



# Carolina Update

NCLTA's Exclusive Report to its Members

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## President's Message

*Jeffrey I. Hrdlicka*



My year as President is winding down, which means this will be my final message in this space. And, in spite of an overwhelming desire to write a scathing editorial on why there should only be three President's Messages

instead of four, I will try to make good use of the opportunity. Many newspapers commonly include a section which recognizes news items that are either considered good or bad. These are often called Thumbs Up/Thumbs Down, Cheers/Jeers, Bouquets/Brickbacks, and the like. Anyway, I thought now would be a good time to use this approach for what is happening in the Title Insurance world.

**Good – Federal insurance charter does not include title insurance** – The National Insurance Act of 2007 was recently reintroduced by Senators John Sununu and Tim Johnson. This legislation would create a new federal regulator and allow insurance companies and agents to obtain a federal insurance charter. The bill purports to apply only to life and P&C insurers; however, concerns were raised that these federal charter companies could preempt state law and offer alternative title insurance products. In response to these concerns raised by title insurance industry groups, senators added language excluding title insurance from the bill. Title insurance industry groups remain opposed to the legislation, but the immediate concerns have been addressed.

**Bad – There is a federal charter bill** – Quite simply – The last thing we need is one more arena in which to fight off alternative title insurance products, such as mortgage impairment.

**Good - Partition bill sent to study committee** – NCLTA and NCBA both opposed a bill which sought to change the partition statute and procedure. The bill would allow the partition order only if the court finds that the sale is in the best interests of all cotenants. In many cases this bill would circumvent the purpose of a partition.

**Bad – NC CRESPA** – Facing opposition from major lenders, the NC Consumer Real Estate Settlement Protection Act was withdrawn. Although the bill was not successful this year, legislators have now been alerted that non-attorney settlement providers are completely unregulated. With any luck, that thought will eventually hit home.

**Good – GAO Report recognizes consumers need more information** – (OK, I am really spinning it now) It is never a good thing when the Government Accountability Office shows up to investigate your industry, but the report recognized that consumers' lack of understanding and information is a problem in the title insurance industry. The rationale behind providing more information to consumers is the same as the rationale behind NC CRESPA – Consumers need protection. The challenge will be making legislators and the public recognize that the approved attorney system best provides consumers such protection.

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## May Executive Committee meeting focused on various regulatory matters, convention planning

**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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The May 1 meeting of the NCLTA Executive Committee addressed informational issues of regulatory nature. The Association updated its web site under "Items of Interest" with information from the Secretary of State's office concerning e-Recording and e-Notarization. This was also a topic of interest for the Land Records Task Force.

Staff provided an update on the impact of the new Ethics and Lobbying Act on the Association's reporting of lobbying activities as well as securing government speakers for the NCLTA conventions. A formal ethics opinion request was submitted to the Ethics Commission as to whether two "covered person" speakers (from the NC departments of Secretary of State and Insurance) would be exempted from the "gift ban" for the purposes of having their

expenses paid to participate in the NCLTA 2007 convention. Although not considered an "educational meeting" (resort location, golf and social activities) NCLTA was advised to work with the state departments under the "gift to the state" exception.

Membership development was discussed, including efforts at the Real Property Section convention to attract new attorney members.

Reports on routine association matters, such as legislative activity, finances, convention, forms, and newsletter were received. The proposed convention agenda and budget were approved.

The Executive Committee voted to contract with Wild Dunes Resort for the 2009 convention in mid-September.

### Convention Calendar

#### NCLTA 2007 Annual Convention

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

August 8-11, 2007

Mid-Pines Resort

Southern Pines, NC

[www.pineneedles-midpines.com](http://www.pineneedles-midpines.com)

#### ALTA 2007 Annual Convention

**\*\*100th Anniversary\*\***

October 10-14, 2007

Chicago Hilton & Towers

Chicago, IL

[www.alta.org/meetings/meeting.cfm?meeting=SAM2007Ann](http://www.alta.org/meetings/meeting.cfm?meeting=SAM2007Ann)

#### NCLTA 2008 Annual Convention

August 14-16, 2008

Grove Park Inn Resort & Spa

Asheville, NC

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

#### NCLTA 2009 Annual Convention

September 17-19, 2009

Wild Dunes Resort

Isle of Palms, SC

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

### Latest corrections to ALTA 2006 forms and 2007 ALTA short form filed with NCDOI

Effective June 14, 2007, the North Carolina Department of Insurance (NCDOI) has approved a form filing by NCLTA of some minor corrections made by the American Land Title Association (ALTA) to the latter's Endorsements 15-06, 15.1-06, and 15-2.06 (adding "whether or not" to third paragraph to each of the endorsement variations) and to the Closing Protection Letter-Single Transaction Limited Liability (adding the words "for your protection" to the second line.)

Previous versions of these forms were filed by NCLTA and approved by NCDOI, effective November 7, 2006, and January 22, 2007, respectively.

The 2007 ALTA Short Form Residential Loan Policy was filed with the NCDOI on July 27, 2007, and approved effective July 31, 2007. (See related story on page 5).

# Activities abound in Southern Pines

If you've been hesitating about registering for the NCLTA 30th anniversary convention August 9-11 at Mid Pines Resort in Southern Pines because you don't think there are enough activities worth the trip, you'll be very surprised at what's available. Sure, it's the "home of golf" and there are more golf courses to choose from than you can ever play (although some will try, no doubt!). But the Southern Pines-Pinehurst-Aberdeen Sandhills area has a lot more to offer.



For the nature enthusiast, there is the Sandhills Horticultural Garden, the North Carolina Zoological Park, and the Weymouth Woods Sandhills Nature Preserve, as well as the Taxidermy Hall of Fame. If you love pottery, Jugtown/Seagrove is "pottery heaven" with tours to individual craftsmen's studios and the North Carolina Pottery Center. For other artistic interests, you'll want to visit Campbell House Galleries and Hastings Gallery. Are antiques and cultural sites your preference? Check out Bethesda Church & Cemetery, Bryant House & McLendon Cabin, Carthage Historical Museum, House In The Horseshoe, Malcolm Blue Farm, Rankin Museum of American Heritage, Shaw House Property, and the Town Creek Indian Mound State Historic Site.

How about equestrian competitions? Don't miss the Carolina Horse Park at Five Points and the Pinehurst Harness Track. If you are a military buff, you'll want to visit the Airborne and Special Operations Museum, 82nd Airborne Division War Memorial Museum, JFK Special Warfare Museum, JFK Hall of Heroes, or the paratroopers in the Sicily Drop Zone. Have a literary bent? You'll want to see the Tufts' Archive and the Weymouth Center where the North Carolina Literary Hall of Fame is housed. If transportation is your passion, there is the National Railroad Museum & Hall of Fame and Kelly's Classic Autos.



Need to relax? Check into the Pinehurst Spa or the Mid Pines swimming pool. Need to shop? Each of the towns and villages has its own, unique and quaint shopping area as well as larger malls. On Friday, August 10, the Pinehurst Resort will have a tour and tea from 10 a.m. until noon for \$25 per person. Space is limited, so reservations are necessary. (910-235-8415.)

Whatever your interest, there is something to do in the Sandhills area. So it's time to register for the convention. A registration form and hotel reservation form are available for download from NCLTA's web site at: <http://www.nclta.org/convention.html>

## Thanks to our convention 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.

### **Binders**

Roberson Haworth & Reese, P.L.L.C

### **Audio-visual**

Poyner & Spruill, LLC

### **Wine memento**

NC Lawyers Weekly



## Erratum

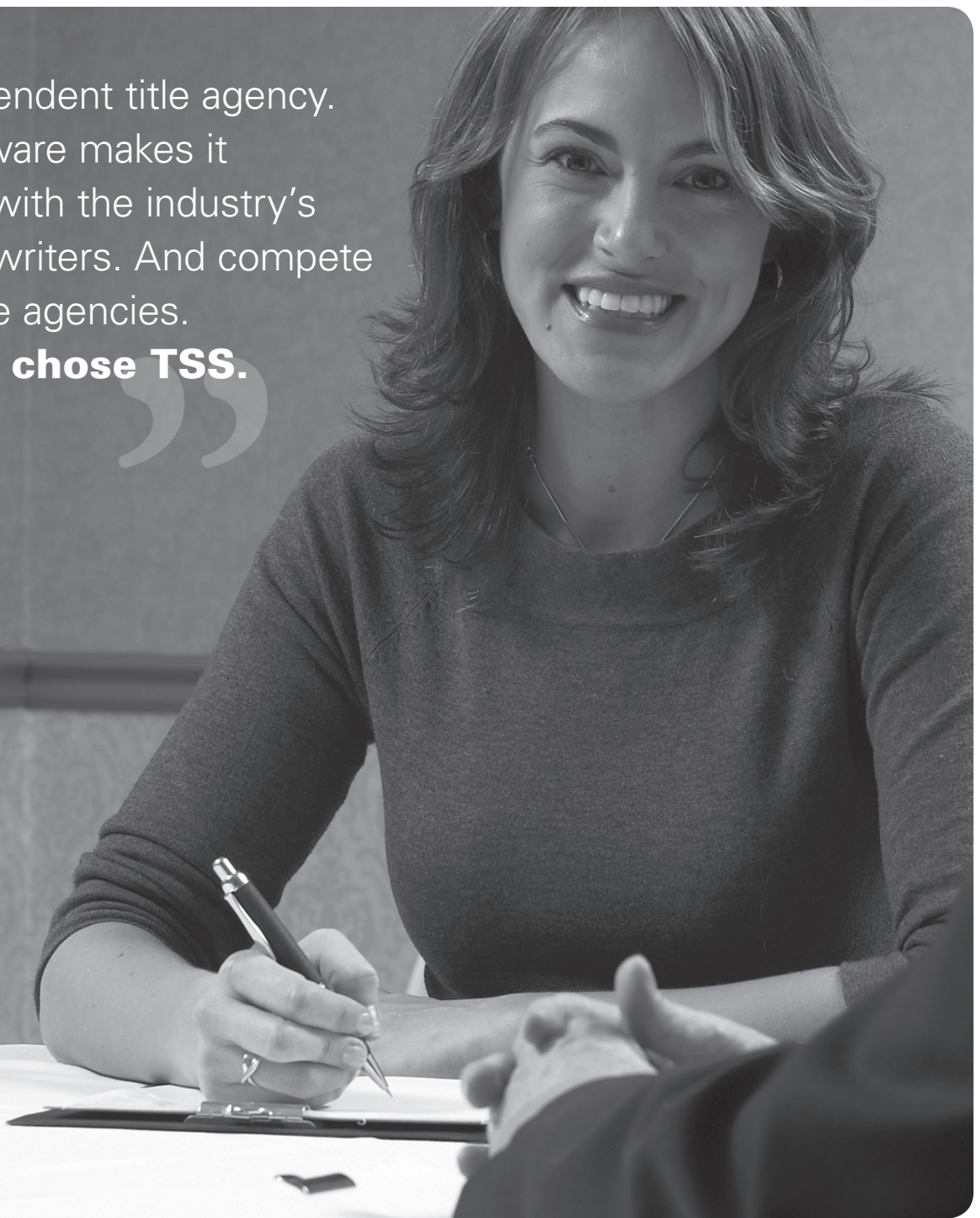
Correction to street address in the  
*2007 Directory of Members*:

### **H. Frazier Wallace II**

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Charlotte, NC 28203  
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Fax: 704-831-2614  
Email: [fwallace@radeyandlayton.com](mailto:fwallace@radeyandlayton.com)

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## President's Message

*continued from page 1*

**Bad – Foreclosures at record highs** – The subprime mortgage lending boom and its risky practices has resulted in record numbers of foreclosures this year. As a result, more loan policies will experience claims. In addition, many subprime lenders will close down and potentially create funding problems for current loan closings. Most importantly, numerous people will lose their homes.

**Good – 2006 policies being issued** – After being adopted in 2006 by the ALTA, surviving a series of typographical corrections, now filed with the Department of Insurance, the 2006 ALTA policy is being issued by several companies. The policy offers some new coverages for consumers and clarifies some others.

**Bad – POAs not recorded in local county** – Lenders who have bought properties at foreclosure commonly convey the property by use of a Power of Attorney ("POA"). Due to the manner in which deeds of trust are sold into pools, locating a POA in which the principal and attorney-in-fact match the grantor and executor of the proposed deed is a difficult task. Making the transaction even more difficult is if the lender as grantor refuses to record the POA in the county that the property is located. The statute does not specifically require local recording of the POA, so lenders will often record in one NC county and refuse to record anywhere else. This prevents the attorney from being able to easily review the POA to assure that it is still in affect and authorize the current transaction. The best practice is clearly to record in the local county. Once the registers of deeds in all 100 counties are reliably online, this may be an effective method, but until that time, a statutory fix is needed.

**Good – NCLTA study guide available** – The Education Committee, lead by Kim Rosenburg, has completed and begun distributing the Study Guide. Thanks to all those who contributed to this project.

**Ugly – Hrdlicka writes 4 president's messages** – Hang in there. It's almost over.

**Good – NCLTA turns 30 (doesn't look a day over 29)** – August 9-11 we will celebrate the NCLTA hitting the big THREE –O. Registration has been strong and the program is full of essential title insurance information. Bring your dancing shoes!

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## ALTA News

### ALTA short form policy adopted

**July 10, 2007**

The ALTA Short Form Residential Policy received several changes this year to make the use of the form more flexible. The form was adopted as proposed at a recent meeting of the ALTA Board of Governors. The form is available on ALTA's Web site under the **Policy Forms Online section**. The form has been approved by the NC Department of Insurance, effective July 31, 2007.

## Around the state



Sarah Friede Wagner has joined the **Wilmington office of Attorneys Title, div. of UGTIC**. Her new email address is [swagner@attorneytitle.com](mailto:swagner@attorneytitle.com).

Heather B. Roberts ([heather@statewidetitle.com](mailto:heather@statewidetitle.com)) is the new branch manager for the **Wilmington office of Statewide Title, Inc.**, which has relocated to 215 Racine Drive, Suite 104, Wilmington, NC 28403, Phone: 910-799-1394, Fax: 910-799-1735

The toll free numbers remain the same:  
Phone: (877) 815-3430  
Fax: (866) 815-3494

**SoftPro Corporation** won a Stevie Award for Best Support Team in the 2007 American Business Awards on June 11. In addition to the win for Best Support Team, SoftPro was also named a finalist in categories for Best Customer Service Team and Best Product Development Team.

Hailed as "the business world's own Oscars" (*New York Post*, April 27, 2005), the American Business Awards are the only national, all-encompassing awards program honoring great performances in business.

Nicknamed the "Stevies" for the Greek word "crowned," the awards were presented during ceremonies at the Marriott Marquis Hotel in New York City.

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