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Title News

the official publication of the American Land Title Association



**President Leitch
Is Greeted By
President Jay**

May, 1975



A Message from the President

MAY, 1975

RESPA—

These are the initials for the "REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974." Its effective date is June 20, 1975. It will play an ever-increasing role in your business, and that of your customers.

ALTA and its members have played a prominent role over the last several years in getting this legislation enacted in the interest of consumer protection and to correct abuses in the industry. A special thanks to each of you who called or wrote your Senators and/or Representative in support of this legislation.

In the last several months, your officers and staff and particularly the Research Committee, chaired by Jack Jensen, have been working closely with HUD in developing the "Uniform Disclosure/Settlement Statement and Truth in Lending Statement" made necessary by the Act. These will be used nationally in closing all federally related residential loans. ALTA also submitted suggestions to HUD regarding the special information booklet, called for by the Act, entitled "Settlement Costs and You—A Guide for Homebuyers," to be distributed by HUD.

We have tried to be impartial in our suggestions regarding the statement and booklet, for the benefit of all concerned. The staff at HUD was most receptive and very cooperative. We sincerely appreciate such liaison with a federal agency.

In this issue of *Title News*, we have excerpts from our 1975 Mid-Winter Conference panel discussion on RESPA. I urge you to read them as well as the other information sent by the Association and the title insurance companies regarding this Act. You may wish to discuss the law and this information with your attorney.

Sanford Witkowski of HUD was a participant on our Mid-Winter panel. He acknowledged that the Act is so new that interpretations, rules and regulations will have to be formulated as various factual situations arise under the Act. He urged anyone with a question of interpretation to correspond with HUD and said he would attempt to get an answer for such inquiries.

Write to:

Sanford Witkowski, Director
Policy and Program Analysis and Development Division
Department of Housing and Urban Development
Washington, D.C. 20410

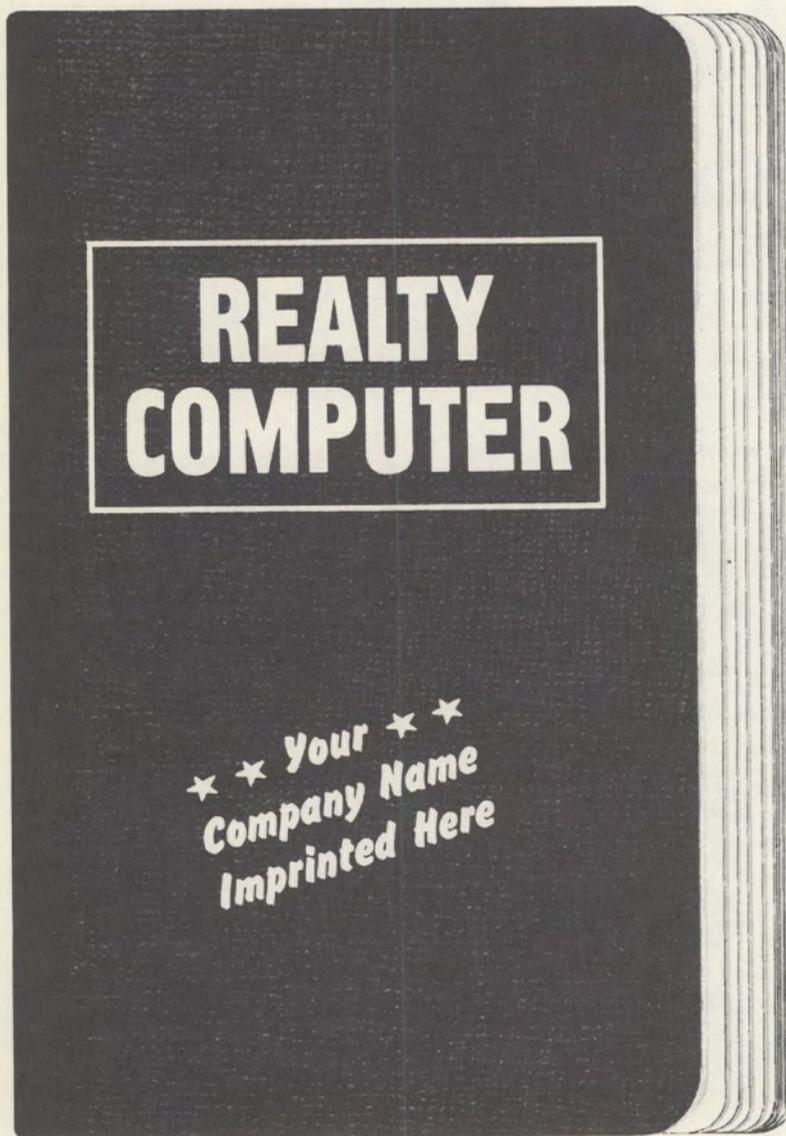
Your own practices may have to be changed to conform to the Act. You must know and understand the REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974, as violation of it carries civil and criminal penalties.

The extended effort of the officers, committees and staff of ALTA regarding RESPA is yet another example of the benefits you derive from payment of dues and membership in ALTA.

Sincerely,

Robert J. Jay

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ALTA officers will be busy this month representing the Association at a number of affiliated state association conventions. President Robert J. Jay will attend the New Mexico Land Title Association meeting, May 8-10, in Sante Fe, N.M.

Abstracters and Title Insurance Agents Section Chairman Philip D. McCulloch will attend the Washington Land Title Association meeting May 14-17, Orcas Island, Wash.

Title Insurance and Underwriters Section Chairman C. J. McConville will travel to three state conventions this month. Chairman McConville will address the Arkansas Land Title Association, which meets May 1-3 in Little Rock, Ark.; will speak to members of the Tennessee Land Title Association, who meet May 23-24 in Memphis, and will present a commentary to the South Dakota Land Title Association, which meets May 30-31 in Brookings, S.D.

* * *

The ALTA Standard Title Insurance Forms Committee will meet May 5 and 6 at the O'Hare Hilton in Chicago. The committee will be working on provisions of a proposed standard construction loan policy.

Committee members include Chairman Marvin C. Bowling, Jr.; Edward F. Healey; Bruce M. Jones; Harrison H. Jones; Allen E. Priestley; Gordon Granger; Irving Morgenroth; Paul L. Plack; Donald P. Waddick; John J. Eagan; Robert T. Haines; and Chris G. Papazickos.

* * *

The ALTA Executive Committee will meet in June to consider current Association business and begin formulating plans for this year's Annual Convention, to be held at the Palmer House in Chicago, October 1-4.

Any member of the Association desiring to communicate with the Executive Committee on matters of concern may contact Association President Robert J. Jay or another member of the committee.

* * *

ALTA staff has reviewed many of the 500-plus comments submitted to HUD on the proposed uniform disclosure/settlement statement published in the *Federal Register* by that agency under provisions of the Real Estate Settlement Procedures Act of 1974. Although these comments include those from land title companies, the majority of comments received have been sent by lending institutions who, under the Act, will have major responsibility for advance disclosure of settlement information to home buyers.

In addition, HUD is completing work on a special home buyer settlement information booklet called for under the Act, which is scheduled for distribution to HUD field offices this month. ALTA submitted comments on a draft of this booklet to HUD in the interests of improving its accuracy. The Act goes into effect June 20, 1975.

* * *

Recent activity of the ALTA Public Relations Program includes the shooting of two, 60-second film mini-dramas emphasizing the need for land title protection, which are sent to television stations across the nation for airing in time they donate free in the public interest. The first of these two film clips is being sent out this spring and the second will be distributed in the fall.

In the past, similar film clips have each been seen by an audience of millions in more than 35 states.

Members of the ALTA Public Relations Committee include Chairman H. Randolph Farmer, Vice Chairman Philip B. Branson, Patrick McQuaid, Francis E. O'Connor, James W. Robinson, Edward S. Schmidt, and William H. Thurman.



Title News

the official publication of the American Land Title Association

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ON THE COVER: National Association of Realtors President Art S. Leitch, right, is greeted by ALTA President Robert J. Jay upon his arrival in Coronado, Calif., March 7 to address a General Session of the 1975 ALTA Mid-Winter Conference. An article based on the Conference remarks of President Leitch begins on page 10 of this issue. For an overall report on the Conference, please turn to page 4.

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GARY L. GARRITY, Editor

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Settlement Procedures Act Major Mid-Winter Conference Topic

Presentations on the impact of the Real Estate Settlement Procedures Act of 1974 and a commentary by the National Association of Realtors president were among highlights of the 1975 ALTA Mid-Winter Conference in Coronado, Calif.

Indications of what to expect when the Act becomes effective on June 20 were outlined in a significant panel discussion at the opening General Session of the Conference. Panelists were Sanford Witkowski, director of the HUD Policy Program Analysis and Development Division; Mrs. Jean G. Harth, assistant counsel, United States League of Savings Associations; and ALTA Research Committee Chairman John E. Jensen.

Witkowski reminded that federal authority to establish standards for FHA and VA home loans is still on the books

in Section 701 of the Emergency Home Finance Act of 1970. He said Congress in the future might move to have HUD implement Section 701—and extend it to all federally related mortgage transactions—if the 1974 Settlement Procedures Act fails to provide an effective consumer safeguard by providing greater and more timely settlement information, and by protecting against unnecessarily high settlement charges caused by certain abusive practices.

HUD's primary responsibility for implementing the Settlement Procedures Act, Witkowski pointed out, is in relation to sections that call for developing a uniform disclosure/settlement statement, developing information booklets to be given by lenders to prospective buyers at time of loan application, and prescribing regulations that require lenders to provide itemized advance

itemized disclosure of each charge arising in connection with settlements covered by the Act (federally-related loans on one to four-family residences including condominiums and cooperatives).

Witkowski said that the proposed uniform disclosure/settlement statement—published by HUD in the February 18 *Federal Register* in accordance with the Settlement Procedures Act—contains a considerable number of line items and blank spaces in an effort to allow for the wide range of settlement practices in various parts of the country. He said that not all line items on the proposed disclosure/settlement statement will be encountered in all locales. He asked ALTA members to send their comments on the proposed disclosure/settlement statement to HUD during the 30-day comment period following publication—and he expressed appreciation for ALTA input while the proposed statement was being designed at HUD.

In concluding his remarks, Witkowski advised living up to the letter of the law with regard to the Settlement Procedures Act—reminding that it provides criminal as well as civil penalties. Besides the provisions calling for the uniform disclosure/settlement form and the home buyer information booklet, the Procedures Act also contains a number of other anti-abuse and reform measures. These include provisions to disclose previous selling price of residential real estate, prohibit kickbacks, prohibit seller from requiring that buyer purchase title insurance from a particular company, limit advance deposit in escrow accounts, disclose beneficial interest in transaction, prohibit fee for preparing Truth-in-Lending statement,



An outstanding panel discussion on the impact of the Real Estate Settlement Procedures Act of 1974 was a General Session highlight at the Mid-Winter Conference. Shown here, from left, are the panelists—John E. Jensen, ALTA Research Committee chairman; Mrs. Jean G. Harth, assistant counsel, United States League of Savings Associations; and Sanford Witkowski, director, HUD Policy Program Analysis and Development Division.

require establishment by HUD of demonstration land parcel recording systems in selected jurisdictions, and require HUD study of the need for additional Congressional action in the settlement area.

Mrs. Harth in her remarks said the United States League of Savings Associations generally supported provisions of legislation developed by Senator William Brock (R-Tenn.) and by Congressman Robert Stephens, Jr. (D-Ga.), which evolved into the 1974 Settlement Procedures Act. She said the League opposed attempts—including those by Senator William Proxmire (D-Wis.) and by Congresswoman Leonor Sullivan (D-Mo.)—to require HUD imposition of maximum ceilings on settlement charges and require lenders to pay settlement charges for home buyers, and to take from lenders the authority to contract for escrowing taxes and insurance payments. The United States League assistant counsel said that, in spite of practical problems foreseen in connection with the 1974 Settlement Procedures Act, these difficulties would not compare with those anticipated in the previously-mentioned legislative proposals opposed by the League.

While the League did not oppose advance disclosure of settlement costs, Mrs. Harth said this part of the Settlement Procedures Act is expected to create serious technical and procedural problems that will slow down the lending process. Additional difficulties are expected with the Settlement Procedures Act, she said, when it comes to the lender defending his related estimating process in using figures when better than half of these will have to be estimated in advance of closing. In conjunction with the slower lending process expected under the Procedures Act, Mrs. Harth said this may well discourage home buyer shopping for credit. She said decreased home buyer credit shopping in the mortgage market would be contrary to the objectives of the Procedures Act—but that this could occur because of the interest of a home buyer in a prompt start of the work required to obtain his real estate financing.

Jensen reminded that ALTA has supported the approach of the 1974 Settlement Procedures Act, even though this legislation will cause certain problems.

As an example, he said that the HUD uniform disclosure/settlement statement will create difficulties for land title company personnel handling settlements around the nation. But the ALTA Research Committee chairman said the currently proposed grouping of charges on the statement—lender-related, government transfer, prepaid, and title-related—is of great importance to the land title industry. Jensen said the inability to group charges by categories resulted in many of the misstatements emerging from the 1972 HUD-VA settlement cost study, which he said is being quoted by federal and state legislators. He added that the uniform disclosure/settlement statement will provide more information on title services than has ever been available previously to Congress, HUD, consumers, and the land title industry.

Jensen expressed agreement with a suggestion by ALTA Federal Legislative Action Committee Chairman James G. Schmidt in an earlier General Session talk—that land title company executives consult with counsel on anti-kickback and offer provisions of the Settlement Procedures Act. Jensen also suggested that land title company executives and their counsel search out inconsistencies between the Settlement Procedures Act and existing state law and request HUD regulations where such inconsistencies are found.

While noting that the ultimate liability regarding disclosure under the Settlement Procedures Act is with the lender, Jensen said there is nothing in the Act to prevent delegation of related duties. He said it is likely that lenders will come to the land title industry with requests for assistance in providing some of the information and/or protections required under the Act. Jensen said such requests would be in line with the traditional and expected role that land title companies have taken in assisting with real estate transactions in the past.

Following presentations by the three panelists, ALTA President Robert J. Jay moderated a lively question-and-answer period.

Another distinguished guest speaker, National Association of Realtors President Art S. Leitch of San Diego, said his association—in conjunction with the Settlement Procedures Act—recom-

mends that participants in the real estate financing process disclose and fully explain the terms and conditions of mortgages—including any provisions for repayment penalties or escalation of the interest rate upon loan assumption.

President Leitch described an active National Association of Realtors involvement in legislative endeavor. He said housing can be given free market tools that will enable it to adjust to cyclical downturns in the future—and suggested mortgage backed bonds and variable interest rate mortgages, along with a restructuring of the nation's financial system, to enable the housing industry to effectively compete for necessary financing.

President Leitch said the National Association of Realtors is working on a comprehensive existing home warranty program in connection with its view that the real estate industry must come up with a total consumer program for existing home sales to avert governmental intervention. He said insurance companies had suggested underwriting plans to the Realtor Association Warranty Committee, and he invited similar consideration from title insurance companies.

(Please see the full text adaption of the Conference speech by President Leitch, which is published elsewhere in this issue of *Title News*.)

Two other outstanding guest speakers helped make the Conference General Sessions exceptionally impressive. Conrad C. Jamison, vice president and economist, Security Pacific National Bank, presented a commentary on the economy and housing that was listened to with great interest; he said indicators point to the beginning of a turnaround in the depressed national housing market later in 1975. The economy also received attention in a talk by John J. Lyman, retired title insurance company vice president, who in a humorous and effective way called for common sense by government and others in facing the nation's difficulties.

General Session attendees received a special bonus when Morton McDonald, who served as ALTA president in 1955-56, presented a commentary upon his completion of 50 years in the land title business. Included in his remarks were recollections of the benefits realized in

his attendance at ALTA Annual Conventions and Mid-Winter Conferences dating back to 1934—which later included 22 consecutive attendances at both. (Please see the full text of his remarks published elsewhere in this issue of *Title News*.)

In addition to those previously mentioned, an impressive lineup of committee reports at General Sessions provided a clear picture of where much important work is being done on behalf of the land title industry. Also reporting were H. Randolph Farmer, chairman, ALTA Public Relations Committee; Robert C. Bates, chairman, ALTA Liaison Committee with the Mortgage Bankers Association of America; J.

Mack Tarpley, chairman, ALTA Committee to Establish Liaison with the National Association of Insurance Commissioners; and Francis E. O'Connor, chairman, Title Industry Political Action Committee.

Wrapping up an activity of still another hard-working ALTA committee, Standard Title Insurance Forms Committee Chairman Marvin C. Bowling, Jr., at a General Session presented for approval proposed owner's and lender's leasehold policy forms developed by that committee. These proposed policy forms, which had been explained at two prior ALTA meetings and which had previously been mailed out for study and comment by Association

members, then were approved by the assembled ALTA members as standard forms of the Association. Also during the Conference, Chairman Bowling reported that the Standard Forms Committee had begun work on developing a proposed construction loan policy in accordance with a request from the ALTA Executive Committee.

Outstanding programs at the Conference meetings of the ALTA Abstracters and Title Insurance Agents Section and Title Insurance and Underwriters Section also added a great deal to the over-all excellence of the Mid-Winter. These meetings are reported upon elsewhere in this issue of *Title News*.

Among actions of the ALTA Board of Governors at their meeting during the Conference were the following:

Excellent Seminar for Abstracters, Agents

A segment from a successful Texas Land Title Association regional seminar drew an enthusiastic response during the Abstracters and Title Insurance Agents Section meeting at the 1975 ALTA Mid-Winter Conference.

Speakers and topics for the seminar segment, which was moderated by William A. Towler III, are: Keith Myrick (How to Get Along with Examiners and Abstracters); Sonja Conway (Developing the Closing Team and How to Make Your Secretary Love You or Leave You); Charles H. Newman (Impact of State and Federal Laws, i.e., EEOC, Wage & Hour, and OSHA); Diane Dietert (Nature of Fiduciary

Agents—What Is an Escrow Officer?); Tom Turner (Financial Management and Escrow Accounting).

Participation in related discussion made it evident that seminar speakers had covered topics of substantial interest to those in attendance.

In addition, Section Chairman Philip D. McCulloch introduced three Section committee chairmen, who presented significant reports on their respective areas of endeavor. They are Robert G. Frederick, Organization and Claims Committee; John R. Cathey, Educational Committee; and James J. Vance, Errors and Omissions Liability Insurance Committee.

- Referred to the ALTA ByLaws Committee for appropriate action a request from the ALTA Young Titlemen's Committee calling for a change in the name of the latter-mentioned committee and a redefinition of its function. The proposed name change would be to ALTA Young Title People Committee, and the function of that committee would be redefined as follows: advancement of the land title industry, arousing the interest of young people in ALTA, encouraging the exchange of ideas among members, improving relations between the land title industry and related industry groups, and furthering the professional interests of young ALTA members
- Referred to the ALTA ByLaws Committee for appropriate action a recommendation from the ALTA Planning Committee that the ALTA Nominating Committee meet at least 60 days in advance of the Association's Annual Convention, for the purpose of selecting ALTA officer and Board of Governors nominees for the coming year
- Approved a recommendation from the ALTA Executive Committee that, because of increased costs, registration fees for the 1975 ALTA Annual Convention will be increased \$15 across the board to \$80 for members and \$50 for non-members



A segment from an excellent regional seminar of the Texas Land Title Association helped draw capacity attendance to the meeting of the ALTA Abstracters and Title Insurance Agents Section at the Mid-Winter Conference. Seminar speakers are, seated, from left, Sonja Conway and Diane Dietert and, standing, from left, William A. Towler III (moderator), Keith Myrick, Thomas Turner, and Charles H. Newman.

—Approved a recommendation from the ALTA Executive Committee that an ALTA Honorary Membership be awarded to Hart McKillop, former member of the ALTA Board of Governors and retired title insurance company senior vice president and director who has been active in ALTA and other land title industry affairs

—Approved a request from the ALTA Committee to Establish Liaison with the National Association of Insurance Commissioners calling for ALTA to send, with appropriate cover letter, copies of *The Ohio Title Insurance Experience Reporting System*, a report of the state insurance department and title insurance rating bureau in that state prepared in conjunction with Arthur D. Little, Inc., to all state insurance commissioners or their counterparts.

All too soon, the final General Session of the Conference drew to a close and it was time for homeward journeys. As thoughts turned to the 1975 ALTA Annual Convention October 1-4 at the Palmer House in Chicago, it appeared that the land title industry was at last approaching an emergence from a serious national business downturn. And, in the wake of one of the strongest Mid-Winter Conference programs in memory, it once again was clear that much can be accomplished through participation in land title industry affairs through ALTA and affiliated associations. □

Underwriters Discuss Marketing Concepts

An executive development seminar featuring emphasis on marketing and on personal time management was a highlight of the Title Insurance and Underwriters Section meeting at the 1975 ALTA Mid-Winter Conference.

Discussion leader for the seminar was Dr. Robert B. Settle, professor of marketing at San Diego State University. In his commentary, Dr. Settle included a presentation of marketing concepts that are of interest to the land title industry.

In addition, Section Chairman C. J. McConville presented ALTA Standard

Title Insurance Forms Committee Chairman Marvin C. Bowling, Jr., who discussed the proposed standard owner's and lender's leasehold policy forms to be presented to the ALTA membership for approval later in the Mid-Winter Conference. After discussion, Section members voted to recommend to the ALTA membership that these forms be approved as standard forms of the Association. This approval later was voted by ALTA members in attendance at a Mid-Winter General Session limited to attendance by active members of the Association.



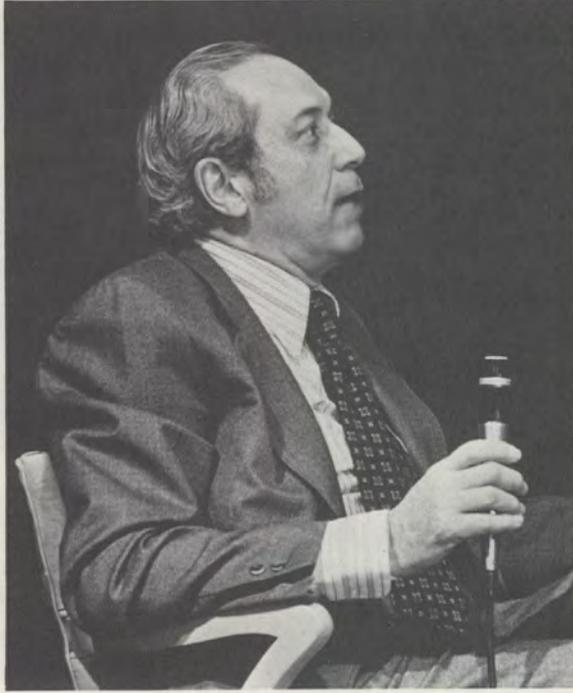
Members of the ALTA Title Insurance and Underwriters Section participate in a discussion on use of marketing in the title insurance business during an executive development seminar at their meeting held during the Mid-Winter Conference. Shown at left is the seminar leader, Dr. Robert B. Settle, professor of marketing, San Diego State University. The seminar also included a segment on personal time management.



In the photograph at right, John J. Lyman, retired title insurance company executive, delivers a thought-provoking commentary on the national economy in a humorous vein during a Mid-Winter General Session as ALTA



President Robert J. Jay listens at left. The other photograph shows Conrad C. Jamison, vice president and economist, Security Pacific National Bank, Los Angeles, presenting a General Session talk on the economy and housing.





*Art S. Leitch, President
National Association of Realtors*

Realtor Perspective

(Editor's note: This commentary is adapted from a talk presented at a General Session of the 1975 ALTA Mid-Winter Conference.)

* * *

Realtors and Realtor associates are indebted to the land title industry for the support and many contributions made to the improvement of the service provided by the real estate industry to property owners throughout America.

The National Association of Realtors has worked with the American Land Title Association for many years to improve the image of the real estate broker through educational programs directed to the public interested in buying, selling and leasing property.

We have experienced many changes in the real estate business over the years. Many of the changes are due to legislation and regulatory agencies at the local and state level relative to the use of real property and the improvements placed on property because of the changing of life-style of the homeowner.

The real estate licensee is becoming more aware of the effects of regulatory controls and legislation on real estate use and ownership. We would like to share with you our impressions and concern with some of the legislation being considered at this time.

We feel it is necessary to become more involved in the Washington scene. We have added additional expertise and manpower to our Washington staff and

our research division in our endeavor to stay abreast of the many programs under consideration on the various levels of government which will affect our industry and the use of land.

The Uniform Land Transaction Act should be restructured into a uniform act on security interests in real property. We have had a special committee working on this matter. It has been concluded that there is an urged need for uniformity with respect to the law governing security interests in real property. On the other hand, it became increasingly apparent that the committee's efforts to require uniformity in the other areas encompassed by the proposed act are unnecessary, and, in fact, counter-productive. Apart from the unlikelihood of being able to ever secure passage of the act in its present form, we believe that such an all-encompassing law is neither necessary nor desirable. By its very nature, real estate is a local matter, and one type of abuse or out-dated rule in one region, does not necessarily occur or affect transactions in some other area.

We have made recommendations at committee hearings that might be offered as model laws for local enactment. We agree that Article 3 of the proposed act should be reorganized into a separate uniform act, since the financing of real estate represents the single area in which there is a true inter-state exchange of commodities and services. Thus, there is a need for a free-flow of

money across the country; to facilitate such a flow, uniform rules on usury, foreclosures, and related matters affecting mortgages are a desirable objective.

The National Association of Realtors has offered testimony before several of the committees hearing bills designed to provide new protections for the right of the consumer. One of these bills dealing with "settlement costs" is supported by the National Association in its goal to provide the homeowner with full disclosure of settlement costs in advance of closing. In addition, as a matter of continuing policy, we urge realtors to observe the practice of estimating and explaining settlement costs to buyers and sellers in advance of the sale, and we support legislation improving disclosure practices in other segments of the real estate industry. Late last year a compromise House-Senate Real Estate Settlement Procedures Act was passed by Congress. The Department of Housing and Development (HUD) has just issued proposed regulations on the act which are subject to public comment.

We recommend participants in the real estate financing process disclose and explain fully the terms and conditions of the mortgage document, including any provisions for repayment penalties or escalation of the interest rate upon assumption of a loan.

In many areas of the country, apartment dwellers have long felt that the lessor has much the better of it, with typical leases spelling out the rights of the landlord and the obligations of the tenant. The Chicago Real Estate Board has now developed and put into use a new form which the Board believes is sufficiently "comprehensive" to serve as a model for the nation. In an effort to equalize the obligations of the two parties, the lease form gives the tenant substantial remedies to cure abuses by the landlord. It includes detailed standards of maintenance by both landlord and tenant, and specifies the landlord's obligation with respect to weather protection, water, heating, appliances, maintenance of the building and grounds, floors, walls, ceilings and elevators.

As condominiums grow in favor with those seeking to combine the financial advantages of home ownership with the convenience of apartment living, a num-

ber of apparent inequities, issues and problems have surfaced. Just last month the National Association testified before HUD on the progress of a Realtor's ad hoc committee developed to identify problem areas and recommend state local legislation which would work towards their solution. The problems center around the implications of long term contracts, disclosure by the seller of amenities and their cost, the treatment of common areas of the property, parking, recreational facilities, and proper budgeting procedures. Our studies have identified 16 areas in which we will endeavor to offer recommendations on what might be used for model legislation at state and local levels that would avoid the necessity of federal control which would not be applicable in many local areas.

The National Association of Realtors cannot support programs providing permanent subsidies. We do recognize that in an emergency such as we are facing within our economy today, there must be emergency measures to help on a temporary basis.

We support pending legislation designed to aid the property owner in the sale of his home and the buyer in his desire to buy either a new home or an existing home.

We would hope that whatever plan is finally approved and signed by President Ford will include existing homes, inasmuch as records show that most new home buyers must sell an existing home prior to the purchase of a new one. Our research indicates a ratio of three existing home sales to every new home sale. If the proposed legislation is to do the job of giving the desired relief to the housing industry, it must consider all forms of housing.

We believe that the housing market can be made to stand on its own without massive federal subsidy programs to bail it out of trouble every few years. We believe in a free market, and that housing can be given free market tools that will enable it to adjust to cyclical market turndowns in the future.

We suggest that mortgage backed bonds and variable rate mortgages, along with some kind of restructuring of the financial system that will enable the housing industry to compete for the financing necessary to provide a stable program for providing homes for all

those who seek home ownership.

We have not passed through our energy crisis. We endorse the provisions of the alternative energy program that will provide a special priority for the assignment of funds to be used to develop more efficient buildings.

We are concerned with provisions of the "conflicts of interest" legislation under study, although we recognize the need for correcting certain abuse situations by proposed rules.

Buyers of new homes have had a warranty protection plan developed that appears to have satisfied both the regulatory agencies and consumer protection advocates. The National Association of Realtors has studied the possibilities of sponsoring a national warranty or insurance program covering existing homes for nearly two years. There have been plans offered on a local level providing for inspection or warranty service on a pilot basis.

There have been two programs offering a warranty service on a national basis that have had some degree of success. Most of them are for either an inspection or a warranty with limitations on the component parts covered under the program.

We believe industry must come up with a total consumer program for existing home sales to avoid the necessity of governmental agencies on a local, state or national basis taking the initiative in the field of consumer protection legislation for the resale home.

It has been interesting to see the growing interest of insurance companies in underwriting plans that have been offered to our Warranty Committee. I suggest that the title insurance industry consider the potential of including some type of a warranty or insurance plan with each title policy.

The National Association of Realtors will offer a comprehensive existing home warranty program. It will cover the central heating, air conditioning, and interior plumbing systems, electrical wiring, and the structural soundness of the interior and exterior walls, floors and ceilings, foundation, basement and roof.

The program is designed to assure the purchaser of a "used home" protection against defects in the property discovered after purchase and not previously identified. At the same time the

program is intended to protect sellers and Realtors from legal liability for alleged failure to disclose defects in the condition of the property and the performance of its essential systems and components.

As such the program constitutes a landmark endeavor by the National Association to protect the home buying public. Perhaps more significant, in the long run, the program constitutes a tangible demonstration of the willingness and ability of private enterprise to recognize and meet the needs of the public without reliance on governmental coercion.

The program is the product of extensive and critical analysis of the legal and practical problems created by defects in used homes. As a result of such analysis, the Warranty Committee developed specifications for a program which would resolve these problems. Such specifications treated the problem of disclosure, of indemnification and repair of undisclosed defects, of efficient processing of claims, and protection against liability for alleged misrepresentation. Moreover, the specifications call for a program with financial resources sufficient to fulfill its commitments to the home buyer.

These specifications were promulgated on a nationwide basis. In so doing, the National Association literally called for the creation of a vital, new industry. The response received was an aggressive, imaginative commitment by a number of experienced and financially sound companies to develop a program meeting such specifications and to place it on the market.

At the same time the Warranty Committee was compelled to reject proposals from other companies expressing interest. It did so, however, on the following grounds:

First, the proposal did not involve coverage broad enough to adequately protect the buyer, the seller and the broker;

Second, the proposal involved a financial commitment by a Board of Realtors or its members individually;

Continued on page 15

Morton McDonald
ALTA Past President

Looking Back Without Stumbling

(Editor's note: This commentary was presented at a General Session of the 1975 ALTA Mid-Winter Conference.)

* * *

President Bob and fellow members of The American Land Title Association, this month is my anniversary. I have been a titleman for 50 years. It is my desire to take you over a few of these years, not for nostalgic reasons, but that I might point out a few experiences that I think might be of benefit to those who have traveled many less miles on this trail.

Some call title searching and title insurance writing a business and others call it a profession. I prefer to think of it as a profession. It has been good to me and I am proud to have spent my adult life in it.

I started to learn the art of title searching in March, 1925, for The Abstract Company in DeLand, Fla. In May, 1926, The Abstract Company was sold to a group of citizens in DeLand headed by a prominent law firm. The senior member of this firm asked me to come to his office. He announced to me what had happened and asked me if I would like to stay on as manager. I had been married a few days less than two months so I certainly wanted to stay on as something. He also asked if I would like to have some stock in the company. I said I certainly would but I was not sure how I could pay for it. He told me they had a block of stock for me and I could pay \$25.00 per month for it. I would gladly have given that much to have been assured of a job. I really was not qualified to become

manager of an abstract company but I soon learned I knew more about the business than the attorneys who had purchased it, so we began a long working arrangement together. The name of the company was changed to The Abstract Corporation. We have operated under that name since that time until now. In about two weeks we expect to announce a change to McDonald Title Corporation. This is at the suggestion of our sons. This is the first announcement of this change.

"Congratulations on being made manager of The Abstract Corporation. We would like to invite you to become a member of the Florida Title Association." A small three or four-line announcement had been run in several of the newspapers in the state about the sale of The Abstract Company and me being made manager. I received a letter of congratulations from the secretary about like I quoted. I do not remember who this wide-awake secretary was but I really do thank him. I thought this would be a fine idea. There was quite a bit of competition in our county but there were no members of the association at that time. I took the matter up with my directors who immediately turned me down. I felt so strongly that we should become a member of the association that I sold my directors a bill of goods on the advantages of membership. The cost was \$10.00 for state dues and \$5.00 for national dues. At least those are the figures as best I can remember. My directors said all of our orders came from people within the county. At that time they were about 95 per cent right but I felt there would be a day that such was not the fact.

Now I received the literature from both the Florida Title Association and the American Title Association. I read this literature from cover to cover. I remember many mimeograph sheets were put out by the American Title Association. The printed matter was not as plentiful. You may have noticed that I said Florida Title Association and American Title Association and not Land Title Association. Land was added to our name many years later. I think it was a good addition.

I began to get information about the state and national conventions. Boy wouldn't it be wonderful to attend a



ALTA Past President Morton McDonald, right, receives congratulations on his completion of 50 years in the land title business from incumbent ALTA President Robert J. Jay. At center is the ALTA past president's wife, Mrs. Thelma McDonald.

national convention. I wonder if I will ever be able to do that? I decided I should go to the state convention so in time for the meeting in the fall of 1927, I took the matter up with my directors. They said they saw no benefits to be obtained from attending such a meeting. I finally got permission to attend at my own expense. After the first year of my attendance I persuaded them to allow \$25.00 toward my expenses for the next several years. Bear in mind that we were already beginning to get in the depression. I think Florida led the way in and out. I knew I could not afford the national convention. I got the habit and did not miss a meeting of the Florida Land Title Association from 1927 until 1968.

Thinking I could not afford to attend the national conventions was not what I later learned to be true. I found I could not afford to miss. I have attended 30 or 31 annual conventions of the American Land Title Association. I attended my first in Coral Gables, Florida, in 1934. I later made 22 consecutive annual conventions and also 22 consecutive mid-winter meetings.

I want to tell you a bit about some of the things I gained by attendance at these meetings and some of the people I have met over the years. I am doing this not just to recall the "good ole days" for I am not one who thinks the "good ole days" are in the past. I think the "good ole days" are yet to come for many of you. I attended several of the conventions where I did not stay in the convention hotel for I could stay cheaper down the street. The only meal I would get in the convention hotel was the annual banquet that was paid for in my registration. Before the days that flying was considered "the" way to travel I would go by train and sit up in the day coach for the ticket was much cheaper than the pullman. My wife did not go with me for we had small children and could not afford the babysitter, much less the expense of the trip for her. She was always very understanding about such trips. In spite of the many stories you have heard about conventions, I was attending to learn more of how to render better service in the title field.

I met two men at my first meeting in 1934 that meant quite a bit to me over

the years. Neither ever served as presidents of our Association but to me both were very capable and outstanding titlemen. I doubt that either ever knew just what they meant to me. They were Harry M. Paschal of Atlanta and Russell A. Furr of Indianapolis. Ben Henley was elected president at the 1934 convention. I had the honor of meeting him during the convention. Really, that is the way I felt then and I still feel that way.

Every time it was possible I would stand around in the hotel lobby and listen to conversations concerning our work. It sometimes took several years for me to put all the conversations together and understand what it was all about, but there was plenty said that if you stopped to think you could get many useful helps. At one of the sessions of the abstracters section back in the thirties, I got one idea that grossed me no less than \$2,000.00 per year. I told that at one of our meetings some years later and one person present said he was at the meeting I described and he did not get anything like that from what was said; so you see you have to use your imagination to a certain extent.

At succeeding meetings I always tried to meet a few with whom I had not come in contact previously. In this way I could learn how different people from all over our nation served the real estate buyer or lender. In addition I attended the sessions regularly to learn as much as possible. I can honestly say the time was not wasted. There were many interesting speakers as well as informative. Many panel discussions were chock full of good information. In more recent years I have skipped some

of the sessions. I was in the lobby during one such session a few years ago and I saw several young men loafing when they should have been in the meeting. I told them they should be inside listening to the program. I said of course you wonder why this old goat is telling us that when he is not in there. The reason I said is because I do not know it all but I am at the age that I do not care whether I learn anything else.

Do you know how to speak about your profession at a civic meeting, meeting of real estate agents or mortgage brokers or other groups that might need your service? I learned much along this line too. One from whom I learned much was one president of this Association; that was McCune Gill of St. Louis. Mr. Gill was a fine titleman and a splendid speaker. I remember that he said when speaking before such a group as I have mentioned, you should be sure to repeat your name several times. He said he always tried to say his name at least three times during his talk. In that way most of the people present would remember who was speaking. You can rest assured that Morton McDonald has never missed an opportunity to repeat his name and I can testify that the suggestion has paid dividends.

There have been many changes in our business and in our problems over the years, yet there are many problems that need solving in about the same way today that they did when I first started attending. I believe the big dark cloud when the association was founded in 1907 was the "Torrens System." That was before my time but I understand that was one of the big reasons for organizing then. I believe Iowa formed the

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first state association and Florida the second; both in 1907. The forerunner of the American Land Title Association was organized the same year.

I was checking old material while preparing this talk and ran across a talk I made at one of the abstracters section sessions many years ago. With very slight changes it could be used today. That does not mean we have not progressed but that there will always be problems to solve and always some good minds in the profession that can help solve them.

There have been problems in the past with some government agencies, FHA, Federal Land Bank, Home Owners Loan Corporation and the like. In fact we still have problems and we work them out through various committees that cooperate with the government agencies. The uniform settlement disclosure statement is an example. Someone has been too greedy or in some cases some of our elected officials have heard stories of overcharges. In most cases these can be isolated or can be shown to come from sources outside of our industry; but we have received too much of the criticism. Maybe because we are a small group comparatively speaking or maybe we haven't properly presented our views. This is one example of where our Association can help and is doing something about it.

Over the years various title insurance underwriters have decided to expand and go national. In agency states they have often found that the best agents are already committed. This leaves them in a situation to take the next best step. Sometimes this leads to trouble. For instance in my state it is impossible to make an accurate search of the public records without having access to a good tract indices. However, there are a number of reputable title underwriters who are ignoring this and taking some chances that sound practices would frown on. I think our Association needs to study this situation more carefully and make recommendations for changes. I will not go into detail here but let me say that I am sure matters could be made better for the underwriter and the consumer. We have had a standard policy committee that has done an excellent job over the years. Why not tackle this problem? As you well know

business is conducted in various ways in different parts of our country. You cannot merely assume that you can do business in another part of the country like you do at home. With this in mind I think our Association can help in many ways by studying these problems; however, just remember that our Association is not going to do anything in this line unless a majority of its members want it done.

The executives of this association that I have known were Dick Hall of Kansas, Jim Sheridan of Detroit, Joe Smith of Detroit and Bill McAuliffe, Jr., now of Washington. I am not quite clear about this but I think Dick Hall served only part time. By that, I mean he was a titleman and devoted part of his time in publishing the "Title News" and serving as secretary of the Association. I have quite a few issues of the *Title News*

published in the late 20's showing him as editor. Many of you here remember Jim Sheridan who served so ably and faithfully for many years. Time will not permit me to recount many interesting experiences I have heard Jim tell about nor many interesting experiences we had together. I must tell you one story though to illustrate the type of job it is to be the association slave commonly called the executive. You see the reason I say this is that each year this man has a new boss, a different personality. So many differences each year. Well, when I became president of this association at Cleveland in 1955, I was trying to learn what my authority was and also what was expected of me. At least at that time the president had the authority to say who should go to the state association meetings to represent this association. Due to our finances only one person

Frank Kennedy, ALTA Past President, Dies February 21 in Michigan

Services and burial were February 26 in Detroit for Frank I. Kennedy, ALTA and Michigan Land Title Association past president and an ALTA Honorary Member who died February 21 in a Grosse Pointe, Mich., hospital.

A Rhodes scholar who held three law degrees, Mr. Kennedy served as president and chairman of Abstract & Title Guaranty Company in his home community until its purchase by Lawyers Title Insurance Corporation. He was a veteran of both world wars and retired as an Army colonel.



Frank I. Kennedy

Survivors include his wife, Mrs. Elizabeth Coyne Kennedy; four daughters; five sons; and 32 grandchildren.

"Over the years, I had many contacts with Frank Kennedy in the title business, title association work, and as a friend," said ALTA President Robert J. Jay. "Through this friendship, I learned many valuable lessons in law and in life from Frank.

"Frank Kennedy was an eager scholar with a wide range of interests and especially in probate and real estate law," President Jay continued. "He loved the philosophy of the law as well as the practical aspects of its application to a current problem.

"In and out of the office, he was a man with a sense of humor, a warm, ready smile, and he always had time to listen to another's problem.

"He was a dedicated and devoted family man. One of his sons, Paul J. Kennedy, followed his dad's footsteps into the land title business. Paul is now with Commonwealth Land Title Insurance Company in Phoenix.

"His family, friends, co-workers, and the industry have lost a true gentleman with a warm personality," President Jay said. "We all gain from having known Frank."

could go in that capacity except in rare cases. Jim and I were the best of friends, yet Jim was known to assume certain duties without questioning anyone as to his authority. He had asked Harold McLeran, then chairman of the abstracters section, to go to the Nebraska state meeting, which was to be held about a month after our national convention. I decided I would emphasize to Jim that this was my prerogative. I telephoned Harold and asked him if he had any objections to me going instead of him. He said he would like to get out of it if possible, so I told him I would go but just await word from Jim. I then called Jim and told him I was going to Nebraska. He said, "But I have asked Harold to go—what will we tell him." I said, "We won't tell Harold anything; you are going to tell him he cannot go, for I am going." You know I never did get around to explaining this to Jim while he was with us. Joe Smith took over after the death of Jim. Joe did a fine job in a much different way than Jim. I felt rather close to Joe as I had worked with him for several years while he was Jim's assistant. I urged him to bring his wife, Rita, with him for the first time to our convention at the Fountainbleu in Miami Beach in 1956. Rita was a wonderful addition. Now Bill is the first professional association executive that we have ever had. We always thought we had to have a titleman but I think we are being served much better and that is no reflection on any in the past, particularly Jim or Joe that I knew so well.

Due to the work with the health and life insurance program, I have had contact with Bill much longer than the average president of this Association. For the first few years after Bill came with us, I was asked by quite a few what I thought of his work. Even with Bill present I am proud to say I think we made a wise move. I might add that to the best of my knowledge we have never asked one of our executives to resign. We have also had several good men in the national offices as assistants who have done much good for the title industry and served with distinction.

Did you know that we had a sustaining fund for a number of years? One was

REALTOR—continued from page 11

Third, the company making the proposal had not the financial resources or experienced manpower and organization to process claims and fulfill the commitments undertaken.

The Warranty Committee believes that the program must be available to every home buyer in this country. It is too essential to be made available under an exclusive arrangement with a Board of Realtors. For this reason, the program will be available to everyone desiring it and will be available through more than one company to assure the full economic benefits of competition.

Notwithstanding the planning which went into the program, it is a plunge into the unknown. The absence of actuarial experience in warranting or insuring used homes poses significant and incalculable financial risks. This is why such great emphasis was placed on the financial condition of those who will offer the program. It is also why the Warranty Committee strongly opposes efforts by local boards or small groups of Realtors to "make their own programs." Aside from the tax and anti-trust problems involved in a board operated program, the Warranty Committee views the financial exposure as prohibitive.

Once introduced, the Warranty Com-

mittee contemplates that the National Association will play a continuing role in three areas:

First, it will continue to seek additional companies willing to offer a home warranty insurance program meeting the specifications established;

Second, it will continue to upgrade the program in the light of experience and the needs of buyer, seller and broker alike; and

Third, it will monitor on a continuing basis the performance of those companies offering the program to assure that Realtors and the public "get what they pay for."

The May meetings will usher in a new era of consumer protection, will introduce a major new industry, and will demonstrate that private enterprise is a viable and superior alternative to government intervention.

The National Home Warranty/Insurance Program will once again demonstrate the leadership of Realtors in the protection of the public and the advancement of the real estate industry.

I invite the American Land Title Association and all of its members to join with Realtors and all Realtor-Associates in a national educational program directed to our buyers and sellers, along with all real estate licensees in the benefits of this National Home Warranty/Insurance Program. □



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Continued on page 16

not pushed but a letter or two was sent out asking if you could pledge a bit of cash to the sustaining fund. This was not for special purposes but extra money to be used to pay our operating expenses. The hat was passed at the annual convention also. I remember I would contribute a \$5.00 bill to this cause. That was quite a big contribution for me in those days too. This contribution ran from \$2.00 to \$200.00. I did not find records of any larger than that.

I mentioned earlier how proud I was that I met Ben Henley in 1934. To think that I got to speak to the president of the American Land Title Association. Several names stand out when I think of past presidents of this association. In addition to Ben Henley and McCune Gill, a few others that really stand out were Bill Gill, Jack Rattikin, Charlie Buck, Joe Meredith, Laurie Smith and George Rawlings. One other that took the time to write me a letter and compliment me on something I did or said at one of the conventions was Mr. Condit of New York who was president in 1924-25. I didn't realize that he even knew I existed until I received that note. It was a real honor and privilege

for me to serve you and I hope I helped someone along the way.

There are other presidents I am sure that stand out in your mind that have meant much to you. The ones I have mentioned here are all gone except of course the one speaking, and Ben Henley. There are many living that I count as my close friends.

If nothing more, can't you just think back at the wonderful people from all parts of this great country that you have met at the conventions? Zettie Hubbard of Missouri, O. M. Young of Arkansas, Montgomery Shepard of Michigan, John Blue of Indiana, Bill Goodloe of Alabama, H. G. Ruummele of North Dakota, just to mention a few of the many wonderful people that have come into my life from these contacts. I could go on indefinitely naming men and women in this profession that have left their mark on our Association.

What has the attendance at these meetings meant to you? New ideas, new methods, solutions to an old title plant problem, another friend? How can anyone afford not to be active in both your state and national association? It is through these contacts that we learn how to better serve the public, and live up to the motto that I repeat weekly: "He profits most who serves best." □

meeting timetable



May 1-3, 1975
Arkansas Land Title Association
Camelot Inn
Little Rock, Arkansas

May 4-6, 1975
Iowa Land Title Association
Ramada Inn
Waterloo, Iowa

May 8-10, 1975
New Mexico Land Title Association
Hilton Inn
Santa Fe, New Mexico

May 14-17, 1975
Washington Land Title Association
Rosario Resort on Orcas Island
San Juan Islands, Washington

May 23-24, 1975
Tennessee Land Title Association
Holiday Inn Rivermont
Memphis, Tennessee

May 30-31, 1975
South Dakota Land Title Association
Brookings, South Dakota

June 1-3, 1975
Pennsylvania Land Title Association
Hotel Hershey
Hershey, Pennsylvania

June 5-8, 1975
New England Land Title Association
Seacrest Hotel
North Falmouth, Massachusetts

June 8-10, 1975
New Jersey Land Title Insurance Association
Seaview Country Club
Absecon, New Jersey

June 12-14, 1975
Colorado, Nebraska, and Utah
Land Title Associations
Tamarron
Durango, Colorado

June 19-21, 1975
Oregon Land Title Association
Inn of the Seventh Mountain
Bend, Oregon

June 19-21, 1975
Michigan Land Title Association
Shanty Creek Lodge
Bellaire, Michigan

June 20-22, 1975
Illinois Land Title Association
Drake Hotel
Chicago, Illinois

June 20-22, 1975
Wyoming Land Title Association
Torrington, Wyoming

June 26-29, 1975
Idaho Land Title Association
North Shore Motor Hotel
Coeur d'Alene, Idaho

July 6-9, 1975
New York State Land Title Association
Sagamore Hotel
Lake George, New York

August 7-14, 1975
American Bar Association
Montreal, Canada

August 15-16, 1975
Kansas Land Title Association
Holiday Inn Plaza
Wichita, Kansas

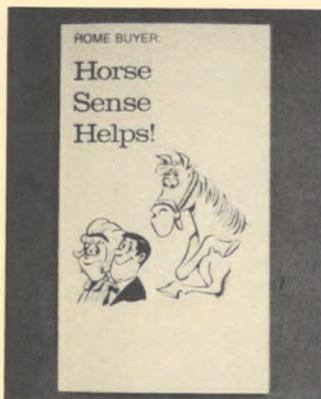
August 21-23, 1975
Minnesota Land Title Association
Downtown Holiday Inn
Rochester, Minnesota

October 1-4, 1975
ALTA Annual Convention
Palmer House
Chicago, Illinois

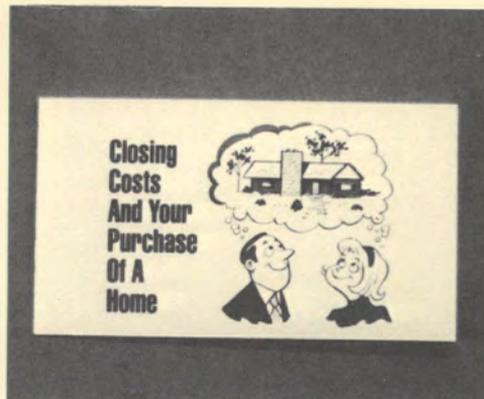
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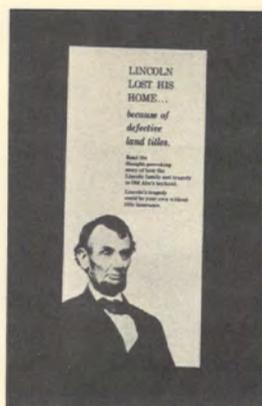
CLOSING COSTS AND YOUR PURCHASE OF A HOME. A guidebook for home buyer use in learning about local closing costs. Gives general pointers on purchasing a home and discusses typical settlement sheet items including land title services. 1-11 dozen, \$2.25 per dozen; 12 or more dozen, \$2.00 per dozen.



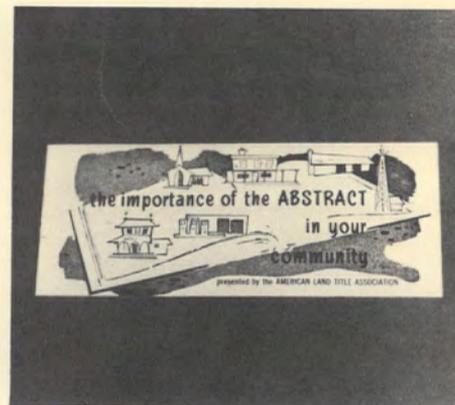
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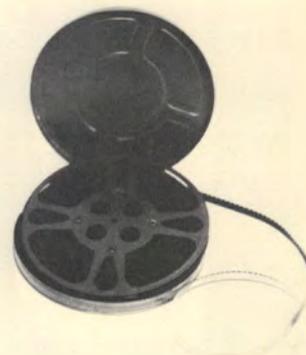


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(RIGHT) **BLUEPRINT FOR HOME BUYING.** Illustrated booklet contains consumer guidelines on important aspects of home buying. Explains roles of various professionals including broker, attorney and titleman. \$24.00 per hundred copies. (RIGHT) **ALTA FULL-LENGTH FILMS:** "BLUEPRINT FOR HOME BUYING." Colorful animated 16 mm. sound film, 14 minutes long, with guidance on home selection, financing, settlement. Basis for popular booklet mentioned above. \$95 per print. "A PLACE UNDER THE SUN." Award winning 21 minute animated 16 mm. color sound film tells the story of the land title industry and its services. \$135 per print.



American Land Title Association

