



Carolina Update

NCLTA's Exclusive Report to its Members

Contents

- 2**
New Executive
Committee
Takes Office
- 2**
In Memoriam
William B. Pittman
- 3**
Honorary
Memberships
and Mann Award
Bestowed
- 5**
Mid Pines
Convention
- 5**
Detecting
Mortgage Fraud
- 6**
Convention Calendar
- 6**
Executive Director's
Annual Report
- 6**
August 9 Executive
Committee Summary
- 7**
ALTA News
- 10**
Around the State
- 12**
2007 Legislative
Wrap-Up
- 15**
Convention
Manuscripts
Available

President's Message

Kimberly B. Rosenberg



The North Carolina Land Title Association celebrated its 30th Anniversary at the Mid-Pines Resort in Southern Pines in August. We had over 120 attendees which was a record for our Association. We also had record heat. Southern Pines is typically

rather warm in August, but this year was exceptional. We had temperatures over 100 degrees. Fortunately, the heat did not put a damper on the golf or the other festivities.

We had a special banquet to celebrate our 30th Anniversary with a band that played until past midnight. There was lots of dancing. Penney De Pas came very close to fulfilling her quest to dance with each past-president in attendance. During the banquet, we recognized Penney for her years of service to our Association. We also bestowed Honorary Memberships on Joe Parker and Larry Johnson. We were all thrilled that Joe and his wife, Linda, and Larry and his wife, Joy, were able to be there to accept their awards in person.

We had a top-notch faculty for the CLE program. Tom Steele reported from the North Carolina Real Property Section of the Bar. Mark Winter of Stewart Title Insurance Company gave us an update from the American Land Title Association. Dean Hetrick did not disappoint. His Case Law Update was as amusing and informative as ever. Paul Hammann of First American Title Insurance Company spoke on the 2006 policy forms. Paul is on the ALTA Forms Committee and gave us a unique look

at the changes and the reasoning behind those changes from an insider's perspective. Judy Gibson, the Mecklenburg County Register of Deeds, spoke on e-recording and her experience with electronic cancellations. Judy stayed and participated in an e-recording panel discussion which included panel members Matt Powers from Land America, Kathy Dils from BB&T, Amanda Palmer with Moore and Alphin, and Ozzie Stallworth from the North Carolina Secretary of State's Office. Bill Bradbury, a fraud investigator with the Department of Insurance, spoke on insurance fraud, but he will be remembered most for his story about his experience in the FBI protecting the Shah of Iran. All in all, everyone seemed to enjoy the program and the camaraderie.

In the coming year, NCLTA will continue its quest to raise the standards in the industry through education. The Education Committee will update the Study Guide by making any revisions necessary due to changes in the law and to include information on the 2006 ALTA policies. We also hope to work with the Department of Insurance on some education initiatives. I encourage each of you to get involved in NCLTA. I am always amazed at what we can do when we work together.

I am going to attend the American Land Title Association's Annual Meeting in Chicago on October 9th through the 13th. This is ALTA's 100th Anniversary. I am very excited to be representing North Carolina at the meeting. I will report from the meeting in our next newsletter.

continued on page 5



New Executive Committee Takes Office

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.

North Carolina Land Title Association
1500 Sunday Drive
Suite 102
Raleigh, NC 27607-5151
(919) 861-5584
(919) 787-4916 Fax
www.nclta.org

Editorial Committee Chair
Carolyn Clark Snipes

Executive Staff
Penney De Pas, CAE
Executive Director
pdepas@firstpointresources.com
Nicole Shore
Membership Services
nshore@firstpointresources.com

©2007. NC Land Title Association. All rights reserved.

The North Carolina Land Title Association (NCLTA) recently celebrated its 30th anniversary at Mid Pines Resort in Southern Pines. During the Association's annual meeting on August 11, the following officers were elected:

President – Kimberly B. Rosenberg, Attorneys Title, a division of United General Title Co., Raleigh, NC

Vice President – Candice E. Williams, The Title Company of North Carolina, Inc., Charlotte, NC

Treasurer – Carolyn Clark Snipes, Fidelity National Title Insurance Co., Asheville, NC

Secretary – Tabatha L. Cruden, LandAmerica/Lawyers Title Insurance Corp., Raleigh, NC

During a meeting of the NCLTA Attorney Section, **William E. "Ned" Manning, Jr.**, of White and Allen, PA, Kinston, NC, was re-elected the **Attorney Section Representative**.

Jeffrey I. Hrdlicka, Chicago Title Insurance Co., Greensboro, NC, will remain on the Executive Committee as **Immediate Past President**. **Chris Burti**, Statewide Title Inc., Greenville, NC, was appointed to serve as the Association's **General Counsel**.

2007-08 NCLTA Executive Committee (l. to. r.): Immediate Past President Jeff Hrdlicka, President Kim Rosenberg, Vice President Candice Williams, General Counsel Chris Burti, Treasurer Carolyn Clark Snipes, and Secretary Taby Cruden. Not pictured: Attorney Section Representative Ned Manning.



In Memoriam

William Bryan Pittman, 1934-2007

President, Carolinas Land Title Association, 1973-74
NCLTA General Counsel, 1987-90
NCLTA Honorary Member, 2001-2007

by F. Alton Russell, *The Title Company of North Carolina, Raleigh*

By the grace of God, Bill Pittman came our way. Those of us in the title industry and those of us in the legal profession have been blessed by his presence. Mentor, leader, role model, confidant, friend....a deeply religious man who touched our lives in a special way.

Bill started "marking my papers" in 1972 when he moved to Raleigh from Sanford to become President and General Counsel of First Title. I was in private practice and my law firm had given me the task of searching the titles for what is now Jordan Lake. First Title was our title company of choice so Bill and I saw a lot of each other during those times. I can recall so many instances where we would pour over Chatham County titles "...beginning at a decayed oak stump...". We somehow (maybe again by the grace of God) were able to piece together those forty thousand acres with only one known claim.

That claim concerned a survey error (that I probably should have picked up). The story that evolved is not about the claim, but rather about Bill's ability to see beyond the immediate problem. A claim conference was held at the office of our client, the Corps of Engineers.

continued on page 9

Two Honorary Memberships and Sam Mann Award Bestowed

The NCLTA Executive Committee unanimously voted on May 1 to bestow Honorary Memberships on two retiring leaders for rendering outstanding service in furtherance of the objectives of NCLTA. Honorary membership is a rare and special honor given to a select few to recognize and acknowledge their lasting contributions to the Association and the title industry. Honorary Membership requires nomination by a title company agent or underwriter and a unanimous vote of the Executive Committee or majority vote of the company members of the association at the annual meeting. Plaques of recognition were presented to the honorees during the annual banquet on August 10 at Mid Pines Resort.

Joseph M. Parker, Jr.

Joe first got involved with the title industry in North Carolina while working for Lawyers Title in Richmond and then moving to Winston-Salem. He then opened his own agency, Parker Title. Not only did Joe serve the North Carolina Land Title Association as an officer on the Executive Committee and General Counsel (twice), he went on to represent our fair state at the national level on the ALTA Board and as its President, while still keeping his North Carolina colleagues informed as the ALTA representative to our conventions year after year. He also represented NCLTA for eight years on the Real Property Section Council of the NC Bar Association. Through Joe's professionalism and continued service, he has stood as a beacon and a standard for the rest of us. Joe, we will miss your leadership.



New Honorary Member, Joe Parker, and his wife, Linda.

Larry D. Johnson

Larry began his service to the North Carolina Land Title Association while in private practice as its first Attorney Section Representative in 1978 for six years. Once he joined Commonwealth Land Title Agency, he returned to Executive Committee service in from 1987-1991 as an officer, and then again in 2002-03 as General Counsel, giving him the unique distinction of having served in every capacity on the Executive Committee. He also represented NCLTA



Gary Chadwick (l.) presents Larry Johnson with Honorary Membership.

on the Real Property Section Council of the NC Bar Association and initiated our "Title Tips" educational programs. Larry, your easy going manner, gentlemanliness, and sense of humor have won you many friends in the industry who will miss your leadership as well.

For only the third time, the Association presented the **Sam Mann Memorial Award** during the annual convention banquet. A long-time friend and fellow titleman of Sam Mann's, Steve Rogers made the Award presentation to Kimberly Rosenberg for her work coordinating and editing the publication of the *Title Insurance Study Guide*. Kim was surprised to receive the award, especially since her husband, Bryan, had received the first award in 2002.



Kim Rosenberg (c.) is the third recipient of the Sam Mann Memorial Award, presented to her by Steve Rogers (l.). Bryan Rosenberg (r.), Kim's husband, was the first recipient of the Award in 2002.

Calling Sam Mann "an old soul in a young body," Rogers remembered Sam Mann as a teenager, being sworn in to the Bar, his work in the title industry, and his service on the NCLTA Executive Committee, prior to passing away in 1999 at the age of 39 from brain cancer. Rogers also remembered a young Kim Rosenberg who worked with him in the Fidelity Title office in Hendersonville before attending Campbell University School of Law and subsequently coming back to the title industry with United General Title Insurance Co. which acquired Attorneys Title last year (effectively bringing Rosenberg back to work with Rogers and several other former Fidelity personnel.)

The purpose of the award is to recognize a new generation of leaders in the title industry. It honors a person fairly new to the title industry, as Sam was. The award winner demonstrates the special qualities of Sam Mann in terms of contributions, encouragement, and support of the title industry. These include:

- 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



Whatever You Need,



**Whenever
You Want,**



Wherever You Are,



No Matter Your Size.

SoftPro is there FOR YOU.

The Nation's leading Closing and Title Software Solutions Company not only offers the most comprehensive and feature-rich Title and Closing Software Solution, but we offer it coast-to-coast for more successful businesses than any other. So give us a call at 800-848-0143 or visit us at www.softprocorp.com today for more info.

Closing More Properties Coast-to-Coast Than Anyone!

A Division of
Fidelity National
Information Services

FIS»
FIDELITY NATIONAL
INFORMATION SERVICES

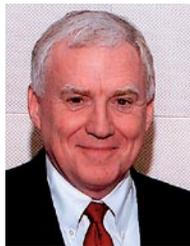


SOFTPRO[™]
Closing and Title Software Solutions

Call SoftPro at 800-848-0143 or visit us on the web at www.softprocorp.com

Record-breaking Attendance at Southern Pines Convention

Was it the location? Was it the CLE program? Was it the anniversary? Was it the heat wave? Was it the dance band? Whatever it was, the 2007 annual convention of the NC Land Title Association broke all records. Mid Pines Resort was booked with 127 title company representatives, real property attorneys, vendors, spouses and guests, breaking the 1995 Charleston Place convention attendance record of 124 that had been in place for 12 years. The educational sessions were packed Friday morning with close to 90 delegates, and all 28 golfers who ventured out into 108 degrees of record-breaking heat (thankfully!) came back to dance the night away during the banquet. Eighteen sponsoring companies (see related article on page 13) contributed to the success of the convention.



Pat Hetrick

Once again, Pat Hetrick's property law update, "From Blackacre to Blogacre: The future is not what it used to be," was the perennial favorite.

Paul Hammann returned to explain "What's New and Different About the 2006 ALTA Forms?" The motivation for the forms was to eliminate confusion in the marketplace because there were too many form choices (some forms currently in use date back to the 1960s and 1970s). There are also additional form changes slated for 2008, while older forms are being "decertified." (Manuscripts from these two talks are available from NCLTA – see order form on page 15.)



Paul Hammann

Special Investigator Bill Bradbury from the NC Department of Insurance indicated that North Carolina was among the "hot spots" for mortgage fraud. The common mortgage fraud schemes include property flipping, straw buyers, false identifications, foreclosures, equity skimming, air loans, and qualifying of unqualified buyers. Actions by the Attorney General's office are available from www.mortgagefraudblog.com. Bradbury also reviewed three major North Carolina cases: First Beneficial Mortgage, Oasis Mortgage Company, and Carolina Title.

continued on page 8

President's Message

continued from page 1

As I was putting my finishing touches on this message, I have just learned the sad news of Bill Pittman's passing. He was a true leader in our industry, having served as NCLTA President, General Counsel, and finally as Honorary Member. He was a classic southern gentleman and he will be missed by all. On a personal note, he was very special to me. He was the first person to give me a job in the title industry. He was a great listener and mentor. He taught me a lot about title insurance and by example, how to be a good boss. I considered myself very lucky to have known and worked for him. Please remember his family in your thoughts and prayers.

Tips for Detecting Mortgage Fraud

By Carolyn Clark Snipes, Branch Manager & Title Counsel, Fidelity National Title Insurance Co.

Mortgage fraud has become a tremendous problem for the title insurance industry. Claims under both Closing Protection Letters and Policies have risen sharply as lenders are defrauded by investors, brokers, and buyers. There are two types of mortgage fraud: fraud for property and fraud for profit. Fraud for property usually involves false statements of income or assets to obtain real property for the purpose of housing the perpetrator. Fraud for profit involves schemes by which a person takes advantage of buyers and lenders to obtain money. According to the Federal Bureau of Investigations, fraud for profit comprises approximately 80% of all mortgage fraud. This type of fraud also causes the most claims against title insurance policies.

Fraud for profit almost always involves an industry insider, such as a realtor, appraiser, loan officer, or mortgage broker. Two fraud for profit schemes that may be detectable by a title insurance agent are the short sale-flip and the silent second.

Short-Sale Flip

In the short-sale flip scheme, the seller is usually in financial trouble. Often the property has either been on the market for an extended period of time or there is a foreclosure either threatened or pending. An investor works with the seller to acquire the property at a price short of the debt owed to the lender. Meanwhile, an investor finds a buyer to purchase the property at a price in excess of the short sale price. The owner makes little to no money on the sale, the lender receives less than its debt, and the investor walks away with cash. In the bolder schemes, the investor attempts to close the flip transaction *prior* to the short sale transaction, using the proceeds from the ultimate buyer to fund the short sale transaction. Flags for this type of scheme, include: (a) a pending foreclosure on the title opinion; and (b) a request for two title commitments for the same vested owner and property, but with different buyers.

continued on page 10

Convention Calendar

ALTA 2007 Annual Convention

****100th Anniversary****

October 10-14, 2007
Chicago Hilton & Towers
Chicago, IL

www.alta.org/meetings/meeting.cfm?meeting=SAM2007Ann

ALTA 2008 Federal Conference

March 10-12, 2008
The Grand Hyatt
Washington, DC
www.alta.org/meetings/federal/index.cfm

ALTA 2008 Tech Forum

April 13-15, 2008
Mandalay Bay Resort & Casino
Las Vegas, NV
www.alta.org/meetings/techforum/index.cfm

NCBA 2008 Real Property Section Annual Convention

May 2-3, 2008
The Grove Park Inn Resort & Spa
Asheville, NC
www.grovesparkinn.com

NCLTA 2008 Annual Convention

August 14-16, 2008
The Grove Park Inn Resort & Spa
Asheville, NC
www.grovesparkinn.com

NCLTA 2009 Annual Convention

September 17-19, 2009
Wild Dunes Resort
Isle of Palms, SC
www.wilddunes.com

Executive Director's Annual Report

Executive Director Penney De Pas reported to the membership in attendance at the annual business meeting on Saturday, August 9, 2007, that the association had 13 title underwriter members (having gained one) and 12 agency members (having lost two, but gained three), 87 branches (8 new), 50 directory listing personnel (13 new), 81 attorneys (a net increase of 4), four Associate members (having lost one), and four Honorary members.

Although the Association suffered a \$23,500 loss in 2004, it had a \$15,000 gain in 2005 and a \$13,000 gain in 2006, eliminating the "going concern" note in the independent CPA report. The year-end 2006 statement was audited and showed \$46,022 in year-end reserves. The 2007 year-end was expected to show a \$20,000 profit as well due to record-breaking attendance at the convention and a solid showing of sponsorship support.

At the beginning of the year, the Association published a *Title Agent Licensing Study and Resource Guide* and had sold six copies thus far. An application form was available for download from the Association's web site. Both the e-Notarization and e-Recording Standards had been added to the web site, as well.

continued on page 10

A Cool Spot in the Heat

The NCLTA Executive Committee met on Thursday afternoon, August 9, in the coolest room at Mid Pines Resort, the Julius Boros Board Room. Not only were the surroundings elegant and the large leather seats comfortable, there was also a large concentration of air conditioning during the hottest days of the summer.

The meeting agenda was relatively routine. The Executive Committee voted to switch banks for a better rate of return. A task force was formed to look into continuing education requirements for North Carolina non-attorney licensed title agents since the results of a survey of the state title insurance associations by ALTA had revealed that many states now require continuing education of their title agents. The status of 2006 and 2007 ALTA form filings was discussed as well as the potential filing of "decertified" ALTA forms as "former ALTA forms" with the NC Department of Insurance. Routine reports were received from the Legislative Committee (see related article on page 12), the Convention Committee (see related article on page 5), the Editorial/Newsletter Committee, the Nominating Committee (see related article on page 2), and Membership Committee (see related article on page 7).

The staff reported on a recent inquiry from a commercial bank about the regulation of non-attorney escrow accounts (for which there is not any regulation). Both the Executive Committee and Attorney Section reviewed a copy of the *ID Checking Guide*, but the consensus was that there was no interest in obtaining additional copies for distribution. The next Executive Committee meeting will be held at the association's headquarters in Raleigh on Tuesday, October 23, 2007, beginning at 10:30 a.m.

ALTA News

The American Land Title Association (ALTA) has announced that its long-time Executive Vice President, **James R. Maher, will retire** on October 15, 2007, immediately following the association's 100th annual convention in Chicago. Maher joined ALTA in 1984 as general counsel and was promoted to the top staff position in October 1988. He has appeared at NCLTA conventions in 1986 and 1994 as the ALTA representative. He will be recognized during a special presentation during the ALTA annual convention



Jim Maher

The ALTA representative to the NCLTA 2007 annual convention, **Mark Edward Winter** of Stewart Title Guaranty Co. has been **promoted** by the Stewart Title Executive Committee of the Board of Directors to the position of Executive Vice President of Public Policy. Since 1985, Winter has managed Stewart's Washington, D.C. office.



Mark Winter

ALTA has launched "**The Title Industry Consumer Initiative,**" the association's five-point strategy for improving industry oversight and educating and protecting consumers. Developed in response to the recommendations by the Government Accountability Office (GAO) issued in April 2007, "The Title Industry Consumer Initiative" includes a consumer education program, the adoption of "Principles of Fair Conduct," plans for member education on regulatory compliance and ethical standards, and a plan for working more closely with state and federal regulators to ensure that the title industry is meeting the needs of consumers.

ALTA has developed a consumer Web site, www.homeclosing101.org, to help consumers make more informed choices, provide an overview of the closing process, and explain the purpose of title insurance, including the process of the title search and repairing title defects. The site also describes how consumers can shop and compare prices.

Another major component of ALTA's Consumer Initiative is its newly adopted "Principles of Fair Conduct," which state what ALTA expects of its members: to engage only in business practices that are lawful and consistent with a high standard of ethical behavior, and to treat consumers in a fair and ethical manner. The Principles also encourage members to provide consumers with timely and comprehensive information on their policies, services, products, and prices to enable consumers to shop among providers of title-related services.

ALTA unveiled the Consumer Initiative during a briefing on Capitol Hill and to the media on Tuesday, September 18. The links below provide a preview of the Consumer Initiative and Principles of Fair Conduct:

- [Title Industry Consumer Initiative](#) (the industry's commitment to educate consumers)
- [ALTA Principles of Fair Conduct](#) (the five principles ALTA believes all members should be committed to)
- [Steps to Implement the ALTA Principles](#) (what ALTA members, ALTA and the government can do to implement the principles)

Welcome New Members

Attorneys

Christopher C. Finan

Roberson, Haworth & Reese, PLLC
300 N. Main St., Suite 300 (27260)
P.O. Box 1550
High Point, NC 27261
Guilford
Phone (336) 889-8733
Fax: (336) 885-1280
Email: cfinan@rhrlaw.com

Ronald H. Garber

Boxley, Bolton, Garber & Haywood, LLP
227 W. Martin St. (27601)
P.O. Drawer 1429
Raleigh, NC 27602
Wake
Phone (919) 832-3915
Fax: (919) 832-3918
Email: redbird@bellsouth.net

Kenneth C. Haywood

Boxley, Bolton, Garber & Haywood, LLP
227 W. Martin St. (27601)
P.O. Drawer 1429
Raleigh, NC 27602
Wake
Phone (919) 832-3915
Fax: (919) 832-3918
Email: khaywood@bbghlaw.com

Patrick E. Kelly

Johnston, Allison & Hord, PA
1065 E. Morehead St.
P.O. Box 36469
Charlotte, NC 28236
Phone (704) 332-1181
Fax: (704) 376-1628
Email: pkelly@jahlaw.com



Tom Steele

Real Property Section Council Chair Tom Steele provided an update on Real Property Section activities, including the Consumer Protection Attorney (Ben Kuhn), CRESPA, educating the general public, the Pro Bono “(Justice) For All” campaign, legislation, the October 2 Real Property Specialist preparation course, the 2008 annual meeting at the Grove Park Inn, revisions to the Forms Book, ethics discussion on “what constitutes ‘adequate supervision’ of paralegals,” professionalism, and membership of upwards of 2000 attorneys.

At the national level, Mark Winter of Stewart Title Guaranty, provided the ALTA update. North Carolina currently has a lot of clout on the principal federal committees addressing title insurance issues—four Congressional representatives sitting on the House Financial Services Committee [Melvin Watt (D), Brad Miller (D), Walter Jones (R), and Patrick McHenry (R)] and Senator Elizabeth Dole on the Senate Banking Committee and Senator Richard Burr on the Indian Affairs Committee. The National Association of Insurance Commissioners (NAIC) had made a data call to collection information from title agents, their role, products, and pricing, essentially calling for more oversight by HUD and more in-depth data to analyze. ALTA has hired a public relations firm and added some web pages for consumers. Although RESPA reform currently has no focused hearings and no new releases of proposals from HUD, the Good Faith Estimate was revised in May and will become available for public comment in the fall.

Mecklenburg County Register of Deeds Judy Gibson gave an overview of electronic recording, which is just another method of delivery for recording of documents. Her presentation was followed by a panel of e-recording experts. Currently both Mecklenburg and Johnston Counties have e-recording while Durham, Wake, and New Hanover will be going on-line soon, followed by Carteret, Guilford, and Caldwell. North Carolina has the full legal framework in place for e-Commerce: e-signatures, e-notary, e-recording, and the regulatory/administrative rules. 350 e-Notaries have been trained, and another 5,000 are expected by December 2008. Four e-Notary solutions providers have been approved. The problem spots appear to be in the Administrative Office of the Courts and in the race gap.



Ticor's Mimi Keener (l.) and Linda Carol Burti chat during the cocktail hour.



The Title Company of NC's Steve Jones (l.), his wife, Nora, and Chris Burti enjoying the convention camaraderie.



The dance band, “North Tower,” entertained after the Awards Banquet.

2007-08 Committee Chairs

President Kim Rosenberg has announced the following committee chair and liaison appointments for the 2007-2008 administrative year:

Awards/Nominations: Jeff Hrdlicka

Legislative: Chris Burti

Editorial/Newsletter: Taby Cruden

Forms: Sarah Friede Wagner

Liaison to the NC Land Records Task Force: Candice Williams

2007 Convention: Candice Williams

Sponsorship: Debbie Brittain

Membership: Ned Manning, Debbie Brittain

Education: Carolyn Clark Snipes



Bill Pittman (l.) receives NCLTA Honorary Member plaque from Bryan Rosenberg and Penney De Pas in 2001.

Bill, the Corps project manager, several government attorneys, and I met with the claimant, an elderly gentleman, call him Mr. Jones. Publicity in a controversial government project is most undesirable. I was nervous; the Corps contingent was nervous; Bill was not. Resolution of the claim came quickly, however, when the claimant said that he thought he would be satisfied if he was paid \$2000. Bill immediately said “Mr. Jones, I am going to write you a check for \$2100 to cover your loss and your time and travel.” Bill Pittman knew when and how to be diplomatic and compassionate and had understood the need to make Mr. Jones happy and to make a friend and advocate for me and my client.

Bill was devoted to our industry. He deemed it a noble cause and he was always available to answer the tough questions about what we do and how we do it. He volunteered much time and effort on legislative matters that affect us. He was stalwart in his ability to promote the role we play in our effort to protect our clients and to assist the transactional process. Bill was not combative by nature but was not one to allow a wrong to go undetected. I recall a contentious hearing at the North Carolina Legislature in a Judicial 1 Committee in the 90s when the NCLTA was proposing changes in our archaic (still operative) mechanics lien statute. An attorney, representing a “supposed” ally, was misstating the way the law works. Bill, squirming in his metal chair at the back of the room could no longer restrain himself from the inaccuracies being laid out. Jay Hedgpeth and I heard this gentle, reserved soul burst out in a not-too-aside voice, “That’s not correct”. The legislators and lobbyists in the packed room,

stunned by the outburst, turned back and glared at our contingent. Lo and behold, they then started listening to the testimony and at least paid attention.

Bill had a long career with First Title followed by time with Lawyers Title and Fidelity National Title. He came to us at The Title Company of North Carolina by serendipity. He had retired and was focusing his energy on his grandchildren, his golf game, working with son Andy in a new business venture, and on his beloved Tar Heels. He seldom missed a game and could be spotted at Kenan Stadium or the Smith Center with his radio earphones “listening to Woody.” We saw each other at a social function one evening. When I inquired about how retirement was going, he said was enjoying it but wasn’t sure how much Susan was. When I asked if he would be interested in getting back in the business, it only took him twenty seconds to say yes. Now five years hence, I would not take anything for that time we spent together. He brought a genuine smile and a will to work with him every day. Just a few days before his death, he told Alice Bracey that he had to get up early the next day to get back to the office.

Bill Pittman was “the salt of the earth.” That phrase is used to describe a person or persons of great kindness, reliability, and honesty. Bill had the utmost respect and love for his fellow man and his ease of manner rubbed off on those around him. It is impossible for me to convey to you how Bill enriched our lives so I will let Leigh Hunt in this poem about Abou Ben Adhem do it for me.

*Abou Ben Adhem (may his tribe increase!)
Awoke one night from a deep dream of peace,
And saw, within the moonlight in his room,
Making it rich, and like a lily in bloom,
An Angel writing in a book of gold:*

*Exceeding peace had made Ben Adhem bold,
And to the Presence in the room he said,
“What writest thou?” The Vision raised its head,
And with a look made of all sweet accord
Answered, “The names of those who love the Lord.”*

*“And is mine one?” said Abou. “Nay, not so,”
Replied the Angel. Abou spoke more low,
But cheerily still; and said, “I pray thee, then,
Write me as one who loves his fellow men.”*

*The Angel wrote, and vanished. The next night
It came again with a great waking light,
And showed the names whom love of God had blessed,
And, lo! Ben Adhem’s name led all the rest!*

Our friend, Bill Pittman, 1934-2007, may his tribe increase.

Around the State

Hugh C. Talton, Jr., has been named the North Carolina state manager for **Stewart Title Guaranty Co.** A North Carolina attorney, Talton has been in private practice handling real estate closings for more than 25 years. His new office is located at 13801 Reese Blvd, Ste 330, Huntersville, NC 28078, phone 877-947-3755, fax 704-947-3768, email hugh.talton@stewart.com.

Jennifer Bolton (jennifer.bolton@ctt.com) has been named Manager of the Wilmington office of **Chicago Title Insurance Co.**, which is now located at 131 Racine Drive, Suite 102, Wilmington, NC 28403, Phone: 910-772-5490; Fax: 910-772-5492.

Attorneys Title, div. of United General Title, has opened a new branch office at 3972-A Business 17 East, Bolivia, NC 28422, Phone 910-253-5010. *W. Paul Lewis* will manage this office.

Annual Report—continued from page 6

De Pas announced the following upcoming conventions: August 14-16, 2008, at the Grove Park Inn, Asheville, NC, and September 17-19, 2009, at Wild Dunes Resort, Isle of Palms, SC.

Thank you!

I was very touched and surprised during the convention awards banquet to receive a lovely David Yurman confetti pendant necklace from the Association for my 22 years of service with NCLTA. It is a silver circle in the Yurman twisted motif style with blue topaz, iodite, and diamond chips hanging from a chain. (I imagine Kim Rosenberg and Debbie Brittain had a lot of fun shopping for it!)

I have enjoyed my affiliation with NCLTA over the years and have always felt greatly appreciated by the members, their spouses, and guests.

—Penney De Pas, CAE, Executive Director

Mortgage Fraud—continued from page 5

Most lender instructions will expressly state, as a condition of its accepting a short payoff, that the buyer of the property does not sell to a third party for some stipulated period of time. However, often this requirement is ignored to perpetuate the scheme. Some savvy lenders now utilize services that will monitor the titles to short sale properties to be certain that a flip has not taken place.

Silent Second

The silent second is another common example of fraud for property on behalf of the buyer and fraud for profit on behalf of a real estate or mortgage broker. A silent second is a loan in which a seller or other person provides down payment funds to the buyer with the knowledge of the lender in exchange for a deed of trust to be recorded post closing. In this situation, the buyer may perhaps not be able to qualify for a loan for the purchase without putting down money. The purchase price (and thus coverage) is increased by 10 percent. The seller then rebates the extra 10 percent to the buyer, making it appear to the lender that the deposit came from the buyer. A major red flag for this type of scheme is a request for an increase in coverage on commitment by 10 percent, especially if the request is coming from someone other than counsel.

Random Notes

Disclose! Disclose! Disclose! The best defense to mortgage fraud is disclosure! If there is any indication that some aspect of the transaction is being kept a secret from a party, stop and find out why. Make certain that you do not help perpetuate the scheme.

Document! Document! Document! When a deal goes bad and blame is being handed out, it is important to have a paper trail of all discussions and disclosures. Remember, a phone call or personal conversation may be “forgotten.” Sometimes, the person with whom a conversation took place is no longer employed by a lender, who is unlikely to believe “*but I told _____.*”

Be wary of those asking to use your fax machine! A fax from a title company office may inadvertently lend credibility to documents sent to a bank, especially one from out of state that may not be familiar with the limited involvement of title companies in a real estate transaction in North Carolina.

RESOURCES:

www.mortgagefraudblog.com

www.mortgagenewsdaily.com

www.Stopmortgagefraud.com

http://www.fbi.gov/publications/fraud/mortgage_fraud06.htm

I run a busy title agency.
We needed greater out-of-office
flexibility than our local network could provide.
Then we went with TSS Hosted Solutions.
Now, we can access our system
from the office, from home,
from a conference—from
anywhere there's an
Internet connection.
I'm glad we chose TSS.



**Reliable Solutions for Your Business
Personal Service for You**

TSS wants to be your title technology resource.
Call 888-268-0422
or visit iwantTSS.com



**SOFTWARE
CORPORATION**

**Accessibility • Reliability
Flexibility**

2007 Legislative Wrap-Up

By David P. Ferrell, Vandevanter Black LLP, NCLTA Lobbyist

The legislature adjourned the 2007 legislative session on August 2, 2007, and will convene the 2008 "short" session on May 13, 2008. Legislators were busy in 2007, filing the most bills (3,645) in two decades. During the 2007 Legislative Session, NCLTA's lobbyist David P. Ferrell of Vandevanter Black LLP provided periodic reports on bills and activities of interest to the title insurance industry. The NCLTA Legislative Committee then identified the bills for Ferrell to monitor, work for, work against, or seek to modify. Below are some of the issues NCLTA tracked in the 2007 Legislative Session.

Senate Bill 764, Consumer Real Est. Settlement Protection Act (CRESPA), was introduced with the backing of the North Carolina Bar Association to establish the Consumer Real Estate Settlement Protection Act and to address the use of non-attorneys in North Carolina closings and settlements. As originally introduced, the bill would enact new NCGS Chapter 45B, define "settlement services" in a residential real estate closing, establish the duties of a settlement agent, and prohibit anyone other than a licensed North Carolina attorney or a bank making the real estate loan from providing settlement services. NCLTA's formal position provided to interested parties and the media during session was that NCLTA "does not oppose" Senate Bill 764.

This legislation ran into opposition from various groups, and thus did not move this session in its current form. However, the bill sponsor submitted the CRESPA issue to be included in the Studies Bill as one of the issues to be studied prior to the 2008 legislative session. Both the House and Senate versions of the Studies Bill contained a CRESPA study. However, the legislature adjourned without passing a studies bill. Even though the Studies Bill did not pass, that does not necessarily mean there will not be any legislative studies before the General Assembly reconvenes next May. House Speaker Joe Hackney and Senate President Pro Tem Marc Basnight have indicated that they will likely name individual chamber select committees to examine policy issues in the interim, and may appoint joint study committees as well. Whether the CRESPA issue will be one of the issues studied is still to be determined.

Medicaid Liens on Real Property

In the Appropriations Act of 2005, the General Assembly approved a provision entitled "Medicaid Estate Recovery to Include Liens on Real Property." This provision permitted the State to place a pre-death or post-death lien on any real property interest owned by a recipient of Medicaid for long-term care. One concern with this legislation is that pre-death liens against the property of Medicaid recipients impede marketability of title. In addition, the imposition

of a Medicaid lien on property of limited value may induce heirs to abandon efforts to maintain the property or to transfer title, thus making the State of North Carolina the default owner of deteriorating real estate. NCLTA has opposed Medicaid liens and supported a repeal of the provision. In past legislative sessions, the effective date of the bill has been pushed into the future, so the provision has not become effective. The provisions on Medicaid liens on real property were set to take effect on July 1, 2007.

In this legislative session, the Senate had proposed to delay the effective date on this provision until July 1, 2009, but the House set the effective date at July 1, 2007. NCLTA's lobbyist, along with other lobbyists for interested groups, met with key legislative leaders to discuss our concern over the Medicaid lien provision enacted in 2005, and urged the legislature to either delay the effective date of the provision or to repeal the provisions all together. Based on this meeting, the legislature passed a repeal (not just a delay of the effective date) of the Medicaid lien on real property statute. The repeal is contained in **House Bill 1537, Medicaid Hardship/Estate Recovery/Data Share**, which was enacted on the last day of the legislative session.

Liens on Mobile Homes

During the last week of the session, **Senate Bill 1309**, was amended to include a provision to treat mobile homes the same as other homes with respect to property tax liens. The provision was added at the request of the county tax assessors, a sub-set of the North Carolina Association of County Commissioners. The apparent goal of this provision is to address the situation where there are unpaid taxes and the person sells a mobile home before it can be seized. The provision would place a "lien" on the mobile home as if it was real estate. The bill would only apply to mobile homes considered by the county as personal property. The bill would also allow the tax lien to attach to any real property owned by the debtor (presumably a separate tract since the bill only applies to mobile homes treated as personal property). Based on NCLTA's concerns with the mobile home lien provision, and other groups' concerns with other portions of the bill, the bill was not enacted into law this session, but is eligible for consideration during the 2008 legislative session.

Partition Sales of Real Property

As originally introduced, **House Bill 1527, Partition Sales of Real Property**, would allow the partition sale of real property only when it is in the best interest of the cotenants, authorizing non-petitioning cotenants to buy out the interest of petitioning cotenants, and prohibiting the assessing of attorneys' fees against non-petitioning cotenants. The bill would allow the court to order the sale of a property only if the court finds

continued on page 14

2007 NC Land Title Association Annual Convention

Mid-Pines Resort, Southern Pines, NC | August 9-11, 2007



Thanks to our Sponsors!

Welcome Reception

SoftPro Corporation

Breakfasts & Refreshment Breaks

Horack, Talley, Pharr & Lowdnes, P.A.

Roberts & Stevens, P.A.

President's Reception

Boxley, Bolton, Garber & Haywood, LLC

Simplifile

Speakers

Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

Nexsen, Pruet, Adams, Kleemeier, PLLC

Pendergrass Law Firm, LLC

Smith Moore, LLP

Ward and Smith, P.A.

Williams, Mullen, Maupin, Taylor, P.A.

Wyatt, Early, Harris, & Wheeler, LLP

Wyrick, Robbins, Yates & Ponton, LLP

Friday Reception

White & Allen, P.A.

Audio-Visual

Poyner & Spruill

Dance Band

Paragon Commercial Bank

Binders

Roberson, Haworth & Reese, PLLC

Wine Memento

Lawyers Weekly

that a sale is in the best interest of all of the cotenants. House Bill 1527 is similar to the partitions bill introduced in 2005. NCLTA had concerns with this bill, and our lobbyist met with the bill sponsor to express NCLTA's concerns. The bill sponsor ultimately replaced the original bill with a bill authorizing the issue to be studied. The study committee would be comprised of 18 members, with six (6) of the members to be public members with an expertise or stakeholder interest in the issue. Since the legislature did not enact a studies bill this session, this partitions study was not formally commissioned. However, as discussed above, the legislature could still study this issue in the interim.

Residential Mortgage – Consumer Protection Legislation. The General Assembly passed several bills to address mortgage fraud and the high rate of foreclosures in North Carolina. **House Bill 313, Identify Loan Originator on Deed of Trust**, places the burden on the settlement agent to ensure the loan originator information is listed on a Deed of Trust, and the lender is required to furnish the settlement agent with the loan originator information. The bill does not require the Register of Deeds to reject or refuse to accept and file a Deed of Trust without the loan originator listed on the Deed of Trust. (Effective April 1, 2008).

House Bill 817, Residential Mortgage Fraud Act, enacts the North Carolina Residential Mortgage Fraud Act, and makes it a Class H felony to make or use a deliberate misstatement, misrepresentation, or omission during the mortgage lending process for residential real property with the intention that a mortgage lender, broker, borrower, or other person relies on it. **House Bill 1374, Protect Homeowners/Reduce Foreclosure**, enacts new Article 10 of Chapter 45 of the General Statutes titled "Mortgage Debt Collection and Servicing" to regulate the kinds of fees that may be assessed by a lender or servicer and to require monthly periodic statements to the borrower that show the application of the previous month's payment and the status of the escrow account. **House Bill 1817, Protect Consumers—Covered Loans**, protects consumers in certain types of loan transactions, including rate spread home loans, and increase the Commissioner of Banks' disciplinary authority under the Mortgage Lending Act.

Other Bills of Interest

House Bill 1384, Repeal Rule Against Perpetuities for Trusts, repeals the statutory rule against perpetuities for trusts created or administered in North Carolina (not a complete repeal). **Senate Bill 211, Electronic Signatures/Public Agencies**, revises the law governing electronic signatures by clarifying that public agencies may use, as well as accept, electronic signatures.

A full, eleven-page, final legislative report is available from the Association's headquarters. Email exec@nclta.org for a copy. For more specific information about the legislation described in this article, feel free to contact NCLTA's lobbyist David Ferrell at dferrell@vanblk.com or (919) 754-1171. Information is also available on the NC General Assembly's website: www.ncga.state.nc.us.



Convention Manuscripts Available

The following five manuscripts from the 2007 convention held in Southern Pines are available for the price of copying, shipping and handling.



Please send me the 2007 Convention manuscripts (*quantities are limited*):

No. _____ "From Blackacre to Blogacre: The future is not what it used to be (Property Law Update)
Patrick K. Hetrick @ \$12.50

No. _____ "What's New and Different about the 2006 ALTA Policies"
Paul L. Hammann @ \$12.50

If ordering entire package, you will also receive, "Understanding e-Recording" by Judy Gibson and "NC Uniform Real Property Electronic Recording Act—Parts I-V, including Appendix Overview."

No. _____ @ \$27.50 Entire Package—One of each manuscript listed above.

Total = \$ _____ enclosed.

Name: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

For office use only: NCLTA 100-3300

Mail this form along with your check made payable to "NCLTA" to:

NCLTA Manuscripts
1500 Sunday Drive, Suite 102
Raleigh, NC 27607-5151

Questions: 919-861-5584