

Title and Escrow Claims Guide

2021 Edition

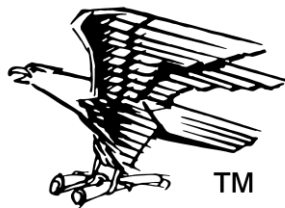
J. Bushnell Nielsen



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ISBN 0-9711058-0-5

Library of Congress Catalog Card Number 95-83559

Published by
American Land Title Association

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1800 M Street, N.W., Suite 300 South
Washington, DC 20036-5828

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- 86 Access onto public street not insured
- 87 Loan policy—Mortgage invalid for lack of debt
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- 90 Regulatory restriction on access
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Appendix B--Policy Forms

2021 ALTA Commitment for Title Insurance
2016 ALTA Commitment for Title Insurance
2006 ALTA Commitment to Insure
2006 ALTA Plain Language Commitment Form
2021 ALTA Owner's Policy
2006 ALTA Owner's Policy
1992 ALTA Owner's Policy
1987 ALTA Residential Owner's Policy
2010 ALTA Homeowner's Policy
2013 ALTA Homeowner's Policy
2021 ALTA Loan Policy
1992 ALTA Loan Policy
2006 ALTA Loan Policy
ALTA Short Form Residential Loan Policy
ALTA Residential Limited Coverage Junior Loan Policy
ALTA United States of America Policy
ALTA 13-06 Leasehold Owner's Endorsement
ALTA 13.1-06 Leasehold Loan Endorsement
1990 California Land Title Ass'n Standard Coverage Owner's Policy
Texas Form T-7 Commitment for Title Insurance
Texas Form T-1 Owner's Policy 2009 Version
Texas Form T-1 Owner's Policy 2014 Version
Texas Form T-1R Owner's Policy--Residential
Texas Form T-2 Loan Policy
Texas Form T-13 Loan Policy Binder on Interim Construction Loan
1987 ALTA Closing Protection Letter
2008 ALTA Closing Protection Letter
2008 ALTA Closing Protection Letter—Limitations
2008 ALTA Closing Protection Letter—Single Transaction Limited Liability
2011 ALTA Closing Protection Letter—Single Transaction
2011 ALTA Closing Protection Letter—Multiple Transactions
2015 ALTA Closing Protection Letter—Single Transaction (Revised December 1, 2015)
2015 ALTA Closing Protection Letter—Multiple Transactions (Revised December 1, 2015)

Case Table

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Acknowledgments

Many people have contributed information and editorial assistance to this volume, for which I am, and the reader shall be, deeply grateful. I am particularly indebted to the late Mr. James Laichas of Glendale, California, who reviewed a number of chapters and made significant contributions to the text based on his very broad experience. Mr. Kenneth Dzien, Pasadena, California, also provided numerous insights, also based on his decades of experience. Mr. Robert Ellis, who passed away in 2010, gave me very generous instruction in the law for which I will always be grateful. Others who gave of their time include:

Mr. Edward Andersen, Chicago;
Mr. Richard Bales, Wheaton, Illinois;
Mr. Bradley N. Beisel, Minneapolis;
Mr. Pierre Blanc, Boston;
Mr. Ronald Blitenthal, Minneapolis;
Mr. Daniel Borinsky, Lake Ridge, Virginia;
Mr. Shawn Briner, St. Louis;
Ms. Barbara Burke, Orlando;
Ms. Brenda Cannon, Winter Park, Florida;
Mr. Kevin Dunlevy, Minneapolis;
Mr. Irving Gaines, Milwaukee;
Mr. Alfred Garofolo, Rocky Hill, Connecticut;
Mr. Robert Garrett, Pasadena;
Mr. Benjamin Grant, Dallas;
Mr. William Hart, Philadelphia;
Mr. William Holloway, Chicago;
Mr. John Kareken, Chicago;
Mr. Alexander Levy, Pasadena;
Mr. Thomas J. Lloyd III, Boise, Idaho;
Mr. Donald McFadden, Cleveland;
Ms. Karin NeJame, Danbury, Connecticut;
Ms. Jennifer Nicolitz, Jacksonville, Florida;

Mr. John F. Nielsen, Minneapolis;
Mr. Leroy Scott Owens, Minneapolis;
Mr. James Pedowitz, New York;
Mr. Joseph Reinhardt, Jacksonville, Florida;
Mr. Donald Schenker, Madison, Wisconsin;
Mr. James L. Windsor, Newport News, Virginia;
Ms. Susan Woods, Chicago;
Mr. Duane Wunsch, Milwaukee, Wisconsin;
Mr. Albert Yorrio, New York;
Mr. William Yowell, Chicago; and
Mr. Wally Zbilut, Kenosha, Wisconsin.

My special thanks go to my son, Mr. John F. Nielsen, a title insurance attorney in the Minneapolis area, for serving as editor and proofreader for one entire summer and his helpful commentary in the years since; and Mr. Ronald Antoine, for his friendship, mentoring and steady support. Finally, and most importantly, I thank my wife Sarah for her encouragement and support throughout this project, which has spanned more than twenty-five years. I am sorry I forgot to tell you when I started that this book would never be completed this side of the River Jordan.

I thank American Land Title Association for agreeing in 2013 to assume the publication of this book, as well as its monthly companion, The Title Insurance Law Newsletter. I offer many thanks to ALTA's officers and staff for their considerable effort in accomplishing this smooth transition. I especially thank former Chief Executive Officer Michelle L. Korsmo for making the decision to offer this publication through ALTA, to Legislative & Regulatory Counsel Steve Gottheim for making it happen, and to Kelly Romeo, Carolina Perez and everyone else who worked so hard on this project.

This book is dedicated to Timothy Richard Hennessy, a true friend who is sorely missed, and to my wife, Sarah, and sons John, Ted and Peter.

Bush Nielsen

Introduction

This treatise is intended as a guide for the resolution of disputes about title insurance policies, real estate escrows and closings, and related issues involving title insurers, title agents, approved attorneys and escrowees. It is intended for claim administrators, retained counsel, insurance underwriters and others who deal with title claims and coverage disputes. The commentary is intended to be practical rather than academic. The goal is to give guidance on commonly-encountered issues, whether or not they have been addressed by the courts. This work is limited in scope. It is not intended as an all-encompassing treatise on the land title industry.

The book is organized to follow the decision-making process used by claims counsel or claim administrators. The first chapter provides decision trees and addresses essential issues about claim handling. Chapter 2 addressed more claim administration issues. Chapters 3 and 4 cover the resolution of covered claims and defense of the insured, which are the two primary means by which claims are resolved. Chapter 5 is on recoupment and subrogation rights. Chapter 6 concerns the title insurance commitment. Chapters 7 through 12 discuss the terms of the title insurance policy. Chapters 13 through 17 discuss non-policy liability (escrows, closing protection letters, title searches and tort liability on insurance policies) and issues concerning title agents and approved attorneys.

The claims practices suggested by this treatise indicate general rules or practices only. Every claim situation is different, and state laws regarding claim settlement practices vary significantly. The approaches suggested in this volume are not appropriate or correct in all cases. In fact, some of the rules and practices described are *not* appropriate in some jurisdictions, as the book explains wherever possible. The book also does not attempt to describe every possible decision or position that might be appropriate in a particular case. Therefore, any use of words such as "should," "must," "shall," "will" or the like, in describing an insurer's duties or options, is strictly for brevity's sake rather than to state a mandate imposed by policy terms, statutes, regulations or the courts.

The views expressed in this book are those of the author, and are not the official views of the American Land Title Association or any of its members. This book also does not represent the uniform custom and practice in the title insurance industry in the administration of claims, or any insurer's internal claim standards or practices. This work is not sanctioned, sponsored or approved by any title insurer.

However, the practices and views expressed herein are not mere opinions developed in a vacuum. I have resolved thousands of claims and title disputes for more than 38 years. I was employed by title insurers for 16 years and received superlative training from my supervisors and peers. The handling of title disputes remains my nearly-exclusive employment as a practicing

lawyer, and I continue to receive information and insights from title industry members from all regions of the United States. This book is intended to impart the wisdom that I have received, in addition to my own analysis of cases, statutes and regulations. I believe it is the combination of practical knowledge with scholarship that has made this book useful since it was first published in 1996.

Finally, the analysis in this book reflects my belief that most cases on this subject can be reconciled to indicate a level of consistency in the interpretation of the policy language. Where there is a split of authority that the courts themselves recognize or which is obvious, the book explains the differing positions. Throughout the book, my goal is to present an honest and objective explanation of the subject and the decisions, and not to suggest what the law should now be or how it should evolve.

J. Bushnell Nielsen