



# TITLE TALK

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

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DELAWARE EDITION

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During this Holiday  
Season, our thoughts  
turn gratefully to



those who have made our progress possible.

Everyone at Old Republic Title would like to take  
this opportunity to extend our personal thanks  
to our friends and business associations.

Have a Happy Holiday Season and a  
prosperous  
New Year !!!



# Underwriting Tips: Riparian Rights

Title Insurance *is not intended* to cover estates or interests in waters. This includes riparian rights in abutting waters and docks. When the survey, plot plan or legal description indicates that the insured property abuts a stream, lake, bay, ocean, canal, pond etc... it is essential that the proper language be used in the title policy.

Under **NO CIRCUMSTANCES** should it ever be stated "together with all riparian rights." This implies that Old Republic Title is insuring the water rights. The following language should be used for the appropriate body of water.

## Lake, Canal, River or Other Non Tidal Waters:

*"This policy does not insure title to any portion of the premises lying below the ordinary high water mark of [name water body] or any rights in adjoining water."*

If a dock is noted, you should add *"nor is the right to maintain the dock insured."*

## Ocean or Other Tidal Waters

*"This policy does not insure title to any portion of the premises lying below the high water mark of the [name water body]."*

If the property is ocean or bay beach front property, you should add *"Subject also to the rights of the public in and to the beach or soft-sand areas lying between the high water mark of the [ocean or bay] and the vegetation line of the premises insured herein."*

## Filled in Lands

Whenever the property is filled in land, approval from the Old Republic Title's underwriting department must be obtained before insuring as several different issues are presented. (These lands are being found on an increasing basis in certain areas of Sussex County).

Please be diligent in inquiring of the seller as to whether they have notice lands may be filled wetlands or waterways.

## Creeks or Small Streams

*"Subject to the rights of others in and to the bed and waters of the creek, pond or stream crossing the premises as shown in the survey."*

This includes small streams, creeks or ponds which coming into, crossing and leaving the property.

With Delaware being a state bounded on the East by a large body of water and containing many rivers, lakes and streams, riparian rights arise frequently in real estate transactions. In Sussex County water rights are often an essential feature of the entire transaction. It is an area of increasing litigation and concern to underwriters.

Please try to be as diligent as possible when looking at the surveys and be certain to inquire of parties as to what water ways are present, what the expectations for the water bodies are and whether the seller has knowledge of any recently filled (or dredged) waterways or wetlands.

As always, please call Old Republic Title with any questions regarding riparian rights that may come up with your settlements.

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## Need Assistance with Your Reconciliation Needs?

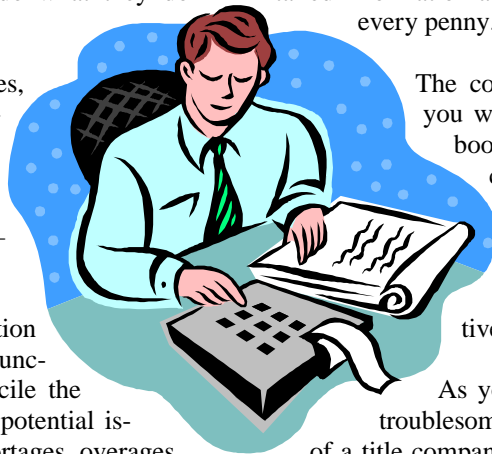
Old Republic Title has teamed up with an organization that provides onsite and remote access escrow account reconciliation services to title agents throughout the entire state of Pennsylvania and surrounding areas. This is a cost-effective, comprehensive solution that saves title agents time to do what they do best—manage and grow their agencies.

Some agencies, especially the smaller ones, just don't have the capability to hire a full-time or even part-time employee for the purposes of reconciling their account each month. There are expenses that come with that full or part-time employee – medical benefits, paid time off, etc.

In addition, the principals of the organization are typically involved in the high level functions and do not have the time to reconcile the account let alone review the account for potential issues, i.e. checks that have not cleared, shortages, overages, etc.

Do you have checks and balances in place? Does the person who conducts your reconciliations have signing authority on your accounts? How are you protecting yourself from the ever growing employee theft issues?

Outsourcing your accounting and reconciliation functions can provide the security you need without the additional cost of full or part time employees. Additionally, you are working with a trusted, reliable company who can present you with accurate detailed information about your accounts, so you can account for every penny.



The company we are working with will provide you with three-way bank reconciliations between book, bank and trial balance. Once the reconciliations are complete, they review the outstanding deposits and checks to make sure that all items clear the bank in a timely manner. They also review the trial balance for accuracy and investigate both positive and negative balances.

As you can see, outsourcing can alleviate these troublesome problems you face with being an owner of a title company. Outsourcing saves you time and money and makes it easier for you to grow your agency. It is a safe, economical, proven solution to the need we've discovered many agents have.

To learn more or to schedule a consultation, please Kate Blake-Endicott in our office at (800) 722-0784.

## Old Republic Title's Delaware Office Holiday Schedule

Christmas, 2005 ..... Monday, 12/26  
 New Years, 2006 .... Monday, 1/02  
 Memorial Day..... Monday, 5/26  
 Independence Day... Monday, 7/4  
 Labor Day..... Monday, 9/4  
 Thanksgiving Day... Thursday, 11/24  
 Day After  
 Thanksgiving ..... Friday, 11/25  
 Christmas, 2006 ..... Monday, 12/25  
 New Years, 2007 .... Monday, 1/1



## KEEPING CURRENT

### Recent Rulings of Interest

#### Town of Bellefonte Transfer Tax

The Town of Bellefonte Commissioners have passed an ordinance effective October 1, 2005 imposing a 1.5% transfer tax on real estate transactions (consistent with State law as set forth in Chapter 54 of Title 30 of the Delaware Code). Payment of the tax and stamping of the documents for recording will be done through the Town of Bellefonte Tax Collector. Only real estate contracts executed after October 1, 2005 are subject to the tax. For further information please see Town of Bellefonte Ordinance 2005-2.

[http://www.townofbellefonte.com/CharterOrdinanceComm/ordinance2005-02-transfer\\_tax.html](http://www.townofbellefonte.com/CharterOrdinanceComm/ordinance2005-02-transfer_tax.html)

#### Residential Sewer Billing Rate Change

The New Castle County Finance Office has issued a statement that the 2006 annual residential sewer rate will have a 39.7% increase which will be calculated in January. The County will bill in installments, the first bill will be issued in January and will be for a minimum of 50% of the 2006 annual charge as well as 100% of any prior account balance, and this will be due by February 28, 2006. The second bill for the entire account balance will be issued in April and is due by May 31, 2006. The County also issued a reminder that when handling settlements or refinancings, the *entire* annual billing shall be paid in full.

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Should you need any additional information with regard to any of the above items, please contact either the Dover, DE or Wayne, PA office.

# Mobile Home Title Issues

When performing a settlement involving a mobile home, there are certain issues that must be addressed in order to avoid a potential title claim. These issues involve whether the mobile home is affixed to the land and if the certificate of title has been surrendered. They also specify that the legal description include the metes and bounds description of the land on which the home is located, along with make, model and VIN of the home as well as the following language "which is affixed and attached to the land and is part of the real property."

When a mobile home is purchased, the title is initially in the form of a Certificate of Title issued by the Division of Motor Vehicles. To obtain the Certificate, application must be made to the Division of Motor Vehicles (form MV212A).

This Certificate will show the VIN number as well as any liens and encumbrances against the home. This Certificate should be obtained in any case where a mobile home is being mortgaged or sold, or a determination should be made that the title has been surrendered in accordance with county regulations.

There is no statewide statutory basis for the surrender of title. It varies slightly from county to county. In all counties, the certificate of title must be presented to county officials; the mobile home must be affixed to the land according to county specifications and must be inspected by county officials. If all qualifications are met, the title is surrendered and the home is deemed to be a permanent structure.

Fannie Mae suggests that the lender should record any mortgage liens in county mortgage records at the recorder of deeds.

*... closing agent will take all actions necessary to obtain any outstanding Certificate of Title, determine that the home has been affixed to the land . . . and is part of the real property*

Closing instructions should affirm that the closing agent will take all actions necessary to obtain any outstanding Certificate of Title, determine that the home has been affixed to the land (in accordance with County regulations) and is part of the real property.

From a title perspective, it is very important that the home be affixed to the land and the title surrendered according to county standards. When reviewing a contract of sale, pay particular attention to any language that states the home is a "mobile home," a "modular home" or a "manufactured home." Any of these should prompt an inquiry about producing a

certificate of title or proof that the title has been surrendered in accordance with county regulations.

For further information and specific regulations, please contact the Mobile Home Division of the Sussex County tax office, the Building Inspector's office of Kent County and the New Castle County Land Use department. For information on title issues presented by mobile homes, please contact Kim Derr, Esq. at Old Republic Title's Wilmington Office.