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News from Prairie Title



The Winds of Change are Blowing

MY PERSPECTIVE

By Frank Pellegrini, Prairie Title CEO

Love it or hate it, the Illinois Title Insurance Act is outdated and requires mending. While the federal Real Estate Settlement Practices Act spells out in detail how the settlement business is to be practiced, it is up to the individual states to regulate that practice and, until recently, the Illinois legislature has been unwilling or unable to give the Illinois Department of Financial and Professional Regulation the authority it needs to properly police the practice of real estate settlement in our state.

Times have changed, and there is currently momentum behind amendments to the Act supported by the Illinois Land Title Association that passed the Illinois Senate during the 2019 legislative session. The bill did not make it out of the Illinois House as legislators dealt with many other complex issues, but will be reintroduced in the next session.

ILTA's market conduct reform legislation, SB1317, seeks to amend the Illinois Title Insurance Act to create a structured rate environment, provide for agent licensing, and codify certain prohibited market conduct activities.

My purpose here is not to persuade you about

what I see as the merits of the legislation. I was a member of the ILTA committee that formulated the recommended amendments and it's no secret that I stand behind the work we have done.

Printed below is the text of an advisory bulletin sent out by ATG, one of our underwriters, that discusses the legislation in depth. It is for your information and consideration. Note that some of the particulars may change as the legislation makes its way through the process in Springfield.

Please call or email me if you would like to discuss this issue further.

Illinois Land Title Association to Propose New Changes to the Title Insurance Act

By Tania M.S. Stori

ATG Vice President – Claims and Litigation

The purpose of the proposed legislation is to provide a framework for the Illinois Department of Financial and Professional Regulation (IDFPR) to regulate rates for title insurance policies and related services, provide for fair compensation to providers, and benefit consumers by limiting the drivers of higher pricing. Illinois's regulatory framework is unique in that the IDFPR has no authority to require underwriters to file title insurance rates and it has no authority to regulate those rates. Most states have statutes that regulate rates for title insurance that work well to benefit providers and consumers. ILTA has researched the statutory frameworks and experience of other states and the proposed legislation contains measures that have been effective, with an effort to keep the practices and structure that have worked in Illinois for so long.

The proposed legislation will make changes to three main areas of the Title Insurance Act: Rate Regulation, Title Agent Licensing, and Specific Prohibited Acts.

Rate Regulation and a Rating Bureau

The proposed legislation will allow for the creation of a rating bureau to research and file rates and forms on behalf of its subscribers. A rating bureau is a private entity created by a group of member underwriters. The rating bureau has the authority to research the costs of providing title insurance, propose and file with the IDFPR the rates and forms manual that the members will use. Once the IDFPR approves the rating bureau's filed rates and forms, all title insurance agents for the member underwriters, and any underwriters who later subscribe to the rating bureau, must use the filed rates and forms. The rating and forms manual is updated annually, and the proposed legislation includes provisions for rate deviation procedures, when needed. The rating bureau allows underwriters to bear the cost and provide the expertise in figuring rates and choosing the forms in a way that is not anti-competitive, while allowing the IDFPR to retain the authority to approve the proposed rates and forms.

Underwriters that do not participate in the rating bureau must file their own rates and forms and obtain IDFPR approval, and their title insurance agents must use their filed and approved rates and forms.

Some other relevant points concerning rate regulation in the proposed legislation are as follows:

IN THIS ISSUE

1. **My Perspective**
Title Act Changes on Tap?
2. **Prairie Title Receives Award**
Named a Leading Agent by FNTIC.
3. **Technology Update**
eNotary growing; Blockchain no Substitute for Title Insurance.
4. **Five Fast Questions**
We ask Nancy Goggin and Patti Sage.

The proposed legislation creates two geographic zones for separate rates in Illinois, consisting of one zone that includes Cook, Lake, DuPage, McHenry, Kane, Will, Grundy, and Kendall Counties. The other zone includes all other Illinois counties. If at some point it appears that the rates are similar between the two zones, the statute provides a procedure to consolidate rates in all of Illinois into a single rate filing. We anticipate that the new rate structure may eventually bring better parity to the wide pricing gap that currently exists between the zones.

Filed rates will cover both residential and commercial transactions, and all possible exposure amounts.

Rates will also be filed for escrow fees.

For the Owner's Policy, Loan Policy and Endorsement premiums, the proposed legislation requires that the underwriter retain 20% and the title insurance agent retain 80% of the premium collected.

Title Agent Licensing

To facilitate the IDFPR authority to regulate rates and splits for title insurance charges, the proposed legislation will change the current registration process for title insurance agents. Now, underwriters register their title insurance agents with the IDFPR and update their agents' status with the IDFPR, and annually confirm their list of registered agents. Under the proposed legislation, title insurance agents will apply to the IDFPR directly to be licensed, and renew their licenses every two years. The proposed legislation provides for entity licensing, rather than requiring individual employees to all have separate licenses. For each entity obtaining a license, one designated individual who has a financial interest in the entity and is authorized to determine insurability of title must be identified. In order to participate in title insurance related activities, each title insurance agent or agency must have at least one title insurance underwriter.

Some other relevant points concerning title insurance agent licensing in the proposed legislation are as follows:

- Current title insurance agents will be

covered by a grandfather clause and not have to reapply as a new agent.

- Errors and omissions insurance coverage of \$250,000 per claim and \$500,000 in aggregate, with a deductible of \$25,000 or less, will be required for all title insurance agents.
- Currently, underwriters bear the costs of IDFPR visits, but under the proposed legislation, the IDFPR will pay for its own visits to agents and underwriters.
- Fees will be charged for new licenses and for license renewals, to help pay for the additional resources that the IDFPR will require. Proposed fees are \$80 for residents, \$120 for non-residents, \$80 for two-year renewals and \$120 for lapsed reinstatements.

Specific Prohibited Acts

To ensure the fairness of competition in the marketplace for title insurance, some provisions prohibiting specific acts that currently appear in the federal Real Estate Settlement Procedures Act and in the Illinois Administrative Code have been added to the proposed legislation, to highlight the importance of fair conduct and allow the IDFPR the authority to enforce reasonable market conduct.

Of note is the fact that one of the proposed prohibited acts arises out of ISBA Ethics Opinion 10-02, which prohibits accepting or referring a title order with knowledge that the order was placed in exchange for the express or implicit promise that a consumer will be referred to that provider for services. By including this prohibition in the proposed legislation, the rule would now apply not just to attorney title insurance agents, but to all title insurance agents.

The proposed legislation also specifically designates acceptable conduct, to provide a safe harbor for business practices that don't harm market competition and build good will. For example, the proposed legislation authorizes providing educational information and seminars without charge to title insurance providers and providing property descriptions and names of record owners without charge to lenders, real estate brokers, attorneys, or others.



Pellegrinis Accept Award from Fidelity National

Fidelity National Title Insurance Co. has named Prairie Title a Leading Agent for 2019. Frank and Mary Pellegrini accepted the award on behalf of Prairie Title from FNTIC's David Scott.



CONTACT US

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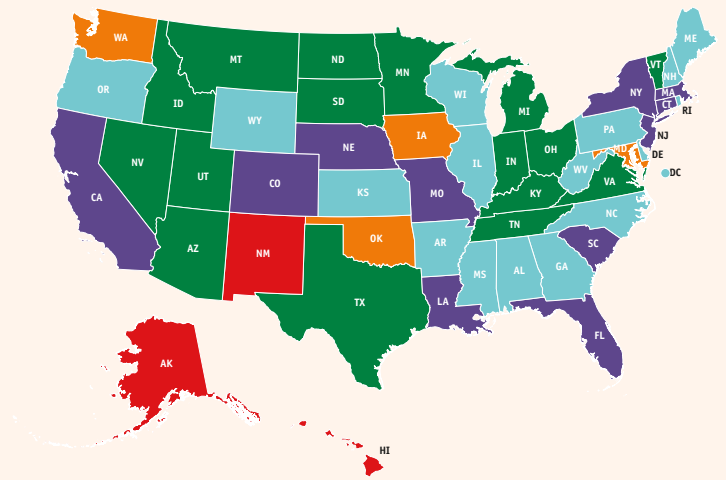
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Growing Number of States allow Remote Online Notarizations

Iowa became the latest state to legalize a form of remote online notary (RON) services for mortgage transactions. While e-mortgages are making strides in the housing industry, eClosings are still rare, mostly due to state restrictions surrounding eNotaries. However, that is slowly beginning to change, notes *Housing Wire*.

Iowa and North Dakota are the two most recent additions to the list of states that allow (or soon will allow) some form of remote online notarizations. Other states include Arizona, Indiana, Idaho, Kentucky, Maryland, Michigan, Minnesota, Montana, Nevada, Ohio, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia and Washington, with New Jersey and Pennsylvania poised to join the list. The Illinois legislature has yet to take up eNotary legislation.



Green: Passed Remote Online Notarization; Orange: Passed second chamber; Purple: Active legislation; Red: Legislation failed. Source: ALTA. (Map created before Iowa's eNotary legislation became law).

A.M. Best: Blockchain Not a Replacement for Title Insurance

Blockchain will support, not replace the title insurance industry, A.M. Best concluded in a new report cited on the American Land Title Association's blog.

According to the report, technology can improve the process of digitizing digital records and transactions, however, it does not remove the need for title insurance, A.M. Best concluded.

"Title insurers play a valuable role in protecting property rights and enabling transactions, including those between lenders and homeowners," the report said. "The insured will still need an insurer behind the blockchain who can compensate them and provide support as

needed when it comes time to defend their property rights. Blockchain can prospectively play an important role, but we do not foresee it replacing title insurers."

According to A.M. Best, key advantages of blockchain for title insurers include:

- Traceability: Every real estate transaction is a block and, therefore, all transactions can be traced historically from the latest title.
- Efficiency: Since the ledger is available at every node, searches are faster and can make a title insurer's due diligence process to obtain documents related to a title more efficient.

- Enhanced Security: Given that title records would be on different nodes and updated only through consensus, getting improper access may prove to be more difficult.

Blockchains may be more secure because of the use of multiple nodes for validation, but it is not entirely secure, A.M. Best said. One way to hack a blockchain is through taking control of the majority of the nodes. Intentional crimes (fraud) and unintentional errors will continue despite the introduction of new technology.

"In order to realize the value of the blockchain, current title systems and land records will need to be converted into distributed ledger systems," the report said. "The theme, 'garbage in, garbage out' is still valid and any fraudulent or erroneous records would be transferred as much. The due diligence process would be as necessary as before."



From left, Prairie Title's Michael Guerin, Van Hante and Mary Pellegrini at an April Illinois Institute for Continuing Legal Education event in Chicago.



Frank and Mary Pellegrini shown with Ill. Sen. Don Harmon (center) at the Illinois Land Title Lobbying Day in Springfield during April.



Joining in the fun at an Oak Park Realtor Business after hours event were, from left: Jim Angelico, Huntington Bank; Michael Guerin, Prairie Title; Brad Sears, Huntington Bank, and Mike Ramage local attorney.

Commercial Corner

National Investor Sentiment Report: Investment Opportunities Available

Real Capital Markets recently surveyed and conducted interviews with a wide range of industry experts, from entrepreneurial investment firms to national and regional brokerage firms to institutional investors. Highlights of the National Investor Sentiment Report include:

- Almost two thirds of investors said the market is somewhere in the middle—not quite a boom or bust, but likely at a plateau.
- There's still plenty of capital but trickier to make deals – due to rising interest rates and sellers' unrealistic expectations.
- Opportunities in primary and secondary markets are available, but often require more work to identify, underwrite and close.
- Multifamily is the preferred asset class; industrial, with its stable outlook and ties to e-commerce, remains a close second.
- Most investors say steadily increasing rates, though becoming more of a factor, won't change their position as buyers in 2019.
- Underwriting is more conservative due to rising rates, maturity of the cycle, the pullback in Chinese capital, and other factors.

Commercial Real Estate and Multifamily Lenders set new Record

Commercial and multifamily mortgage bankers closed a record \$573.9 billion in loans in 2018, according to the Mortgage Bankers

Association's (MBA) 2018 Commercial Real Estate/Multifamily Finance Annual Origination Volume Summation.

Commercial bank portfolios were the leading capital source for which loans were originated in 2018, responsible for \$174.0 billion of the total. The government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac saw the second highest volume, at \$142.3 billion, and were followed by commercial mortgage-backed securities (CMBS) issuers, life insurance companies and pension funds, and REITs, mortgage REITs and investment funds.

In terms of property types, multifamily properties saw the highest volume of mortgage bankers' origination volume, at \$266.4 billion, followed by office buildings, retail properties, industrial, hotel/motel and health care. First liens accounted for 96 percent of the total dollar volume closed.

"Borrowing and lending backed by commercial and multifamily properties hit another new record last year," said Jamie Woodwell, MBA's vice president of Commercial Real Estate Research. "Solid fundamentals, growing property values, low interest rates and strong appetites from both borrowers and lenders all helped drive an 8 percent increase in recorded multifamily lending from a year ago. Repeat participants in our survey increased their lending by 4 percent during 2018, with the remaining growth coming from the addition of new firms."

The reported dollar volume of commercial and multifamily mortgages closed last year was 8 percent higher than the volume reported in 2017. Among repeat participants in the survey, the dollar volume of closed loans increased by 4 percent.

Five Fast Questions

Five Fast Questions is a feature which aims to help you get to know the Prairie Title team members you work with on a more personal level. Here are Five Fast Questions for Nancy Goggin and Patti Sage.

Nancy Goggin, Closing Officer

Where were you born?

I was born and raised in Oak Park, Ill.

What do you love most about the real estate business?

I love working with people. We work with buyers, sellers, many different attorneys, Realtors and lenders. There are many personalities and there's never a dull moment. Buying and selling a home is a very important and stressful time for people. Helping with the process and making people happy is the end result for us. That's very fulfilling for me.

What's your favorite vacation spot?

My daughter lives in Bonita Springs, Fla., with her husband and two of my grandkids, so I have to say going there to visit them is my favorite vacation.

Why do you like working at Prairie Title?

Prairie Title is a family owned business and you are treated like family here. The entire staff works as a team and takes pride in doing the best job possible. We aim to please and it shows in our work. It's a friendly fun environment to work in.

What historical figure is most important to you?

Mother Teresa. She dedicated her life to caring for the sick and poor. She spent several years in Calcutta, India, where she founded the Missionaries of Charity, a religious Congregation devoted to helping those in need.



Left Nancy Goggin, right Patti Sage.

Patti Sage, Closing Officer

Where were you born?

I was born in McHenry Ill. and moved to River Forest when I was two.

What do you love most about the real estate business?

I love that all closings are different, and I love meeting people.

What's your favorite vacation spot?

Puerto Vallarta, Mexico

Why do you like working at Prairie Title?

I have been at Prairie Title for over 20 years. It's a family business and I enjoy being a part of it.

What historical figure is most important to you?

I would say the figures that are important to or respected by me are Barack and Michelle Obama because they fight for causes worth fighting for.