alabama Department of Insurance as it begins to implement the Act.

A. Who can be a licensed title insurance agent under the Act?

In Alabama, agents basically conduct business in two different ways – as an **individual** in a sole proprietorship or through a **business entity** created under Title 10A of the Alabama Code, formerly Title 10. The Act does nothing to change that. It does, however, establish new licensing procedures for both.

1. Individuals

Individuals, defined by Section 27-25-3(4) as "a natural person" may qualify as a licensee. Also, business entities must have at least one licensed individual responsible for the entities compliance, including signing commitments, policies and endorsements.

An individual seeking a license must meet the qualifications and follow the procedure established by Section 27-25-4.1, which requires the individual to be:

ALABAMA LEGISLATIVE UPDATE (CONT'D)

BY: WARREN LAIRD, CHAIR, ALABAMA GOVERNMENTAL AFFAIRS COMMITTEE

- (1) at least 19 years of age; and
- (2) a bona fide resident and citizen of Alabama.

Agents in the border counties often employ staff from across state lines. The responsibilities of nonresident staff sometimes include signing commitments, policies and endorsements. The section accommodates this circumstance by permitting nonresident individuals to qualify as a licensee if they are full-time employees of duly licensed title insurance agents whose principal places of business is physically located in Alabama.

In addition, any individual seeking a license must not have committed any act that is a ground for probation, suspension, revocation, or refusal of license as set forth in Section 27-25-4.5, and has:

- (1) completed the pre-licensing course of study for title insurance as required in Section 27-25-4.3, unless exempt;
- (2) successfully passed the examination for title insurance as required in Section 27-25-4.3, unless exempt; and
- (3) paid the fees set forth in Section 27-25-4.7.

Section 27-25-4 requires each signatory to a commitment, policy or endorsement to also include the name and license number of the title insurance agent to be printed or legibly written by hand underneath his or her signature.

(a) Exemption to Pre-licensing Study and Exam

Under 27-25-4.3(c), an individual will be exempt from the pre-test course of study and the examination requirement if the individual has been, for a period of at least five (5) years preceding January 1, 2013, an authorized signatory to commitments, title insurance policies, and endorsements to title insurance policies issued by the title insurance agent on behalf of a title insurer properly authorized to conduct the business of title insurance in Alabama.

2. Business Entities

For business entities that are agents, not only must the entity be created under Title 10A of the Code, or pre-existing under the former Title 10, *but the entity's principal place of business must be physically located in Alabama*. This "brick and mortar" provision is a significant change from the provisions of the 2001 legislation, which only required an entity to be created under what was then Title 10 of the Code.

Section 27-25-4.1(c) establishes the qualifications for agents who are business entities. Specifically, the entity must make application for a license to the commissioner on the appropriate NAIC Uniform Business Entity Application. Before approving the application, the commissioner must find that the business entity:

- (1) is a domestic entity properly formed and existing under Title 10A, or the former Title 10, *and whose principal place of business is physically located in Alabama*;
- (2) has designated an individual title insurance agent licensed in this state as responsible for the business entity's compliance with this chapter and with the insurance laws, rules, and regulations of this state (*the individual licensing qualifications and requirements discussed in IA(1) above also apply to agents conducting business utilizing one of the business organizations permitted under Title 10A*);
- (3) has not committed an act that is a ground for probation, suspension, revocation, or refusal of license as set forth in Section 27-25-4.5; and
- (4) has paid the fees set forth in Section 27-25-4.7.

B. Who Obtains the License

Under the new procedure, Section 25-25-4 requires each individual agent and the licensed signatory(ies) in each business entity agency to obtain the appropriate license. Title insurers will file appointments with the Department of Insurance, rather than obtaining the certificate of authority for each agent required by the 2001 legislation.

ALABAMA LEGISLATIVE UPDATE (CONT'D)

BY: WARREN LAIRD, CHAIR, ALABAMA GOVERNMENTAL AFFAIRS COMMITTEE

C. Pre-licensing Education and Exam

The Alabama Governmental Affairs and Education Committees will be developing a course of study to present to the Alabama Department of Insurance for approval. It will be offered in sufficient time to permit those affected to prepare for the licensing exam.

The Department of Insurance contracts with outside testing services to administer exams. These exams are taken electronically in approved proctored testing facilities located at strategic locations, including certain college campuses, throughout the state.

D. Continuing Education

Section 27-25-4.4 establishes new continuing education requirements for individuals holding a title insurance agent's license. Basically, an individual who holds a title insurance agent license must satisfactorily complete a minimum of 24 hours of continuing education courses approved by the commissioner, of which three hours shall be in ethics, over a period of two (2) years. The continuing education credits are reported to the commissioner on a biennial basis as well. There is an exemption for licensees not licensed for one full year prior to the end of the applicable continuing education biennium are exempt.

Only continuing education courses and providers approved by the commissioner can be used to satisfy the continuing education requirements established by this section.

Title insurers, DLTA, as well as other continuing education providers, must become approved continuing education providers. In addition, curriculum for seminars and conferences must be pre-approved for continuing education credit similar to the manner in which continuing legal education is approved in advance of an education offering. Continuing legal education curriculum offered by other providers will apply toward the biennial requirements of this section if the provider and the curriculum are approved by the Department of Insurance. In the coming weeks, the Governmental Affairs Committee will be contacting all identifiable providers of continuing education, legal and otherwise, to advise them of the registration and approval requirements of this section. Individuals teaching any approved continuing education course must qualify for the same number of hours of continuing education credit as would be granted to a licensee taking and satisfactorily completing the course.

E. Implementation

Implementation of the new residency, licensing, and continuing education requirements is governed by a Section 27-25-4.8 of the Act. The commissioner, by rule, may also provide for the implementation of the requirements of this act.

Each title insurance agent certificate of authority in force prior to the effective date of the Act will be issued a replacement title insurance agent license and appointment upon payment of the annual fee in the amount set forth in Section 27-25-4. The issuance of a replacement title insurance agent license authorizes the agent to continue to issue title insurance policies in the same manner as permitted prior to this Act.

Replacement title insurance agent license will be valid for six months, during which time the agent, whether a business entity or individual, must satisfy the requirements for a title insurance agent license pursuant to Sections 27-25-4.1 and 27-25-4.3 discussed above.

The commissioner may stagger the renewal periods of title insurance agents over the first two calendar years following January 1, 2013. Certain licensees may be required to renew for one year at half of the biennial fee and continuing education requirements otherwise required under the Act.

This is probably the most important piece of title insurance legislation ever passed - even more important than the 2001 legislation. To view the Act, type the following into your web browser:

DIANE CALLOWAY—TRUSTEE OF THE YEAR



Diane Calloway of Specialized Title Services, Inc. in Atlanta, GA had the honor of being recognized by TIPAC as its Trustee of the Year.

ALABAMA LEGISLATIVE UPDATE (CONT'D)

BY: WARREN LAIRD, CHAIR, ALABAMA GOVERNMENTAL AFFAIRS COMMITTEE

<http://arc-sos.state.al.us/PAC/SOSACPDF.001/A0009499.PDF>

II. Mechanics' and Materialmen's Lien Reform

Late last fall, the Governmental Affairs Committee approached members of the construction industry to determine the feasibility of reforming Alabama's mechanics lien structure. Several conversations ensued with several different elements of the construction industry in Alabama. All supported moving Alabama toward the Florida model for mechanics' lien, the core of which is the requirement that a notice of commencement be recorded in order for mechanics' liens to have priority over an interest in the real property created subsequent to the commencement of construction.

A subcommittee was assembled to begin evaluating the Florida statutory scheme and to determine how it can best be molded into the Alabama framework. That task was not completed in time for the 2012 Regular Session and continues. Hopefully, the work of the subcommittee will be completed and a proposed bill ready to circulate among the coalition in advance of the new year so that mechanics' lien reform can be accomplished during the 2013 Regular Session.

III. Alabama Residential Mortgage Satisfaction Act

Alabama's title insurance industry was the recipient of an entirely unexpected gift from the 2012 Regular Session – passage of SB347, now Act 2012-278, the Alabama Residential Mortgage Satisfaction Act (hereinafter referred to as "MSA"). It was signed into law by Governor Bentley on May 3, 2012. MSA becomes effective March 1, 2013.

MSA has two components - to provide a method for a mortgagor to request and obtain a payoff statement pursuant to proper notification; and to require secured creditors to record mortgage satisfactions within a designated time period after the occurrence of certain conditions, together with an alternative method of recording a satisfaction.

MSA, as passed, is different in some respects from the Law Institute's original draft. It addresses many of the problems associated with obtaining payoff statements and the ability to rely on payoff statements. After some amendments in legislative committees, however, the provisions in MSA dealing with *Affidavits of Satisfaction* were severely limited, to the extent that the legislation does not provide the level of relief that we had hoped to achieve. To view MSA, type the following into your web browser:

<http://arc-sos.state.al.us/PAC/SOSACPDF.001/A0009293.PDF>

2012 ALTA FEDERAL CONFERENCE REPORT

What is the ALTA Federal Conference?

Like other forms of insurance, title insurance is regulated by individual states. National policies also greatly affect the title insurance industry. The American Land Title Association ensures that our positions at the state level are also heard on the federal level in two very important ways. The ALTA government affairs department ably interacts with Congress and federal government agencies before they enact legislation and regulations. But the most important and most effective way our message gets communicated to Congress is through the annual Federal Conference that ALTA organizes each year.

The ALTA Federal Conference is held in Washington, D.C., each year during the Spring. Events begin on Sunday evening and conclude on Wednesday with Lobby Day and a wind-down reception. ALTA designs sessions as tools to prepare the participants to discuss the issues with members of Congress on Lobby Day. There are opportunities to make new friends of colleagues from around the country as well as opportunities to meet and visit with members of Congress in social settings. ALTA even prepares talking points for the participants to use during Lobby Day. It also prepares "Leave Behinds," which contain further information concerning the issues of the day. The ALTA staff members work very hard, weeks in advance of the conference, to schedule appointments for the conference participants with the Congressional delegations from their respective states. The Federal Conference is probably the most important gathering ALTA organizes – even more important than the ALTA Annual Convention or the ALTA Business Strategies Conference.

DLTA Attendees at the 2012 Federal Conference



George Calloway, Diane Calloway and Congressman Rob Woodall of Georgia.

The 2012 Federal Conference was held May 7 - 9. Attending from Georgia were George and Diane Calloway. Bobby Burgess and Warren Laird represented Alabama. Diane and Bobby are Federal Conference veterans, both serving as Trustees for their respective states on the TIPAC Board. What is TIPAC, you might ask? It is the Title Industry Political Action Committee, the federal advocacy voice for our industry. This year Diane had the great honor of being recognized by TIPAC as its Trustee of the Year (an honor previously bestowed upon Bobby, as well). Warren was the "newbie" at the 2012 Federal Conference. He has been appointed to the ALTA Governmental Affairs Committee and the ALTA State Legislative and Regulatory Action Committee, both committees upon which Diane already serves.

Diane and George were able to visit with members and staff of the Congressional delegation from Georgia, including true friend to our industry, Senator Johnny Isakson, Congressman Rob Woodall, and Congressman Lynn Westmoreland of the House Financial Services Committee.

Bobby and Warren met with members of the Alabama Congressional delegation, including Congressman Spencer Bachus, Chair of the House Financial Services Committee, and Congressman Robert Aderholt. They met with the staff of Senator Jeff Sessions, Congressman Jo Bonner, Congresswoman Terri Sewell, and Congressman Mo Brooks.

Pressing Issues

There were three issues affecting our states that were addressed with the legislators and their staff.

Flood Insurance - The first issue involves the extension of the flood insurance program. There are a number of proposals circulating that would reform the national flood insurance program, set to expire on May 31. However, there seems to be little agreement on which of the proposals should be enacted. Without flood insurance, many homeowners and business owners in our region will be prevented from using their real estate as collateral for much needed credit. The April 2011 storms reshaped the flood zones in many communities throughout our three-state region. Many property owners found themselves, as a result, in a flood zone. Our goal was not to ask members of Congress to endorse one reform proposal over another. Instead, our goal was simply to extend the national flood insurance program past the May 31 expiration date while the issue of reform could be more fully vetted. Extending the current flood insurance program would allow continued availability of flood insurance as well as credit secured by real property situated in flood zones to those affected.

2012 ALTA FEDERAL CONFERENCE (CONT'D)

GSE Reform - The second issue we addressed involves the reform of Freddie Mac and Fannie Mae, also referred to as GSE reform. These two government sponsored entities have traditionally been the secondary market for mortgage loans made by community banks and credit unions. At the end of the day, when GSE reform is accomplished, community banks and credit unions will need a secondary market for their mortgage loans. Without a government sponsored entity to act as the secondary market for their loans, they could be put out of the mortgage lending business in their communities. This would be catastrophic to communities and to title agencies in our three state region.

Revisions to the HUD Settlement Statement - The third matter we addressed involves the efforts by the Consumer Financial Protection Bureau (CFPB) to revise the HUD Settlement Statement. According to ALTA, CFPB's current proposal will cost an agent \$800 per employee in software upgrades in order to incorporate the proposed form into production systems, plus an additional increase of 20% to the agent's annual software maintenance cost. ALTA also estimates that an agent's production could be reduced by two closings each day due to the time it will take to explain the otherwise complicated form. CFPB was required to organize a panel of small businesses (title agents from around the country) to evaluate the CFPB proposal. Our task on Capitol Hill was to convince members of Congress to apply pressure on CFPB to incorporate the recommendations of the small business panel into CFPB's revisions to the HUD Settlement Statement that were mandated by the legislation commonly referred to as the Dodd-Frank Act.

Looking toward 2013—

One thing became abundantly clear this year – we need more participation from the states comprising DLTA. Why? First of all, it's a big job! *There are **six United States Senators and twenty-five members of the United States House of Representatives** representing the three DLTA states.* Thirty-one people are a lot for a small handful of people to see in a day. Secondly, and more importantly, members of Congress want to see and hear from their own constituents. There is a big difference between showing up at a Congressman's town hall meeting and sitting down with them in the confines of their Capitol Hill office. Without a doubt, the latter is much more effective than the former. Besides, it sends a huge message to the House and Senate members when a constituent feels so strongly about the federal issues affecting his or her profession that the constituent is willing to travel to the nation's capital to visit with the member from the constituent's district.

Wouldn't it be great for the 2013 Federal Conference to have someone from every DLTA Congressional District – all twenty-five of them - in attendance for the conference and participating in Lobby Day? The best way to drive a message home is not always with a lobbyist. Face time and well prepared conversation between constituents and members of Congress takes the message to a higher level. Begin the planning now. Let's plan to show our strength on Capitol Hill in 2013.



Steve Sklamba, Melissa Campbell, ALTA Chief Executive Officer Michelle Korsmo, Diane Calloway, Senator Johnny Isakson and George Calloway

We're on the Web!
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