

ALTA NEWS

**AMERICAN
LAND TITLE
ASSOCIATION**

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**** Immediate Release ****

American Land Title Association Comments on Recent Announcements Regarding the Foreclosure Process

Washington, D.C., Oct. 1, 2010 — The [American Land Title Association](#) (ALTA) has issued the following statement regarding title insurance on foreclosed properties:

Several lenders have halted foreclosures and the sale of real estate owned (REO) properties due to possible flaws in documentation used in the foreclosure process. This has, in turn, raised questions about the validity of title to properties that have already been foreclosed, resold and on which a title insurance policy has been issued. ALTA believes these questionable foreclosures will ultimately have little adverse impact on the new owners of REO properties or on the title insurance claims.

“If a new homeowner’s title is challenged because of a faulty foreclosure, the title insurer may have an obligation to defend the challenge,” said Kurt Pfothenauer, chief executive officer of ALTA. “However, it is unlikely that a court will take property from an innocent current homeowner and return it to a previous homeowner who failed to make payments on the loan subject to the foreclosure.”

Though laws may vary on a state by state basis, in general, the buyer of a property that has been through foreclosure has numerous defenses available to assure their continued ownership.

- The alleged deficiency in the foreclosure process may not be accurate.
- The alleged deficiency in the foreclosure process may not have harmed the previous owner.
- The foreclosure judgment is a final court order. It is likely too late for a technical objection to the foreclosure process to be raised by the previous owner.
- Because the new owner purchased in good faith, they may be protected under the law.

These same legal defenses should significantly limit the title industry's claims exposure. And in the event that a court does set aside a foreclosure due to a defect in documentation, the foreclosing lender would be required to return to the new homeowner all funds obtained from them, resulting in no loss under the title insurance policy.

"ALTA will be asking lenders to acknowledge that all appropriate procedures have been followed by the lending community before foreclosed properties are resold on the market," Pfotenhauer said. "On foreclosures, it is especially important that all documentation is in order. Commitment to accuracy and quality assurance is the foundation of title insurance. This commitment ensures fewer problems for homeowners and lenders, and should give shareholders confidence in their investment."

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About ALTA

The [American Land Title Association](#), founded in 1907, is a national trade association representing more than 3,800 title insurance companies, title agents, independent abstractors, title searchers, and attorneys. With offices throughout the United States, ALTA members conduct title searches, examinations, closings, and issue title insurance that protects real property owners and mortgage lenders against losses from defects in titles.