



Photo © Treasure Island, Inc. Las Vegas

President's Message

Welcome to the first issue of the Utah Land Title Association Newsletter. The Executive Committee of the ULTA has decided to publish this newsletter quarterly in both a print version which will be mailed to each member company and branch as well as an electronic version which will be available on the ULTA's website (www.ulta.org). Each issue will contain articles covering topics from legislation, education, underwriting and current development or events that affect our industry. Paul Newton, the Capital Region V.P. and Sheri Olsen,



President Mark Day

the ULTA's Executive Secretary have taken on the task of putting this newsletter together and I thank them for a job well done. I hope that you find this newsletter worthwhile, informative and enjoyable.

Steve Crawley, the ULTA's Legislative Chair, will be contributing an article in this newsletter with an update on the recently completed legislative session. I would like to take this opportunity to personally thank those members of the ULTA who have volunteered their time and energies to guide us through another session of the Utah Legislature: both Steve and Nancy Frandsen, the ULTA 2nd Vice President, have taken time away from their jobs to make numerous trips to the Capitol to meet with legislators, and attend hearings and committee meetings; all those of you who participated as bill readers and to those members of the association like Arlen Taylor, Al Newman, Blake Heiner, Bob Mitchell, and Jeff Jensen (with apologies to those whom I failed to mention) who, year in and year out, give of their knowledge, time and talents to work on the

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ULTA
UTAH LAND TITLE ASSOCIATION

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President: Mark Day
1st Vice-President: Greg Clark
2nd Vice-President: Nancy Frandsen
Secretary: Sheri Olsen

Questions, comments or concerns should be addressed to Sheri Olsen at ulta@emission.com



Mid-Winter Convention

The 2005 Mid Winter Convention was held at the Treasure Island Resort, Las Vegas, Nevada. The attendees were treated to great food, excellent speakers and good weather. As always, we received tremendous support from our underwriters who were a large part of the educational program. The speakers were as follows:

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Jan Oates
Fidelity National Financial

Bert Rush
First American Title

Nita Hanks
Stewart Title Guaranty

Fraud Panel
Jonathon Buss
Stewart Title Guaranty

Greg Holbrook
First American Title Ins. Co.

Bob Anderson
United General Title Ins. Co.

In addition, we heard from Jeff Thredgold, Thredgold Economic Advisors. He gave a humorous and informational discussion about the Outlook for 2005.

Saturday morning Senator Tom Hatch spoke to us about what to expect on the Legislative front this year. He and Curt Webb introduced the attendees to upcoming legislation about a new Title Industry commission. We appreciate their insight and input.

We want to thank all those who sponsored events for this convention. Due to these companies and their continued support of the ULTA, we are able to provide great conventions. Sponsors this year included:



Reconveyance Services, Inc.

Watch for information about the upcoming 2005 Annual Convention to be held in Sun Valley, Idaho. We are always looking for speaker ideas, so please contact Sheri Olsen at ulta@xmission.com if you have any suggestions. The convention will be held July 14-16, 2005.

Servicemembers Civil Relief Act of 2003

BY PAUL D. NEWTON, BACKMAN STEWART TITLE SERVICES, LTD.

On December 19, 2003, President George W. Bush signed into law the Servicemembers Civil Relief Act of 2003 ("the Act"). 50 U.S.C. Appendix, §§ 501 et seq. This Act replaces the Soldier's and Sailor's Relief Act of 1940. Like its predecessor, it continues to affect the title industry in lending and sales transactions.

On the lending side, it affects foreclosures and purchases. Somewhat like bankruptcy proceedings, a person in the military may seek a court order staying or vitiating a judicial or non-judicial action to foreclose his home or the home of his dependents¹. Id. at § 513. To avoid violations of the Act, the foreclosing party must determine² if his borrower is an active member in the military. If the borrower is an active member in the military and the obligation originated before active duty and the property was owned before active duty by the service member or his dependents and is still so owned and his ability to pay is materially affected by his service, then the lender is prohibited from foreclosing without a court order or a waiver³ signed by the service member. If this procedure is

not followed, the foreclosure could be set aside and damages imposed although a bona fide purchaser⁴ may keep the property.

In addition to the prohibitions on foreclosures, no obligation bearing interest in excess of six percent may be charged. Id. at §520. "Interest" is defined as "service charges, renewal charges, fees, or any other charges (except bona fide insurance)". Id. The cap on these interest charges takes effect during any part of the service member's active military service. Id.

The other expected impact of the Act is powers of attorney. A power of attorney permits a service member to appoint and empower the attorney-in-fact to sell or purchase or borrow money on property. Unless the power of attorney "clearly indicates that the power granted expires on the date specified" in the document, it will be deemed valid even if the service member is deemed missing. Id. at §591.

In this era of global warfare, the Act will have an ongoing impact on the title industry. We encourage you to become familiar with the Act and to comply with it. ■

¹ *The Act now protects the service member and his dependents. The definition of dependents is expanded to include any person for whom the service member provides 1/2 of her support. The drafters contemplated this expansion to include a spouse, children, and even parents.*

² *If the lender does not know the military status of the borrower, he can learn about it by contacting the Defense Manpower Data Centers Military Verification Service. The contact information for DMDC is (703) 696-4156 or dmdc.osd.mil or 1600 Wilson Boulevard Suite 400, Arlington, VA 22209-2593.*

³ *The service member may waive his statutory rights and allow foreclosure. Id. at §517. The waiver must be specific and given during or after active duty.*

⁴ *Id. at §520 reads, in part: "Vacating, setting aside, or reversing any judgment because of any of the provisions of this Act (sections), shall not impair any right or title acquired by any bona fide purchaser for value under such judgment."*



Spotlight on B&D Title Company

To speak of the history of B&D Title, you must begin with the merger of Byron and Diane Nelsen. They were both from Salt Lake City but met in Wendover where Diane was waitressing for the summer at the Stateline Casino before going to college, and Byron was working for the Utah National Guard.

The couple moved to Tooele over 40 years ago, when Byron accepted a job with Tooele Title Company. The company was owned by Richard Smith, and the office was located in the basement of Byron and Diane's home.

Eleven years later, when Utah Title Company opened a branch in Tooele, Byron went to work as manager and vice president of that company. He held that position for 16 years.

When Utah Title ran into financial trouble in 1988, Byron and Diane decided it was time to

charge out on their own. The couple named the new business B&D Title Company and at that point you



would like to say 'the rest is history,' however there is more.

Byron has had many employ-

ees over the years, however two names have been associated with B&D nearly as long as the Nelsens. Glenda Loveless, who started in the beginning with Byron has been his lead Escrow Officer for so long, that we just call it 'forever' (actually since 1972), and Karen Jensen, the company's longtime receptionist and typist, who recently succumbed to a bout with cancer.

About 10 years ago, Byron and Diane's son, Mark, decided to join his dad at B&D. Mark made the 'natural' transition from heavy-machinery mechanic to title examiner with ease.

Mark has recently purchased B&D Title from his parents and continues to run with the professionalism and local flair that the company has always been known for. Byron still continues to work part time and makes sure that Mark stays true to the traditions he built his company on. ■



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Mortgage Elimination Schemes/Mortgage Avoidance/False Releases/Title Underwriting

BY BERT RUSH, FIRST AMERICAN TITLE COMPANY (ORIGINALLY PUBLISHED IN LANDSAKES)

There's been lots of talk here lately about mortgage elimination schemes, such as discussed in our posting for 9/8/03.

As dedicated Savants may recall, the prior posting began with reports from Washington state about property owners recording false mortgage releases so they could refinance without paying their debts. Inevitably, these schemes created title policy claims pitting the new lenders vs. the old. At the time, we heard from Bill Reetz of Land-America in Seattle who was aware of forty to fifty such cases.

These schemes were linked to internet websites operated by promoters offering to help people eliminate their debts, without bankruptcy, for a fee. All of this was said to be "legal," based on anti-government theories and arguments which, IMHO, are pure gibberish. I think we also concluded that while these schemes weren't new, the internet might lend them credibility and extend their geographical reach.

So what's new? In recent months there's been considerable attention focused on these schemes by news media, the Federal Office of the Comptroller of the Currency, the Mortgage Bankers Association, and Better Business Bureaus across the land. The attention now seems to have culminated with challenges to one such promoter—known as The Dorean Group.

The Dorean Group is operated by Scott Heineman and Kurt Johnson from headquarters in Union City (Bay Area), California. Dorean's services are marketed by Capital Creation Resource (aka "CCR"), of Houston, Texas, through

its website, <http://ccrsolution.com/>. Go to this site and check your brain at the door. Dorean's services are also marketed through past customers (who receive a fee for each referral), and on internet "forums" such as sponsored by The Creative Investor (<http://www.thecreativeinvestor.com/>). Here, from the Creative Investor website, is a step-by-step description of Dorean's program, as posted by someone with the moniker "edcbro" on 1/15/05:

"You are bound to damage the credibility of the Dorean Group because of ignorance or sheer lack of knowledge. You have to EDUCATE yourself on the illegal activities of banks and lenders and also on the UCC code. If you do not, you will most likely NOT understand it.

For your information, this is how it is done.

1. Your property is placed in a Trust with the Dorean Group as the Trustee. Beneficiary could be you or any of your assigns.

2. They prepare a case against



"... these schemes will always be with us. They may change their pitch, but they won't go away."

the bank/lender sighting all the illegal activities they had done and violations.

3. They present a bond or standby letter of credit (I hope you understand what this is) issued by an international prime bank. It is not Oxford but IBS (let me know if you do not know this initials). The bond that they present is 2 times the value of your mortgage.

4. The bank will most likely take a payment twice of what is owed them. But there is a condition, THEY HAVE TO PROVE THAT THEY LOANED THEIR MONEY. If you do not know this part yet, I would suggest you do further research on Fractional Banking system, the Federal reserve banks, Mandrake mechanism and Creature from jekyll Island..

5. Within 60 days the bank will most likely give the reconveyance. UNLESS, they want to fight it out in court. FYI, the Dorean Group is organized to take a full blown legal battle. This is stage 1 wherein your property is free and clear. At this stage, Dorean has not made their money yet.

6. They will refinance your home up to 80% of the value. Assuming a \$200,000 home, the new mortgage is \$160,000.

7. The \$160,000 shall be distributed as follows:

\$80,000 goes to the Dorean group

\$40,000 goes to the homeowner

\$40,000 is divided amongst the agents

8. The \$160,000 mortgage will then go thru the elimination process just like the first one.

9. *The free and clear title is now given to the homeowner. The homeowner get a reconveyance from the lender and have it recorded.*

For those who are skeptics, I would challenge you to PLEASE EDUCATE YOURSELVES. Visit www.deletemortgages.com and go thru all the information therein. :-)

If you got past the Creature from Jekyll Island part, you see that Dorean will defend its customers with “a full blown legal battle.” Or, a fully blown legal battle. . . .

It seems that last year Messrs. Heineman and Johnson filed fifteen lawsuits on behalf of customers and against various lenders and banks in the federal district court in San Francisco. In each case, plaintiffs sought a judicial declaration that the lender’s debt was not enforceable because its loan was funded with “vapor money.” As implied, “vapor money” is money that doesn’t exist because it’s the fictional creation of an illegal U.S. monetary system, involving (among other things) wire transfers.

Nine of these cases were assigned to federal judge William Alsup. Judge Alsup conducted a hearing in one of the cases, and quickly dismissed the complaint saying it was “rambling and largely unintelligible.” He so chastised plaintiffs’ counsel that the lawyer voluntarily dismissed the remaining fourteen lawsuits. Despite the dismissals, Judge Alsup conducted further proceedings in his nine cases and, on January 19, 2005, ordered Heineman, Johnson and their attorney

to pay lenders’ attorneys’ fees and costs totaling more than \$77,000. Alluding to possible “mail and wire fraud,” the judge also caused copies of his order to be sent to the U.S. Attorney and California State Bar Association.

Later, on February 1, Dorean’s



From the New York Times © 2003

“Our streamlined procedures may cause us not to look at a release that’s concurrent with a sale or new financing . . . but other releases ‘from out of the blue’ should be carefully looked at.”

offices were raided by FBI agents who seized documents and \$178,000 from a company bank account. According to an article in the Sacramento Bee, the U.S. Attorney in San Francisco is “reviewing the matter.” The Bee also reported that US Bank, in a case filed in federal court in Sacramento, accuses

Heineman and Johnson of falsifying property records.

Meanwhile, Dorean’s customers, who once thought their mortgages were eliminated, now have either lost their homes in foreclosure or soon will unless they pay up.

Thoughts: First, no matter what happens to The Dorean Group and their hapless attorney, these schemes will always be with us. They may change their pitch, but they won’t go away. “There’s a sucker born every minute. . . .” And the internet doesn’t seem to make us less gullible.

Second, for title companies the risk created by these schemes lies with unwitting reliance on a false release. Our streamlined procedures may cause us not to look at a release that’s concurrent with a sale or new financing, which is fine, but other releases “from out of the blue” should be carefully looked at.

Third, when we learn that a property owner has given notice for his lender to either justify a mortgage or have it released, it may be a good idea to “flag” the property in your title plant, if possible. In many of our automated plants this is easily done by posting an “O.I.” (for “office information”) notice against the property. This way, if a new order is received the searcher knows to pull a copies of releases for examination.

Other thoughts??

My friend Jack Murray (Chicago) was kind enough to forward Judge Alsup’s January 19 order. To view it go to the following URL:

<http://ul.firstam.com/landsakes/kenny-2-22-05.pdf> ■

legislation which most directly affects and concerns our industry. No mention of legislation can be made without a special note of appreciation to Sen. Tom Hatch whose efforts in the legislature on behalf of our industry provide us with benefits that are immeasurable.

One of the greatest areas of benefit to the membership provided by the ULTA is in the area of continuing education. Our association has been fortunate to have Wade Taylor serve as the Education Chairman for what is now his third or fourth consecutive term and you will see Wade's education report covered in this newsletter. In addition to the hours available at the association conventions, each Regional Vice President has put together educational opportunities easily accessible to members located throughout the state.

The Utah Land Title Association has a long history of dedicated volunteers working to protect and enhance the title insurance business in the State of Utah. These efforts are needed now more than ever. The velocity of both business and life places unprecedented demands on all of us. Information and data rush at us at ever-increasing speed—decisions must be made almost moment by moment. Our industry is changing and a large portion of the pressure for that change is coming from sources outside of our industry. Those members who take an active role in the ULTA understand the benefits to us all in positively influencing our business environment. I encourage all of you to become active in the ULTA and lend your time and talents to better our industry.

Please email me with not only your feedback on this newsletter but to let me know what kind of job you think the ULTA is doing for you (mcday@titlewest.com). ■

Continuing Education for Members of the ULTA

BY WADE TAYLOR, TITLE WEST

As I have served on the ULTA Executive Committee for the last few years, one of the most common questions I have been asked has been "What does the ULTA do for the members of the association?" The number of issues that the ULTA addresses has been an eye-opening experience for me. In the continuing education arena alone, the ULTA has made significant contributions to the members to the ULTA. The ULTA has provided approximately 60-70 continuing education hours state wide during each of the last three years.

Further, during the legislative session that just ended, the State Insurance Department Bill (HB 60) was originally submitted to move the continuing education requirement for all lines of authority from 12 hours every 2-year licensing period to 24 hours every 2-year licensing period. The ULTA's Executive

Committee and the members of the Legislative Committee spent many hours meeting with the Insurance Department and working with various legislators to carve out the title insurance licensees. Through the efforts of the ULTA, the required education hours for our industry was not changed..

Given that with the 12-hour requirement we have had and the constant effort it takes by each licensee to fill those hours, the answer to the question, 'What does the ULTA do for members of the association?' can now include that answer that we only have 12 hours of CE instead of 24 hours. The education arm of the ULTA is working hard to provide opportunities to its members for CE classes. Upcoming classes are posted on the association website, www.ulta.org. We encourage you to check the web site frequently for CE hours that the association is providing. ■

New Members January to March 2005

The Talon Group

330 East 400 South
Salt Lake City, Utah 84111
(801) 536-3248

Affiliated First Title

321 East State Road, Suite 200
American Fork, Utah 84003
(801) 756-0222

Shred Pro

2612 S. Constitution Blvd.
Salt Lake City, Utah 84119
(801) 977-9800

Legislative Update - 2005 General Session

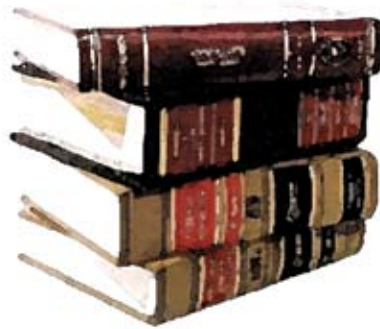
BY STEVE CRAWLEY, BONNEVILLE TITLE COMPANY

The ULTA had a very busy legislative session this year. There were several pending bills which the Association and our friends on the Hill were able to either defeat or amend. For example, in its original form HB 60 sought to change the continuing education requirement for all insurance licensees to 24 hours in each two year licensing cycle. We were able to get title insurance professionals carved out of the new requirement and our CE requirements remain unchanged.

As initially drafted, HB 200 would have made several small changes to the current title insurance licensing scheme. ULTA was able to work with the sponsors of the legislation and suggest several changes to the proposed bill that were thought to be problematic for the industry. However, the bill was finally passed with a provision that now requires that any material change to a settlement statement made after the final closing documents are executed must be authorized or acknowledged by date and signature on each page of the settlement statement by the persons affected by the change before disbursement. This legislation becomes effective on May 3, 2005 and current escrow procedures should be modified to meet this new requirement.

HB 26 made some technical changes to current real property statutes. The legislation clarifies the application of after-acquired title by codifying common law and making clear that any legal estate acquired after the date of the subject conveyance shall immediately pass to the

grantee, his/her heirs, successors and assigns if the conveyance was by warranty deed, special warranty deed or trust deed. A quit claim deed does not convey any after-acquired title. The bill also codifies a form of a special warranty deed. Any deed that conveys and warrants against all who claim by, through, or under the grantor will be a conveyance by special warranty deed. The new deed form pretty much follows current industry practice.



HB 75 created a government records access and management task force to study possible changes to public access to records. This task force will meet several times during the coming year and recommend possible action to the legislature prior to the next session. Those proposing the task force have been looking at changes to the way that county recorders and other governmental agencies charge for access to records that they maintain. ULTA believes that some of the ideas being floated around pose a potential threat to our access to the records upon which our industry depends. ULTA will be working with the task force throughout the coming year to ensure that our interests are presented and protected.

As you probably already know, the most significant action of this year's session was the passage of SB 40. The bill enacted the Title and Escrow Commission Act and creates a commission to oversee the regulation of the title industry in conjunction with the Insurance Commission. The commission will have 5 members, four of whom are licensed in title or escrow for at least 5 years. The fifth member will be member of the general public. No more than one commissioner can be appointed from any county. The insurance commission will provide the staff for the new commission. The commission will have broad powers to make rules for licensing, continuing education, and standards of conduct for the industry. The new commission begins its work on July 1st. The Governor's office is currently accepting applications for membership on the commission. An application can be downloaded from www.governor.utah.gov/boards/home.html.

If you want any additional information on any of these bills or the legislative session in general, the legislature's web site has the final version of each bill and its legislative history. The legislative database is searchable by keyword, sponsor, subject, etc. The ULTA web page has a link to the legislature's home page. We encourage you to check it out and get involved!

Thanks to all who helped identify, read and analyze bills. Without the help of our membership we could not keep up with the volume of information that must be reviewed every legislative session. ■



Utah Land Title Association
2131 Gad Way
Sandy, Utah 84093

Utah Land Title Association 2004-2005 Executive Committee

Mark Day (President)

Title West Title Company
Phone (801) 485-1600
mcday@titlewest.com

Greg Clark (1st Vice President)

Valley Title Insurance Agency
Phone (435) 674-1100
gman@infowest.com

Nancy Frandsen (2nd Vice President)

Stewart Title Guaranty
Phone (801) 355-9393
nfrandsen@stewart.com

Sheri Olsen (Secretary/Treasurer)

Utah Land Title Association
Phone (801) 947-8453
ulta@xmission.com

Paul Newton (Capital Region Vice President)

Backman Stewart Title Services, Ltd.
Phone (801) 288-8818
pnewton@backmanstewart.com

Mark Gonzales (Northern Region Vice President)

Bonneville Title Company
Phone (801) 776-0985 ext 101
mgonzales@bonnevilletitle.com

Susan Houghton (Central Region Vice President)

Tooele Title Company
Phone (435) 882-1120
susan@tooeletitle.com

Mary Lou Sperry (Southern Region Vice President)

Juab Title & Abstract
Phone (435) 623-0387
tina@juabtitle.com

Jane Lancaster (Eastern Region Vice President)

South Eastern Utah Title Co.
Phone (435) 381-2344
jane<setitle@emerytelcom.net>

Doug Stanley (Dixie Region Vice President)

United Title Services of So. Utah
Phone (435) 673-7733
doug@unitedtitle.net

Janene Gull (Liaison Committee Chairman)

Landmark Title Company
Phone (801) 467-4111
janene@landmarkttitleutah.com

Wade Taylor (Education Chairman)

Title West Title Co.
Phone (801) 375-3600
wtaylor@titlewest.com

Steve Crawley (Legislative Chairman)

Bonneville Title Company
Phone (801) 263-9126
scrawley@bonnevilletitle.com

NAME THE NEWSLETTER

We welcome any suggestions on what we should name this newsletter. If you have an idea, email it to Sheri Olsen, ulta@xmission.com. The person with the winning suggestion will receive a gift certificate!

UTAH LAND TITLE ASSOCIATION'S

purpose is to: "promote the general welfare of the land title profession in Utah, to provide information and education to consumers and to its members, to promote professional standards and ethics, to promote and encourage sound legislation affecting land titles and real estate transactions, and to otherwise facilitate the ready transfer of land titles."