

# THE TITLE EXAMINER

A QUARTERLY PUBLICATION OF THE MICHIGAN LAND TITLE ASSOCIATION



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- MLTA Legislative Day
- MLTA Spring Seminar
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- TRID Delay & Implementation Checklist

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with any questions, comments, or if you would like to contribute.



# MLTA Member Spotlight

## Lori Jurries

Operations/Staff Development  
Star Title Agency, LLC  
Kent County, Grand Rapids, MI



**MLTA Involvement:** I attended my first MLTA event in May, for the 2015 Spring Conference in Mount Pleasant, MI. It was a great experience! I enjoyed seeing old friends and meeting many new ones. The conference better prepared me and my staff for the future changes coming to our industry. It also provided new information regarding endorsements and construction best practices.

**Personal Interests/Hobbies:** I enjoy spending time at home with my husband, kids, and 3 dogs. My kids are grown and out of the house now, so time with them is precious. I also enjoy photography and writing.

**Something about Lori:** I am excited to be part of the MLTA. I'm grateful to Debbie Wiley at First American for inviting me to be a member, and being an awesome mentor. I feel honored to be part of an organization where competitors can also be friends. This network of amazing and talented individuals certainly challenges us all towards a greater success!

# Welcome

Integrated Search Technologies – *Brownsburg, IN*

Clear Bluewater Group – *Traverse City*

Law Office of Laura McMahon Lynch  
– *Grosse Pointe*

Motor City Title - *Clarkston*

Michigan Surveying, Inc. – *Livonia*

Century Title Agency – *Troy*

Title Partners – *Plymouth*

Tax Title Services - *Newport Beach, CA*

Westcor Land Title Insurance Co. – *Orange, FL*

Michigan Investment Title – *Romeo, MI*

## Terri Voss

Pre-Sale Unit Manager  
Trott Law, PC  
Oakland County, Farmington Hills



**MLTA Involvement:** I have been attending most education seminars and yearly conventions for the last 6 years. These networking opportunities alone have been immeasurable. I joined the Sponsorship Committee 3 years ago to become more involved in the association and took on the committee chair position last year. I really enjoy the process of reaching out to potential and long-time sponsors, building on those relationships and seeing the results of the committee's hard work.

**Personal Interests/Hobbies:** This is tough... I work a lot, does that count as a "hobby" as long as I enjoy what I do? I have 3 children that keep my husband and I very busy and a house that never seems to be without a "project" in process. I think I have missing paint sections of wall or trim in every room in my house from projects that I've started. If we aren't running our 11 year old all over town for soccer, I'm trying to find time to catch a glimpse of my older 2 who are at school or working! I love being outside and have mapped out all local restaurants that have outside seating. I enjoy camping and being by the water and could take a vacation solely to sit on a beach for a week doing nothing else and I would be perfectly content.

**Something about Terri:** I've been with Trott Law, PC for almost 16 years and have learned an immense amount from so many great people. I've worked in the Presale Foreclosure and Title Units and really found my niche working title resolution which led me to my interest in the MLTA. Things are ever changing to meet client needs so there is never a dull moment. The best part of my job however, is working with my staff. They are a great group of people that work very hard so in return, I try to reciprocate their efforts and work my hardest for them. I spent some time on the front-end working for a couple of consumer and commercial lenders before working at Trott. Prior to that time, I did a tour in the Air Force which taught me volumes about work ethic, responsibility and resourcefulness but was also a TON of fun and provided me a very low cost education! It's key every day for me to pass on the importance of creating a positive experience with clients and their customers and taking the time to appreciate those around me that are always putting in their best efforts.

## Jane Armstrong

Title Manager  
Saginaw Bay Area Title Agency



**MLTA Involvement:** I've attended several education seminars over the years.

**Personal Interests/Hobbies:** Golf, reading, animated and sci-fi movies.

**Something about Jane:** Personally, I have met some absolutely wonderful people in this industry, including Jacquie Brink from WFG National Title. Even though I will somehow make her pay for putting my picture in the Title Examiner, I am grateful for her expertise, and all the information she's provided from the MLTA over the years. I love what I do and I am constantly seeking knowledge. I would have to say that I am a perpetual learner. I have realized that it doesn't matter how long you have been in the business, you can always learn, and you know enough to have value and teach someone else. I would also say that has translated to the rest of my life as well. I married to my best friend Dan, and have two awesome young men we sometimes claim as our children.



# ABSTRACTIONS

by Allan Dick, Best Homes Title Agency, LLC

Change! With all the hub-bub surrounding the CFPB/TRID/Closing Disclosure changes, and all the technical and security demands framed within the ALTA Best Practices, I am reminded that growing older has its pluses and minuses. On the negative side is adapting (or at least attempting) to these necessary changes. (You don't have to be old to feel that pain!) The positive of growing older? It beats the alternative!

But, speaking of positives, the University of Michigan's most recent (June) Consumer Surveys are encouraging. The Index of Consumer Sentiment rose to 94.6, up 4.3% from May and 14.7% from a year ago! The Survey of consumers' Current Economic Conditions also rose 6% and 10.6% respectively, while the Index of Consumer Expectations was up 3.1% and 18.1%.



Alan Greenspan, former Fed Chairman, recently expressed concern that new construction is not leading us out of the recession, calling real estate in a "secular stagnation" (minimal growth). Prior to the recession 8% of the GDP went for construction of homes and other buildings. But, currently it is only 4%. America has experienced ten recessions since World War II. Until now, each recovery was driven by new construction.

That said, the National Association of Realtor's mid-year report, according to realtor.com, the housing market is on track for its best year since 2006, citing record traffic, rising demand, declining inventory (good and bad) and now rising rates (meaning less affordability as rates rise, so better act now!). Interestingly, with rates increasing to over 4%, mortgage applications jumped 8.4% for the week ending June 5. Just like old times, buyers sit on the side lines waiting for the lowest possible rate – maybe another drop – until the rates start to go up, at which point they jump! Was this increase due to that, or increased activity over the Memorial Day holiday?

It's hard for some of us to keep up with all the new online sources of data and searching, when looking for a home. Some names have been around a while, like Zillow and Trulia, while other newer, less familiar names include Movoto and Xome. Even Google and Yahoo are getting into the act. Speaking of Movoto, HousingWire recently reported that Movoto has created a quiz for those claiming to be real estate experts – 29 easy terms everyone should know.

Do you remember President Clinton's 1995 100-point action plan, his National Homeownership Strategy – an initiative to achieve an "all time high level of homeownership in America within the next 6 years"? That set in motion a bipartisan (remember that term?) effort to loosen lending standards and make it easier for middle class Americans with less savings or inherited wealth to buy homes. At that time, the homeownership rate was 64%. It climbed to a high of 69% by 2004, bolstered under President George W. Bush's administration. Today we have fallen back to a homeownership rate slight lower than 20 years ago.

ON SECOND THOUGHT... in the last issue of The Title Examiner, we announced a new, Members-only, comprehensive "Legal Descriptions" MLTA Boot Camp-Workshop scheduled for this coming September. It seemed a good idea at the time. But, with all the attention and angst directed at the new Closing Disclosure form and the other TRID procedures, which will probably really be felt more in September and beyond, the likelihood was that too many of our resources and attention will be directed to those changes and adjustments. So, the timing of this presentation was probably not ideal. It has been re-scheduled for next March. Meanwhile, hope to see you at Shanty Creek for the MLTA Summer Convention.

## IN THE NEWS

Patrick Abstract and Title Office, Inc. of Centreville, Michigan would like to announce the retirement of John Luxon on July 1, 2015. John started in the title industry in Centreville in 1979 and merged his company with Bob Johnson's company to form Patrick Abstract and Title Office Inc. A reception was held at Patrick Abstract and Title Office on July 1, 2015.

# VIEWS FROM THE SHORE

By Sam Hill

Looking at the MLTA Summer Convention packet, I notice the impressive lineup of speakers, including two speakers from North Dakota! Bet that's never happened before. One of those is the MLTA CEO Michelle Korsmo, who's recent (June 15) ALTA Advocacy Update contained an interesting bit of historical perspective in conjunction with her daughter's history lesson:

Today marks the 800th birthday of the . Meaning "The Great Charter," it is the foundation of our Constitution and legal system. The Magna Carta is remembered for establishing the principle that everybody, including the king, was subject to the law.

One important detail left out of my daughter's history lesson is that the majority of the grievances addressed in the Magna Carta were related to land titles. Many of the basic property rights that we take for granted today come from the Magna Carta. These include (1) the right to due process before foreclosure, (2) the rights of heirs to inherit land, and (3) dower and homestead rights for surviving spouses.

The Magna Carta's importance can be seen throughout our nation's

history: from its wide circulation prior to the Declaration of Independence to its place as one of the eight bas-relief panels representing the evolution of justice in American law on the bronze doors to the Supreme Court. The importance of the Magna Carta was summed up by Supreme Court Justice William Johnson in 1819 when he said: "As to the words from Magna Charta? the good sense of mankind has at length settled down to this: that they were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice."



My brother Lester would have loved that, although he might have paraphrased it a bit – something like: "individual property rights and justice for all" – and he would have added: "common sense". (remember that?) I do miss his words of wisdom.

But, I never really thought about the literal translation of the Magna Carta, "The Great Charter". Sounds like something you take out into Lake Michigan, looking for salmon or trout. And, that's the way I see it, and this is the view from the shore, so you can see from the country what it looks like from here to there from time to time.

Regards,

*Samantha Hill*



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# Legislative Update

by Cami Pendell,  
Michigan Legislative  
Consultants

## Legislative Update: 2Q2015

### MLTA's Legislative Initiative for Flat Recording Charges on Deeds and Mortgages

This legislative cycle, MLTA is working on an initiative that is related to the Consumer Financial Protection Bureau rules on mortgage closings that are going into effect on August 1st. The rules put a premium on the accurate reporting of all charges to the consumer. Recording fees are one of those charges. In order to make the process simpler for lenders, who must provide recording fee information to the consumer three days after the application is made, and for settlement service providers, who must provide accurate recording information for the creation of the closing disclosure document, MLTA is proposing that Michigan adopt a flat fee recording system for deeds and mortgages. An added benefit would be to the functioning of the Register of Deeds offices across the state, as the time consuming counting of deed and mortgage pages would be eliminated. Undoubtedly, there would be less rejection of documents due to incorrectly counted pages, with a resulting benefit to all parties involved in a real estate transaction. The additional intent of this proposal is to also not negatively impact the revenue stream of counties with their recording fees. MLTA is going for a very balanced, measured approach on this issue.

MLTA is currently talking with legislators about potentially sponsoring this type of legislation. Additionally, in an effort to be as inclusive as possible, the association has contacted the Michigan Association of Registers of Deeds, Michigan Bankers Association, Michigan Credit Union League, Michigan Realtors and the Michigan Mortgage Lenders Association for their thoughts on this proposal as well.

### HB 4075 Officially Signed into Law

You may have recently received communications alerting you to House Bill 4075 (Rendon), amending Public Act 161 of 1895, which requires county treasurers to furnish transcripts and abstracts of records and sets the fees to be paid for them. That legislation did the following:

- Establish a maximum charge of 25 cents per parcel record, not to exceed \$1,500,

for each request for an electronic copy of records in a qualified data file maintained by a county treasurer.

- Prohibits copies of records obtained in this manner from being resold for a commercial purpose.
- Delete a requirement that a county treasurer collect a fee of 25 cents for each description of land on a requested list of State tax lands or State bids.
- Beginning July 1, 2015, increase from \$1 to \$5 the minimum fee a county treasurer must collect for the tax certification required to record a warranty deed or land contract.

While previous announcements were made, they were done so without the bill actually having been signed into law. The Governor has now signed this bill and it is officially Public Act 39 of 2015.

MLTA was actively tracking this legislation and was aware of it throughout the legislative process. The association was an active part of getting the July 1st effective date added to the bill so our industry would have some lead time to prepare for the fee increase. Without the effective date added into the legislation, the fee increase would have taken place on the day the Governor signed the bill.

Now that the legislation has become law, we wanted to make sure that you are aware of this upcoming change.

### New Director Appointed to the Department of Insurance and Financial Services



On Monday, May 18th, Pat McPharlin, became the new Director of the Department of Insurance and Financial Services. McPharlin joins state government after serving as CEO of Michigan State University Federal Credit Union, where he started early in his career in 1973 and has been its leader for the last 14 years. He retired

from the credit union in earlier this year in March. He holds a bachelor's degree in multidisciplinary social science from Michigan State University, and a master's degree in management from Aquinas College.

He replaces Ann Flood, who returned to the private sector after serving as head of the Department of Insurance and Financial Services since October of 2013 and before that as chief deputy under the former Office of Insurance and Financial Regulation.

### Member Spotlight:

Last quarter, the Member Spotlight was on the Chairman of the Senate Local Government Committee.

This quarter, we will focus on the other Legislative Chamber to learn more about the new Chairman of the House Local Government Committee.



State Rep. Lee Chatfield was first elected to serve the 107th District in the Michigan House of Representatives in November 2014. The 107th District encompasses Chippewa, Emmet and Mackinac counties, and in Cheboygan County: Koehler, Tuscarora, Beaugrand, Hebron, Mackinaw and Munro townships and the city of Cheboygan.

He not only chairs the Local Government Committee, but also serves on the House Committees on Education, Health Policy and Tax Policy.

Chatfield earned his Bachelor of Science degree in History Education from Northland International University. He earned a Master of Arts degree in Public Policy from Liberty University. He served as a full-time high school teacher, coach and athletic director at his alma mater, Northern Michigan Christian Academy in Burt Lake.

The Representative was born and raised in Northern Michigan and is a high school graduate of Northern Michigan Christian Academy. He married his high school sweetheart Stephanie in 2008 and they live in Levinger with their four children—three sons and a daughter.

# ALTA 2015 Business Strategy Conference

by Cindy Immonen, Fidelity National

John Bommarito and Cindy Immonen attended the 2015 ALTA Business Strategy Conference in Philadelphia. At the conference ALTA President Diane Evans NTP encouraged attendees to take responsibility for educating others about how the CFPB's TILA-RESPA integrated disclosures (TRID) will change the home-buying process.

"This is our charge not only during our time here in Philadelphia but leading up to and after August 1," Evans said. "What's important now is setting the expectations and having conversations with lenders on how you will collaborate on exchanging information for the new Closing Disclosures. Title and settlement agents must figure out how they will provide lenders with title insurance rates and settlement fees so that they have them on hand to produce the Loan Estimate."

These are some of the items title professionals will want to figure out because the regulation has new tighter tolerance requirements and lenders will want to insulate themselves from liability.

As the industry considers the expectations that start Aug. 1, Evans encouraged attendees to start having conversations with real estate agents about how long closings will take after the rule goes into effect. "Set the expectation for Realtors that closings will likely take 45 days," she added.

Setting expectations for consumers starts this summer. With owner's title insurance labeled as "optional" on the Loan Estimate and Closing Disclosure, the industry must improve how it communicates with consumers when explaining the product. It will be important for title agents to communicate with homebuyers earlier in the process to help them understand the financial protection an owner's title insurance policy provides.

"Put yourself in the homebuyer's shoes," Evans said. "If you're purchasing your first home and you're handed the new Closing Disclosure and see a fee of \$1,000 for title insurance, it would probably give you pause. Then you notice the word 'optional' next to this fee and wonder if paying this much money is worth it on top of everything else you need to purchase for your home. It's a reasonable question and luckily we have the answer."

Evans shared results from a consumer messaging campaign ALTA conducted last year; the results showed that real estate agents and lenders do not properly convey the value of title insurance.

"It is up to us to take the reins and communicate directly to consumers earlier in the home-buying process to ensure they will have the peace of mind that their investment is protected after they get the keys to their home," Evans said.

ALTA is developing tools to help members set expectations. ALTA has created a two and a half hour DVD training tool that is appropriate for owners, managers and employees for companies of all sizes. The training helps explain how the TILA-RESPA regulation was created, a detailed walkthrough of the Loan Estimate and Closing Disclosure forms and information on how title professionals can help set expectations with lender and real estate agents.

Additionally, ALTA has also developed model presentations to help members conduct conversations with lenders and real estate agents. "Let's Talk TRID" is a model slide deck appropriate for a lunch and learn event or a one-on-one meeting with customers.



ALTA President Diane Evans NTP moderated a panel comprised of lenders who shared how financial institutions are preparing for the new TILA-RESPA integrated disclosures. The panelists discussed how their companies plan to generate and deliver the Closing Disclosure to consumers, and what expectations they have from their title and settlement partners.

Panelists included Penny Reed of Wells Fargo, Bob Kelly of Bank of America and Dottie Hackett-Cole of the Trident Group.

With most lenders already are making the decision that they will produce and provide the Closing Disclosure to buyer, the panelists explained that liability is driving their decisions.

"Essentially, we decided that responsibility under TILA could not be delegated like it can with RESPA," Reed said. "We concluded that we had to prepare and track delivery. This doesn't mean that we will prepare the forms in a vacuum. We still need to collaborate with settlement agents to produce the Closing Disclosure."

Recognizing that collaboration between the settlement agent and lender is crucial to meet the accuracy and timing requirements of the rule, the panelists shared thoughts on what they will require from their network of settlement agents.

"We want settlement agents understanding the rule and looking at the documents," Kelly said. "The regulation will cause us to redo workflow processes because we will need to get the Closing Disclosure six or seven days in the mail before closing."

Both Bank of America and Wells Fargo have announced they will use RealEC's Closing Insight—a cloud-based online portal—to support implementation of the new disclosures and exchange all documents and data to ensure that non-public personal information (NPI) is protected.

One of the major changes that TRID brings is the requirement that the consumer receive the Closing Disclosure three days before consummation of the transaction. Evans asked the panelists how they plan to manage this process.

The panelists agreed that most lenders will default to the mailbox rule, which assumes the consumer received the Closing Disclosure three days after it was mailed. Kelly said how banks answer the three-day requirement will evolve over time, but added that Bank of America will overnight the Closing Disclosure at first as it looks for "ways to shorten the window to prove receipt."

Hackett-Cole said Trident Group's preferred method will be to use DocuSign for electronic delivery, but that they will also follow the mailbox rule.

When talking with real estate agents, it's important to remind them that their clients should not make last-minute changes that would extend the closing date. These items include making changes that lowers or raises the APR 1/8 of a percent or changes to the loan product.



Hackett-Cole said she's heard about the possibility of needing two inspections. The first would identify big issues and a final inspection the day of closing for any minor issues. Reed added that a conversation will need to be had with the sellers as well. A deal could blow up if it's discovered during the walkthrough that the seller took all of the appliances.

*Continued on page 11*

# NATIONWIDE epidemic

On March 30, 2015 Elouise Jahnke successfully closed a sale transaction. The sellers provided her with written instructions to cut a check for their proceeds and deliver it to their real estate agent. They intended on using the proceeds towards the closing costs and down payment for another property they were purchasing at another title company. Elouise followed their instructions, cut them a check and had it delivered to their real estate agent's office.

The very next day Elouise received emails purportedly from their real estate agent's office asking her to wire the proceeds instead. The instructions did not come from the sellers, nor did they come from the real estate agent she worked with throughout the transaction. Instead they were from an assistant of the real estate agent. The assistant, however, had not worked on this transaction until now. Here are the emails:

From: Real Estate Agent  
Hello Elouise! Has the Jones been funded?

Elouise Jahnke wrote:  
Yes — didn't you get your checks?

From: Real Estate Agent  
They are telling me about having problem with there account, just want to be sure. Thanks

Elouise Jahnke wrote:  
Need a little more information so I know how to help! Thanks

From: Real Estate Agent  
They have issue with bank acct. Can they receive funds with another acct?

From: Real Estate Agent  
They want the funds wired?

Elouise Jahnke wrote:  
Ok, so I thought they were taking our check to ABC Title for the closing. Is ABC refusing to honor our check? The EO was OK with that last week.

From: Real Estate Agent  
They receive the checks but they want the payments stop on the checks and wire to proceed.

Elouise Jahnke wrote:  
That check has to be returned to us. We will wire out tomorrow.

From: Real Estate Agent  
Ok, But the Jones wont be able bring the check down tomorrow morning because of work

schedule,hey will like to mail the check back to you I hope that os ok with you. I will forward the account they are using to receive the funds in the AM. Have a good night. Thanks

From: Real Estate Agent  
Good morning Elouise!  
Kindly forward the address to mail the check to, below is the info for the proceed.

BANK NAME: ABC Bank

ACCT NAME: JOHN DOE

ACCT NUMBER: xxxxxxxxx

ROUTING NUMBER: yyyyyyyyy

Pls do get back to as soon as you receive this message. Sorry for the inconvenience Thanks

Elouise Jahnke wrote: Please call me. I do not know what you are wanting.

From: Real Estate Agent  
Am so sorry am in a middle of meeting right now which am not allowed to call, i can only email you. What i meant was that, the seller of 123 Main street, which is (Mr. and Mrs. Jones) want check voided or put a stop pay because of the problem they are having with bank acct, and want the fund proceeds to the info i'll send to you few mins ago. Am very sorry for the inconvenience. Thanks

Upon receipt of this email Elouise picked up the phone, and called the seller and the real estate agent directly to find out exactly how she could help. Neither of them knew what she was talking about. Next she called the assistant to the real estate agent who also knew nothing about the emails.

Turns out the email account was completely made up. The assistant confirmed he did not have an email address from the account Elouise was receiving these emails from. She stopped replying to the emails, but the impersonator sent two more emails.

From: Real Estate Agent  
Pls do send the address you want the check to be mail to.i wait to hear back from you.

From: Real Estate Agent  
Am sorry to bother you this much, Are you not the closer of this transaction? Attached is the HUD.

It did not stop there! The impersonator called her to find out when the funds would be sent. The area code on caller ID indicated he was calling from Las Vegas. Elouise told him she knew he was an imposter and not to call or contact her any further. How bold!

Elouise was not duped. She recognized all the

signs such as the bad grammar and the fact the account name on the wire instructions did not match her sellers. But just when she was convinced it was a hoax, the impersonator sent her a copy of the seller's HUD-1 from her closing. Creepy! It was then she picked up the phone and called her customers. Verbally confirming the information from a good known phone number is always the very best defense.

The proceeds from the sale were almost \$58,000. Had Elouise acted on the email instructions her operation would be facing a loss for those funds. Instead, she recognized the signs and called the customers. For her efforts she has been rewarded with \$1,500 as well as a letter of recognition from the Company.

## MORAL OF THE STORY

Get the word out! Fraud Insights is designed to be shared with your customers. Share the details of this story with real estate brokers, real estate agents, loan officers and anyone else you believe could fall victim to this scheme. Most of the time, the threat has successfully compromised the email account of the real estate agent, loan officer or attorney. The compromise occurs there, not within the FNF email network.

Author note: As I wrote this article I received a phone call from a manager in Illinois. She reported their office sent wiring instructions out to a buyer's attorney. The attorney forwarded those instructions on to their client who promptly went to their bank and wired \$142,000. That is right — \$142,000!

Unbeknownst to all of them the attorney's email account had been compromised. The funds never showed up in our trust account. The attorney contacted his clients who reassured him they sent the funds per the wire instructions he sent them. But, the funds were wired to a bank in Ireland — not our account.

What can you do? Spread the word. Do not let anyone else become a victim. The best way to assist your real estate agents and attorneys is to encrypt your wire instructions so they can forward them to their clients encrypted, which will ensure they are not intercepted and altered. The attorney in Illinois has always pushed back and complained about how difficult it is to open encrypted emails. I have a feeling he will request all wire instructions be sent to him encrypted from now on.

Secondly, make sure you spread the word email is not a secure line of communication and all wire information received via email should be verbally verified by the sending party.

# The Devil is in the Details – Consideration in Selling Your Agency – Part 2

by Ethan M. Powsner, Esq., Fidelity National Title Group



The 'perfect storm' of CFPB and Dodd-Frank regulations, the aging of agency owners, and the technological revolution in the real estate settlement industry is causing many agency owners to accelerate their exit strategies. Simultaneously, these factors are creating an excellent opportunity for agency owners that want to grow. These materials are not intended to replace professional third-party guidance from attorneys and accountants; instead, they are intended to provide some guidance on preliminary matters that will help you focus your efforts on issues that can inhibit you from achieving your goals of buying or selling an agency.

In the Spring edition of The Title Examiner, I presented a list of questions, concepts and items that a seller would want to be able to consider as a part of the decision-making process. In this article, I present a similar list, but from the buyer's perspective.

## Part 2. Buyer questions and considerations.

The following is a list of questions and issues a buyer should answer as a part of the process. This list is not exhaustive, but it will certainly get you started. In my experience, the one question that has proven to be the proverbial 'line in the sand', over which only a serious buyer has been able to cross is: 'Who, in your office is going to be the person who handles the array of issues that come up when trying to meld the operation of the seller's office with the buyer's existing operations?' This question is made up of a number of subordinate parts, such as: 1) Do they have the leadership skills to bring the newly acquired office on-board; 2) Are they willing to commute each day? 3) How will that affect your current office operations?.

1. Why are you looking to expand your business?
2. What are your biggest challenges right now? How is an additional office going to help these?
3. Is your current business model scalable? Meaning, do you have operational, management, and financial systems and controls in place that will allow you to replicate the success of one office in, or with, additional offices? Are these systems and procedures in writing?
4. Who on your management team will be responsible for ensuring that the administrative, financial, and logistical burdens of additional offices will not drag down the entire organization? Do you have a written plan?
5. Do you have access to sufficient capital?
6. Have you checked with your lender to make sure the purchase is financeable?
7. How are you going to reassure the seller that you have the ability to complete the financial terms of the transaction, assuming that the payments are going to be made over time?
8. Have you considered the opportunity cost of this potential investment? In other words, could you make more money elsewhere?
9. What will you do if you close the transaction and then discover that 50% of the hoped-for revenue either leaves or does not exist?
10. What are your plans to increase sales and profits?
11. If you can't acquire this office, what will you do instead?
12. What are your non-financial goals for a purchase or merger transaction?
13. Do you think your office and the other office will have a good operational and corporate cultural fit?
14. What are your intentions regarding the employees at the other agency?
15. What role do you want the seller to play after the sale?

Another issue that needs to be considered, even though technically not the buyer's responsibility, is the winding up of the acquired office's operations. While the seller cannot easily relieve him or herself of these obligations, the problem for the buyer is that the staff that came with the seller's office is going to be receiving the brunt of the calls and demands arising from the operation of the former agency. Generally, it would make sense for the seller to outsource some of these tasks; possibly even outsourcing to the buyer's agency. Here are some of the issues that need to be addressed:

### Escrow account management

- Unissued policies
- Unreported policies
- Unrecorded/rejected recordings
- Dormant Funds – Escheatment
- Active escrow holds, such as construction/repair
- Record retention laws
- Tail E&O policies

# Endorsements, New Construction and Closing Disclosure at the Spring Seminar

by Crystal Bowyer,  
Lighthouse Title



The annual Spring Education Seminars took place on Wednesday, April 15, 2015 in Mt. Pleasant with a turnout of 117 members; while the Livonia session, held on Wednesday, May 13th had 127 in attendance. The two spring seminars saw a total of 244 attendees!

Sam Shellhaas, Esq. VP, Midwest Underwriting Counsel for WFG National Title Insurance gave a colorful presentation on the ALTA 9, 28 and 35 Series, an Endorsement review. This was a continuation of the Series that the MLTA Education Committee is running on all of the Endorsement Forms. Sam's presentation was complete with Comic slides mocking Power Point presentations which helped to lighten the mood. Endorsements are a hard subject to have a lively conversation on, however it is good reminder and important to make sure the Endorsements are being used properly.

Doug Smith, Vice President and Underwriting Counsel for Stewart Title Guaranty Company gave an insightful discussion on Insuring New Construction and Avoiding Claims. Doug reminded us that to truly understand the claim's risk in insuring construction loans that we need to also understand the provisions of the Michigan Construction Lien Act. We were walked thru a reminder of the various forms that come along with Construction from the Notice of Commencement, Notice of Furnishing, Claim of Lien, Sworn Statement, and the various types of lien waivers. There were discussions on Why Claims occur and How to "Best" avoid them.

After a great lunch, Rebecca Lewis, SCREC, SASIP, Customer Support/Trainer for Adaptive Software and 2nd Vice President of American Escrow Association presented on The New Closing Disclosure Form. Rebecca walked us through which transactions will be required to use the new CDF and which ones will not. Simultaneous Issue Credit and the fact that Owner's Policies are considered optional were discussed. As was How to Count to Three. Oh wait, no, How to Count the Three Days which actually could mean up to 6 days or more depending on if the Loan Estimate needs to be or more correctly, can be Reissued.



Brian Nettleingham, Esq., Attorney with Maddin Hauser Roth & Heller PC closed out the day with a review of the tolerance levels and the accuracy and timing of the New Closing Disclosure Form. Brian also brought up the impact to our Industry. The Rule is not just two new forms; it means a change to our business processes, workflow changes, system impact and new compliance requirements. The key through all of the changes with the new rule will be working with your Lenders and Realtors and keeping the lines of communication open between all parties. We are in this together.



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# MLTA 2015 Legislative Day

by Cami Pendell, Michigan Legislative Consultants

On May 5, 2015, the Michigan Land Title Association held another successful Capitol Day where association members had the opportunity to meet and talk about important issues with their legislators and staff.

The Capitol Day began with MLTA doing something very special this year. Board member John Bommarito presented MLTA's first-ever Legislator of the Year awards to Reps. Peter Pettalia (R-Alpena) and Marilyn Lane (D-Fraser). This unique recognition was done to express the association's sincere appreciation for all of their work on the Neal Case Fix legislation that was successfully completed last year. The Representatives then took time to talk with MLTA attendees and joined us for our morning legislative briefing and breakfast.

One of the proposals MLTA is working on this legislative cycle is a flat recording charge for deeds and mortgages (more on that issue below). This legislative concept was well received by many legislators in both the House and Senate. As a matter of fact, in follow-up to a meeting that Sen. MacGregor's office had with Kim O'Conner and Lorri Lavelle, his office immediately reached out to MLTA to explore the possibility of sponsoring the legislation. His staff even shared that they were extremely impressed with Kim and Lorri because of how knowledgeable they were on the issue and their ability to answer questions. A hearty thank you to Kim and Lorri for their great representation of MLTA!

As you can see, MLTA's Capitol Day is extremely important because it allows legislators to put a local face to the association's name. They want to know what is important to you and the industry and it's a great opportunity for you to get to know them as well. With such positive feedback from legislative offices, if you participated in the 2015 Capitol Day please continue to do so in the future. If you didn't participate this year, MLTA hopes that you'll consider doing so next year.



## Cont... ALTA 2015 Business Strategy Conference

*continued from page 7*

"The CFPB does not see the delay of a closing as a bad thing," Hackett-Cole said.

Once the industry starts using the Closing Disclosure and questions arise on how to handle a transaction, all the panelists urged attendees to read all lenders' closing instructions carefully. There will be some closing instructions that are specific to individual transactions, so it will be important for settlement agents to understand the expectations and requirements. The panelists all said their companies are revising their closing instructions.



"Settlement agents should reach out to their lenders ahead of time to find out what the requirements will be and put together a matrix for team to follow," Hackett-Cole said.

Reed added, "You will likely see a lot of specifics in lender instructions about processes for making changes."

Evans asked the panelists what their plans were to answer consumer questions about the Closing Disclosure. Hackett-Cole said Trident has created a closing department called the Closing Disclosure specialists. This group will prepare the Closing Disclosure, get it approved by the

title company, send it to the consumer and then follow up with a phone call. Kelly said Bank of America will hold a pre-closing call to answer questions.

While lenders will be sending the Closing Disclosure to consumers in advance to meet the three-day rule, Hackett-Cole said title agents won't have much time to approve the form before it's sent to the homebuyer.

"You need to identify a point of contact on how you will review the Closing Disclosure and give the green light," she said.

Rounding out her comments, Evans shared a project by ALTA, lenders, vendors, underwriters and title agents to try to solve the challenge of confirming the identity of the settlement agent handling a real estate transaction and the corresponding funds.

This is an important risk management component for the industry and this project will continue to evolve. Evans encouraged attendees to review their company profile in the ALTA database and make any necessary updates. Questions should be emailed to [service@alta.org](mailto:service@alta.org).

"Henry Ford once said: 'Coming together is a beginning, staying together is progress and working together is success,'" Evans said. "This is a truth we should all keep in mind over the coming months. We are a small industry but we have the responsibility to stay together and set expectations for success within our broader real estate industry. Collaboration definitely starts now."



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**Michelle Korsmo**

*Chief Executive Officer  
American Land Title Association*



Michelle Korsmo is the chief executive officer of the American Land Title Association.

Recognized for her strategic vision, management skills, and problem-solving abilities, Michelle joined ALTA in April 2008. Since then, she has been instrumental in rejuvenating the trade association to compete in a changing market place. In the years she has been with ALTA, the association has achieved record membership levels, greatly increased contributions to the Title Industry Political Action Committee and revamped the membership and communications benefits for the association's membership. Most significantly, ALTA has produced an industry-lead solution to lenders' requirement to oversee third-party service provider activities. The Title Insurance and Settlement Company Best Practices have been well received by industry and regulators alike.

Michelle came to ALTA after serving as executive vice president of Americans for Prosperity Foundation, where she doubled the size of the organization in two years. Previously, Michelle served as deputy chief of staff to U.S. Secretary of Labor Elaine L. Chao.

**Patrick F. Stone**

*President and CEO  
Williston Financial Group*



Pat has enjoyed a lengthy career in real estate and real estate related services, including "C" officer positions with three public companies and as a director on two Fortune 500 Boards. The senior executive management positions included nine years as President and COO of the nation's largest title insurance company, Chairman and Co-CEO of a software company and CEO of a real estate data and information company.

Pat also served as Vice-Chairman of Metrocities Mortgage, a 2005 top twenty mortgage lender, and as Chairman of The Stone Group, an Austin, Texas based tenant-rep brokerage company. Additionally, Pat served on the Boards of World Minerals, DigitalMap, Homegain, RedVision, Wystein Capital, and Inman News, who named him one of 2013's "100 Most Influential People in Real Estate."

Patrick resides in Portland, Oregon with wife Vicki, and youngest daughter, Samantha.

**Penny Reed, CMB**

*Vice President - Strategy and Financial Reform  
Wells Fargo Home Mortgage*



Penny Reed is Vice President Strategy and Financial Reform at Wells Fargo Home Mortgage and a Certified Mortgage Banker. A 32-year veteran of the mortgage industry, Reed has been with Wells Fargo for 26 years in various positions including underwriting, credit risk management, capital markets, strategic partner management and agency relations. Her current role is focused on external outreach and the impacts of Financial Reform on industry partners.

In addition to mortgage experience, Reed is a veteran of the US Army and graduated summa cum laude from the University of Southern New Hampshire with a degree in Computer Information Systems.

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## 2015 MLTA-PAC SILENT AUCTION AT THE SUMMER CONVENTION

MC900241643[1]The MLTA-PAC will be holding a silent auction at the Summer Convention at Shanty Creek Resort. We are currently in need of items for the auction. In the past, popular items have been gift baskets, wine, sporting event tickets, small personal electronics, spa certificates and other types of gift certificates. If you have an item that you would like to donate for the auction, please contact Tim McDonnell at [tmcdonnell@oldrepublictitle.com](mailto:tmcdonnell@oldrepublictitle.com)

and give him a description of the item and an approximate retail value of the item. If you have an item and will not be attending, please let Tim know and arrangements will be made to pick up the item.

For those MLTA members who are interested in bidding on items who will be unable to attend the Summer Convention, there will be an email and online option to bid on the items. Details for email and online bidding are being developed and will be released soon. THANK YOU for supporting the MLTA-PAC!

If you have any questions or would like to assist with the auction, please contact Tim McDonnell at [tmcdonnell@oldrepublictitle.com](mailto:tmcdonnell@oldrepublictitle.com).



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# Michigan Court of Appeals Decides Important Broker Lien Case



by Gregg Nathanson,  
Couzens, Lansky Fealk,  
Ellis, Roeder & Lazar, P.C.



For further information, contact Gregg A. Nathanson, Esq., an attorney at the law firm of Couzens, Lansky, 39395 W. 12 Mile Road, Farmington Hills, Michigan 48331, telephone 248-489-8600 or [gregg.nathanson@couzens.com](mailto:gregg.nathanson@couzens.com)

*The information contained herein does not attempt to give specific legal advice. For advice in particular situations, the services of a competent real estate attorney should be obtained.*

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The Michigan Court of Appeals recently decided a case interpreting Michigan's Commercial Real Estate Broker's Lien Act. The case contains mixed results for Brokers. On the one hand, the Court acknowledged that the law was enacted to protect the right of commercial real estate brokers to collect their contractually negotiated commissions. The Court also found that the Broker complied with the Act by placing a lien against the property for which it had entered into an exclusive listing agreement. However, the Court found that the Broker wrongfully failed to release its lien once the Buyer and Seller funded an escrow account with an amount sufficient to cover the Broker's lien claim. The Broker's refusal to release the lien constituted the tort of slander of title, exposing the Broker to liability for Buyer's resulting money damages.

## FACTS

Broker executed an exclusive listing agreement with property owner, providing Broker the exclusive right to sell, lease or exchange the property. Broker located a potential buyer for the property and introduced the buyer to the property and property owner. The potential buyer and property owner then engaged in secret negotiations in an attempt to avoid paying Broker's commission.

During the period of secret negotiations, property owner defaulted on its mortgage and its lender secured the appointment of a receiver to continue the sale of the property. The Buyer ultimately agreed to lease the property with an option to purchase. The Buyer then exercised the purchase option and promised to pay \$1.2 million. Once the Broker learned of the pending purchase transaction, the receiver offered to pay the Broker something, but was unwilling to pay the full 5% commission per the listing agreement. Broker then recorded a lien against the property for \$60,000 (5% of the purchase price).

Unbeknownst to Broker, the receiver and Buyer proceeded with the sale. At closing, the Buyer and receiver created a \$75,000 escrow account with the title company, to cover the Broker's claim. Once Broker learned of the sale, it filed suit, intending to foreclose upon its lien. Broker sued the Buyer but did not name the property owner who signed the listing agreement or the receiver. The Buyer defended by advising Broker, for the first time, that the parties had escrowed \$75,000 with the title company at closing and demanded that Broker release its lien. Buyer also filed a counterclaim to quiet title, accused Broker of slandering its title and sought money damages.

## BROKER LIEN ACT

The Commercial Real Estate Broker's Lien Act permits a Broker to record a lien against the property before the property is conveyed, if the Broker is entitled to a commission under a written agreement. Therefore, the Court upheld the Broker's right to record the lien to secure payment of its commission. In addition, although the property owner signed the listing agreement, the Court stated the appointed receiver became bound by the agreement. The Court further stated the Broker was entitled to a commission under its listing agreement because it had the exclusive right to broker a sale, and actually found the ultimate purchaser. Broker perfected its lien by recording it before the sale was complete. This part of the case is good news for commercial real estate brokers.

The news, however, is not all good. The Act also addresses escrows. If a recorded claim of lien would prevent the closing of a transaction, the Act states the parties to the transaction shall establish an escrow account from the proceeds of the transaction in an amount sufficient to satisfy the lien. A Buyer or Seller shall not refuse to close a transaction because of the requirement of establishing an escrow account. The money shall remain in escrow until the rights to the money have been determined by a written agreement of the parties, a judgment or order by a court of competent jurisdiction, or any other method agreeable to the parties.

The Act further provides that, if an amount sufficient to satisfy a broker's lien is escrowed, the lien is extinguished and the real estate broker shall provide a release of lien.

The broker has one year after the lien attaches to bring a circuit court action to enforce the lien. Failure to commence an action within such time frame extinguishes the lien.

In this case, the Broker argues that the escrow account was not established pursuant to the Act, because the Broker was one of "the parties to the transaction," yet the Broker was not a party to the escrow agreement. How else could the Broker --the statutory intended primary beneficiary of the escrow account--determine that the amount escrowed was sufficient to satisfy its lien, or that the terms and conditions of the escrow agreement were sufficient to protect the Broker once the lien was discharged?

The Court of Appeals disagreed. It concluded that the Buyer and Seller were the only "parties to the transaction," and therefore, the Broker had no right to agree to the terms or conditions of the escrow. The Buyer and Seller were not required to confer with the Broker before creating the escrow account or, apparently, notify the Broker that the account was established. The Court was unmoved by the fact the parties may have intentionally kept the Broker in the dark, hoping the Broker's one year statute of limitations to bring an action under the Act would expire before Broker learned of the secret closing and filed suit. Since the Broker recorded a lien for \$60,000, the Court reasoned that Buyer and Seller

property concluded that escrowing \$75,000 was an amount sufficient to satisfy the lien. Therefore, once the escrow account was established, the lien was extinguished and the Broker was required to provide a release.

## SLANDER OF TITLE

The Buyer next claimed that the Broker's refusal to discharge its lien after learning of the escrow account constituted the tort of slander of title, and the Court agreed. Slander of title claims have both a common-law and statutory basis. To establish either, a party must show falsity, malice and special damages. Malice implies bad intent. The party must knowingly file an invalid lien with the intent to cause injury. A person does not commit slander of title if the lien is asserted in good faith upon probable cause or prompted by a reasonable belief that the party filing the lien had rights in the real estate in question. The malice necessary for a slander of title action does not exist when the offending party's actions rest on a rational, yet incorrect, interpretation of law.

Here the Broker clearly had a right to record the lien. However, the Broker failed to release its lien after learning of the escrow account, and after the Court ordered it to do so. Broker alleged it refused to release the lien because it was relying on a rational, good faith interpretation of law - a law which has never been interpreted by a Michigan court before - and Broker had a reasonable belief grounded in rational legal argument that it might win on appeal. Notwithstanding this, the Court found the Broker's failure to discharge the lien under these circumstances demonstrated malice and constituted slander of title. The Broker was liable to the Buyer for special damages in the form of Buyer's attorney fees and other litigation costs.

## COMPLAINT AMENDMENT

The final issue on appeal before the Court: whether or not the Broker was entitled to amend its complaint to add as defendants the receiver (seller)

and possibly the title company holding the escrowed funds. The law provides a party may amend its pleadings only with the court's permission, but such permission shall be freely given when justice so requires. All persons may be joined in one action as defendants if their presence will promote the convenient administration of justice.

The Broker did not initially name the property owner, the receiver (seller), or the title company holding the escrowed funds, as defendants in the lawsuit. The Broker did not know there was a title company holding escrowed funds when it filed suit. Very late in the process, Broker moved to amend its complaint to add the receiver as a defendant. The Court denied Broker's motion because the Broker failed to submit the amendment in writing. The Broker would have to file a separate new action to adjudicate its right to receive all or part of the escrowed funds and/or file a claim for breach of contract against the receiver (and possibly property owner) for failure to pay its commission under the listing agreement.

If Broker had discharged its lien after first learning of the escrow account, it would not have been liable for slander of title and resulting damages. It is unknown whether the Court would have permitted the Broker to amend its complaint to add the receiver and title company as defendants if the Broker had sought to do so earlier in the litigation.

## MORAL OF THE STORY:

The Broker Lien Act can be a powerful tool to help commercial real estate brokers collect their rightful commission, but the Act must be followed carefully to avoid unintended negative consequences for brokers.

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# ALTA Urges CFPB to Use Extra Time to Fix Disclosures



In a statement today, the Consumer Financial Protection Bureau (CFPB) announced a proposal to delay implementation of the TILA-RESPA Integrated Disclosures (TRID) rule until Oct. 1.

The CFPB failed to timely notify Congress under the Congressional Review Act, which requires agencies to submit the rule to Congress and the Government Accountability Office 60 days before the effective date. The agency's submission should include (1) a copy of the rule; (2) a concise general statement relating to the rule, including whether it is a major rule; and (3) the proposed effective date of the rule.

According to CFPB Director Richard Cordray, the bureau "made this decision to correct an administrative error that we just discovered in meeting the requirements under federal law, which would have delayed the effective date of the rule by two weeks. We further believe that the additional time included in the proposed effective date would better accommodate the interests of the many consumers and providers whose families will be busy with the transition to the new school year at that time."

ALTA CEO Michelle Korsmo issued the following statement about the CFPB's proposal:

"You've got to give them credit for pushing the effective date to October," Korsmo said. "The Bureau could have changed the effective dates for a shorter period of time. Clearly, the Bureau listened to the concerns that industry has for consumers. Consumers would be helped even more if

the CFPB also announced a specific hold-harmless period for industry to understand how the forms will work in real life transactions. Under TRID, some mortgage lenders and settlement service providers may initiate additional risk-management tactics that could slow the closing process for homebuyers."

"Additionally, ALTA and its members insist that the CFPB remove the 'optional' label of title insurance on the new TRID forms. Telling a consumer that owner's title insurance is 'optional' will mean that homebuyers may be dissuaded from purchasing the same protection that lenders receive from a title insurance policy. The CFPB's disregard of the protection afforded by an owner's title insurance policy is a disservice to the consumers they represent."

"Finally, Director Cordray and the CFPB staff should use this additional time to fix the inaccurate disclosure of title insurance premiums for consumers. State law and regulation in the majority of the United States dictates that consumers must pay title insurance rates that are different than how the CFPB requires industry to inaccurately disclose these fees to the consumer. Every homebuyer should be well-informed about the accurate costs of homeownership—including what they pay for each service during the real estate closing process."

The CFPB will open the proposal for comment. The bureau said a final decision is expected shortly thereafter.

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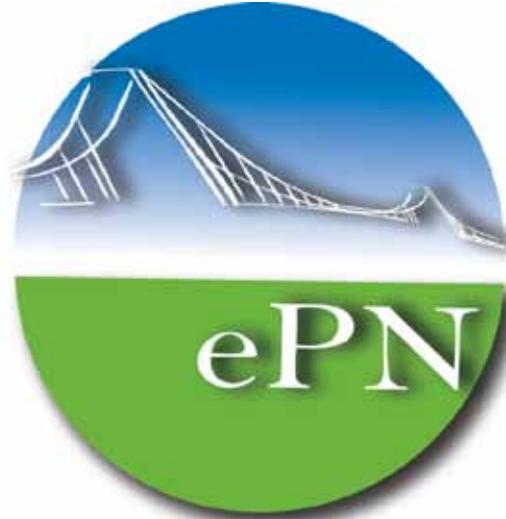
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# Are You Ready to Implement the TRID Rule?

By Howard A. Lax,  
Member, Bodman PLC



Are you tired of hearing, reading, and watching implementation of the TILA-RESPA Integrated Disclosure (TRID) Rule unfold? Do you receive daily offers of webinars, seminars, and conferences that promise to help us implement the TRID rule? You might ask why another checklist, let alone another issue of Mortgage Compliance Magazine, is needed to implement this rule. The answer is that experience teaches us that there is no such thing as too much preparation or readiness.

Consider the chaos that ensued when a new Good Faith Estimate (GFE) form was implemented in 2009. HUD promulgated five sets of FAQ's and three Roundups, some of which reversed prior positions. Loan origination software vendors applied patch after patch to fix programming mistakes. You might say that this time will be different, and you will be correct. This time, implementation is harder, costlier, and substantially confounding. Terms disclosed in a TRID are new, completed Closing Disclosures must be provided well in advance of a closing, a profound degree of cooperation is necessary for real estate brokers, mortgage brokers, lenders, and closing agents to conclude a successful transaction, and banking regulators are unforgiving. All of these issues must be addressed, preferably before implementing updated loan origination software.

We itemized these issues in a checklist that you may use to assign and track individual responsibilities for implementing policies and procedures for a successful TRID launch. You may wish to add lateral issues arising in your institution. We hope that this checklist leads you down the road to enlightenment, and allows you to avoid the road to perdition.

Howard Lax is a Member at Bodman PLC, a Michigan based law firm, and a part time faculty member at Wayne State University Law School (teaching Banking Law). Howard Lax concentrates his practice in financial institutions consumer compliance and regulatory affairs and real property law. His clients include mortgage brokers and lenders, banks, and title insurance companies. Howard Lax can be reached at [HLax@bodmanlaw.com](mailto:HLax@bodmanlaw.com).

This article is not intended to provide legal advice. This is simply a discussion of general principals of certain CFPB and other agency rules. Additional information is needed to address any specific issues that you may raise. This article is not intended to and does not establish an attorney client relationship with Bodman PLC. You are advised to consult an attorney regarding your specific issues, and not rely on hypothetical discussions to guide your decisions and actions.

## TRID Implementation Readiness Checklist

#	Action Item	Assigned to	Draft Policy or Procedure Completion Date	Final Edits Completion Date	Staff, Broker, and Correspondent Training Date
#1	<p><b>RETAIL and WHOLESALE: BROKERS and CORRESPONDENTS</b></p> <p><b>CONSISTENT AND ACCURATE DISCLOSURES</b></p> <ul style="list-style-type: none"><li>• Implement central processing or central control of processing for retail production, if not currently in place</li><li>• Determine which mortgage brokers are trusted to complete the initial TRID</li><li>• If the lender takes over the job of preparing loan estimates from the broker (the broker provides the GFE now), determine whether the broker should be paid the same level or a lesser fee because the broker is providing less work.</li><li>• Insist that brokers and correspondents use centrally controlled processing procedures to minimize errors and coordinate procedures</li><li>• Determine when an “application” for a streamline refinance loan exists for purposes of providing an LE since income information is not needed to process a streamline refinance application</li><li>• Establish procedures for brokers to immediately forward documents provided by a loan applicant for review.</li><li>• Determine who will review purchase agreements and amendments to purchase agreements to spot borrower paid administrative charges and other fees that must be disclosed in the Loan Estimate if known.</li><li>• Ascertain that correspondents are obtaining and reviewing purchase agreements and other documents when received from a loan applicant so that miscellaneous (“Other”) charges are properly disclosed in the Loan Estimate produced immediately following the receipt of these documents by the correspondent, and in the Closing Disclosure.</li></ul>				

#	Action Item	Assigned to	Draft Policy or Procedure Completion Date	Final Edits Completion Date	Staff, Broker, and Correspondent Training Date
#2	<p><b>RETAIL and WHOLESALE:</b> TITLE COMPANIES / CLOSING AGENTS</p> <ul style="list-style-type: none"> <li>• Determine which title agents/attorneys are trusted to complete the closing TRID</li> <li>• Determine whether a written contract is necessary for title agent.</li> <li>• Prepare test materials and vendor oversight manual for TRID preparation</li> <li>• Compile lists of approved closing agents for TRID preparation</li> </ul>				
#3	<p><b>RETAIL and WHOLESALE:</b>  <b>STAFF and SALES FORCE – TECHNICAL TRAINING</b></p> <ul style="list-style-type: none"> <li>• Prepare training materials to define <ul style="list-style-type: none"> <li>◦ TRID</li> <li>◦ Business day</li> <li>◦ Total interest percentage</li> <li>◦ 6 items of an “Application” (removal of 7<sup>th</sup> catch all item)</li> <li>◦ Loan Estimate (LE)</li> <li>◦ Closing Disclosure (CD)</li> <li>◦ Explanation of how disclosed title insurance premiums are calculated (which is different than how the premiums really are calculated and charged)</li> <li>◦ Other new terms</li> </ul> </li> <li>• Changes to time frames in which lenders must provide the Loan Estimate</li> <li>• Changes to time frames in which lenders must provide the Closing Disclosure</li> <li>• Set policies and train staff regarding limits on imposing fees or requesting card numbers/checks/other payment instruments prior to acceptance of the Loan Estimate.</li> </ul>				
#4	<p><b>RETAIL and WHOLESALE:</b>  <b>STAFF and MORTGAGE OPERATIONS GROUP TRAINING – TRID DISCLOSURE -</b></p> <ul style="list-style-type: none"> <li>• Prepare staff and operations group training materials to distinguish which loans require a TRID and which loans use legacy disclosure forms</li> <li>• Assign operations group member to be gatekeeper for delivery of proper disclosure formats <ul style="list-style-type: none"> <li>◦ Determine who will hunt down the consumers and provide emergency same day delivery so that a loan can close three days later</li> </ul> </li> </ul>				
#5	<p><b>RETAIL and WHOLESALE:</b>  <b>STAFF TRAINING – RATE LOCKS</b></p> <ul style="list-style-type: none"> <li>• Prepare staff training materials for offering and collecting rate lock agreements, and issuance of a revised TRID</li> <li>• Research state specific requirements for commitment letters</li> <li>• Prepare or purchase a written rate lock agreement form that is useable in all states</li> <li>• Assign staff member to be gatekeeper for delivery of timely and proper disclosure within three days of borrower execution of lock agreement</li> </ul>				

#	Action Item	Assigned to	Draft Policy or Procedure Completion Date	Final Edits Completion Date	Staff, Broker, and Correspondent Training Date
#6	<b>RETAIL and WHOLESALE: RATE LOCK POLICY</b> <ul style="list-style-type: none"> <li>• Draft a company-wide policy for offering (or not offering) rate locks to applicants</li> <li>• Draft a policy for the date, time, and time zone in the TRID rate lock disclosure</li> <li>• Draft procedures for determining that correspondents and brokers are using a consistent policy for disclosing the date, time, and time zone in the TRID rate lock disclosure</li> </ul>				
#7	<b>RETAIL and WHOLESALE: STATE SPECIFIC ISSUES</b> <ul style="list-style-type: none"> <li>• Draft a list of states that permit and prohibit deficiency judgments, and make sure that this information is coded into your LOS and the LOS of each correspondent and broker, so that this information is properly disclosed in the TRID</li> <li>• Research State Fee Disclosure issues and create list of fees permitted in each state</li> <li>• Establish standard nomenclature for the names of fees</li> <li>• Establish that the closing agent is using the same nomenclature in the closing agent's software as is used in the TRID (i.e. do not let the closing agent designate the "broker fee" as a "yield spread premium")</li> <li>• Assign staff member to track and update state and local legislation changing, limiting or imposing fees and deficiency judgments</li> <li>• Determine who is responsible for identifying specific housing costs that are escrowed and are not escrowed, and establish a procedure or hire a vendor to identify each of these costs for each loan</li> </ul>				
#8	<b>RETAIL and WHOLESALE: APPROVED VENDORS – TITLE AND CLOSING AGENT POLICY</b> <ul style="list-style-type: none"> <li>• Draft a list of approved vendors and their fees for inclusion in the attachment to the initial TRID prepared by your staff, your mortgage brokers, and your correspondent lenders</li> <li>• Develop a policy regarding permitted shopping and approved vendor lists for each settlement service</li> <li>• Assign staff member to update this information daily</li> </ul>				
#9	<b>RETAIL and WHOLESALE: MLO CONTACT AND LICENSING LISTS</b> <ul style="list-style-type: none"> <li>• Select a vendor to provide contact and licensing directories for MLO's, mortgage brokers, correspondents, title agencies, escrow agencies, closing attorneys, and real estate brokers</li> <li>• Assign a staff member to notify staff, mortgage brokers, and correspondents of changes and keep information current and accurate.</li> </ul>				
#10	<b>RETAIL and WHOLESALE: PARTIAL PAYMENT AND ESCROW POLICIES</b> <ul style="list-style-type: none"> <li>• Review servicer and sub-servicer policies re: receipt of partial payments and establishing escrow accounts</li> </ul>				
#11	<b>RETAIL and WHOLESALE: RECORD RETENTION POLICIES</b> <ul style="list-style-type: none"> <li>• Review adequacy of current record retention policies and procedures</li> <li>• Review record retrieval procedures</li> <li>• Research and identify new document management systems if current systems are not adequate for retrieval of large numbers of documents</li> </ul>				

#	Action Item	Assigned to	Draft Policy or Procedure Completion Date	Final Edits Completion Date	Staff, Broker, and Correspondent Training Date
#12	<p>RETAIL and WHOLESALE:</p> <p>SOFTWARE VENDORS</p> <ul style="list-style-type: none"> <li>• Ensure software vendors are working toward incorporating the critical changes to keep you compliant with new requirements</li> <li>• Schedule regular meetings and communications with software vendors to track progress toward resolving glitches and weaknesses in the software, and updates to comply with revised regulations</li> <li>• Set up a test platform and test pipeline to beta test new software, and arrange for appropriate personnel (lead or training staff) to participate in operating the test platform and testing new software</li> <li>• Establish forms for beta testers and staff to comment on new software and software updates, and to record glitches</li> <li>• Arrange to run old and new software side by side for a test period in July 2015 to locate any remaining bugs in the software or in TRID and other procedures</li> <li>• Update loan checklists (if appropriate)</li> </ul>				
#13	<p>RETAIL and WHOLESALE:</p> <p>TOLERANCES / VARIANCES</p> <ul style="list-style-type: none"> <li>• Evaluate current tolerance levels to determine the impact of new variance rules on profitability, and revise pricing accordingly</li> <li>• Review current Loan Originator contracts (with Loan Officers and Brokers) to determine whether changes should be imposed to shift the cost of unforeseen changes in fees to the Loan Originator</li> </ul>				
#14	<p>RETAIL and WHOLESALE</p> <ul style="list-style-type: none"> <li>• Arrange regularly scheduled meetings with senior management to explain changes that might impact production and sales efforts, and to evaluate new sales programs for compliance with TRID and other rules</li> </ul>				
#15	<p>RETAIL</p> <p>UPDATE FORMS</p> <ul style="list-style-type: none"> <li>• Update Welcome Packets and Welcome letters</li> <li>• Evaluate current stock of Settlement Costs Booklets and Servicing Disclosures to determine whether sufficient stock exists to last until August, 2015 for all loans, and beyond that date for a smaller number of loans</li> <li>• Order the new Your Home Loan Toolkit booklets for distribution after August 1, 2015 (this booklet replaces the Settlement Costs Booklet). Order a sufficient supply of foreign language versions of Your Home Loan Toolkit for loan programs that require foreign language documents and disclosures.</li> <li>• Determine where to segregate old Settlement Costs Booklets and Servicing disclosures from the new Your Home Loan Toolkit booklets, and assign a staff member to control the remaining stock of old disclosures so that they are not used inappropriately</li> <li>• Consider implementing an agreement with consumers for receipt of electronic booklets to save the cost of printing and mailing booklets</li> <li>• Add the required disclosure, "Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing a loan." to all prequalification and preapproval forms given to consumers.</li> <li>• Evaluate whether any advertising or marketing materials estimate terms or costs specific to a consumer and should include the disclosure "Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing a loan."</li> </ul>				

#	Action Item	Assigned to	Draft Policy or Procedure Completion Date	Final Edits Completion Date	Staff, Broker, and Correspondent Training Date
#16	<b>RETAIL</b> <b>TRAIN REAL ESTATE PROFESSIONALS</b> <ul style="list-style-type: none"> <li>• Confirm that real estate professionals received CE training on the new TRID disclosures for buyers and sellers</li> <li>• Sponsor TRID training through trade groups for real estate professionals</li> </ul>				
#17	<b>SERVICING</b> <ul style="list-style-type: none"> <li>• Determine who is responsible for sending notices of termination of escrow accounts to borrowers</li> <li>• Determine who is responsible for revising the Closing Disclosure for changes occurring within three days prior to or after closing (NOTE: The Closing Disclosure cannot be revised if the APR becomes inaccurate, the loan product changes, or a prepayment penalty is added)</li> <li>• Determine who is responsible for identifying all of the parties to a loan transaction, and their mailing addresses, and sending revised Closing Disclosures to the parties</li> <li>• Determine who is responsible for forwarding revised Closing Disclosures to investors, servicers, and document custodians after a loan is sold or servicing is transferred</li> </ul>				

This document is not intended to provide legal advice. You are advised to consult an attorney regarding your specific issues, and not rely on hypothetical discussions to guide your decisions and actions.



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AMD: 06/2015

## Getting ready is good. Preparing for growth is better.

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# Strategic People Reminders for the Busy Executive

by Scott Patchin, The trU Group

As you head out to live your own Pure Michigan commercial this summer, here are a selection of books I highly recommend if you are looking to add some learning to your relaxation time.

**Genre 1: Non-business / Require some uninterrupted time / Inspiring on several levels, leadership is one:**

**1. Boys in the Boat** by Daniel James Brown: My new read this year – I loved the book. I also read it in the Kindle format and enjoyed how it showed me the most highlighted sections by all other readers, which helped me stop and ponder some powerful quotes. For some additional learning, there are some videos from the Berlin Olympics on YouTube that are referenced in the book. For an additional thirty minutes you can relive the event in another medium. Don't watch the video first, it will ruin the ending.

**2. Flags of our Fathers** by James Bradley: One of the most powerful leadership exercises I do is the Write your own obituary exercise. This book is an example of how someone went back and pieced together the life of a father he loved, and in the process discovered an amazing, and sometimes painful, story. It will make you think.

**3. Season of Life** by Jeffrey Marx: Why do you lead? What is the reason people come to work every morning at your company and how do you and your managers view your role in their happiness and success? These questions are not directly answered in this book, but they are there if you look. If you are a coach, you will love this book.

**Genre 2: Individual Excellence / Can be read through frequent interruptions / Thought provoking**

**1. The Tao of Leadership** by John Heider: Every leadership library should have

something from an Eastern Philosophy perspective because there is a greater focus on presence and listening. This is full of nuggets and I guarantee you will mark at least a handful of the 81 bits of wisdom.

**2. The Dip** by Seth Godin: Seth Godin is a powerful contemporary voice for mastery, passion, and authentic leadership. Anything by him is recommended, and I like this one because leaders have to be resilient in a healthy way, and this book explores that in a thought provoking and practical way.

**3. People-Centered Performance** by Scott Patchin: I wrote this not to overwhelm you with words, but to give you a lens to be a different leader at work, and anywhere else in your life where you desire more influence.

Genre 3: Something (or someone) needs to change / Want to think about my business and team / Will have time to think:

**1. Get A Grip** by Gino Wickman: A new find for me this year. It is for the leader who is frustrated with the performance of their team and organization. This is a fable about a company that is trying to reset itself to more effectively manage growth. I have lived this story through working with a half dozen companies this year. It provides a great lens to examine your own leadership style and the health of your team.

**2. Leadership and Self-Deception** by The Arbinger Institute: If you read my book and that OBN leader hits a little close to home for you, this book will be a guide for exploring barriers getting in the way of being an effective leader. Written as a fable, it is the best book I have found to get past the "But I am a good person" response and to some actionable steps to more effectively live into the vision you have of yourself as a leader (and friend / spouse / parent / etc.).

Have a great summer, and remember that Learning + Action = Growth. If you struggle with the Action piece after any of these reads give me a call – I love that part. For further reviews of each book and for some additional selections, here is a link to a special page I have set up so you can learn more about these books and/or order one.



<http://www.thetrugroup.com/summer-2015-reading-list/>

Do you need help building these moments into your habits as a leader? Do you have leadership-development needs for your team or yourself? Contact me at [Scott@thetrugroup.com](mailto:Scott@thetrugroup.com)  
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## MICHIGAN REALTORS®

### Residential Sales Statistics April 2015

Local Association	2015 YTD # Sales	2014 YTD # Sales	15-14 YTD % Change	2015 YTD Avg Price	2014 YTD Avg Price	15-14 YTD % Change	2015 Apr Sales	2014 Apr Sales	15-14 % Change	2015 Apr Avg Price	2014 Apr Avg Price	15-14 % Change
Ann Arbor Area Board of REALTORS®	806	771	4.54%	\$263,687	\$240,609	9.59%	249	246	1.22%	\$269,321	\$261,353	3.05%
Antrim Charlevoix Kalkaska Association of REALTORS®	138	120	15.00%	\$204,199	\$180,930	12.86%	40	30	33.33%	\$299,236	\$208,287	43.67%
Battle Creek Area Association of REALTORS®	422	398	6.03%	\$99,978	\$89,673	11.49%	141	106	33.02%	\$104,232	\$99,303	4.96%
Bay County REALTOR® Association	351	377	-6.90%	\$73,690	\$74,057	-0.50%	106	98	8.16%	\$80,402	\$82,391	-2.41%
Branch County Association of REALTORS®	93	113	-17.70%	\$110,803	\$94,274	17.53%	25	36	-30.56%	\$103,560	\$94,961	9.06%
Central Michigan Association of REALTORS®	261	234	11.54%	\$104,878	\$97,431	7.64%	90	61	47.54%	\$107,007	\$89,877	19.06%
Clare-Gladwin Board of REALTORS®	241	170	41.76%	\$61,683	\$76,001	-18.84%	84	51	64.71%	\$65,760	\$71,966	-8.62%
Detroit Board of REALTORS®	1,160	1,718	-32.48%	\$41,028	\$25,068	63.67%	289	419	-31.03%	\$55,211	\$25,859	113.51%
Down River Association of REALTORS®	287	324	-11.42%	\$112,954	\$112,513	0.39%	66	80	-17.50%	\$137,507	\$119,756	14.82%
Eastern U.P. Board of REALTORS®	119	100	19.00%	\$85,470	\$74,874	14.15%	32	35	-8.57%	\$80,922	\$58,984	37.19%
Emmet Association of REALTORS®	185	187	-1.07%	\$283,375	\$232,421	21.92%	57	57	0.00%	\$282,109	\$290,457	-2.87%
Genesee County	1,419	1,409	0.71%	\$109,515	\$92,762	18.06%	406	427	-4.92%	\$119,165	\$99,915	19.27%
Grand Rapids Association of REALTORS®	4,137	3,726	11.03%	\$173,866	\$157,432	10.44%	1,252	1,197	4.59%	\$182,687	\$164,970	10.74%
Greater Kalamazoo Association of REALTORS®	1,082	1,038	4.24%	\$150,256	\$134,498	11.72%	346	328	5.49%	\$155,238	\$139,551	11.24%
Greater Lansing Association of REALTORS®	1,636	1,650	-0.85%	\$128,632	\$118,450	8.60%	488	448	8.93%	\$137,012	\$120,818	13.40%
Greater Shiawassee Association of REALTORS®	84	102	-17.65%	\$101,171	\$89,523	13.01%	20	31	-35.48%	\$101,202	\$94,898	6.64%
Greater Wayne County	4,133	4,040	2.30%	\$139,336	\$126,363	10.27%	1,129	1,171	-3.59%	\$155,450	\$131,072	18.60%
Hillsdale County Board of REALTORS®	116	124	-6.45%	\$84,069	\$83,288	0.94%	38	29	31.03%	\$85,097	\$73,007	16.56%
Huron County	19	23	-17.39%	\$126,663	\$105,634	19.91%	7	6	16.67%	\$134,871	\$87,083	54.88%
Jackson Area Association of REALTORS®	588	509	15.52%	\$112,626	\$99,951	12.68%	176	144	22.22%	\$119,570	\$96,622	23.75%
Lapeer County	278	300	-7.33%	\$154,545	\$161,938	-4.57%	86	79	8.86%	\$160,873	\$132,405	21.50%
Lenawee County Association of REALTORS®	438	371	18.06%	\$166,581	\$162,823	2.31%	77	60	28.33%	\$115,632	\$111,415	3.79%
Livingston County	776	774	0.26%	\$217,774	\$208,576	4.41%	236	246	-4.07%	\$211,705	\$200,221	-3.87%
Oakland County	4,916	4,624	6.31%	\$233,062	\$213,036	9.40%	1,448	1,286	12.60%	\$240,226	\$222,660	7.89%
Macomb County	3,145	3,005	4.66%	\$142,512	\$130,850	8.91%	925	862	7.31%	\$148,780	\$138,076	7.75%
Mason-Oceana-Manistee Board of REALTORS®	222	205	8.29%	\$134,381	\$124,290	8.12%	73	76	-3.95%	\$107,851	\$124,029	-13.04%
Midland Board of REALTORS®	278	249	11.65%	\$146,530	\$150,416	-2.58%	81	66	22.73%	\$132,492	\$155,616	-14.86%
Monroe County Association of REALTORS®	405	363	11.57%	\$142,210	\$127,231	11.77%	108	92	17.39%	\$151,676	\$127,261	19.19%
Montcalm County Association of REALTORS®	177	177	0.00%	\$100,513	\$84,776	18.56%	66	43	53.49%	\$102,100	\$85,914	18.84%
Northeastern Michigan Board of REALTORS®	176	165	6.67%	\$91,627	\$75,748	20.96%	56	56	0.00%	\$97,402	\$73,785	32.01%
Paul Bunyan Board of REALTORS®	399	367	8.72%	\$93,624	\$83,150	12.60%	128	114	12.28%	\$106,702	\$92,701	15.10%
Saginaw Board of REALTORS®	595	615	-3.25%	\$77,454	\$73,262	5.72%	182	176	3.41%	\$83,456	\$75,493	10.55%
Sanilac County	58	57	1.75%	\$80,781	\$66,712	21.09%	17	20	-15.00%	\$75,888	\$56,389	34.58%
Southwestern Michigan Association of REALTORS®	806	735	9.66%	\$176,175	\$173,341	1.64%	239	224	6.70%	\$187,177	\$179,820	4.09%
St. Clair County	436	427	2.11%	\$125,875	\$111,178	13.22%	132	135	-2.22%	\$135,876	\$120,055	13.18%
St. Joseph County Association of REALTORS®	186	114	63.16%	\$105,044	\$115,656	-9.18%	65	29	124.14%	\$107,800	\$118,557	-9.07%
Traverse Area Association of REALTORS®	750	683	9.81%	\$228,929	\$214,925	6.52%	247	211	17.06%	\$240,441	\$199,636	20.44%
Tuscola County	77	62	24.19%	\$85,199	\$87,428	-2.55%	32	19	68.42%	\$87,277	\$78,785	10.78%
Upper Peninsula Association of REALTORS® *	548	475	15.37%	\$93,993	\$100,680	-6.64%	188	156	20.51%	\$103,410	\$96,927	6.69%
Water Wonderland Board of REALTORS®	531	471	12.74%	\$111,048	\$103,078	7.73%	161	123	30.89%	\$131,917	\$102,959	28.13%
West Central Association of REALTORS®	335	355	-5.63%	\$99,464	\$90,699	9.66%	111	104	6.73%	\$107,254	\$102,277	4.87%
West Michigan Lakeshore Association of REALTORS®	1,412	1,071	31.84%	\$166,474	\$146,409	13.70%	416	334	24.55%	\$176,240	\$159,812	10.28%
<b>TOTALS</b>	<b>34,221</b>	<b>32,798</b>	<b>4.34%</b>	<b>\$131,945</b>	<b>\$121,713</b>	<b>8.41%</b>	<b>10,115</b>	<b>9,511</b>	<b>6.35%</b>	<b>\$137,803</b>	<b>\$123,474</b>	<b>11.60%</b>

\*Escanaba, Iron Mountain, Keweenaw, Western Upper Peninsula, and North Central Upper Peninsula

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## MLTA Upcoming Events

Fall Education Seminar  
October 14, 2015 – *Mt. Pleasant, Soaring Eagle*

Fall Education Seminar  
November 11, 2015 – *Livonia, Marriott*

\*MLTA Legal Description Boot Camp,  
Friday, March 18, 2016 – *E. Lansing, Kellogg Center*

Spring Education Seminar  
April 13, 2016 – *Midland, H Hotel*

Spring Education Seminar  
May 11, 2016 – *Livonia, Marriott*

MLTA 2016 Convention  
July 17-19 – *Boyne Mountain Resort*

*\*Please note this has been rescheduled from the fall of 2015*



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