



Carolina Update

NCLTA's Exclusive Report to its Members

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President's Message

Bryan D. Rosenberg

Bold Concepts for Challenging Times



This was the title (theme) of the ALTA (American Land Title Association) 2003 Annual Convention held October 22-25 at the Arizona Biltmore in Phoenix. For those who have attended an ALTA

convention before, you know that the exhibits are perhaps the most interesting aspect of the convention. Vendors hawk their wares for everything from suppliers of novelty items to closing software. All of them try hard to have a presentation that attracts attention because with the dozens of exhibitors, failing to do so means that you stand alone for many hours. Attracting attention and then delivering a meaningful message means the opportunity of meeting many new people, forging new relationships, and probably making many sales – sounds like all of us and how we expand our business.

The programs were designed to deliver meaningful material to all attendees – underwriter, agent and attorney alike. With the wide array of topics, but many running concurrently, I had to pick and choose my sessions carefully.

I did learn about the new ALTA commercial endorsements (see related article on page 2) which Penney De Pas has already filed with the North Carolina Department of Insurance on behalf of all of the underwriter members of the association and which have

been approved by the Department for our use. These endorsements are the ones requested most frequently by lenders and provide uniform wording for all of us to use. A session on the balance between Agents and Underwriters (and how to get along better) was an interesting session giving insight into both positions. The speaker was an agent but had a firm grasp of the underwriter position and delivered an evenly tough message (read “neither side liked the realities of the other perspective”). Another revealed the new board game about title insurance and escrow designed as a training tool for members. The use of a board game seems an intriguing method for getting employees to learn more about sound underwriting practices. Unfortunately for North Carolina operations, the game also includes escrow questions that are not relevant to the way in which we conduct business in North Carolina. Nevertheless, I think the game can be useful if adapted to our underwriting issues. Many other breakout sessions offered practical as well as theoretical topics for every type of attendee.

The convention concluded with two speakers. The first was Kenneth Harney. Many of you have read Mr. Harney's scathing criticisms of the title insurance industry in general and the approved attorney system in particular in his nationally syndicated articles. Although he tempered his words – since he was in the midst of the enemy camp. Never-

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New ALTA Forms Adopted and Others Proposed

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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On October 23, 2003 the ALTA Board of Governors voted to adopt 12 commercial endorsements as new ALTA forms. These include a series of endorsements on future advances, non-imputation, tax parcel, contiguity, as well as mezzanine and access endorsements. In addition, the Board approved a modification to Covered Risk 12 of the ALTA Homeowner's Policy to address environmental concerns and a new Short Form Expanded Coverage Residential Loan Policy.

To see the new forms, go to ALTA's Home page at www.alta.org and click on the Standards/Forms section.

The endorsements are listed below:

- ALTA Endorsement Form 14 (Future Advance-Priority)
- ALTA Endorsement Form 14.1 (Future Advance-Knowledge)
- ALTA Endorsement Form 14.2 (Future Advance-Letter of Credit)
- ALTA Endorsement Form 15 (Non-imputation-Full Equity Transfer)
- ALTA Endorsement Form 15.1 (Non-imputation-Additional Insured)
- ALTA Endorsement Form 15.2 (Non-imputation-Partial Equity Transfer)

- ALTA Endorsement Form 16 (Mezzanine Financing)
- ALTA Endorsement Form 17 (Access and Entry)
- ALTA Endorsement Form 18 (Single Tax Parcel)
- ALTA Endorsement Form 18.1 (Multiple Tax Parcel)
- ALTA Endorsement Form 19 (Contiguity-Multiple Parcels)
- ALTA Endorsement Form 19.1 (Contiguity-Single Parcel)

In its continuing efforts to update ALTA policy and endorsement forms, the ALTA Title Insurance Forms Committee is proposing two new forms and revisions in most existing ALTA endorsement forms. A new ALTA Endorsement Form 17.1 (Indirect Access and Entry) and a new Short Form Commitment are being proposed along with a revised "Incorporation" paragraph which will standardize this language in all ALTA endorsements.

Click here to review these forms changes and for further discussion of them.

<http://www.alta.org/store/forms/proposedfrms.htm>

Around the State

F. Stephen Rogers has recently been promoted to President and General Counsel of *Commonwealth Land Title of NC, Inc.*, from Vice President and Branch Manager of the CLT-NC Greensboro office. Rogers currently also serves as NCLTA General Counsel.

Chicago Title Insurance Co. has hired **Robert B. Rascoe** as its State Counsel in Winston-Salem. Also, **T. Alfred Gardner**, an attorney with Carruthers and Roth, has been rehired by *Chicago Title* as special counsel.

Law Firm name changes:

Maddrey, Wilson, Etringer & Smith is now *Madrey, Etringer, Smith & Stroupe, LLP*, Eden, NC. **Joseph G. Maddrey** is the member attorney.

Nexsen, Pruet, Jacobs & Pollard, LLP, is now *Nexsen Pruet Adams Kleemeier, PLLC*, Charlotte. **Joseph D. McCullough** is the member attorney.

Tate, Young, Morphis, Bach & Taylor, LLP is now *Young, Morphis, Bach & Taylor, LLP*, Hickory, NC. **Terry Taylor** is the member attorney.

The HUD-RESPA Saga Continues ...

Courtesy of www.alta.org

HUD delivered its RESPA Rule (as a final rule rather than re-proposed rule) to the Office of Management and Budget (OMB) on December 16, 2003. OMB has advised the American Land Title Association (ALTA) that it can turn a rule around in 5 minutes or it can take many weeks. How this rule will be treated is still unclear. ALTA had been advised that the rule would not be published prior to Congress returning to town in January. The rule, once published, cannot become effective for a minimum of 60 days to allow Congress to review it. ALTA anticipates that the rule would have an even longer delayed effective date.

ALTA leadership met with representatives of OMB in December to express the title industry's view that the market is moving toward packaging without a rule, and that promulgating final regulations now could disrupt the real estate and mortgage finance sectors of the economy.

On February 25, Stanley Friedlander, ALTA President, will testify before the Subcommittee on Housing and Community Opportunity of the House Committee on Financial Services. His testimony at the hearing is entitled "Simplifying the Home Buying Process: HUD's Proposal on RESPA Reform." Friedlander will highlight why ALTA believes HUD's proposed changes will have potentially adverse effects on consumers, the mortgage settlement process, and small businesses. And, he will offer a realistic two-package alternative that ALTA believes would achieve HUD's objectives, while avoiding many of the consumer and competitive problems of the current proposal.

Friedlander also testified before the House Small Business Committee Hearing on RESPA, "Real Estate Settlement Procedure Act Regulations: Working Behind Closed Doors to Hurt Small Businesses and Consumers," that was held in early January. HUD's Acting Secretary since Mel Martinez's departure due to his Senate aspirations, Alphonse Jackson, was unable to attend but submitted written testimony. Other panelists included representatives from the Office of Management and Budget, the Mortgage Brokers Association, the Independent Community Bankers of America, and the National Association of Realtors.

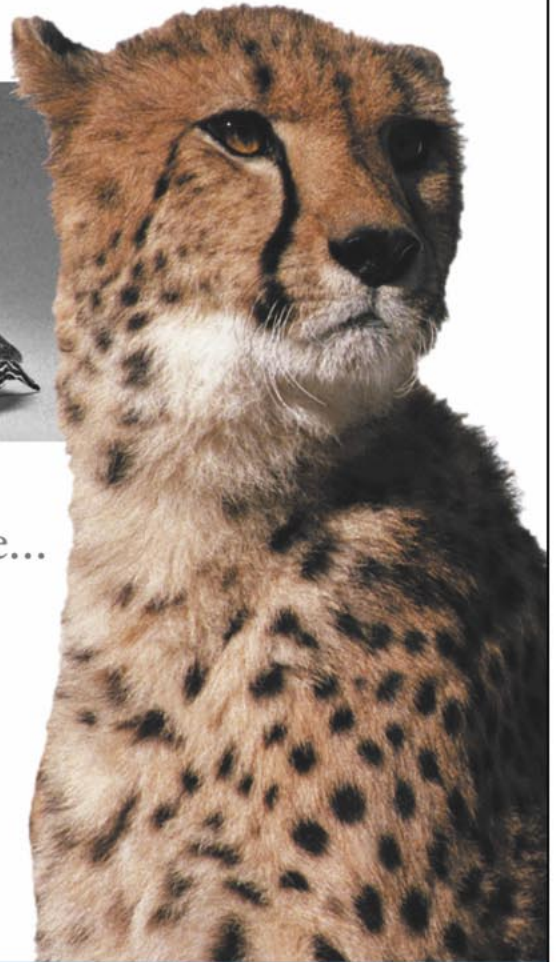
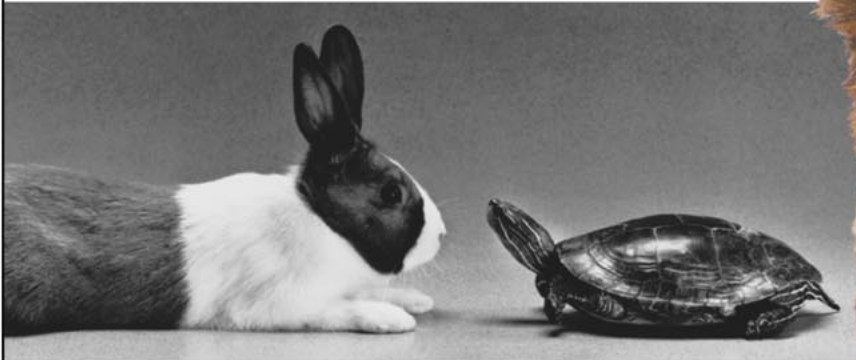
ALTA is also concerned that any reforms along the lines proposed by HUD - or even ALTA's

two-package alternative — should not be undertaken without appropriate statutory authorization. ALTA sent comments to HUD last October outlining the title industry's concerns with its proposed changes to RESPA and introducing the two-package alternative. To read a copy of ALTA's testimony and learn about the two-package alternative, go to www.alta.org and then see the RESPA Update section on the homepage.

In other news from ALTA, its Legislative and Regulatory Counsel, Ann vom Eigen, wrote to the Hon. Richard H. Baker, Chairman, Subcommittee on Capital Markets, Insurance & Government Sponsored Enterprises of the House Committee on Financial Services, on January 5 to endorse the continued state regulation of title insurance by ALTA,

"... because the underwriting of title insurance involves a review and assessment of state and local records affecting titles to real estate. Consumers are protected by title insurance policies that are issued in connection with inherently local transactions — real estate settlements and mortgage loan closings. The practices and processes by which title insurance is issued vary from state to state in accordance with state real property and foreclosure law and state and local systems for recording mortgage and child support liens. Uniform licensing of agents would result in standards lower than those currently in effect, or force agents to learn laws inapplicable to the majority of the transactions they insure ... As a consequence, ALTA and its members strongly believe that regulation of the title insurance industry should continue to be the province of the various states. Federal regulation of insurance, or federal chartering of insurance companies, might be appropriate for the property/casualty insurance industry — as is suggested by legislation introduced in this session by Senator Fritz Hollings (D-SC) "The Insurance Consumer Protection Act of 2003 (S. 1373). However, such regulation and chartering is unnecessary for the title insurance industry, and would only serve to undermine the effectiveness of state regulation of our industry."

Vom Eigen's comments also supported the work of the National Association of Insurance Commissioners in realizing "... significant progress toward standardizing laws and practices in many jurisdictions ..." and making "... Federal preemption of state law ... unnecessary."



Slow and steady won yesterday's race...
**fast and smart
wins today's.**

The story of the Tortoise and the Hare teaches a great lesson to those who stay the course. Slow and steady won that race. Great general idea, but this probably isn't true for your business. In today's fast-paced world, every minute counts. Getting the job done right the first time, before your competition, means you win. Closing real estate transactions faster means you can concentrate on that next piece of business. Run fast and finish first with SoftPro's ProForm.



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October Executive Committee Meeting

During its October 14, 2003, meeting, the NCLTA Executive Committee considered its annual slate of financial decisions. The Executive Committee approved a proposed 2004 operating budget, retaining lobbyist Anne Winner at least through the 2004 Short Session of the Legislature, a dues increase for underwriters but kept all other dues levels the same, a joint sponsorship pledge of \$7,500 for the Real Property Section annual convention, and a year-end review by Mills, Rouse, and Co., CPAs. Three new members were also approved.

President Rosenberg announced, and the Executive Committee approved, the following committee chair or liaison appointments:

Awards Committee

Chris Burti

2004 Convention

Gary Whaley

Editorial Committee

Jon Parce

Forms Committee

Bryan Rosenberg
(on RPS Forms committee)

Legislative Committee

Chris Burti, Nancy Ferguson

Membership Committee

Jon Parce, David Shearon

Nominating Committee

Chris Burti

NC Joint Land Records Task Force Liaison
Sarah Friede

NCCUSL Liaison
Nancy Ferguson

2004 Convention Chair Gary Whaley led a discussion about proposed speakers and topics for the next convention, September 16-18, at The Boar's Head Inn, Charlottesville, VA. The Executive Committee received reports from Sarah Friede, NCLTA Liaison to the NC Joint Land Records Task Force, and from Nancy Ferguson, NCLTA Liaison to the National Conference of Commissioners on Uniform State Laws, on the timeline for approving and enacting the "Uniform Mortgage Satisfaction Act" nationally and in North Carolina.

President Rosenberg reported that the Insurance Closing Letter premium article appeared in both *Lawyer's Weekly* and *Campbell Observer*, and was distributed to NCLTA members via email. The additional premium was considered a "fair estimate of costs" by the Department of Insurance. Rosenberg reiterated the Association's policy that, with regard to NC Title Insurance Rating Bureau activities, NCLTA will continue to play only an informational/educational role.

The next Executive Committee meeting was scheduled for Wednesday, February 11, 2004, at the association's headquarters in Raleigh.

Convention Calendar

**ALTA 2004
Federal Conference**
April 19-21, 2004
Capitol Hill Hyatt
Washington, DC

<http://www.alta.org/educ/fedconf/index.htm>

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**NCBA Real Property
Section 2004
Annual Convention**
May 7-8, 2004
Pinehurst Resort
Pinehurst, NC

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**NCLTA 2004
Annual Convention**
September 16-18, 2004
The Boar's Head Inn
Charlottesville, VA

[www.nclta.org/
convention.html](http://www.nclta.org/convention.html)

www.boarsheadinn.com

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**ALTA 2004
Annual Convention**
October 6-9, 2004
The Westin Copley Place
Boston, MA

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**NCLTA 2005
Annual Convention**
September 15-17, 2005
The Grove Park Inn
Asheville, NC

www.groveparkinn.com

Erratum

In the Fall issue of *Carolina Update*, we erroneously reported that Ed Urban had had a heart attack. He did **not**. However, he **did** have bypass surgery to prevent a heart attack. He returned to work on November 3, 2003, and is doing well.

He also appreciates the cards, letters, and prayers sent to him by members of the industry.

President's Message

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New NCLTA Staff Member

Nicole Shore has joined the staff of NCLTA as Membership Director and Convention Registrar. Shore, a 1999 graduate of East Carolina University in communications, has been employed by NCLTA's association management firm, OMG/Olson Management Group, for four years and has previously worked directly with Penney De Pas, executive director, on other associations.

"I'm very excited to have the opportunity to welcome Nicole to the NCLTA staff. She is enthusiastic, dedicated, cheerful, intelligent, and as a current employee her learning curve will be shorter than a new employee to the firm," De Pas said.

Shore is a dedicated Yankees baseball fan. She replaces Jennifer Ernst who has been assigned other association duties at OMG.

theless, the reception he got was cordial but firmly against his opinion. During the question-and-answer session following his speech, he was clearly squirming and exited the event immediately following. He did not stay to enjoy the festivities or camaraderie. He also did not back down or change his views. Most unfortunate.

The final speaker got a much warmer welcome. The speaker I had been waiting to hear all week was the keynote speaker – Mr. Frank Abagnale, Jr. You may recall his character portrayed in the feature film, "Catch Me if You Can." At first, I thought his message was going to be about financial fraud and how he got away with it for so long. It was not. His message focused on WHY he went into the fraud business even though he knew he would be caught eventually. He then revealed why he changed his life and became a contributing member of society for the next 30 years, helping the FBI and teaching them all he knew about fraud

along the way. He attributes his change to his wife and then his children. It was an inspiring talk with humor and fascinating details of his exploits mixed in. His genius was evident but his strong family values were the most obvious. I hate to say that a con artist and thief is a role model, but he clearly is now.

The ALTA National Convention is an amazing event. I came away from it with new friendships, new information, and most importantly, a revitalized attitude about the role we play in real estate transactions. There is so much we can do as an industry to improve the speed, accuracy, and cost of the closing of real estate transactions. We play a vital role in the most important assets most people ever acquire. If you have trouble getting excited about your role in the real estate process, try attending the next ALTA National Convention. Or call me. I will be glad to tell you why you should get excited about our industry. It will be well worth your time.

Welcome New Members!

NCLTA Executive Committee approved the following new members on October 14, effective with the 2004 dues year:

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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 April 30, 2004.** Please submit your nominations to the NCLTA Nominations Committee, c/o NCLTA, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607-5151; fax (919) 787-4916; email: pdepas@olsonmgmt.com; phone (919) 861-5584.

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: _____