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## **American Land Title Assn.'s state speech given by Kermott at NELTA's June conference**

June 18, 2008 - Front Section

### WHERE WE ARE

The recent housing and refinance boom resulted in very profitable times for our industry. These highly profitable years brought increased scrutiny of what consumers are paying for title insurance. At the same time, there have been widespread allegations of abuses and unethical behavior, such as kickbacks, and the belief that extra costs are being passed on to consumers. The industry has been heavily criticized in the news media. Much of the criticism has been unfair, but some of it has been justified. This draws national attention to the issues, which puts pressure on state and federal legislators and regulators to take action.

### WHY IT MATTERS

Regulators and legislators, under pressure from these outside influencers, are going to look to make changes - changes that could likely hurt the industry, and hurt consumers. So we have two options: Take self-corrective measures - or have corrective measures imposed on us. I think we can all agree on which avenue we'd prefer.

### WHAT WE CAN DO TOGETHER

If we want to respond - and respond effectively - to these realities, then we must work together. If we as companies, state associations and ALTA speak with one voice, and act in a unified fashion, we can ensure that consumers gain a better understanding of our role in the real estate marketplace. And we can ensure that any regulatory efforts will be helpful - rather than harmful.

### WHERE WE GO FROM HERE

With greater information sharing occurring at the NAIC, as well as reporting by the national media, issues in a particular state affect other states, which then bubble up to the national level. ALTA can assist state affiliates by serving as a "central clearinghouse" for state issues and regulatory efforts. Monitoring and lobbying efforts on national legislation and regulatory issues that impact the states.

### WASHINGTON UPDATE

#### 1)RESPA Reform

\*HUD released proposed regulations for RESPA reform on March 14. ALTA submitted comments to HUD on May 13. The new proposal is designed to simplify and improve the process of obtaining mortgages, but the rule is far from simple. HUD appears to have created a complicated and controversial rule that is unlikely to be widely embraced by settlement service providers.

\*The most onerous change represented by the proposal is the requirement that settlement agents prepare and read a "closing script." HUD estimates that it will increase the time it takes to conduct a real estate closing by approximately 45 minutes and increase the cost of a settlement by at least \$54. But that does not include the additional time it will take to provide answers to borrower

questions or give weight to the fact that title and settlement agents will be required to update software and train employees.

\*ALTA is working with a coalition of trade organizations including the National Association of REALTORS, Mortgage Bankers Association, RESPRO, American Bankers Association and others to engage Congress in this debate.

#### 2)FHA Reform

\*FHA reform has been included in larger housing rescue bills moving through both Houses of Congress. These measures will enable the FHA to serve more subprime borrowers at affordable rates and terms, recapture borrowers that have turned to predatory loans, and offer refinancing to borrowers struggling to meet their mortgage payments. This will help stimulate the housing market.

#### 3)Optional Federal Charter

\*Rep. Paul Kanjorski (D-PA) introduced his bill to create a Federal Office of Insurance Information on June 10th. H.R. 5840, the Insurance Information Act of 2008 would create a federal Office of Insurance Information within the Department of the Treasury to provide advice and expertise on insurance policy to the Administration and to Congress. This effort is seen as an interim step to some type of federal insurance regulation.

\*Sen. John Sununu (R-NH) introduced S. 40 "The National Insurance Act of 2007," in May 2007. It is a reintroduction of legislation that seeks to modernize insurance industry regulation by providing an optional federal charter for insurers.

#### 4)Uniform Closing Instructions

\*ALTA is working closely with the Mortgage Bankers Association and American Escrow Association to develop uniform closing instructions to make the process more efficient.

#### 5)Mortgage Impairment Insurance

\*Mortgage Impairment insurance is a term being used by Property and Casualty and other insurers to describe Lien Priority insurance, which is a title insurance product. ALTA continues to monitor these activities on a national level, and is taking legal action against companies that are illegally crossing over the bounds.

#### 6)State Regulation

\*The National Association of Insurance Commissioners Title Insurance Work Group met at the summer meetings in June. Their new Chairman is Morris Chavez, Superintendent of Insurance in New Mexico. He plans to have the work group work on a national data call standard, and updating the model title insurer and agent laws.

#### CONCLUSION

In summary, our industry faces unprecedented scrutiny and criticism from legislators and regulators at the state and federal level. Some of the policies being proposed could have serious detrimental impacts on our industry. It is imperative that our industry works together in a well-coordinated approach in dealing the challenges going forward.

Gary Kermott, president, First American Title Ins., Santa Ana, Calif.