



Title Matters
Volume 18 • No. 1 Summer 2011

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THE OTHER SIDE OF THE FENCE

Wayne Trapp, Vice President and State Manager

It has been a while since we last talked. As you know we always put out a pretty good size garden filled with the vegetables we eat most. This year, I have the absolute worst garden in Wilson County, maybe the state of Tennessee. Spring started out okay with plenty of rain. When things really turned for the better and warmed up, out comes the tractor with tiller attached. The ground was tilled and “everything” was planted. Three days later a cold spell hit us and brought rain with really cool temperatures. Nothing came up, zero. So again, out comes the tiller and the second planting takes place. This time, only the squash and cucumbers came up and they’re doing fine, but still no beans. To make a long story short I’m fixin’ to put out beans for the fourth time in hopes of getting a mess to eat if nothing else. With all the rain the cattle have done great. Calves are growing like weeds and the mama’s are fat and slick.

In other articles I’ve mentioned making ice cream under the big Pecan tree that sits across the driveway and how there seems to always be a breeze there. I’ve been sittin’ under that tree a lot lately. There’s a lot of things to see from under that tree; things that are missed if they don’t slap you in the face. Yeah, I can see the sorry ole garden, but it’s still pretty. Then as I look around to my left there’s the Shippers’ house with their cattle grazing on the hillside at the back. The guy on the tractor bush hogging the spot of ground across the road. There are other things to see besides cows and people on tractors. Some of the prettiest birds fly around all the time and I’ve never paid attention to them. There was a small yellow and red bird perched on the gutter of the shop the other day. If I had ever seen that type bird before I was too busy to notice its beauty. Looking back around to my right there are the hillsides filled with green trees that will soon turn a beautiful red, yellow and orange before losing all their leaves and sleeping through the winter. The trees tell us the terrain as you notice how they are like a roller coaster with highs and lows. You can see the small house across Statesville Road that sits up on the hill. It’s just in the middle of the trees with only a small cleared spot for the yard. The danged ground hog that lives under the shop will sometimes stick his head out and run off when he sees me. He’s not the prettiest thing in the world but I’m sure his purpose here is to eat every tomato I have.

As I keep looking around there’s Frank the Donkey looking at me from my pasture, the chicken house that my brother built; it will never be torn down. Also, while under that tree, I’ve seen a beautiful Red Fox run across the hayfield, stop and look back. That setting was so pretty, it was like something you see on postcards or in a painting.

I love my farm and all the sights, sounds and smells that come with it. As I get older the roses are beginning to smell sweeter, sights are prettier, memories are greater, love is deeper, friends are closer and time is more precious. I hope you will take time to sit under a tree somewhere and notice what nature provides us.

Thank you again for choosing Old Republic Title as your underwriter. We value our relationships and never lose sight of the fact that our customers are the reason we exist.

So for now, if you’ll excuse me I’m heading for the Pecan tree to make some ice cream. Wish you would come join me. See you next time.....On the Other Side of the Fence.

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Company of Tennessee

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UPCOMING EDUCATIONAL OPPORTUNITIES

2011 ANNUAL SEMINAR Nashville – DoubleTree Hotel Friday, August 19

Please see the Registration Form at Page 8 for details. Return your completed form and make your hotel reservations as soon as possible so you won't miss out on this opportunity for six hours of CLE (approved for 5 General/1 Dual) and CE credit (applied for and anticipated, including one hour of Ethics).



In addition to presenters Kirk Moser (Case Law and Legislative Updates) and Mike Davis (Foreclosure and Survey Issues), we'll be joined by Lisa Gore and Casey Fincher, Special Agents with Office of Inspector General, US Department of Housing and Urban Development (HUD Enforcement and RESPA Compliance), and Rafael Toledo, IDSnetwork (Real Estate and Mortgage Fraud Schemes and Ethics – How to Save Our Industry). In addition, Kirk and Mike will discuss "Avoiding Underwriting Pitfalls."

As of the time of publication, the following vendors are scheduled to be with us, providing attendees an excellent opportunity to learn more about their products and services first hand:

Affinity Insurance Agency, eRecording Partners Network, EscrowPros, LandTech Data Corporation, National Association of Land Title Examiners and Abstractors (NALTEA), OREXCO, RamQuest, reQuire, RynohLive, Simplifile, SoftPro, and TSS Software.

COMMON UNDERWRITING ISSUES AND HOW TO ADDRESS THEM AND ETHICS ISSUES IN ESCROW PROCEDURES AND CONTROLS

Nashville School of Law – Wednesday, November 9

Registration materials for this half-day seminar focusing on frequently asked underwriting questions and ethical consideration in escrow matters will be provided to agents and approved attorneys approximately one month prior to the seminar, but circle the date on your calendar now! A registration fee of \$50.00 per person will be charged. The course has been approved for 3.0 hours CLE (2 General; 1 Dual) & CE (2 General; 1 Ethics) credits.

TENNESSEE LAND TITLE ASSOCIATION

TLTA is planning a Title School for September and a Hot Topics Seminar for November. We'll keep you advised as dates and topics are confirmed. Dates and information will also be posted at www.tnlta.org when available.



LEGISLATIVE UPDATE

R. Kirkland Moser, Assistant Vice President and State Counsel

This year the Tennessee General Assembly passed 510 Public Acts into law. Public Act No. 399, which became effective as of June 6, 2011, creates Class A misdemeanor offenses regarding drawing and filing of deeds without actual ownership of property. Below is the Bill Summary and Act.

BILL SUMMARY

This Act makes it a Class A misdemeanor for any person to knowingly cause to be prepared, sign, or file of record any property transfer document when the transferor, grantor or person applying for registration knows, or should know by an examination of the public records, that the transferor or grantor has no legal or equitable interest to convey, or when there is no reasonable basis for assumption that the transferor or grantor has any interest in the property. Upon a final conviction for such an offense, any circuit court may declare the offending transfer document to be void and of no legal effect and may remove any cloud on the title that may have arisen because of such document. This Act will not be applicable to any licensed attorney who, in good faith, prepares such a transfer document in the course of representation of a client.

This Act additionally makes it a Class A misdemeanor for any person who transfers or applies for recordation of any transfer of land by any devise with knowledge that the transferor or grantor has no legal or equitable interest to convey such land.

PUBLIC ACT 399

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 66, relative to drawing of deeds without actual ownership.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 1, is amended by adding the following new, appropriately designated section thereto:

- (a) (1) It is an offense of any person to knowingly cause to be prepared: sign, or file records of any property transfer document when the transferor, grantor or person applying for registration knows or should know by an examination of the public records, that the transferor or grantor has no legal nor equitable interest to convey, or when there is no reasonable basis for assumption that the transferor or grantor has any interest in the property.
 - (2) As used in this subsection (a), "person" includes any individual, corporation, firm, company, partnership, or association.
- (b) Upon a final conviction for an offense pursuant to this section, any court having or exercising circuit court jurisdiction may order the filing of an order of said court declaring the offending transfer document or documents to be void and of no legal effect and removing any cloud on the title that may have arisen because of said documents.
- (c) This statute shall not be applicable to any licensed attorney who, in good faith, prepares such a transfer document in the course of representation of a client.
- (d) A violation of subsection (a) shall be a Class A misdemeanor.

SECTION 2. Tennessee Code Annotated, Section 66-3-104, is amended by designating the existing language as subsection (a) and adding the following language as a new subsection (b):

- (b) Any person who transfers or applies for recordation of any transfer of land by execution of either a general warranty deed or quitclaim deed, or any other devise, with knowledge that the transferor or grantor has no legal nor equitable interest to convey such land commits a Class A misdemeanor.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

GIVE ME TWO CLICKS

Phillip Brizendine, Agency Coordinator

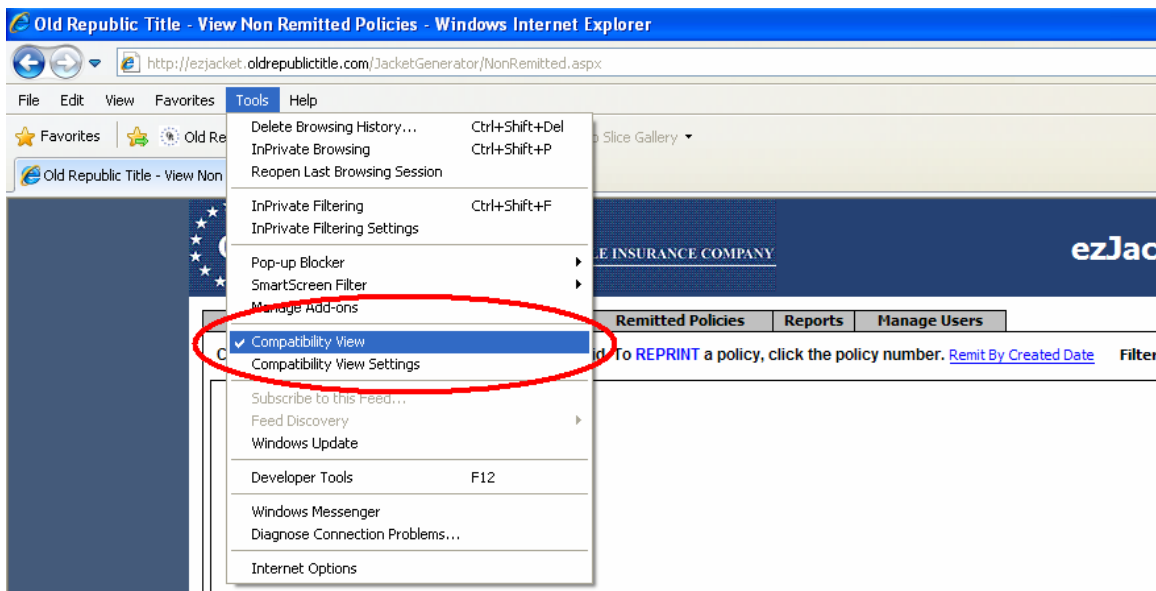
It's the end of the day on a Friday and you're sitting in front of your computer trying desperately to finish your policy report so you can go home and begin the weekend. You have StarsLink pulled up and a huge stack of policies sitting in front of you, and you've just checked the last policy you want to report. Finally! Now all that's left is to hit the "Remit Selected Policies" button. So you do... only to find that the page refreshes, all of the policies you've chosen are still sitting in the Non Remitted Policies tab, and, best of all, are no longer checked. You feel your stomach churn a little.

Maybe you just hit the wrong button, you think, or the computer is acting up. So you go back through, selecting all of those policies all over again. And you hit the "Remit Selected Policies" button again. The page refreshes, the policies are still in the Non Remitted Policies tab, and you are going to have to go back through and check each of them. Again. You briefly consider smashing your keyboard into the monitor, but realize you'll be stuck in the office even longer if you have to pick the alphabet up off your desk.

I have had many calls from agents having this problem lately. This issue typically applies to those who have recently updated their Internet Explorer to Versions 8.0 or 9.0 and has to do with a setting called Compatibility View. The fix is so simple that it can be done in two clicks.

While in the StarsLink website, choose the Tools dropdown. (If your Internet Explorer does not show the Toolbar as shown below, you can press the "Alt" key to have it temporarily displayed)

Next, make sure the Compatibility View option has a check mark next to it. If it doesn't, click the option.



And that's it. You should no longer have any problems with trying to remit your policies. This also resolves other various issues that users may be having with ezJacket or the rate calculator, so I would encourage you to try this if you're having problems and have recently upgraded your Internet Explorer.

DO YOU KNOW WHO... AND WHERE... YOUR CLIENT IS?

Pamela L. Zimmerman, Assistant Vice President and Agency Manager

We recently received a request for assistance from one of our agents who had received the following e-mail from a real estate agent:

“We have a buyer that would like to purchase a home in _____ TN. He lives in Canada and would like to pay cash for the home. Below is his information:

Name - Toshiaki Kawada

Phone # 81-3-3357-8111

Address - 4645 Jane Street

Toronto Ontario Canada M3N 2J9

email - toshiakikawada@hotmail.com

Address of home he would like to purchase:

7704 Night Hawk Rd

_____ TN

Purchase price = \$489,000

I am sending him the paperwork to sign & I will send you a copy also. I have sent him your name & contact information.”

The agent correctly thought that since the order involved a buyer out of the country and a large cash transaction there might need to be special attention given. What the agent didn't know was that he was very close to being caught up in an internet scam sweeping the country.

Thankfully, when Kirk Moser, TN State Counsel, was presented with the questions, he recognized some red flags which made us dig a little deeper. A “Google” search revealed that Mr. Kawada was a Japanese professional wrestler . . . and that his name appeared in a blog featuring a long list of scams from across the country. While the buyer's name might change, the Jane Street address in Toronto and the phone number remained the same in several “orders.” Other Canadian addresses which frequently appeared are: 2000 Sheppard Avenue and 600 Royal York Road, both also in Toronto. Many recent scams seem to have involved Asian names with Canadian ties.

Needless to say, when we shared this information with our agent, they notified the real estate agent that they would not be closing the transaction and strongly encouraged the real estate agent to carefully consider whether they should continue with the transaction! Interestingly, another agent from another part of the state called a week or so later with the same scenario!

Typically, in this type of scam, a cashier's check would be sent to the title agent for deposit and then a refund requested before funds are cleared “when the deal falls through,” leaving the agent with a deficit in their escrow account.

To see more about this type of scam, visit <http://blog.lorinczipal.com/2010/02/01/internet-scams- emotive-marketing/> and <http://www.sarasotahomesforsalenow.com/sarasota-real-estate-scam/> . Be very cautious when dealing with transactions where everything is to be handled remotely with no face-to-face contact . . . if it seems too good to be true, then maybe it is.

RE-ISSUE CREDIT: TO GIVE OR NOT TO GIVE

Valerie Matlock-Perry, Assistant Vice President and Agency Manager

In light of the abundance of recent questions regarding re-issue credits, the following is provided as a reminder of the use and calculation of reissue rate credits in Tennessee.

Old Republic Title's rate filing with the Tennessee Department of Commerce and Insurance contains the following pertinent provisions, applicable in all counties in Tennessee except Shelby, which has a different reissue rate, (although the % of credit and minimum premium will vary depending on where the property is located):

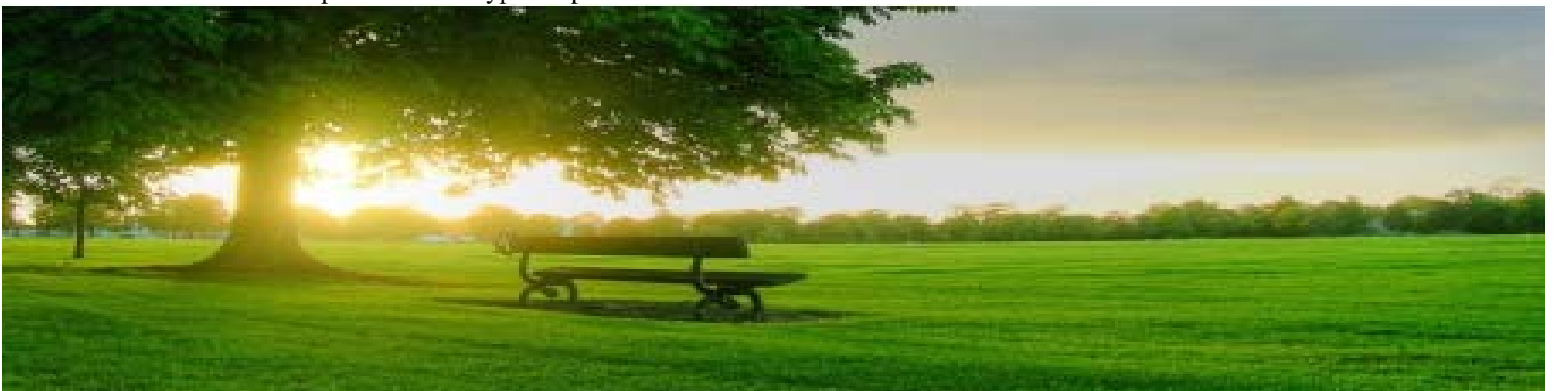
“_____percent (___%) reissue credit may be allowed, provided we are advised the number of our former policy or furnished proof that a policy was issued by another title insurance company, under any of the following conditions:

- (1) When there is a conveyance from an owner whose title was insured by a title insurance company, admitted to do business in Tennessee, up to the face amount of the original owner's policy.
- (2) When the owner of property on which application is made for mortgage insurance has had the title to such property insured as owner by a title insurance company, admitted to do business in Tennessee, up to the face amount of such owner's policy.
- (3) When there is a conveyance of property on which there is an outstanding mortgage policy issued by a title insurance company, admitted to do business in Tennessee, up to the face amount of such mortgage policy.
- (4) When a substitution loan is made to the same borrower on the same property, or by the same lender on the same property, the title to which was insured by a title insurance company, admitted to do business in Tennessee, in connection with the original loan, up to the unpaid principal balance secured by the original loan, provided this company is advised of the amount of the unpaid principal balance secured by the original loan.
- (5) When the insured under a mortgage policy acquires title by foreclosure or by voluntary conveyance in extinguishment of debt, and makes application for an owner's policy, such insured or the designee for the benefit of such insured shall be entitled to the reissue credit of an owner's policy up to an amount equal to the face of such previous mortgage policy.

If the amount of insurance desired under the new policy is in excess of the original owner's or mortgage policy, the excess shall be computed at the original rate.

The word "owner" as used in this section shall be deemed to include a leasehold owner.”

Each agency office should have a copy of our rates as filed with the Tennessee Department of Commerce & Insurance. Please remember that as our agent, you are expected to adhere to these filed rates in calculating and charging premiums. If you do not have a copy of our filed rates, please let us know and one will be provided. Visit www.starslink.com to access our online rate calculator, a helpful tool to aid in the calculation process for all types of premiums.



IS THERE AN EASY DEAL?

Michael P. Davis, Assistant Vice President and Underwriting Counsel

Does it seem that everything you touch has issues? If your search doesn't involve estate issues, it involves a short sale where the seller has filed Bankruptcy. If I have heard it once, I have heard it a hundred times: there is nothing easy these days.

The fact that nothing is easy means that we all have to be more diligent when examining the insurability of a particular property. More than ever we need to pay special attention to the details. So, just what details am I talking about?



Is this my property? As I was writing this article I received a call regarding a legal description that included an area of 102 square feet that was not conveyed in previous deeds in the chain. In fact, the area cannot be accounted for as far back as the early 1900's. The details are in the calls. You should always make sure your description has a good starting point and that your description closes. You should also compare your description with the tax map.

Who has the power of the pen? With all the foreclosures, we need to make sure that there was proper authority to execute the instruments we are insuring. The majority of foreclosures are entangled in multiple layers of trust and trustees and powers of attorney for trust. We need to untangle the tangled mess to make sure that whoever signed the deed had the authority.



OH NO! They're in Bankruptcy. We must be aware of all of the implications of a Bankruptcy filing on the property being insured. What if the Trustee is selling property - do we have an order that sells the property free and clear of liens? What if the debtor is in a Chapter 13 and they are refinancing - did they get approval to refinance? One of the most common questions we get regarding Bankruptcy is that the borrower got a discharge as to a debt for which there is a recorded judgment - is the judgment lien still good? The discharge in and of itself does not remove the judgment lien and the lien can still be good as to property that the borrower owned prior to the Bankruptcy filing unless there is an Order Voiding the Lien in the Bankruptcy case. The lien will not attach to property acquired after the filing of the Bankruptcy.

The point of this article can be summed up by a famous line from a TV show:

“BE CAREFUL OUT THERE.”



Invites you to our
ANNUAL SEMINAR

Friday, August 19, 2011
8:00 a.m. – 4:00 p.m.

DoubleTree Hotel – Downtown
315 4th Avenue North
Nashville, TN 37219
(615) 244-8200

Scheduled topics include: Case Law and Legislative Updates; HUD Enforcement/RESPA Compliance; Real Estate and Mortgage Fraud Schemes; Ethics – How to Save Our Industry; Where and What Is This Land?/Foreclosure and Survey Issues; Avoiding Underwriting Pitfalls

The cost is \$100.00 per person which includes materials, continental breakfast, lunch and two breaks.

We encourage ALL Tennessee agents, approved attorneys and staff members to register as soon as possible, but no later than Friday, August 12, to ensure seating at the seminar and for lunch.

If accommodations are needed, you may reserve your room online through the following link:
http://doubletree.hilton.com/en/dt/groups/personalized/B/BNADUDT-ORT-20110815/index.jhtml?WT.mc_id=POG

You may also contact the DoubleTree directly at the number above for reservations. Be sure to mention the Old Republic Title seminar in order to receive the special room rate of \$129.00 (double occupancy) which is available until July 29, 2011, or until the group block is sold out, whichever comes first.

6 hours of CLE (5 General/1 Dual) have been approved; CE credits (including one hour of Ethics) have been applied for and are anticipated.

The following will be attending from _____ agency/approved attorney office:

Please make checks payable to:
Old Republic Title
And mail/fax form to:
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Nashville, TN 37219-2011
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