

TITLE News

MARCH 2024

AMERICAN LAND TITLE ASSOCIATION



MODERN PAYMENT RAILS

and Impact on Good Funds Laws



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MODERN PAYMENT RAILS
and Impact on Good Funds Laws

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**DON'T MISS THIS MONTH'S
DIGITAL ISSUE OF**

TiTLENews

The digital edition of **TiTLENews** includes a webinar recording that addresses the different types of payment rails and the new resources available to help evaluate what payment methods are appropriate for real estate transactions. Additionally, the webinar addresses what updates can be made to state good funds laws to allow for the expanded use of certain types of payment rails.

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Helping Shape Modern Payment Rails

A 2015 WHITE PAPER BY THE FEDERAL RESERVE TITLED “Strategies for

Improving the U.S. Payment System” significantly changed the trajectory of payment modernization. Prior to the paper, U.S. businesses heavily relied on checks, the Automated Clearing House (ACH) and wires to make and receive payments.

Since then, we’ve seen the emergence and adoption of new modern payment rails. It’s been predicted that in 2024, the financial landscape will undergo a transformative shift in the evolution of payment rails, reshaping the industry with significant implications for businesses and consumers.

According to the 2022 Federal Reserve Payments Study, the value of noncash payments has accelerated significantly over time. These payments grew at an annualized rate of 9.5% between 2018 and 2021, reaching a value of \$128.5 trillion in 2021. In 2021, about 205 billion noncash transactions were made in the U.S., over 600 payments for every U.S. resident. According to a Fed survey, in 2022 nearly 75% of consumers used mobile payment devices to send or receive payments, and usage spanned consumers of all ages. This is a considerable increase from 2013, when only 10% of consumers had made a mobile payment. McKinsey & Company projects a 9% average annual growth in the global payments industry over the next five years.

Use of modern payment rails in the estate industry will be dependent on whether they are allowable under state good funds laws. Analyzing these laws was a major project for ALTA’s Closing Funds work group. With the help of law firm Morgan Lewis, ALTA reviewed good funds laws of every state, Washington, D.C., and Puerto Rico. The easy answer is that there is a lot of ambiguity between the states, both in language of the legislation and the terminology used to describe the different moving parts.

The survey identified that 28 states and Washington, D.C., have good funds laws; three states (Delaware, Vermont and South Dakota) regulate escrow disbursements exclusively through rules of professional conduct; and 12 states and Puerto Rico have no good funds laws. The survey identified whether Real Time Payments (RTP) and FedNow are acceptable forms of payments under these regulations. Of the 28 states and Washington, D.C., which regulate good funds laws, RTP is accepted in seven states, may be accepted in 21 states and is not accepted in one state. FedNow is accepted in six states, may be accepted in 22 and is not accepted in one state.

From there, the work group developed a model good funds law that would enable the use of modern payment rails. Other goals of the draft bill were to avoid the vagueness of many existing laws, be simple to understand and provide clear terminology, and avoid the implication that escrow agents must accept a payment in the form of “good funds” just because it appears on the list.

This edition’s cover article provides greater detail on the different payment rails that exist and the work of ALTA’s Good Funds Work Group. The evolution of and use of modern payment rails will only increase. ALTA is working to help ensure these options are efficient, safe and available to all.



JEREMY YOHE

ALTA vice president of communications

Hear Election Analyst David Wasserman at ALTA Advocacy Summit

With 2024 being an election year, who better to hear from at ALTA Advocacy Summit than David Wasserman, senior editor and election analyst for the nonpartisan newsletter, “The Cook Political Report with Amy Walter.” Also a contributor to NBC News, Wasserman will analyze the current political environment for the House, Senate and presidential elections on Monday, May 6, during ALTA Advocacy Summit in Washington, D.C.

His data-driven forecasting will look at national and local trends, the relationship between consumer brand loyalty and voting, and what the future holds for American elections. Join us at ALTA Advocacy Summit to hear directly from Wasserman, who “Meet the Press” said is “pretty much the only person you need to follow on election night.”

For more information or to register, go to meetings.alta.org/advocacy2024.



ALTA Registry Data Integrated Into Qualia’s Platform

ALTA announced the integration of confirmed ALTA Registry data into Qualia’s platform.

The data will be provided to Qualia under a licensing agreement with the [national ALTA Title & Settlement Agent Registry](#) (ALTA Registry), the national database of title and settlement agents.

“We’re pleased to collaborate with Qualia with the most accurate title and settlement services company data available in the industry,” said ALTA CEO Diane Tomb. “It’s crucial that the title insurance industry urge progress and innovation in the digital closing space. With 10,000 locations listed in the ALTA Registry and 2,800 of them showing a state of ‘RON readiness,’ now is the time for all title insurance companies and real estate attorneys to register.”

The ALTA Registry is a unique real estate utility created specifically for the mortgage industry and service providers. The ALTA Registry provides data on individual title insurance and settlement services companies, identified by an ALTA ID, as well as each location’s “RON readiness” capabilities. The ALTA Registry is free and ALTA membership is not required.

ALTA launched the ALTA Registry in 2017 as the first

national database of title insurance and settlement services companies. In addition to contact information and branch locations, each ALTA Registry listing also includes a title insurance company’s or real estate attorney’s unique seven-digit ALTA ID.

“The ALTA Registry is a great vehicle for lenders and brokerages to use to place title orders and collect necessary compliance information. We’re excited to partner with ALTA to expand the reach of the registry and make it easy for title and escrow companies to work with their valued partners,” said Charlotte Brown, vice president of product at Qualia.

With many branch locations and similar agent names among title and escrow companies, it can be a challenge to ensure that orders go to the right person and location.

Utilizing the ALTA ID as a standard form of identification across the industry enables more accurate routing of requests to the correct parties. The ALTA Registry also validates licensed agents, creating an additional layer of security in the process.

| Get Involved With the ALTA Good Deeds Foundation

AMERICAN LAND TITLE ASSOCIATION



The ALTA Good Deeds Foundation is off to a great start in 2024, thanks to the generosity of our donors! Having raised more than \$1.2 million and awarded more than \$844,000 in grants to small, local organizations since 2020, the foundation has done incredibly meaningful work for communities across the United States.

However, the foundation must raise funds continuously to distribute grants at least twice per year. To that end, the foundation has created a fundraising committee to be led by Steve Day NTP, foundation board member and ALTA past president.

If you or someone in your office is interested in joining this committee, please email gooddeeds@alta.org. For

more information on the foundation, visit altagooddeeds.org.

If you would like to donate to the foundation—and see your name on event signage, on the website and in newsletters—visit altagooddeeds.org/donate or text GOODDEEDS to 44321.

| Membership by the Numbers

ALTA is the title insurance and settlement services industry resource for advocacy, education, communications, networking and policy standards. Here's a look at some membership numbers from the past month.

- New Members: 129
- Title Agents: 86
- New Attorney Members: 30
- New Associate Members: 9
- State With the Most New Members: Florida with 32
- Total Members: 4,968

ALTA 2024 TIPAC Donors

The Title Industry Political Action Committee (TIPAC) is ALTA's voluntary, nonpartisan political action committee (PAC). TIPAC raises money to help elect and reelect candidates to Congress who understand and support the issues affecting the title industry. So far in 2024, TIPAC has raised \$183,750 from 74 people. In addition, \$134,000 from 18 companies has been pledged to the TIPAC Education Fund. Check out who has supported the industry at alta.org/tipac.



NEWS TO SHARE?

If you have information you'd like us to consider for TiTLE News, send company announcements to communications@alta.org.

CALENDAR

2024 ALTA EVENTS

ALTA ADVOCACY SUMMIT

May 5-7

Washington, D.C.

SPRING TITLE COUNSEL

April 14

Scottsdale, Ariz.

LARGE AGENTS CONFERENCE

July 21

Park City, Utah

ALTA ONE

Oct. 15-18

Orlando, Fla.

STATE CONVENTIONS

OKLAHOMA

April 18-21

Oklahoma City, Okla.

CALIFORNIA

April 21-23

Dana Point, Calif.

PALMETTO

April 24-26

Asheville, N.C.

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See Horizon: RamQuest.com/HorizonDemo



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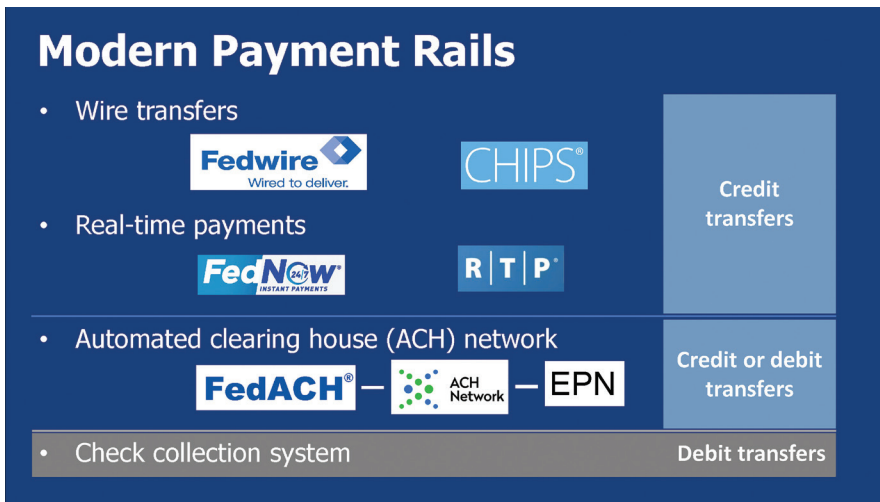
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MODERN PAY and Impact on Good

THE WAY PEOPLE SEND AND RECEIVE MONEY IS CHANGING. Consumers and businesses are moving toward technologically advanced payment practices that better align with their evolving wants and needs. While the industry has been hearing a lot over the past few years about modern payment rails, it's important for title and settlement services professionals to understand which payment methods are appropriate for real estate transactions.

a “credit” transfer and a “debit” transfer, according to Michael O’Neal, vice president of corporate underwriting at First American Title Insurance Co. Wire transfers—such as Fedwire and Clearing House Interbank Payments System (CHIPS)—as well as the Real Time Payment System (RTP) and FedNow are credit transfers. Meanwhile, the Automated Clearing House (ACH) network is a credit or debit transfer.



Wire Transfers

The term doesn't have a precise legal meaning, but Fedwire and CHIPS are the two agreed upon “wire transfer” systems. Every day, Fedwire on average handles more than \$4 trillion in payments while nearly \$2 trillion is moved via CHIPS. Fedwire operates between more than 5,000 U.S. banks that have master accounts at one of the 12 regional Federal Reserve Banks. CHIPS is largely limited to the domestic branches of foreign banks and primarily handles cross-border payments.

“In real estate transactions, we are almost always sending wires via Fedwire, although CHIPS may be used in some commercial transactions involving international investors or lenders,” O’Neal said.

Both methods are governed by Article 4A of the Uniform Commercial Code.

The magical moment in a wire transfer is “acceptance” of the funds by a beneficiary’s bank.

“The concept of acceptance under Article 4A has a somewhat counterintuitive meaning that is not the same as other areas of the law, since it can happen without knowledge or intent,” O’Neal said. “When a beneficiary bank places wired funds in its customer’s account, or gives notice that funds are available, Article 4A invalidates

Payment Rails

Until the second half of the 20th century, the check collection system was the only widespread payment system. Wire transfers were relatively rare and governed almost entirely by private contract and custom. Today, things look drastically different. Payment rails are the underlying infrastructure and systems that facilitate the transfer of funds between individuals, businesses and financial institutions. They enable the secure and efficient movement of money, both domestically and internationally, and are important

components of the global financial ecosystem.

Payment rails have many names, depending on the context and the specific payment system in question. Additional terms used to describe payment rails include:

- Payment networks
- Payment systems
- Settlement systems
- Clearing systems
- Money transfer systems

There are two basic models for transferring money between bank accounts:

MENT RAILS

By Jeremy Yohe

Funds Laws

ALTA Develops Model Good Funds Bill Due to Increased Digital Options

any attempt by the bank to make that payment provisional and therefore revocable.”

Additionally, the person who sent the wire has no right to claw it back except in very limited situations, such as a payment that was wired twice.

The payment finality of wire transfers has some downsides, including wire fraud and error in the payment process.

“If money is stolen or wired in error, it may be out the door and difficult or impossible to get back,” O’Neal said. “In addition, there are significant timing and control issues related to wires.”

Wires can take up to two days to complete. There’s no statutory duty for a receiving bank to act on a payment order. Also, an originating or intermediary bank may delay or refuse to process a payment because they want to avoid “daylight overdrafts.”

“If a bank has received more outgoing wire requests than it has in its Federal Reserve master account, it may put wires in a queue before processing outgoing payments,” O’Neal said. “From a title company standpoint—how are we or our customers supposed to know this is happening?”

Real-time Payments

A “real-time” or “instant” payment is like a wire transfer but with several key differences. Like a wire, a real-time payment operates as a real-time gross settlement system. That is, each payment is handled one by one between participating banks by individual debits and credits to their Federal Reserve master accounts.

However, unlike a wire, where the processing time can stretch for hours or even days, in a real-time payment the entire transfer happens nearly instantaneously, according to Mickey Vandenberg, vice president of escrow operations for Stewart Title Co.

“There are no wire cutoff times or windows in which payments must be made,” she said. “These systems are intended to be used both by businesses but also for consumer, peer-to-peer payments.”

Complex federal laws—and potentially state laws, depending on the issue—govern FedNow. The RTP system is governed by a complex interplay of federal and state as well. Most of the rules for RTP are found in the private system rules. RTP is also governed by UCC Article 4A as adopted in New York for any non-consumer payments.

“So, while the two real-time payment systems share a lot of similar features, it’s important to understand that they may be governed by slightly different sets of rules,” Vandenberg said.

For RTP and FedNow, a sending bank’s payment to a receiving bank becomes “final” the instant it is recorded in the transaction ledger at the Federal Reserve Bank or by the RTP system. Like with wires, this means that payment—including discharge of any underlying debt—happens simultaneously with the posting of the payment transaction between banks.

Like with wires governed by Article 4A, once a real-time payment is made it cannot be reversed, except by a voluntary return by the receiving bank. While a sending bank may request

reversal of a payment and the receiving bank is required to provide a response there is no obligation to reverse a completed payment transaction.

Both real-time payment systems offer features to help mitigate payment fraud, such as multifactor authentication. RTP uses the “tokenization” of users to mask their underlying account numbers. This will assist preventing account information from being inadvertently used or hacked by fraudsters, according to Vandenberg. FedNow permits dollar limits for specific participants of the system and also has a “negative list” of suspected bad actors.

Both payment rails also currently have transaction limits on the size of payments. RTP’s is \$1 million, while FedNow launched this summer with a \$500,000 limit. (The system default is \$100,000.) These caps are intended to restrict the amount of money that can be inadvertently sent, Vandenberg said, but are expected to rise in the future as additional fraud-mitigating technologies are deployed. The dollar caps limit the utility of these payment rails in many real estate transactions because residential property values often exceed them in several markets.

Finally, a feature known as “request for payment” is being developed and is not yet available for real estate transactions. Once available, Vandenberg said, it should be a powerful way to prevent a lot of interloper wire fraud.

“A request for payment will enable a company—like a title agency—to send an invoice or perhaps a settlement statement to a customer asking for payment in the requested amount,” Vandenberg said. “Since the request comes directly from the business, this greatly reduces the risk that some fraudster will intervene and provide false wiring instructions, or that the consumer will mis-key the business’s account number when setting up the payment.

“All together, these fraud mitigating techniques—which are still being developed and more widely deployed—hold the promise of making real-time payments significantly safer than wire transfers are today,” Vandenberg said.

Automated Clearing House

Automated Clearing House (ACH) transactions are electronic payments made over the ACH network governed by the Nacha Operating Rules, along with other applicable federal and state laws.

There are two major ACH network operators, the Federal Reserve Banks (FedACH) and the Electronic Payments Network (EPN) privately operated by The Clearing House.

Although FedACH processes most ACH payments, EPN handles nearly half of all commercial ACH payments.

ACH can operate as either a credit or debit transfer system. The Nacha Operating Rules provide for some different requirements that govern each type of payment. The main difference between ACH and other payment rails is that it operates as a deferred net settlement system, according to Chris Hultzman, vice president of corporate underwriting for First American Title Insurance Co.

Brief Comparison of Different Funds

ALTA's Good Funds Work Group recently published analysis of the various payment rails available today. Here's a summary of some of the results.

Payment	Wire	Real Time Payment System	FedNow	Automated Clearing House
Description	Electronic interbank credit fund transfers (domestic or international) through The Clearing House Interbank Payment System (CHIPS) or the Federal Reserve's FedWire System.	Electronic interbank credit fund transfers (currently supporting limited international availability with Immediate Cross-Border Payments pilot) through The Clearing House Payment Company's RTP system.	Electronic interbank credit fund transfers through Federal Reserve's FedNow system, which was launched July 2023.	Electronic interbank credit and debit fund transfers (domestic and international) through The Clearing House's Electronic Payments Network (EPN) and the Federal Reserve (FedACH).
Fund Availability - Time to Settle & Clear	One to two banking days. Multiple variables impact the speed of the wire including: <ul style="list-style-type: none"> time of day that the wire transfer is requested. whether the target account and initiating account are at the same financial institution. 	Allows for availability of funds to payee within seconds. <ul style="list-style-type: none"> Payee's bank must reply within five seconds to payment message. Payor's bank must push funds to payee immediately, if accepted. Settlement is final when the RTP System has recorded both the decrease in the payor bank's net position and the increase in the payee bank's net position. 	Allows for availability of funds to payee within seconds. <ul style="list-style-type: none"> Payee's bank must confirm response to sending message within 20 seconds. Settlement is final at the earlier of the FedNow Service recording the transaction or when the FedNow Service sends an Advice of Credit message. 	<ul style="list-style-type: none"> Regular ACH: transactions can take one to three banking days, or even longer, depending on the type of transaction (credit or debit), because they are processed in batches. Same Day ACH: transactions may be processed in one banking day but may extend to an additional banking day if batched transactions are processed after daily deadline.
Transaction Limits	Varies by financial institution but potentially unlimited (subject to system technical limitations).	Default - Up to \$1 million, at discretion of participating bank.	Default - Up to \$100,000. Adjustable up to \$500,000 using FedNow Profile configuration.	Regular ACH: Unlimited Same Day ACH: Up to \$1 million

The complete analysis can be accessed at alta.org/advocacy/technology/good-funds.

"This means that ACH processes payments in batches, not individually," Hultzman said. "So, there are certain windows where many payments are collected together and processed in a batch at set times throughout the day."

In addition, ACH, like wires, processes these batches on a net basis. Each bank's debits and credits within the batch are tallied up and offset against each other, so that the actual money that changes hands between banks is only the resulting net position. Hultzman said whenever an ACH credit transfer involves only non-consumer originators and receivers, ACH is also governed by UCC Article 4A.

There are different timelines between ACH credit transfers and same-day ACH payments, which permits same-day value transfers for up to \$1 million.

"For a standard ACH credit transfer, you have to initiate payment up to two banking days in advance," Hultzman said. "With same-day ACH, you can obviously initiate it on the same day you want the settlement to occur."

The real key, however, is the reversal risk under the Nacha Rules. Hultzman said the originator of a payment has the right to reverse the payment—or "entry," as it is called under the ACH

rules—up to five banking days after the settlement date.

"That means someone receiving an ACH credit payment is not free of that reversal risk until the sixth banking day at least," Hultzman added. "ACH, therefore, provides less certainty on the question of payment finality than either the wire transfer systems or the real-time payment systems today."

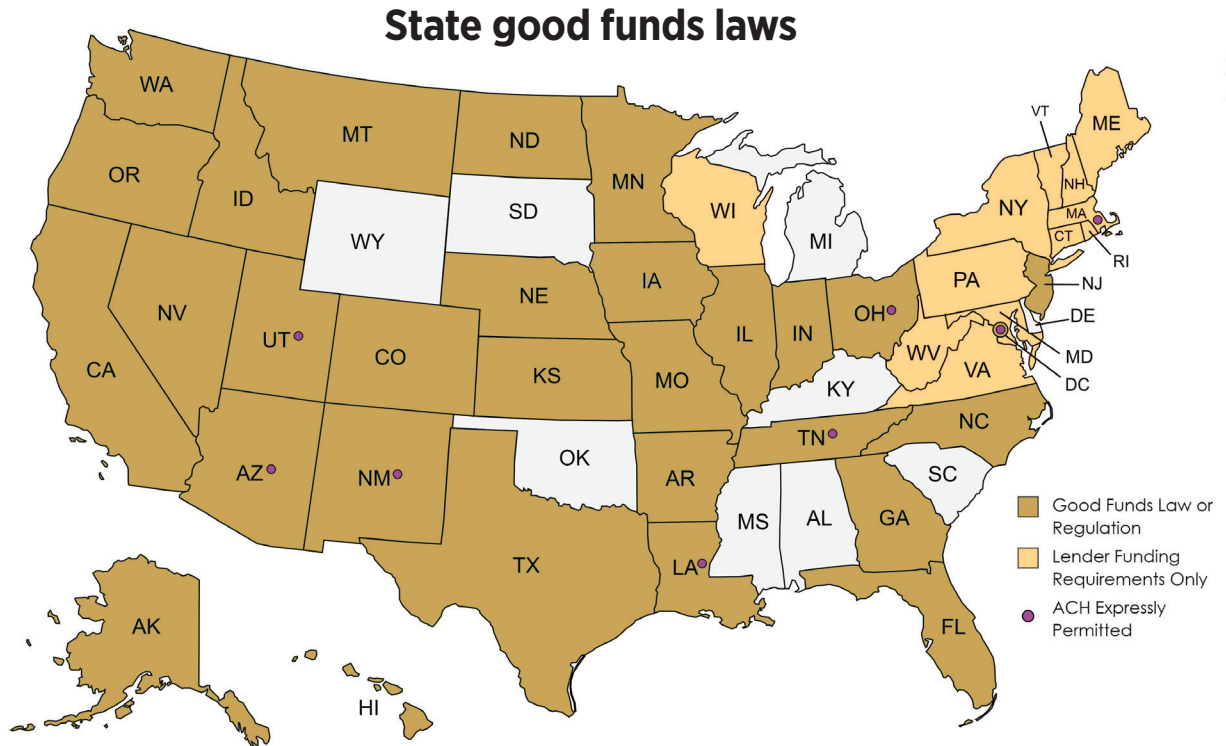
Good Funds Laws

The use of various payment rails in real estate transactions is governed by state good funds laws, which set requirements for acceptable forms of closing funds. They help to ensure final and disburseable funds are received prior to real estate transfers or closings.

A major goal of ALTA's Good Funds Work Group was to research and understand what changes might need to be made to existing state good funds laws to accommodate modern real-time payments.

"The most basic thing to keep in mind, however, is that these laws govern the conduct of escrow and title agents," O'Neal said. "They do not govern the payments themselves."

These laws are designed to provide protections to clients



and customers, provide strong safeguards of money deposited into escrow and prevent the inadvertent spending of other client/customer funds.

“Even in the absence of a good funds law, an escrow agent likely has other fiduciary, contractual or for lawyers, even ethical duties to safeguard customer funds,” according to O’Neal. “A good funds law may provide more specificity for these other duties.”

Good funds laws also provide systemic protections to the real estate market by protecting the financial stability of escrow agents and helping to prevent fraud.

There are several categories of risks that payment finality is designed to alleviate, including:

- Payor credit risks
 - Insufficient funds
 - Stop payment orders
- Payee entitlement and reversal risks
 - Unauthorized payments (fraud, forgery, counterfeit, etc.)
 - Payment errors (amount, payee, date)
 - Non-holder, missing indorsement, etc.
- Bank credit and liquidity risks
 - Insolvency, suspension of payments
 - Intraday credit risk (daylight overdrafts)
- Payment system risks
 - Spillover participant liquidity risks
 - Technical malfunctions or operational mistakes

- Legal uncertainty
- Disruption of the system itself

ALTA’s research found that 29 states plus Washington, D.C., have good funds laws. A number of states—mostly around the Northeast—impose requirements on acceptable payment methods for lenders funding a mortgage loan, but not directly on escrow agents for other kinds of funds received into escrow.

According to O’Neal, the review of each state law or regulation also found existing laws use a considerable amount of unclear terminology that makes them hard to analyze with precision.

Many good funds laws are decades old and were drafted prior to the development of new payment rails such as FedNow or RTP. With all the ambiguity of these laws, the research determined that in most jurisdictions it is often unclear whether current laws allow, or possibly allow, FedNow or RTP.

The final step for the work group was to draft a model good funds law. Given the increased options in today’s marketplace, ALTA supports the adoption of updated good funds laws, especially those that enable “instant” or “real-time” payments, in a safe and compliant manner.

To protect consumers and the real estate economy, ALTA believes good funds laws should:

- Enable the use of modern payment rails, such as FedNow or RTP.
- Facilitate the use of technology linked to approved payment

rails that provides consumer convenience and anti-fraud protections.

- Provide certainty in real estate financing and transfer through the use of finally settled funds.
- Require funds not be subject to exchange risk when converted to U.S. dollars and be transferred within or between federally insured depository institutions.
- Establish that funds received should be directly transferred from a consumer's federally insured depository institution, and not sourced from a credit card, cryptocurrency or any other non-depository source.

In addition to these principles, the work group wanted the model bill to avoid the ambiguities of many existing laws by creating a simple, easy-to-use framework.

"We wanted something that could almost be used like a checklist for escrow agents or even handed to and used by a consumer or regulator," Vandenberg said. "Another goal is that you shouldn't have to be an expert in payment law in order to use the model. You shouldn't have to determine the results of interbank processes, like 'final settlement,' or need to look up other bodies of law to understand what is required."

Vandenberg said the work group also wanted to avoid the implication that escrow agents must accept payment in the form of "good funds" just because it appears on the list.

For example, if a customer walks in with a large bag of cash or a suspicious cashier's check. Therefore, the model expressly permits escrow agents to set a higher standard of care as a matter of sound business practice or perhaps because some other legal duty requires the higher standard.

Hultzman said the group determined the model bill should cover the receipt of funds by escrow agents, but not the form of disbursement from escrow. The bill also focuses solely on the real estate transaction because title and escrow agents may hold client funds for other reasons.

Finally, the model bill addressed the problem with checks. Since there's ambiguity on when a payment made by check is truly final, the language and terminology in the model bill attempts to be concise.

"Whenever we explained what forms of payment are acceptable, like a 'wire transfer' or 'real-time payment,' we follow that up by indicating what underlying payment rail is meant by those phrases," Hultzman said. "In this way, we tried to capture the best of both worlds by using terms that actual customers and other normal people understand, while providing specificity for what those terms mean."

Here's how ALTA's model bill defines the term "good funds":

(f) "Good funds" means funds denominated in United States dollars directly deposited or received in the form of:

- (i) United States currency;
- (ii) a wire transfer through the Fedwire Funds Service

or the Clearing House Interbank Payments System (CHIPS);

- (iii) a credit transfer through the automatic clearing house system governed by the rules of the National Automated Clearing House Association and operated by the Federal Reserve's FedACH service or The Clearing House Payment Company's Electronic Payments Network (EPN);
- (iv) a real-time or instant payment through the FedNow Service operated by the Federal Reserve Banks or The Clearing House Payment Company's Real-time Payments (RTP) system;
- (v) a debit entry to another account on the books of the depository bank, and a credit entry in the same amount to the escrow account on the books of the depository bank, other than by check;

The model bill also provides a definition for different types of checks that qualify as "good funds," although the high variability between existing state good funds laws makes the model's language merely a recommended approach for states to consider.

Additionally, ALTA's Good Funds Work group outlined the following conditions for disbursement in real estate transactions:

- **Deposited:** Funds must be deposited with a Federally Insured Depository Institution.
- **Balanced Ledger:** Deposited funds must be at least equal to transaction disbursements.
- **"Good Funds":** Funds must be directly received by the escrow agent's Federally Insured Depository Institution in a form deemed to be "good funds" under state statute.
- **Funds Availability:** A Federally Insured Depository Institution must make the funds available for immediate use or withdrawal.

"The definition of 'good funds' is the first major checklist to follow in our model," Vandenberg said. "First, you should only close a transaction if the funds you have received are in a form included in that definition. Second, your escrow ledger must balance. That is, your scheduled disbursement must not exceed what you have received or deposited, so you don't have an escrow shortfall. Finally, besides being on the approved 'good funds' list, the payment must also have been made available by your bank for use or withdrawal. It is axiomatic that if you are disbursing funds from your account before they are available for use, then you might have inadvertently spent other client funds instead of funds for the specific transaction in question." ■



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Where Have All the Recruits Gone?

Founder of Positively Balanced Tried
to Help Solve Title Industry's Staffing Problem



Sons and daughters, nieces and nephews were prime recruits for title agents in the past, as local mom and pop shops brought in the youngsters to pull records, pick up earnest money deposits and drop off documents for filing.

From their early days of running errands, to taking on more important tasks within the agency through the years, the next generation moved up through the ranks to become closing secretaries, post-closers, title examiners and managers, learning every aspect of the business from the ground up.

In the last two decades, millennials—and now Gen Z—have looked to the vast technology landscape, rather than family, to identify possible career paths.

[Monster.com](https://www.monster.com) reported that the most popular jobs for millennials are embedded in technology and social media—the things this generation knows best. This includes statisticians, financial analysts, advertising and promotions managers, web developers, market research analysts and marketing specialists, and television, video and motion picture camera operators and editors.

How to attract this generation into careers in the title insurance industry—an industry they know nothing about—is the \$64,000 question.

Recruiting and Training: Who Has Time?

With fewer young people entering the industry organically, agency owners continue to struggle with filling empty seats. Recruiting from other agencies is one strategy, but that is a zero-sum game for the industry.



Beyond the recruiting issue, training is the larger problem. One Atlanta entrepreneur decided to step into the gap and create something long needed in the title industry—a training program for beginners.

Mary Anne Harris, founder and president of Positively Balanced, a firm that provides full-service escrow reconciliation, audit preparation, consulting and bookkeeping for real estate attorneys and title agents,

brings an informed view of the situation from her work with more than 300 clients nationwide.

“I was going into my clients’ offices and seeing

that there were no younger people coming into the business,” she said. “There were no new faces. It was just a lot of people shifting around from one agency to another.”

Harris recognized that young people were moving toward what they knew best: technology, and that did not include the real estate industry. She came up against the age-old problem that careers in title insurance, escrow and closings are largely hidden from view.

“I would say, ‘I am in real estate,’ and they would say, ‘Oh, are you a real estate agent or a mortgage broker?’” she said. “They don’t realize all of these other positions exist. And there isn’t any one dynamic company out there that gives out the vibe to the younger generation to come into our industry.”

As the real estate market began to heat up a few years ago, something else occurred that gave her another nudge.

“Mary Anne was receiving a lot of calls from clients asking if she knew a closer, a pre-closer or a post closer she could recommend,” recalled Connie Bartlett, vice president at Positively Balanced and the executive who runs the day-to-day operations. “Clients would tell her, ‘I have this great person, but we haven’t had time to train them.’ In the course of these conversations, we saw again there was a need out in the industry for more training and better training. That was what pushed her to create a training program in 2020.”

Having already established sister company Positively Closed to provide clients with back-office closing solutions to fill in some of the gaps, Harris and Bartlett now turned their attention to staffing, hiring Janis Gaines as executive director and Sandi Donaldson as lead educator.

Gaines brings 25 years of experience in education, including designing curriculum and virtual training modules for multiple courses. Donaldson adds 35 years of experience in mortgage and real estate settlement.

Together, the team created Real Estate Closing Path

ALTA RESOURCES

ALTA has developed several items to help train new hires. Check out the various training videos, webinars, online courses and model training program that are available on ALTA’s website at alta.org/career-and-learning/webinars-and-training.

(RECP), a training and job placement service in the real estate closing industry. The company offers introductory and advanced courses in prepping and processing the documents in a real estate transaction to prepare candidates for jobs as pre-closers, closers and post-closers.

Once established, the team had to find the right students for the program and that's where it gets interesting. RECP provides a model for other agents to follow in seeking new recruits for their office.

Taking It to the Streets

For Harris and Bartlett, it was all about identifying who would most benefit from a career in the title industry, and who could bring some basic skills from other industries that would translate well with a little training.

The first concept they landed on was women in retail.

"A lot of women struggle finding a career path after they have spent years investing their time in the family," Harris said. "The kids move on, and they are a little lost. They may be working behind a perfume counter now, but they can't really grow a career there."

She said candidates coming out of retail are primed for this industry because they have good customer service skills, are used to dealing with people and often are hard workers.

"You can teach closing skills, but the candidate has to have the personality for it," Harris said. "They have to have a hunger for learning and have great customer service. Fifty percent of the job is how you talk to the real estate agents. You have to be motivated, energetic, positive and happy to speak to people."

Bartlett also saw the potential in recruiting candidates from retail.

"I think it is easier to train someone from outside the industry who doesn't know anything," she said. "People in the industry view things from a certain perspective and can get set in their ways. People from outside the industry who are looking to enter a new career often bring fresh energy and perspectives to the process."

Harris and Bartlett are visionaries in many respects, and they saw the training program as something much larger than filling empty seats in a title company. They saw it as a way to help people improve their lives, while also giving back to the community.

And so, they decided to also team up with non-profits. They contacted veterans' groups who were offering job training and encouraged them to send qualified vets their way. The respect, punctuality and discipline already learned in the military seemed like a good fit for the title industry.

They also reached out to Dress for Success and Rescuing Hope to provide new pathways for women struggling to emerge from troubled pasts to create a sustainable life for themselves and their families.

Even as they worked to bring new candidates into the industry, they also recognized some additional opportunities for expanding training to other verticals within the industry.

Advanced Training and Skills Upgrade

RECP started out as a local, in-person training venture for new candidates in the Georgia market, but when the pandemic sent

workers offsite, it quickly moved to a much wider market in the virtual world.

This gave the team an opportunity to expand the concept to other types of training.

"We created nine different virtual workshops where current employees can take a one-time class to brush up their skills," Harris said. "We have had a lot of new attorneys take it and we've gotten great feedback from them."

They began offering a course in advanced training for existing employees in the Georgia market and are working on creating advanced training classes for Florida and Texas agents.

"Advanced training is for someone already in the industry," Harris said. "They may be taking a new position or taking on more responsibility. We try to expand their knowledge."

She sees this as a golden opportunity for agents who want to keep their valuable staff and to ensure the highest levels of competency.

"We found people didn't have time to leave their positions to be at an in-person training, but they may have time for a three-hour virtual course to brush up on contracts," Harris said. "We also work with individual offices who want to specify a training for their staff, and we can customize that for them."

Yet another market for their services turned out to be real estate agents who needed insight into what goes on behind the scenes during the title and closing process. In addition, real estate agents often look for part-time work within the industry to supplement their sales income and tend to gravitate to title companies.

"Who do they go to when they start looking for a job?" she asked. "They go to the people who they bring their business to – title agents. But they only know the outside, they don't know the inside. If someone is going to come in and help as a closer, our training programs can give them the inside information to make them more valuable."

Strengthening Recruiting and Training

Duplicating this model may not be everyone's cup of tea, but the journey Harris and Bartlett have taken is instructive for agents across the country. Here are some steps any agency owner can take to improve their recruitment and retention efforts:

- Participate in local high school and college job fairs to get the word out about careers in the title industry.
- Connect with nonprofits involved in job training to identify potential candidates.
- Establish a training program for new recruits, either in-house or through outside providers.
- Invest in your employees by providing advanced training to improve their skills.
- Commit to cross training your employees to strengthen your internal capabilities.



Solving the staffing problem in the title insurance industry is a long game. It will take the vision and commitment of more industry veterans like Harris and Bartlett to come up with innovative solutions for recruiting and training the next generation of title professionals.



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Alabama Supreme Court Holds Lot Owner Violated Restrictive Covenant

Citation: *Cole v. Davis*, No. SC-2022-0723 (Ala. Mar. 24, 2023)

By Joe Powell NTP, FACREL



Facts

The Alabama Supreme Court affirmed the trial court's injunction against a lot owner (Cole) who sought to subdivide his property in violation of the neighborhood's restrictive covenants. Cole bought the lot in 2018 with the knowledge that the covenants were amended two years prior to allow only one specific lot in the neighborhood to be subdivided. The amendment was in compliance with the covenants and applied to only the one lot (not Cole's lot). The covenants had clear procedures for the amendment. Instead of approaching the neighborhood to get the same amendment applied to his lot, Cole applied to the municipality for a re-plat of his lot to allow for two structures, in excess of the density restrictions for the lot. The neighborhood sought an injunction from the trial court and was victorious.

Holding

Justice Greg Cook wrote for a unanimous Alabama Supreme Court in upholding the continuing validity of the 1957 residential covenants as to the lot in question. The lot owner did not meet the "relative hardship" or "change in the neighborhood" standard of review for overturning covenants because of both his actual and constructive knowledge of the covenants. While the opinion did not say so, it appears the only hardship was the lot owner's anticipated gain from overdevelopment on the existing lot.

Importance to the Title Industry

This is not a new area of the law for the title industry, but it was written with enough specificity to provide a roadmap for reviewing whether a potential violation of residential covenants should be insured. Justice Cook prepared a map for both potential challengers to covenants and those who seek to uphold them:

1. Cole could have sought a judgment declaring the validity, scope or enforceability of the covenants.
2. Cole cited no ambiguity in the covenants (Alabama law is clear that unambiguous covenants are enforceable and that an injunction is the appropriate remedy for the breach).
3. Cole offered no admissible evidence of other failures to enforce the covenants.
4. Cole did not offer any proof as to what relevant and crucial evidence would come from discovery of information the neighborhood failed to provide.
5. Cole presented no evidence as to the feasibility of complying with the density restrictions or the financial impacts of the same. Likewise, no evidence was offered as to whether the neighborhood and its homeowners would be affected by the violation of the restrictions, or any other impacts.
6. No evidence was presented that would meet the burden of a "radical" change in the neighborhood such that the covenants were no longer beneficial.
7. Alabama case law does not recognize waiver or acquiescence as a defense to violations of residential covenants, although some other states do.
8. Cole could have countersued to include all the lot owners, not just those named in the original complaint; and his failure to do so did not mean the remaining lot owners were indispensable parties for purposes of overturning the trial court.

While this case is specific to Alabama, its subject matter is not. Compliance with neighborhood covenants, whether in the residential or commercial title insurance context, is a daily matter for underwriting in our industry. Both the Covered Risks in the ALTA Policies of Title Insurance and multiple endorsements for both owners and lenders relate to coverage against violations of covenants, conditions and restrictions (see ALTA 9 series, in particular).

This decision, while it was rendered before any significant investment or vertical construction had commenced, could have just as easily reached the same conclusion at the end of construction.

Title Tips

1. Be aware of all restrictions appearing of record for your land, either by recorded covenants, zoning or plat.
2. Always obtain an estoppel from the relevant declarant or authorized association in order to clear compliance with covenants.
3. Be wary of any general averment that there are numerous violations, and the covenants are no longer enforced. It may be necessary to require a declaratory judgment.
4. An amendment as to one lot does not apply to other lots in the subdivision.

JOE POWELL NTP, FACREL is vice president and managing underwriting counsel for Fidelity National Title Group. He can be reached at joe.powell@fntg.com.

4 Leadership Capabilities to Weather Uncertainty in 2024

Simple Problem-solving Approach Helps Create Culture of Proactive, We-oriented Employees

By Steve Rudolph



LOOKING INTO THE CRYSTAL BALL THIS YEAR, two words emerge: change and uncertainty. Fierce political partisanship, escalating wars, continued supply chain disruptions, prolonged tensions between employees and employers, and persistent low employee engagement numbers will shake most leaders' confidence. Navigating these dynamics will require leaders to continually evolve and grow. As esteemed executive coach [Marshal Goldsmith](#) famously stated, "What got you here, won't get you there."

These Four Leadership Capabilities Follow a Trusted Performance Pathway

1. EMBRACE A [GROWTH MINDSET](#)

Effective leaders believe that effort, focus, and candid feedback lead to strengthening existing capabilities. These leaders are continually developing new, critical skills, and create learning cultures that foster [resiliency](#) amongst their teams. This enables the organization to adapt, pivot and create opportunity out of disruptions.

■ **Build This Habit:** Conduct regular [after-action-reviews](#) (AAR) with your teams. The AAR was developed by the U.S. Army to help soldiers learn both from their failures and their achievements. To ensure these don't become boring "post-mortems" it's important to instill good process. A starting point is using a variation of these four basic questions to generate positive and constructive dialogue.

- What was our goal, strategy, or desired outcome?
- What did we do?
- What happened? (The gap between strategy and execution)
- What will we do to adapt our strategy or refine our execution for a better outcome OR how do we repeat our success?

Well conducted AAR's create [generative dialogue](#), considered the most constructive form of a high-quality and insight-producing conversation.

2. EXHIBIT HIGH EMOTIONAL INTELLIGENCE (EI)

Studies show [85% of workplace success](#) is the result of effective EI skills. Leaders who are aware of their emotions, can self-regulate and model composure under stress help facilitate trust and a [psychological safety](#) environment. And when people feel safe, they are more likely to speak up, take ownership and solve problems.

■ **Build This Habit:** Be curious and *listen to learn*. Develop a habit of asking sincere, open questions, and practice active listening before delivering your opinion. Leaders committed to creating continuous improvement environments are driven to empower their people, deeply believing that the *truth is in the trenches*. Genuine listening is an EI skill that fosters collaboration, ownership and ultimately increased value to the customer.

3. GROW YOUR PEOPLE

Top talent is attracted to leaders who support their development and career aspirations. When effectively leveraged, coaching is a high-performance tool. An organization's ability to adapt and be [agile](#) is proportional to the aggregate development of its people and processes. Today's leaders must be [excellent coaches](#).

- **Build This Habit:** Maintain regular structured one-on-one meetings. Co-create individual development plans (IDPs) that include initiatives, leadership projects, and stretch assignments designed to challenge and grow team members.
- **Build This Supporting Habit:** Regularly recognize and reward your people's accomplishments, contributions, and efforts. Recognition boosts individual employee engagement. According to Gallup, it also increases productivity and loyalty to the company. In the competition for talent, this low-cost, high-impact practice should be central to a leader's people-building efforts.

4. DEVELOP AN INCLUSIVE, COLLABORATIVE, AND PROBLEM-SOLVING CULTURE

Organizations that successfully adapt the fastest to internal and external disruptions will be best positioned to identify and execute on new opportunities. When an organization engages its people in problem solving as part of its daily work employees feel more motivated to do their jobs better, the organization's performance improves and a virtuous cycle starts to turn ([McKinsey](#)).

- **Build These Habits**
 - Establish daily (start with weekly, then slowly migrate towards daily) "make work better" team huddles.

- Create a visual management board where team members identify and list current issues or problems needing improvement.
- During each huddle the manager-coach, in dialogue with the team, prioritizes the tasks and establishes a visual who-is-doing-what-by-when accountability timeline.
- Drive collective learning by using a continuous improvement tool such as [PDCA](#) (plan-do-check-act).

These four leadership capabilities, while not an exhaustive list, provide a stable foundation for managing the uncertain and volatile year ahead. Implementing a simple, problem-solving approach will create a culture of proactive, we-oriented employees who take ownership of creating customer value. Employees who know their ideas are actively solicited and valued are naturally more engaged and motivated. People-first leaders who strongly believe that their people have the answers, can weather whatever storms 2024 throws at them.

STEVE RUDOLPH is founder of *Steve Rudolph Coaching*. He helps companies become better at managing people, coaching and developing others, handling difficult conversations, building and leading teams, and change leadership. Rudolph can be reached at steve@steverudolphcoaching.com.

Examples of Great Coaching Questions

Goal/Outcome/Success Questions

- What does success look like for you?
- What specific goal (s) would you like to achieve and how will we measure success?
- What would it mean to you if you had improved performance in this area?
- Let's put _____ aside for a minute. What else is important?
- How does development in this area connect with any long-term goals?
- What would it look like if you brought your best self to this area?
- What would your life be like if you were successful here?
- What is the bigger picture here?

Scale Questions

- Effective for "base-lining" performance/behavior/skills/abilities
- On a scale of 1-10, how competent are you in this area?
- On a scale of 1-10, how important is this to you?
- On a scale of 1-10, how committed/motivated are you to developing this skill?
- Gap Questions
 - What are the reason(s) for this gap?
 - What would have to happen for this to be a 10?
 - Why isn't your score higher/lower?

Thinking/Exploration/Insight Questions

- How clear are you about what needs to be done here to move forward?
- How do you feel about the thinking time you have given this so far?
- What might be the gaps in your thinking about this?
- How could you take your thinking to the next step in this?
- What could be some different ways to explore this?
- What kinds of ideas have you had to move this forward?
- How might you be able to approach this differently?
- How's that been working for you?
- Tell me the times when you feel most successful in your role?
- What has changed that's caused you to now feel more/less successful?
- Can you share the assumptions your reason/conclusions rests on?
- How can I help you think this through more?

Strength/Resource-based Questions

- What are your top three strengths that you could leverage to grow/develop/achieve success in this area?
- How have you solved challenges like this historically? What strengths/resources did you apply?
- What does your "gut" tell you to do about this situation?
- How would an expert approach this development opportunity?

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ALTA Helps Address Heirs' Property



While homeownership often contributes to generational wealth, especially among higher-income Americans, a home that is inherited from a family member without a will, also known as heirs' property, can present serious challenges to families if new ownership has not been updated in land records. Given the numerous risks and challenges associated with heirs' property, ALTA is committed to expanding awareness of heirs' property and collaborating with industry and government partners to address this often-overlooked hurdle to wealth building.

Typically, when a person passes away, it is customary for a will to specify who will inherit the property. However, wills and estate planning can be costly, and many Americans do not have the resources to legally account for their property before they pass away. According to a 2022 survey by Caring.com, only [33%](#) of Americans have an estate plan.

If a person passes away without formal end-of-life documentation, a property often becomes heirs' property, meaning that it is passed informally to the next generation without a proper title documenting ownership. Without a new recorded deed, surviving relatives may struggle to make important decisions or related to the home, such as financing or transferring the property or accessing emergency aid from the government or non-profits.

Besides not having the ability to monetize the property, heirs' property holders can also lose economic value in other ways. In some states, heirs' property holders are ineligible for homestead tax credits, even if they occupy the property and pay property taxes, leading to the overpayment of taxes. In the event of an emergency or natural disaster, heirs may not receive financial assistance for damages to the property without proper proof of ownership.

Finally, in the case of multiple undocumented heirs, there is a risk of tax sale if the parties disagree on who is responsible for taxes and the obligation is not set out legally.

ALTA believes expanding awareness of heirs' property is the first step to addressing the issue. ALTA is committed to educating consumers about heirs' property and encouraging homeowners to always plan for their estates if they have the means to do so.

For heirs' property holders, ALTA recommends several ways to establish legal property ownership after the fact. If all heirs agree to ownership, completion of paperwork and a court proceeding can allow new heirs to become the owner of record. Even if it is not possible to reach everyone, an heir can petition the court to obtain a non-appealable, final judgment on property ownership by quiet title, determination of heirship or partition statute, depending on state law.

ALTA is also seeking to mitigate the effects of heirs' property through legislative action. ALTA's [State Legislative and Regulatory Action Committee \(SLRAC\)](#) has prioritized the issue of heirs' property and meets regularly to discuss ways that this problem can be remedied legislatively. For example, ALTA has supported the passage of the [Housing Survivors of Major Disasters Act in Congress](#) to help heirs access Federal Emergency Management Agency assistance after an emergency.

ALTA has also endorsed the [Uniform Partition of Heirs Property Act \(UPHPA\)](#), which aims to preserve family generational wealth by ensuring heirs receive fair market value when a forced sale occurs and creating a cost-effective, uniform process to establish ownership rights. The UPHPA has been [signed into law in 23 states](#) and introduced in seven others.



Ted, Sally's Spouse and Todd may all have an interest in grandma's property.



Based on state law, a deceased property owner can have many heirs. Each heir has rights and responsibilities related to their fractional interest in the property. This is called Tenancy in Common and can make major decisions involving the property very difficult or impractical.

What Are the Challenges to Heirs' Property?

Because official government records show a deceased person still owns the property, heirs may not be able to:

- **Finance or transfer the property:** An heir may be using the property as a residence or for a business, but because they do not have clear ownership, they cannot get a loan or transfer the property.
- **Access grants or emergency aid:** Owners of heirs' property may not be eligible for grants or emergency assistance from government entities like FEMA or non-profit organizations.
- **Make major property decisions:** Many multi-generational heirs' properties are in further limbo because there are potential unknown or unreachable heirs. The costs associated with establishing clear ownership can be prohibitive and the more time that passes, the more complicated and costly the problem becomes.

Sally may not be able to get a loan to fix a leaky roof or put on new siding.



Ted and Todd are unknown or unreachable heirs.

What Harms Are Heirs Experiencing?

The harms associated with heirs' property are wide-ranging and often exacerbated with the passage of time as it becomes harder to determine ownership. Some of the more common harms include, but are not limited to:

- **Forced sale of property:** While state laws vary, one heir may be able to force the sale of the property, which other heirs may currently be using for housing, agricultural or other commercial purposes. The heir(s) forcing the sale may be incentivized by unscrupulous third parties wanting to purchase and/or develop the property. In some instances, heirs with a small ownership interest are forcing a sale on heirs with a larger ownership interest.
- **Damaged property:** Heirs' often can't access critical assistance in an emergency because they are unable to prove property ownership. Lack of required documents makes it hard for heirs to even reach the entities who could help.
- **Lack of financing:** Lenders won't loan money for property rehabilitation or improvement projects if there is unclear ownership that would result in an inability to take possession of the property for failure of loan repayment.
- **Inability to transfer:** Heirs cannot transfer property because buyers would not be guaranteed full ownership if an unreachable heir later made a claim against the property.
- **Economic hardship:** Heirs may be unable to realize the economic benefits of property ownership because they lack the ability to get a loan and/or transfer the property in ways that allow them to build wealth.
- **Economic loss:** When heirs cannot maintain,



If one of Sally's brothers sells his interest in the property to an unscrupulous developer, a forced sale could occur under some state laws, leaving Sally homeless.

develop, or fully utilize their property, it loses value. Heirs' property may also be at a higher risk for fraudulent activities.

- **Overpayment of taxes:** Under some state laws, heirs are ineligible to take advantage of homestead credits, even though they may be living on the property and paying all the property taxes individually.
- **Risk of tax sale:** Disproportionately, heirs' property is lost due to a tax sale. Without the ability to maximize property potential, heirs living on or using the property may struggle to pay assessed taxes.
- **Displacement and homelessness:** An heir living on the property may be forced out of the home, even if they have been taking responsibility for all property obligations and upkeep.

What Are the Economic Harms?

The vast amount of heirs' property in limbo across the country negatively impacts the overall economy in following ways:

- **Underutilized property:** Due to a lack of financing options, the full potential of the property isn't realized.
- **Dwindling property values:** An inability to develop or redevelop real estate leads to declining property values.

What Can Be Done?

Reducing the amount of heirs' property is critical to help avoid the harms outlined above. Ways to mitigate heirs' property include:

- **Educational awareness:** Many people do not understand the consequences of the lack of a will or estate planning, and heirs may not know how to establish clear title.
- **Estate planning:** Development and promotion of

- **Vacant or abandoned property:** As time goes by, the inability to use or maintain the property can lead to vacant or abandoned land.
- **Less real estate on the market:** When heirs are unable to transfer or sell their property, it takes that real estate off the market for the foreseeable future.

educational resources on estate planning can prevent the creation of more heirs' property.

- **Establishing legal ownership:** There are several ways that heirs can establish recorded property ownership and obtain the ability to finance or transfer their real estate.
 - Upon identification and agreement of all the heirs, recorded ownership may be established in some states through appropriate recorded affidavits, or by court proceedings in other states.
 - If there are unreachable or unascertained heirs, the other heirs can go to court to obtain a non-appealable, final judgment on property ownership. Depending on where the property is located, this can be done by quiet title, determination of heirship, partition statute, or other state law developed to resolve heirship situations.

Governmental and private financial assistance and access to affordable legal counsel with necessary expertise is needed to determine heirship for families.

Legislative Steps

Addressing the issue of heirs' property will take time. Meanwhile, legislative steps can be taken to help heirs, including:

- **Tax laws:** State tax laws can be revised to make it easier for heirs to take advantage of homestead tax credits. This will also reduce heirs' property tax sales.
- **Aid availability:** In recent years, federal agencies like the USDA and FEMA have taken steps to ensure heirs have access to federal programs. These changes should be maintained and expanded as appropriate.
- **Passage of Uniform Partition of Heirs Property Act (UPHPA):** Passage of this uniform law helps ensure heirs receive fair market value when a forced sale occurs. It also creates a uniform process to establish ownership rights in a more cost-effective manner.
- **Estate planning options:** Expansion of state laws that

Basic process to determination of property ownership to finance or transfer property:

1. Identify all heirs using an established statutory or court process
2. A determination of ownership may be made by the court
3. Property ownership is updated in government records

allow for estate planning that doesn't require a formal probate process, such as transfer on death deeds or beneficiary deed.

- **Educational Initiatives:** Programs to provide homeowners or heirs with financial and/or real estate literacy materials.

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New Jersey Passes New Data Privacy Law

New Jersey recently became the 14th state to pass or enact comprehensive data privacy legislation.

N.J. Gov. Phil Murphy on Jan. 16 signed S332/A1971, which requires the notification to consumers of collection and disclosure of personal data by certain entities, including internet websites and online providers. Under the legislation, these entities are required to notify customers of the collection and disclosure of personal information to other third parties and to provide customers with an ability to opt-out of that collection or disclosure.

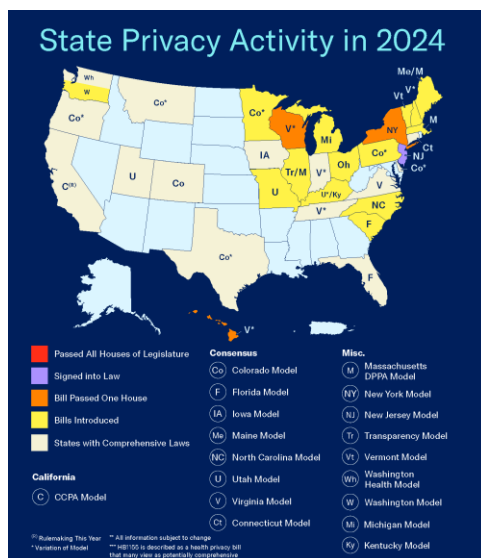
The law will go into effect Jan. 15, 2025.

The legislation contains an exemption for personal data subject to the Gramm-Leach-Bliley Act (GLBA), along with an exemption for publicly available information. ALTA has held that any comprehensive

data privacy legislation should include an exemption for entities subject to the GLBA. Since 1999, this federal law has strictly limited financial institutions' use and sharing of customers' personal information.

The legislation also entitles consumers to know what data is held by the operator, so they have the ability to correct or delete incorrect information. The operator also must limit the collection of personal data to what is adequate, relevant, and reasonably necessary to their business and they must specify the express purposes for which personal data are processed.

Other states to pass data privacy legislation include California, Oregon, Montana, Utah, Colorado, Texas, Iowa, Indiana, Tennessee, Virginia, Florida, Delaware and Connecticut.



Lone Star Title Expands Texas Footprint With Acquisition

Lone Star Title Company of El Paso acquired Hale County Abstract & Title Co. LP.

Lone Star Title assumed all assets, including Hale County Abstract's abstract plants, title agency operations and examination services in six counties in the Texas Panhandle region, which includes Bailey, Briscoe, Castro, Hale, Lamb and Swisher counties.

Headquartered in Plainview, Texas, and having occupied the same office building for well over 100 years, Hale County Abstract traces its roots back to before 1900.

Former company president Luke M. Martin and his colleague Chris Corbet have joined the Lone Star Title team and will work from one of four El Paso offices.

TitleEQ Enters Texas Market

TitleEQ has grown its geographic footprint with the opening of a new office in the San Antonio suburb of New Braunfels, Texas. Amber Pfromm will serve as the branch manager as well as the director of the firm's Table-Ready Team.

The announcement comes shortly after the company opened offices in Miami and Eastern Pennsylvania in the fall of 2023. The Texas branch will serve as the home of TitleEQ's Table-Ready Team, which will support its settlement and escrow operations.

"We're seeing a number of positive signs in the marketplace, so now is the time to ramp up our operations for the coming volume increase across the industry," said Matt Einheber, principal of TitleEQ. "Texas is a perennially strong

market, and this location provides a centralized hub for our Table-Ready team to serve national clients almost anywhere."

True Title Launches Office in Denver

Missouri-based True Title Co. LLC recently expanded into Colorado with the opening of an office in Denver.

Leo Hebert, executive vice president of the Colorado division, will lead the office.

"We are fortunate to have landed such an experienced and versatile title veteran in Leo," said John Duckworth, president and managing partner of True Title. "He gives us instant credibility in the Colorado market, and his wealth of knowledge will benefit our Colorado office and be a tremendous asset to our offices throughout Missouri. Building a team with

Leo at the head will be an outstanding experience.”

Old Republic Title Acquires Assets of Bidwell Title & Escrow

Old Republic Title Co. has acquired the operating assets of Chico, Calif.-based Bidwell Title & Escrow Co. The acquisition adds four office locations to Old Republic Title’s Northern California Region. Old Republic welcomed the former Bidwell team as part of its existing network of direct operations that includes more than 285 branch and subsidiary office locations nationwide.

Bidwell Title & Escrow traces its history to 1913 when the organization began as Kipp Abstract Co. In 1929, it incorporated into Oroville Title Company and later moved its title department from Oroville to Chico, changing its name to Bidwell Title & Escrow Co. Under the leadership of President Trevor Joyner, Bidwell Title & Escrow offered title and escrow services, handling real estate transactions in Chico, Paradise, Oroville and Gridley.

Industry Veteran Opens Florida-based Title Agency

Title industry veteran Randi Bengé has launched Bonita Springs, Fla.-based title company The Title Link.

Bengé has 26 years of title industry experience in Southwest Florida.

“Our unwavering commitment is to prioritize our clients’ needs above all else,” Bengé said. “We are dedicated to streamlining the closing process, making it as effortless as possible for all parties involved.”

AmTrust Named Lead Title Insurer for SunZia Wind and Transmission Project

AmTrust Title was named the lead title insurance company for the SunZia Wind and Transmission project.

SunZia, which is under construction in the Southwest United States by its owner Pattern Energy Group LP, is reportedly the largest clean energy infrastructure project in the history of the United States. Once completed, SunZia will include 900 wind turbines with the transmission line spanning 550 miles between central New Mexico and south-central Arizona. The project will ultimately produce 3,500 MW of new renewable generation supplying three million customers with clean power annually and is expected to be completed in 2026.

“We are proud to be the lead title company for SunZia,” said Lou Canaras, senior vice president of AmTrust Title’s Energy Division. “This critical project will traverse public and private land across a total of 14 counties in two different states. We’re privileged and honored to help launch the largest clean energy infrastructure project in the United States and are excited to see the project breaking ground to generate clean energy to serve numerous Western states in the not-so-distant future.”

Georgia Sues MV Realty Over Allegations of Unfair and Deceptive Practices

Georgia became the eighth state to file a complaint against MV Realty, alleging the company misled consumers over the terms of the brokerage’s 40-year listing agreement.

As alleged in the complaint, MV Realty widely and aggressively promoted its deceptively branded “Homeowner Benefit Program” on websites and social media and through a massive telemarketing operation that included over 550,000 calls to Georgia consumers.

Attorneys general in California, Florida, Indiana, Massachusetts, New Jersey, North Carolina, Ohio and Pennsylvania also have

filed lawsuits against MV Realty.

ALTA has prioritized combating this abusive and anti-consumer activity in the marketplace, which adds costs and complications to the transfer or financing of real estate. ALTA has worked with national stakeholders to design model legislation to make these types of unfair agreements unenforceable, prevent the recording of the agreements in land records and provide consumers with options for seeking damages.

Several states, including Georgia, have passed legislation that prohibit fraudulent schemes like the one MV Realty engaged in. While Georgia’s legislation doesn’t follow the model bill, Senate Bill 90 makes NTRAPS unenforceable by law.

Other states to pass versions of bills that address NTRAPS include Alabama, California, Colorado, Florida, Idaho, Iowa, Maine, Maryland, North Carolina, North Dakota, Ohio, Tennessee, Utah and Washington.

On Sep. 22, 2023, MV Realty filed for bankruptcy protection under Chapter 11.

CFPB Raises Civil Penalty Amounts

The Consumer Financial Protection Bureau (CFPB) is adjusting for inflation the maximum amount of each civil penalty within the bureau’s jurisdiction.

The increase in penalties went into effect Jan. 15.

According to the law firm Ballard Spahr, the adjustments are the amounts for the three tiers of civil money penalties that the CFPB may impose for violations of consumer financial protection laws under the Dodd-Frank Act.

Specifically, the Dodd-Frank Act initially provided for the following tiers of civil money penalties:

- For any violation of a law, rule or final order or condition imposed in writing by the CFPB, a civil money penalty of up to \$5,000 for each day during which such violation or failure to pay continues.
- For any person that recklessly engages

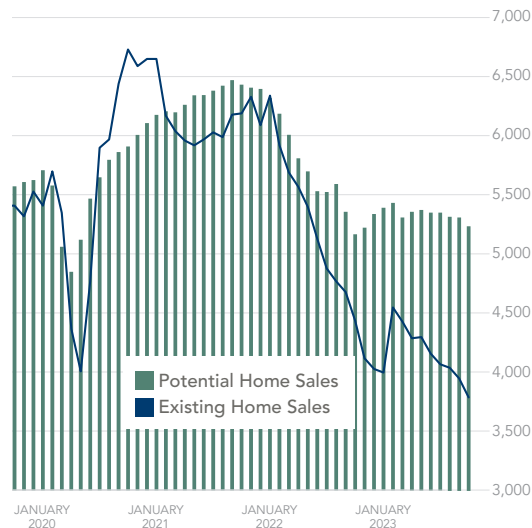
Housing Market Potential

Existing and Potential Home Sales* (in Millions, Seasonally Adjusted Annualized Rate)

in a violation of a federal consumer financial law, a civil penalty of up to \$25,000 for each day during which such violation continues.

- For any person that knowingly violates a federal consumer financial law, a civil penalty of up to \$1,000,000 for each day during which such violation continues.

Based on prior adjustments, the law firm reported, the amounts for 2023 were \$6,813, \$34,065 and \$1,362,567, respectively. For 2024, the amounts increase to \$7,034, \$35,169 and \$1,406,728, respectively.



3.79 SAAR
Existing Home Sales

5.24 SAAR
Potential Home Sales

-27.6%
Market Performance Gap

*Potential home sales measures what a healthy market level of home sales should be based on the economic, demographic and housing market environments.

Recent Integrations

- **RamQuest** has integrated with **GridBase**, which provides technology products for title agents and lenders that includes fees, order management, instant title decision, closing agent management and the Integrations Store. With GridBase, RamQuest customers can receive accurate, real-time title fee data and bidirectional order management of title and settlement services.
- **SoftPro** released a new integration to its SoftPro 360 platform with **General Title Insurance Co.** The new title production integration is immediately available through the SoftPro 360 vendor portal. Agents of General Title who use SoftPro can order and generate approved General Title protection letters (CPLs) and policy jackets directly through their SoftPro software.

National Consumer House-Buying Power

How much home one can afford to buy given the average income and the prevailing mortgage rate

October 2023

\$317,754
House-Buying Power

-3.9%
Year-Over-Year

Where House-Buying Power is Strongest

Top States and Markets

- 1 New Jersey **\$451,073**
- 2 Massachusetts **\$443,329**
- 3 Hawaii **\$430,969**
- 4 Maryland **\$421,003**
- 5 Rhode Island **\$411,318**

- 1 San Jose, CA **\$666,711**
- 2 San Francisco, CA **\$597,438**
- 3 Washington, DC **\$552,179**
- 4 Salt Lake City, UT **\$475,175**
- 5 Boston, MA **\$474,197**

Source: Mark Fleming, Chief Economist at First American Financial Corporation



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AmTrust Title Names New President



James Thanasules

James Thanasules was appointed president of AmTrust Title Insurance Co.

Thanasules, who has more than 25 years of title industry experience, joined AmTrust in 2016 as senior vice president and chief state counsel in New York. Before AmTrust, he was vice president and senior underwriting counsel for First American Title Insurance Co.'s New York Agency Division.

"I'm grateful for the opportunity as it represents the culmination of many years of hard work and dedication to our industry," Thanasules said. "As I continue to advance on my career journey, I am thankful for all my colleagues—past and present—who helped lay the groundwork for me to lead AmTrust Title as we continue to build out our commercial and residential capabilities on both a regional and sector-specific basis in the United States."

Throughout his career, Thanasules worked extensively in both the direct and agency title operations. As a past president of the New York State Land Title Association, he has demonstrated his industry leadership by presenting training courses and continuing legal education (CLE) seminars on a variety of topics such as claims, blockchain, cybersecurity and more.

Positively Balanced Names Senior Auditor

Positively Balanced, a Georgia-based provider of escrow reconciliation and settlement support services for title agencies, title insurance companies and law firms, has appointed title industry veteran Jacque Simmons as senior auditor. Simmons will be charged with building the company's audit department to support and assist title underwriters during their audit processes. She will also assist all clients with audit preparation, including pre-auditing and counseling for client escrow accounts and client education.

Alanna.ai Bolsters Sales Team

Alanna.ai, the creator of a conversational AI-powered virtual assistant for title agents, has named Bob Grohol as executive sales director. Grohol comes to alanna.ai with four decades of technology experience and approximately 25 years



Bob Grohol

in the title and real estate industry. He held key business development and sales positions with RamQuest Software for nearly 10 years and was a sales executive for nine years with eRecording Partners Network. He was most recently an assistant vice president and state manager for Alliant National Title Insurance Co., where he was responsible for growing and maintaining relationships with agents in Ohio, Pennsylvania and Indiana.

TRG Adds to Exec Team

Title Resources Group (TRG) has added Jenny Isgett to its executive leadership team, reporting to Chief Executive Officer Scott McCall. Isgett will lead business development in many areas of the company, including builder relationships and national agents. She has over 20 years of experience in the real estate industry. She is a past president of the Palmetto Land Title Association and has served on various industry related boards including the Home Builders Association Legislative Committee and the Urban Land Institute Executive Committee. She Currently, serves as second vice chair on RESPRO's Executive Committee and chairs the Engagement Committee.



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THE 2024 ELECTION YEAR IS RAMPING UP.



DON KENNEDY
ALTA president

As campaigns get in full swing and issues are debated, there's no better preview and breakdown of the races than a briefing from David Wasserman, senior editor and election analyst for the nonpartisan newsletter, "The Cook Political Report with Amy Walter." An NBC News contributor, Wasserman will analyze the current political environment for the House, Senate and presidential elections on May 6, during the ALTA Advocacy Summit in Washington, D.C.

His data-driven forecasting will look at national and local trends, the relationship between consumer brand loyalty and voting, and what the future holds for American elections. Join us at the ALTA Advocacy Summit to hear directly from Wasserman

Not only will you get expert analysis of the election, we also have several important issues to discuss with members of Congress during our Lobby Day on May 8. Of course, front and center will be our concern about Fannie Mae expanding its acceptance of attorney opinion letters (AOLs) in limited circumstances to now include loans on condo properties and those subject to restrictive agreements or covenants.

In addition to explaining the valuable and irreplaceable role of title insurance, we also will discuss FinCEN's proposed real estate money rule that will require certain people involved in real estate closings and settlements nationwide to report information to the agency about all-cash residential transactions involving legal entities and trusts. ALTA's advocacy team has already started to educate policymakers on Capitol Hill and in the Biden administration about the impacts of the proposed rule on the thousands of small businesses that make up the title industry.

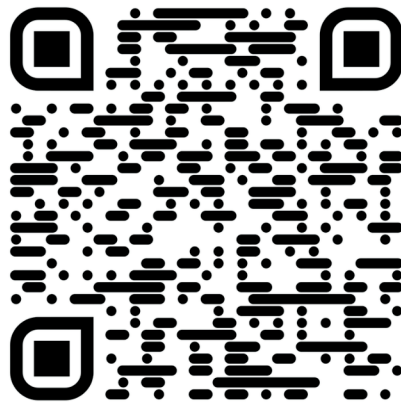
Nothing is more effective than having legislators hear directly from their constituents. Hearing from you about how the rule will impact your operation will go a long way in helping ALTA's advocacy efforts to ease any burden the rule will have on ALTA members.

If you have never been to ALTA Advocacy Summit, there's no need to be intimidated. ALTA's staff will walk you step by step through everything you need to know before you get to Capitol Hill.

We hope you will join us in May to help defend your business and our industry. We need you in D.C.

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BUSINESS
SLOWED?**

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