

2023 MLTA Spring Education Seminar • May 17-19
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ALTA 2023 Presentation – Finding Opportunities in a Changing Market

ALTA leadership continuously contemplates the challenges and opportunities that exist in the land title and settlement industry. ALTA Board member, Don Kennedy, will discuss the strategic priorities ALTA focuses on to help ensure the industry thrives in a shifting business, economic and regulatory environment.

ALTA's Strategic Priorities Update

- 1) Intro: ALTA's Mission
 - a. Help members excel in a changing business and regulatory environment:
 - i. Advocate
 - ii. Educate
 - iii. Build Networks
 - iv. Create professional industry standards
 - b. Introduce 2023 Priorities

- 2) Optimize Business in a Changing Market
 - a. State of economy
 - b. Recent reports indicate mortgage originations, single-family home production, and existing home sales have declined and are expected to continue to decline
 - c. Workforce statistics
 - d. National Registry of title and settlement companies

- 3) Leverage Modern Payment Systems
 - a. Real Time Payments (RTPs)
 - b. Compliance with Good Funds laws
 - c. Option to combat wire fraud
 - d. Payment rail analysis
 - e. Wire fraud resources
 - f. Digital Closings
 - i. State by state RON laws
 - ii. SECURE Notarization Act

- 4) Promote Homeownership Opportunities
 - a. Discriminatory Covenants
 - i. Examine the scope of the problem and key legislative approaches to remedying discriminatory covenants in land records
 - ii. Mapping Housing Discrimination Act
 - b. Heirs' Property
 - i. How to quantify heirs' property, how to better leverage estate planning tools and resources, as well as expanding access to programs and services for those with heirs' property
 - ii. Uniform Partition of Heirs Property Act (UPHPA)

- c. Prohibition of unfair service agreements
 - i. Prohibiting the filing of unfair real estate fee agreements in property records
 - ii. Non-Title Recorded Agreements for Personal Services (NTRAPS)
- d. ALTA Good Deeds Foundation
- e. Telling Our Story

5) Navigate the Regulatory Environment

- a. Attorney Opinion Letters (AOLs)
 - i. Fannie Mae accepting AOLs in limited circumstances
 - ii. FHFA release of Fannie Mae's and Freddie Mac's Equitable Housing Finance Plans for 2022-2024
 - iii. Gaps and inadequacies with title insurance alternatives currently under consideration
 - iv. Title insurance alternatives, in providing more limited coverage of risks, represent a shifting of risk to the lender, not an elimination of the risk
- b. FinCEN Anti-Money Laundering Rules
 - i. Notice of Proposed Rulemaking (NPRM) to address money laundering (AML) threats in the U.S. real estate sector
 - ii. Geographic Targeting Orders (GTOs) requiring title insurance companies to file reports and maintain records concerning all-cash purchases of residential real estate above a certain threshold in select metropolitan areas of the United States
 - Updated October 2022
 - iii. Corporate Transparency Act (CTA)
 - iv. Development of a beneficial ownership database
- c. CFPB and FTC Look at "Junk Fees"
 - i. definition of a junk fee is too vague and subjective
 - ii. could be read to capture a host of legitimate and regulated fees
- d. State Privacy Legislation
 - i. State by State chart
 - ii. CCPA and other states
 - iii. Uniform Personal Data Protection Act (UPDPA)
 - iv. Data Privacy Principles
 - A GLBA exemption
 - The need for a national standard
 - An exemption for publicly available information
 - Recognition of the necessities of transaction-based data
 - Considerations for small businesses
 - Uniform data breach notifications
 - Exemption of business to business data
 - Exemption of employee data
 - Providing a right to cure and a safe harbor
 - v. Federal efforts

6) 2021 ALTA Policy Forms

- a. Effective Date: July 1, 2021
- b. What changed in the new policies?
 - i. Covered Risks (the "Jacket")
 - ii. Exclusions from Coverage

- iii. Schedule A&B
 - iv. Conditions
 - v. New and Revised Definitions
 - c. Expect changes to other forms
 - i. Commitment for title insurance
 - ii. Short form commitment
 - iii. Short form residential loan policy
 - iv. Homeowner’s policy
 - v. Expanded coverage residential loan policy-assessments priority
 - vi. Expanded coverage residential loan policy-current assessments
 - vii. Short Form Expanded Coverage Residential Loan Policy—Assessments Priority
 - viii. Short Form Expanded Coverage Residential Loan Policy—Current Assessments
 - ix. Endorsements
 - d. How to prepare
 - i. Underwriter training and guidance
 - ii. Production software updates
 - iii. ALTA News and information
 - iv. ALTA Policy forms can be found at alta.org/policy-forms
 - e. February 2023 Update: Revised Forms
 - i. ALTA Endorsement – Native American Lands Waivers and Consents (New Endorsement)
 - ii. ALTA Policy – Residential Limited Coverage Mortgage Modification Policy (Revised Policy)
 - iii. ALTA Policy – Junior Loan Policy (Revised Policy)
 - iv. ALTA Policy – Short Form Junior Loan Policy (Revised Policy)
 - v. ALTA Addendum – Addendum to Short Form Junior Loan Policy (Revised Addendum, found within the Short Form Junior Loan Policy)
 - vi. ALTA Endorsements to Junior Loan Policy – JR 1 and JR 2 (Revised Endorsements)

7) Best Practices Version 4.0 Framework Updates

- a. Effective May 23, 2023
- b. Pillar 2 (Escrow Accounting): Updates to the treatment of non-settled funds and outstanding file balances, use and treatment of fintech applications, escrow funds training, use of the ALTA Outgoing Wire Preparation Checklist, and the use of wire verification services.
- c. Pillar 3 (Privacy and Information Security Programs to protect NPI): Updates to the physical protection of NPI, inclusion of network and cloud security of NPI, further details on coverage of business continuity and disaster recovery plans, further details on the required oversight of service providers and third party systems, use of the ALTA Cybersecurity Incident Response Plan Template as a reference document for the written incident response plan, and requiring processes for addressing breaches or unauthorized access to NPI.
- d. Pillar 4 (Settlement): Updates include establishing “consumer objectives” for the training of staff, disclosure of Affiliated Business Arrangements, establishment and implementation of procedures related to closing documents, requirements for internal and external signing professionals, selection of Remote Notarization Platforms, standards for recording procedures, and compliance with Pillar 2 for procedures and controls for recording fees and any applicable taxes.