

ALABAMA

QUARTERLY: The Legislative and Regulatory Edition

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NEWS FROM THE FRONT – The 2013 ALTA Federal Conference

by Warren Laird, State Manager & Counsel

Legislation, regulation and policy have changed the marketplace and affected the way that you conduct your business. As expectations shift, we are called on to make adjustments to meet these new and different standards. Meeting these expectations, however, neither diminishes nor mitigates the continued need to explain to legislators and regulators the value of what we do to protect consumers before, during and after the closing of a real estate transaction.

The 2013 ALTA Federal Conference, held in Washington, DC May 5-8, set a record. Descending on our nation’s capital were 250 ALTA members from 30 states. Last year, there were only two of us representing Alabama. We established a goal to have a representative from each of Alabama’s seven (7) congressional districts. While we did not reach this goal this year, Alabama’s representation doubled for this year’s conference, and we had a representative from three of the state’s seven districts - three times the number of districts represented last year. So, we are definitely making progress toward reaching our goal!



Judge Stan McDonald (left) with Rep. Spencer Bachus (6th Congressional District)

A special thank you is extended to Judge Stan McDonald (“*once a judge, always a judge*”) of McDonald Long & Johnston Escrow, LLC in Huntsville for taking the time to attend the 2013 Federal Conference. It was extremely helpful for members of

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Congress and their staff to hear from a title and closing agent's perspective. Lobby Day 2013 was busy and non-stop. Stan had an early meeting with Rep. Robert Aderholt. We both met with Rep. Mo Brooks and Rep. Spencer Bachus; the legislative staff in the offices of Senator Shelby and Senator Sessions, as well as either legislative counsel or other staff in the offices of Rep. Jo Bonner, Rep. Martha Roby, and Rep. Terri Sewell. Stan and I circled back to meet with Rep. Aderholt's Chief of Staff later in the day.

This year's lobbying efforts focused on three subjects:

1. The CFPB Combined Mortgage Disclosures;
2. Reform of Fannie Mae and Freddie Mac (i.e., GSE reform); and
3. How you provide confidence and trust in real estate closings.

CFPB Combined Mortgage Disclosures

The Dodd-Frank Act directs CFPB to replace existing RESPA and Truth-in-Lending (TILA) disclosures with a single disclosure. We discussed with the members and staff of the Alabama Congressional Delegation the need for their assistance to convince CFPB to navigate an approach that would not harm consumers or small businesses. This would include:

1. Protecting consumers by maintaining a trusted third-party at the closing table by ensuring that lenders and settlement agents maintain the same liabilities, responsibilities and level of collaboration for providing disclosures to consumers as is done currently;
2. Fix the three-day waiting period and broaden the exceptions for the re-disclosure requirement to prevent the three-day waiting period from operating to the consumer's detriment;
3. Clarify that the liability and penalty provisions of RESPA and TILA are distinct, even though the combined

disclosure forms merge portions of RESPA and TILA;

4. Help consumers make informed financial decisions by encouraging them to investigate whether an owner's title insurance policy is in their best interest rather than predisposing them to bias by labeling owner's title insurance as "optional;" and
5. Make simple formatting changes, test the forms on real closings, and provide the industry with uniform design specifications to reduce the costs associated with compliance.

Reform of Government Sponsored Entities (GSE)

This is an issue that hits home to each of us in Alabama. Fannie Mae and Freddie Mac have played very important roles in Alabama's real estate development. Most importantly, both are very significant in the ability of Alabamians to realize the American dream of home ownership.

The good news is that GSE's are reporting profits and are repaying the loans made to them by the federal government at the advent of the economic crisis. If they continue to post profits and repay the loans, perhaps the priority for reform will be lessened – but there are no guarantees.

There is considerable benefit to the presence of GSE's in the secondary mortgage market, especially when it comes to market competition and efficiency. While each of us might recognize the need for some reform, the answer does not exist in the total elimination of the government's presence in the secondary mortgage market. Instead, the answer most likely exists in scaling back government's presence to its original and limited mission – to provide stability in the secondary market for residential mortgages. That is the message we took to Congress, which consisted of four components:

1. Without a government role in the secondary mortgage market, the

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standard 30-year fixed rate mortgage that is pre-payable without penalty will likely disappear or, in the alternative, will be much more expensive and inaccessible to most.

2. A total GSE annihilation would remove the ability of small businesses to compete. Market share would be reallocated to the largest institutions, at the expense of the community banks, credit unions and regional banks. An even greater number of mortgage loans will be found in the portfolios of fewer institutions, consolidating risk in institutions that are already designated "too-big-to-fail." Market concentration among entities so designated will keep taxpayers on the hook for future bailouts of our housing finance system. As the market shifts from the GSE's to larger institutions, business relationships will shift from local to national settlement service providers. As the institutions grow even larger, smaller loan originators will likely disappear. Jobs will be lost at small businesses including title agencies, appraisers, attorneys and property inspectors. Each of these small businesses provides crucial services to the community-based lenders during real estate transactions. GSE's serve as effective counterbalances to the largest institutions, allowing small, community-based lenders who originate 44% of all mortgage loans, to compete with their larger rivals. GSE's ensure that ALL lenders have access to the same secondary market capital.
3. GSE's promote responsible underwriting standards for real estate mortgages. Standards set by Fannie and Freddie protect the integrity of the collateral used to secure mortgage loans. Uniform credit underwriting standards are needed to ensure homes are

accurately appraised for value and physically inspected so that the condition of the collateral as described on paper is the true condition of the property. Equally critical are the seller servicing guidelines that ensure the legal right to the home is properly identified and established. This gives the homeowner, lender and investor certainty in the knowledge that the collateral pledged for a loan is valid. Without a government role in the secondary mortgage market, underwriting standards will erode. Homeowners, lenders and investors were all harmed as a result of the last bursting bubble. A federal role in the housing finance system will prevent future decay of collateral underwriting standards and protects homeowners, lenders, investors and taxpayers.

4. GSE's lower the costs of providing credit to consumers through universally acceptable credit underwriting standards, thereby increasing market efficiencies and reducing underwriting costs. This produces a huge savings for consumers and taxpayers. Universally acceptable underwriting standards also alleviate the need for borrowers to negotiate all of the mortgage terms, saving them time and money. Having universal standards also permit borrowers to compare mortgage loan terms, costs and options with little or no confusion. The result makes it easier and cheaper to buy and sell homes.

Simply put, our message was "yes, reform of Fannie Mae and Freddie Mac is needed, but the title industry strongly encourages preservation of the benefits that are currently provided by GSE's in our future finance system." Simply put, there is a place for government in the secondary mortgage market.

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Providing Confidence and Trust in Real Estate Closings

We introduced members of Congress to ALTA's Best Practices as the manner in which title insurance and other settlement service professionals provide the framework for transparency and consistency in real estate transactions. Through the implementation of the Best Practices, title insurance and other settlement service professionals are helping mortgage lenders manage the financial, regulatory and reputational risks at closing by:

1. Maintaining current licenses and complying with continuing education requirements as required by law;
2. Maintaining written procedures and controls for trust and escrow accounts;
3. Providing physical and network security for the protection of funds and confidential client information;
4. Ensuring that pricing is consistent and overpayments are refunded timely;
5. Timely recording deeds, mortgages and other documents associated with the transaction; timely delivery of policies to the insured; reporting policies and remitting premium in a timely manner;
6. Maintaining appropriate liability insurance and bonds; and
7. Responding to consumer complaints in a timely manner.

Looking Ahead

As I look back on this year's Federal Conference, I think in terms of the achievements - the measure of which is yet to come. At the same time, I think in terms of the future, and what each one of us can do to further our cause and that of each and every Alabamian that relies on you to assist in the purchase or refinance of their home.

Congress will recess for a month this summer. Contact the office of your Representative and both Senators now and begin planning now to invite your U.S. Representative into your agency to speak to your staff. Have a closing scheduled while they are there and ask them to sit it on and observe what goes into an Alabama closing (be sure to clear it with the parties to the transaction in advance). Explain the pre-closing process as well as the post-closing process to them so they have a complete picture of what goes into an Alabama closing. Please let me know if you need assistance with contact information.

According to ALTA, there are 1340 people employed in the land title profession in Alabama. Out of that 1340 people, there were only four at the 2013 Federal Conference and Lobby Day, representing 3 separate Congressional districts. To maximize the effort and the impact, at least one person (preferably more) should represent each of Alabama's seven Congressional districts. There is power in numbers. Members of Congress want to see and hear from their own constituents. There is a big difference between showing up at a 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. It sends a 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. 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.

In 2014, will you represent your profession from your Congressional district at the ALTA Federal Conference? I hope so.

Education

CONTINUING EDUCATION CALENDAR

8/8/13-8/9/13	Stewart's Annual TIPS Underwriting Seminar Orange Beach (CE & CLE) (See Pages__ through __ for details)
8/12/13	DLTA Title School-Mobile (CE & CLE)
8/29-8/31/13	DLTA Convention Orlando (CE and CLE)

PRE-TEST LICENSING COURSE OFFERINGS

For those needing the 20 hour pre-licensing course, you still have two different opportunities in two different locations. More information is available at www.kooglergroup.com. This course has been approved for 16 hours of CLE credit, including 1 hour of ethics. It does not, however, count toward CE requirements for the title insurance license.

Currently, the dates and locations for the scheduled pre-test course are:

August 8, 9 and 10

Mobile

November 14, 15 and 16

Montgomery

Due to demand for an additional course before September 31, when the individual temporary licenses expire, Michael Webber, Chair of the Alabama Land Title Association's Education Committee, is in conversation with The Koogler Group about adding a September course in Montgomery. We will provide more information as it is made available to us.

Inside Alabama

Bridgett Ogburn Retires from Common Bond Title, LLC

Bridgett Ogburn has decided to retire from Common Bond and enjoy her two grandchildren, Mitchell and Macie Caroline. She will also be spending time

with her parents and husband, Vann. "She will be sorely missed in the real

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estate and mortgage lending world,” Common Bond’s Lynn Hightower-Moore

said. “Many of us may lose weight since Bridgett won’t be bringing us her famous goodies,” Lynn added.

Common Bond has added Noel Gallegos to its marketing team. Lynn asked that Noel be welcomed into the profession “with gusto.”

Birmingham Business Journal Taps Hunt among its *Top 40 under 40*

The Birmingham Business Journal recently tapped Marcus Hunt, co-founder of South Oak Title, into its 2013 Class of Top 40 under 40.

Marcus received his B.A. in history from East Texas Baptist University, and was awarded a J.D. from Cumberland School of Law of Samford University. He and wife Rachel have two sons, eight year-old Caedmon and six year-old Levi.



2013 Alabama Legislative Update

The 2013 Regular Session of the Alabama Legislature has adjourned *sine die*. It began as a positive and amicable session. The House and Senate quickly passed a bill early in the session to repay the Alabama Trust Fund the \$437.4 million that had been transferred to the General Fund over the past three years. That bill was signed by Governor Bentley soon after passage. Suffice it to say, the remainder of the session was less amicable than its beginning.

What Passed...

Of the 88 bills followed this session, only 17 passed. What follows is a brief

description of some of those bills passed.

HB 19 – Homestead Exemption (Act 2013-295): This Bill amends Sections 40-9-19, 40-9-21, and 40-9-21.1 of the Code of Alabama 1975, as last amended by Act 2012-313 (2012 Regular Session), relating to homestead exemptions and exemptions on principal residences. It restores the code sections in the exact same form as the sections existed prior to the enactment of Act 2012-313, except retaining the income limitation on federal taxable income for certain exemptions for persons age 65 or over. It authorizes the Department of

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Revenue to require evidence other than a tax return for the exemption.

It also provides for the retroactive application of the restorative provisions and for the implementation of the act. Finally, it prohibits a person from falsely claiming a homestead exemption and provides penalties for making a false claim. This bill is effective immediately following approval by the Governor, or otherwise becoming law.

HB 47 – Overbids from Tax Sales:

One of the major Bills affecting our profession that passed this Session is HB 47. It amends Section 40-10-28, Code of Alabama 1975, so that only a person or entity who has redeemed property sold at a tax sale may receive the excess paid by a tax sale purchaser. It also requires that the excess be held in escrow in the county treasury for three years until proper application for payment of the escrow is made. If not claimed within 10 years, the excess bid must be paid over to the county general fund for use by the county. This purpose of this Bill was to reverse the Court of Civil Appeal's opinion in *First United Security Bank and Paty Holdings, LLC v. McCollum*, which construed § 40-10-28 to require payment of the overbid back to the taxpayer who lost the property at the tax sale due to nonpayment of ad valorem taxes. This Bill has been delivered to the Governor.

HB 140 – Income Tax Credits for Historic Preservation (Act 2013-241):

This Bill provides for a tax credit against the tax liability of the taxpayer for the rehabilitation, preservation, and development of historic structures. It will surely impact the rehabilitation and preservation of historic properties across the state.

HB 323- Improvement Districts: This Bill amends the Alabama Improvement District Act, as codified in Title 11, Article 99A, to provide for additional improvement district powers, the assessment of fees on lands, and the remedies for nonpayment of fees.

HB 455 & SB 96 (Act 2013-51) –

Economic Development: These Bills are economic development Bills that extend to the governing bodies of counties the power to designate qualifying large contiguous tracts of underutilized real property as Major 21st Century Manufacturing Zones, permits the creation of tax increment districts and tax credits for development.

SB 38 – Alabama Land Bank

Authority: The Alabama Land Bank Act, as originally enacted in the last year of the preceding legislative quadrennium, had some very troubling problems. The problems basically rendered it useless for two reasons:

1. There were some constitutional issues, especially where due process is concerned; and
2. Title coming out of the Alabama Land Bank Authority was not marketable.

Conceptually, the purpose of a state or local land bank authority is to get tax delinquent properties that have been acquired by the state back on the tax role and producing ad valorem tax revenue.

In response to the constitutional and other problems with the original legislation, Senator Linda Coleman, with the assistance of the Regional Planning Commission of Greater Birmingham, empanelled a task force to draft an

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amendment to the original legislation. SB 38 is the result of over two years of study and work.

Should you encounter a transaction in which the Alabama Land Bank Authority is or has been in title, or in which a local land bank authority is or has been in title, please contact the State Office for underwriting assistance.

SB 199 – Uniform Transfers to Minors (Act 2013-250): This Act removes the limitation on transfers to a custodian and limits transfers to adult members of the minor's family or a financial institution when a custodian has not been nominated or is otherwise unable to serve to \$50,000.

What Didn't Pass...

Of the Bills that didn't pass during the 2013 Regular Session, some are notable, as we may see them again in 2014.

HB 137 and SB 207 – Weeds and Overgrown Grass Abatement: These Bills would give municipalities some flexibility in dealing with neglected properties. It would establish alternative procedures and remedies for municipalities in addition to those available under existing Alabama Law.

HB 284. SB 23, SB 39 – Uniform Commercial Code Article 9: These Bills would adopt recommended updates to Article 9A of Title 7, Code of Alabama (1075).

HB 331, SB 14 – Benefit Corporations: These Bills would authorize and regulate “benefit corporations.”

SB 332 - Probate Judges: This Bill would require Probate Judges to use the same on-line filing system as the Secretary of State.

SB 342, HB 531 – Limited Liability Companies: These Bills would have updated Alabama's Limited Liability Company Act.

HB 668 – Mechanics Liens: This Bill would have required a notice of commencement be recorded in the real property records of the Probate Judge in the county in which the property is situated as a condition to the right to claim a mechanic's or materialmen's lien.

Also Affecting Agencies...

SB 286, known during the 2013 Regular Session as “the gun law”, has been signed into law by Governor Bentley. It has an effect on an employer's ability to prohibit guns in the workplace. All agency principles are encouraged to become familiar with this law's scope by reading the entire Act.

Need a Copy of a Bill or Have a Question? Please contact the State Office by phone or email Warren at wlaird@stewart.com.



Regulatory And Licensing Update

Temporary License Holders

Any member of an agency staff whose responsibilities include signing commitments, policies and endorsements, and who did not fall within the exemption for the pre-licensing course and exam requirement, should have obtained by now a temporary individual title insurance

license. This temporary license was due to expire June 30, 2013. The Alabama Department of Insurance has reset all temporary individual licenses to expire September 30, 2013, in order to accommodate those in need of taking the title insurance exam, which will not be available until July 1, 2013.

License Numbers in Title Insurance Commitment, Policy and Endorsement Forms

Rule 482-1-148-.07, construing Ala. Code Section 27-25-4(d), requires all title insurance commitments, policies and endorsements to include the license number of the issuing agent and the license number of the individual signing agent within the signature block on all such forms. In other words, the rule requires the name and license number of the business entity agent (the issuing agent) and the name and license number of the individual agent (the

signing agent) to be disclosed below the signature of the signing agent on all commitments, policies, and endorsements. Of course, if the agent issuing the policy is an individual agent, then only the name and license number of the individual agent need be shown on the commitment, policy or endorsement. **Agencies must be in compliance with this requirement by July 1, 2013.**

STEPS Users

We have been in discussion with STEPS administration about the addition of agency license numbers to the signature block as well as the addition of the individual licensed signatory's names and license numbers to the signatory block of the forms generated in STEPS. At this writing, they are investigating the possibilities. While Alabama is not the only state that

has made the license disclosure requirement, we are among a minority of states that make this requirement.

We are in the process of having self-inking stamps made for STEPS users. Each stamp will be signatory specific and will include all of the information required by the regulation. We will have these to you well in advance of July 1.
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AIM for Windows (AFW) Users

PropertyInfo has informed us that the AFW technology will not support the addition the information required by the regulation. Therefore, we are in the process of having self-inking stamps

made for AFW users. Each stamp will be signatory specific and will include all of the information required by the regulation. We will have these to you well in advance of July 1.

AIM+ Users (includes AgencySecure subscribers)

PropertyInfo has indicated that it will be able to meet the deadline to accommodate the regulation's requirements for all AIM+ users. You will receive an invitation from the State Office to participate in a conference call with PropertyInfo to discuss the any action required on the part of AIM+ users within the next ten days.

As a precaution, we are in the process of having self-inking stamps made for AIM+ users. Each stamp will be signatory specific and will include all of the information required by the regulation. We will have these to you well in advance of July 1.

All Other Technology Users

If you are using a production system or software provided by any other vendor, you should contact your vendor directly to discuss the required action for compliance with the license number disclosure requirements of the regulation.

In an effort to ensure that all of our agents are in compliance, we are supplying all Alabama agents with self-inking stamps. Each stamp will be signatory specific and will include all of the information required by the regulation. We will have these to you well in advance of July 1.



BACK TO THE BEACH!



Please join us for the annual
Stewart Title TIPS Seminar

August 8th and 9th

at

Perdido Beach Resort
Orange Beach, Alabama

Mark your calendars now!

TIPS 2013...

...promises to be the seminar of the year! The speakers are great, the activities will be fun, and we are hoping for perfect weather! All of this plus CLE and CE credit! We have blocked a number of rooms that are available until **Monday, July 1st, 2013.**

Rooms not reserved by July 1 will be based on availability. The phone number for reservations is: **800-634-8001**. Please tell them you are reserving a room in connection with the Stewart Title Guaranty Company Annual Seminar. **The booking code is: 9999.** If

you would like to make reservations online, please go to: www.perdidobeachresort.com

Standard room rates are \$162 per night and courtyard suites are \$222 per night. Other room types are available.

TIPS Schedule

Thursday, August 8th

8:30 a.m. – 9:00 a.m. – Breakfast
9:00 a.m. – 10:00 a.m. – Legal Update – Warren Laird
10:00 a.m. – 10:50 a.m. – ALTA Update – Madeleine Nagy from ALTA
10:50 a.m. – 11:00 a.m. – Break
11:00 a.m. – 12:00 p.m. – Stewart Services - What's Available for our Agents – Gloria Prinz with Stewart Title Guaranty Company
12:00 p.m. – 1:30 p.m. – Lunch and Agency Recognition
1:30 p.m. – 2:30 p.m. – Residential Hot Topics Panel Discussion
2:30 p.m. – 3:30 p.m. – Commercial Hot Topics Panel Discussion
6:00 p.m. – 9:00 p.m. – Agent Appreciation Reception by the Pool

Friday, August 9th

8:30 a.m. – 9:00 a.m. – Breakfast
9:00 a.m. – 10:00 a.m. – Ethics – Jeremy McIntire - Alabama State Bar
10:00 a.m. – 10:50 a.m. – Claims Update with Mickey Martin, Ann Harpole and Barry Thompson
10:50 a.m. – 11:00 a.m. - Break
11:00 a.m. – 12:00 p.m. – Claims Update Continued

ENJOY THE REST OF THE DAY!

Saturday, August 10th

Deep sea fishing with Warren
Golfing with Michael

Hope to see you there!

BACK TO THE BEACH!



Stewart Title TIPS Seminar August 8th and 9th Perdido Beach Resort Orange Beach, Alabama

Name: _____

Company: _____

Email: _____

Phone Number: _____

Activities Attending (please include the number of people attending)

Cocktail Party - August 8th: _____

Deep Sea Fishing - August 10th: _____

Golfing - August 10th: _____

Please return form to Judy – juwilliams@stewart.com by July 1st