



# TITLE TALK

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

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## Happy New Year

***Everyone at Old Republic Title would like to extend our thanks to all of our agents and business associates that helped us have such a successful year. In the coming year we look forward to continuing these relationships and wish all a happy and prosperous new year!***

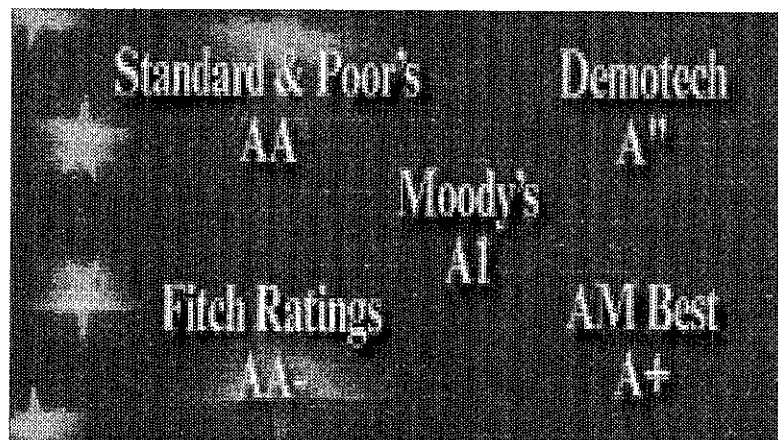
## Staff News

We are pleased to announce that **Yolanda "Yoli" Lemus** has joined the Virginia office. Yoli joined ORT in November, 2005 and is responsible for processing all agent reports, remittances and inventory. So, to our agents out there.... there is a new kid on the block.

**Megan Meloon** will step up or we should say step out as an Agency Administrator. Expect to see the face behind the voice stop by your office in the near future... and bearing goodies too.

## Old Republic Title Insurance Group Shines in Ratings

While some of our competitors have received downgrades from the major ratings organizations, the Old Republic Title Insurance Group (ORTIG) recently had our rating raised by Standard & Poor's (S&P) and affirmed by A.M. Best and Fitch Ratings. S&P raised the financial strength ratings of ORTIG from AA- (double A minus) to AA (double A). The S&P financial strength rating was last raised in 1999, when it went from A+ to AA-. This marks the 12th consecutive year that ORTIG has received Standard & Poor's highest rating awarded to a title insurance company.



## The Real McCoy about Financial Encumbrances Or Lien on Me

By William "Bill" Amrhein  
Assistant Vice President, Virginia Agency Counsel

This issue we are going to talk about liens. As I pointed out last issue, encumbrances can be financial or non-financial—voluntary or involuntary. Where do liens fit in? Well, basically, liens are financial encumbrances; they may be voluntary or involuntary. Hey - enough prose - let's start with questions.

### 1. Pick the correct statement of fact:

a) All liens are encumbrances or b) All encumbrances are liens  
*Okay this is an easy A for starters.*

### 2. What is a voluntary lien?

A voluntary lien is one in which the borrower agrees to the creation of the lien "at the time" the money is tendered by the lender. A deed of trust lien is voluntary because the borrower signs a note promising to pay and a deed of trust which is the basis for a lien.

### 3. Do the quotation marks illustrate a distinction as to involuntary liens?

To say that a debtor agrees to an involuntary lien is a reach but in cases of money judgment liens, it is likely that the debtor signed a note, a lease, a credit card agreement or incurred some voluntary debt or performed some act or service which exposed him to liability such as driving a car negligently or performing surgery incorrectly or committing a crime. Buying a house obligates one to pay real estate taxes, water, sewer and litter fees, all as provided by law. Buying a condo subjects one to the provisions of covenants, conditions and restrictions. All of these events take place well before the creation of any lien caused by non-payment.

### 4. OK let's do voluntary. What is a deed of trust?

In short, it is an instrument designed to provide a lien as security for a note executed by the owner of real estate.

### 5. Why do borrowers have to do this, i.e. put a lien on their homes?

The answer lies in Murphy's Golden Rule - "He who has the gold makes the rules". It really is a basic principle of economics relating to security protection for lenders who make large amount loans.

### 6. When does the lien come into existence?

Technically, under Virginia law, when the deed of trust is delivered to the lender (or its agent) for recording.

### 7. If it is a lien before it is recorded, why do we worry about recodation?

Good question! It is a lien only between the borrower and seller; recodation gives notice of the lien to the whole universe and protects the lender by that notice. Since we insure lenders, we also require recodation.

### 8. How long does this lien last?

The lien lasts for a period of twenty years from the due date of the last payment. If the deed of trust note is payable on demand or does NOT provide for regular interval payments, the lien lasts for a period of twenty years from the date of the deed of trust.

### 9. Whose job is it to get the lien released?

It is not clearly spelled out, but it is my opinion that the lender must furnish a certificate of satisfaction to be recorded or a copy

thereof if the lender has it recorded. Title insurance puts the burden on title agents and/or settlement agents to make sure the lien is released.

### 10. Now to involuntary liens, what kinds of liens are they?

Generally, these liens fall into only two categories: judgment liens and statutory liens.

### 11. First of all, what are judgments?

Judgments are orders of court which create an indebtedness which can be enforced by law in favor of one party, usually the plaintiff, and imposed upon the other party, usually the defendant, after an evidentiary hearing between the parties or based upon the failure to appear in court by the defendant.

### 12. Which courts grant judgments which can become liens?

All Virginia courts, Circuit, General District, Juvenile and Domestic Relations Courts enter qualifying judgments; United States Federal Courts anywhere in the country also enter qualifying judgments. State courts in other states do not do so except in special circumstances.

### 13. When do judgments become liens?

a) When the judge enters judgment b) When the clerk makes a certified copy c) When the certified copy is docketed in the judgment lien docket book d) All of the above e) None of the above

*Trick question – Gotcha! The answer is E; when the judgment is docketed, it becomes a potential lien. It only becomes a lien when it attaches to real estate owned by the judgment debtor in the city or county in which the judgment is docketed.*

### 14. How long does a judgment lien last?

Once a judgment lien attaches to real estate owned by the judgment debtor, it will continue as a lien for a period of twenty years from the date the judgment was entered by the Court (not the day of docketing).

### 15. Can you docket a judgment lien in a city or county other than where the judgment was entered?

If you are willing to pay for it, you can docket a judgment lien in EVERY city and county i.e. the whole state of Virginia. P.S. If that happens, a release in one county may not affect the potential lien in the other counties.

### 16. What are the statutory liens?

These are liens that are created by statutes in the Virginia Code and happen both automatically and by notice. These include IRS liens in the United States Code.

### 17. What are the state liens and how long do they last?

Real estate taxes – automatic – 20 years.  
Water, sewer, litter, weeds, etc. – notice filed – 20 years.  
Estate – 10 years or 10 years after notice filed.  
Condo and Property Owners Associations – Notice required.

*Suit must be filed to perfect lien within 36 months.*

### 18. What about Federal liens?

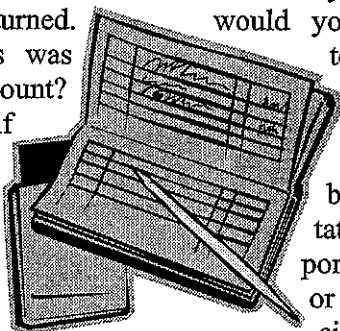
These are all IRS – Income and Estate; they last 11 years after notice is filed as to income; as to estates, it is 11 years or 11 years after notice filed.

Well, that about does it for liens. I know you'll have question on this one, so let 'em fly! Next time we'll take a crack at non-financial encumbrances. Later!

# Check Fraud Alert!

We continue to remind agents of the importance of timely reconciliation of the escrow, settlement, or trust accounts. Just prior to the publication of this issue of Title Talk, we received a call from yet another local agent who was contacted by his bank regarding a fraudulent check that was presented for payment. Fortunately, the bank caught

the fraudulent check and it was returned. What if this was your account? What if your bank did not catch the check, but rather paid it? What are your bank's limitations on reporting discrepancies on your bank statements?



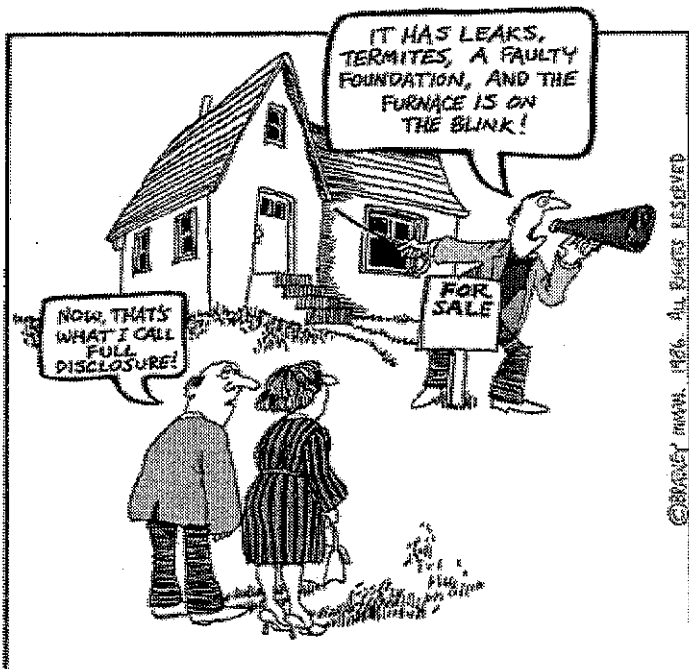
If this was your account, would you have detected the fraudulent check within the bank's limitations for reporting errors or discrepancies (many are as short as 30 days)? Timely reconciliation of your accounts is imperative. You have a limited

period of time in which to report errors, fraud or discrepancies reflected on your bank statement to the bank.

Every agent needs to make sure that it has proper procedures in place to detect discrepancies or fraud within the time frame limitations of your bank. Doing so should place the liability on the bank, rather than you, the account holder.

## Rande K. Yeager, Old Republic Title, CEO and the new ALTA President

If you receive ALTA's *Title News*, you have probably seen Old Republic Title's CEO, Rande Yeager on the cover of the Nov/Dec 2005 issue. Mr. Yeager has been installed as the new president and ALTA and the magazine contained an excellent article about Mr. Yeager's experience in the title business and his vision for the industry. If you would like a copy of the article, please feel free to call Michelle Reynolds at 703-365-2300 or e-mail her at [mreynolds@oldrepublictitle.com](mailto:mreynolds@oldrepublictitle.com).



## Old Republic Title's 2006 Holiday Schedule

Christmas, 2005	Monday, 12/26
New Years, 2006	Monday, 1/2
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

**Old Republic National Title Insurance Company** is one of the nation's largest title insurance companies and the highest rated.. Established in 1907, Minneapolis-based Old Republic Title operates in 49 states, the District of Columbia and Puerto Rico through a network of company-owned offices, authorized agents, and approved attorneys. The Old Republic Title Insurers were the first title insurers to have received financial ratings:

**Standard & Poor's - AA-**  
**Moody's Investor's Service - A1**  
**Demotech - A"**  
**Fitch - AA-**

Known nationwide for its responsiveness, innovation, professionalism, and financial strength, Old Republic Title has the resources you need to handle your toughest title problem.

For more information about this publication or for information about our agency program, contact: Richard E. Craig, Vice President, Area Manager and Counsel or Michelle Reynolds, Operations Manager at 1-800-232-6817.

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