

# DODD-FRANK ACT, CONSUMER FINANCIAL PROTECTION (CFPB) & ALTA BEST PRACTICES 2.0 Approved Attorney Handbook\*



Chicago Title  
NORTH CAROLINA

(Last Rev. September 22, 2013)

**\*NOTE: “Closing attorney”  
should be substituted for “Title  
Agent” in ALTA publications  
cited *verbatim* herein in  
compliance with North Carolina  
law and closing procedures!**



# DODD-FRANK, CFPB &

## ALTA BEST PRACTICES 2.0

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### USING THIS HANDBOOK:

The information to follow includes multiple checklists, questionnaires and resources from the ALTA Best Practices (the industry standard) and adapted to NC practice to help NC attorneys . This includes *verbatim* the ALTA Best Practices Framework: Title Insurance and Settlement Company Best Practices, Version 2.0, Assessment Procedures and Certification Package (published July 19, 2013, Copyright 2013 American Land Title Association, [www.alta.org/bestpractices](http://www.alta.org/bestpractices) , instructions are in [ALTA Best Practices below.](#)), Chicago Title and North Carolina comments along with other supplemental information and resources interspersed. Each Best Practice Chapter Includes:

- ALTA Best Practice & Purpose
- NC Attorneys: What You Should Know; Issues to Consider & Discuss
- Resources – Articles, contacts, websites, ethics rules & opinion
- ALTA Procedure for this Best Practice
- ALTA Assessment Procedure link
- ALTA Best Practices Checklist
- Sample Checklists



## INTRODUCTION

*“ALTA developed the best practices to provide a comprehensive uniform solution for the marketplace. Each lender will determine whether the best practices are sufficient to meet their needs.”*

*“A [law firm] that wishes to adopt the best practices could start by reviewing its own written policies and procedures. Many [firms] already follow the best practices, but do not have written procedures in place to document it.”*

*“The best practices will be publically available. ALTA is setting a standard for the entire industry.”*

You have heard of the Dodd-Frank Act, the Consumer Financial Protection Bureau (CFPB) and potential “vetting” companies. **Generally speaking, if you touch consumer funds in any way, you are going to be affected by Dodd-Frank and the CFPB.** You may have heard of the “Best Practices” initiative of the American Land Title Association (“ALTA”) to assist settlement service providers to adapt to this new stricter environment. Though attorneys may be exempt from provisions of Dodd-Frank under § 1027(e), lenders are subject to strict liability and it is *their* liability which is the underlying trigger for these changes.

This Handbook is a starting point for quick access to information to help North Carolina attorneys learn about and adopt “Best Practices” consistent with the ALTA initiative.

## What’s Going On (And Why You Should Care)

### **What did Dodd-Frank do?**

**Creation of CFPB.** Dodd-Frank created the Consumer Financial Protection Bureau (CFPB) [www.consumerfinance.gov](http://www.consumerfinance.gov) and provided authority for the CFPB to supervise certain types of financial institutions for compliance with federal consumer financial laws. Under Dodd-Frank, providers of financial products or services must comply with applicable consumer financial laws listed in the Act.

Providing real estate settlement services (other than appraisals) to one of the regulated financial institutions is deemed to be providing financial products or services under the Act. As a result, the CFPB can bring enforcement actions directly against a real estate settlement services provider (such as a closing attorney or a title insurance agent) for a violation of a consumer financial protection law.

## CFPB Bulletin Info

### **What is the CFPB Bulletin?**

While lenders have been responsible for their service providers’ actions for years [[OCC Bulletin 2001-47](#)], there have been recent enforcement actions against financial institutions by regulators including CFPB, based on the lender’s oversight of third parties. Enforcement actions are on the rise due to the CFPB's authority to impose fines for violations by third party service providers.

The [CFPB Bulletin](#) dated April 13, 2012 is considered a “guidance” document to the industry as opposed to a rule or regulation which would require publication for public comment. It is just three pages but has stirred a lot



of debate in the industry. Some observers have pointed out that although the website indicates a release date of April 12, 2012, the actual date on the Bulletin is April 13<sup>th</sup>, which happened to fall on a Friday. The guidance document sets forth expectations for the CFPB supervised banks and non-banks to manage the risks of service provider relationships. The stated reason is to limit the potential for statutory or regulatory violations and related consumer harm and make sure that their business arrangements with service providers do not present unwarranted risks to consumers. To view the CFPB Bulletin and other guidance documents, you can visit <http://www.consumerfinance.gov/guidance/>. Additional responsibilities are set forth in the CFPB's [Supervision and Examination Manual](#) .

In 2012, the CFPB imposed some significant fines evidencing their enforcement authority, which got the attention of financial institutions.

Capital One – \$210 million fine; \$140 million refund to customers and \$25 million to the CFPB.  
Discover – \$214 million fine; \$200 million refund to customers and \$14 million to the CFPB (affected 3.5 million customers).  
AMEX – \$112.5 million fine; \$85 million refund to customers and \$27.5 million to the CFPB.

The fines were against credit card issuers as a result of actions taken by their third party providers. Since banks and non-banks may utilize third party providers such as closing attorneys to conduct closings and provide settlement services, it doesn't take much of a leap to see the potential for fines to be imposed against lenders as a result of the actions of a closing attorney in handling a loan transaction for a lender.

### What does CFPB expect of lenders?

CFPB Expectations as stated in the 4/13/2012 [CFPB Bulletin](#):

The CFPB expects supervised banks and nonbanks to have an effective process for managing the risks of service provider relationships. The CFPB will apply these expectations consistently, regardless of whether it is a supervised bank or nonbank that has the relationship with a service provider. To limit the potential for statutory or regulatory violations and related consumer harm, supervised banks and nonbanks should take steps to ensure that their business arrangements with service providers do not present unwarranted risks to consumers. These steps should include, but are not limited to:

- Conducting thorough due diligence to verify that the service provider understands and is capable of complying with Federal consumer financial law;
- ***Requesting and reviewing the service provider's policies, procedures, internal controls, and training materials to ensure that the service provider conducts appropriate training and oversight of employees or agents that have consumer contact or compliance responsibilities;*** (emphasis added)
- Including in the contract with the service provider clear expectations about compliance, as well as appropriate and enforceable consequences for violating any compliance-related responsibilities, including engaging in unfair, deceptive, or abusive acts or practices;
- Establishing internal controls and on-going monitoring to determine whether the service provider is complying with Federal consumer financial law; and
- Taking prompt action to address fully any problems identified through the monitoring process, including terminating the relationship where appropriate.



## Key Definitions & Terminology

### Service provider

Defined in section 1002(26) of the Dodd-Frank Act [12 U.S.C. § 5481(26)]; any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service. A service provider may or may not be affiliated with the person to which it provides services.

### Financial product or service

Below is a partial list of activities which under Dodd-Frank, are deemed to be providing a regulated financial product or service.

- Extending credit and servicing loans.
- Extending or brokering leases equivalent to purchase finance arrangements.
- **Providing real estate settlement services (other than appraisals).**
- Engaging in deposit-taking activities.
- Selling, providing or issuing stored value or payment instruments.
- Providing check cashing services.
- Providing payment processing services.
- Providing financial advisory services.
- Providing consumer financial or credit report services.

### Supervised banks and nonbanks (entities supervised by CFPB)

Large insured depository institutions, large insured credit unions, and their affiliates.

Certain non-depository consumer financial service companies.

A current list of institutions supervised by CFPB is available on the [CFPB website](#) in the section on Guidance documents, under the heading “DEPOSITORY INSTITUTIONS UNDER CFPB JURISDICTION.”

### Supervised service providers (entities supervised by CFPB)

Service providers to supervised banks and nonbanks.

Service providers to a substantial number of small insured depository institutions or small insured credit unions.

### Federal consumer financial law

Defined in section 1002(14) of the Dodd-Frank Act [12 U.S.C. § 5481(14)]; the following Acts (with some limitations) have been listed by commentators as falling under the definition of federal consumer financial laws. As set forth in the CFPB Bulletin, supervised banks and nonbanks are to conduct due diligence to verify the service provider understands and is capable of complying with these laws.

- Consumer Leasing Act.
- Electronic Fund Transfer Act.
- Equal Credit Opportunity Act.
- Fair Credit Reporting Act.
- Fair Debt Collection Practices Act.
- Subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act.
- Section 502 through 509 of the Gramm-Leach-Bliley Act.
- Home Mortgage Disclosure Act.
- **Real Estate Settlement Procedures Act.**
- S.A.F.E. Mortgage Licensing Act.
- Truth in Lending Act.
- Truth in Savings Act.
- Section 626 of the Omnibus Appropriations Act.
- Interstate Land Sales Full Disclosure Act.

Obviously, each of the laws above may impose other requirements on a closing attorney which may or may not be the subject of due diligence conducted by supervised banks and nonbanks.



## How does the CFPB Bulletin affect closing attorneys?

A financial institution supervised by the CFPB may conduct due diligence and take such steps it deems necessary to be in compliance with the CFPB's stated expectations.

With respect to a closing attorney who is a third party service provider to such a lender, this could include confirming the closing attorney's understanding and compliance with federal consumer financial laws, reviewing an attorney's internal policies and procedures, ongoing monitoring, and any other actions deemed appropriate by that financial institution. According to some sources, examples of such internal policies might be data security procedures, capitalization requirements, insurance coverage, privacy and security controls and business continuity/disaster plans.

It is important to remember that ultimately it will be the lenders who dictate the terms of their relationships with closing attorneys.

### Why did vetting services come about?

It was after the publication of the [CFPB Bulletin](#) in April 2012 that we started hearing from attorneys and agents that they received a notice from a lender requiring them to submit to the vetting process and bear the cost of the service, in order to be approved to close future loans for that lender. There are several companies offering to "vet" a lender's third party service providers such as closing attorneys and title insurance agents.

It appears that it is the warehouse lender that is imposing the requirement on the retail lender to use the service with respect to any third party service provider (attorney or title agent) to that retail lender.

NOTE: There is no governmental requirement in the CFPB Bulletin or otherwise mandating that lenders use a vetting service.

### What are lenders requiring for attorneys to close transactions?

By early 2013, most lending institutions had stopped looking to vetting companies to obtain assurances about third party service providers. Instead, individual lenders began and continue to set forth minimum requirements for an attorney or title agent to be considered for approval to close mortgage transactions on behalf of that lender.

The challenge is that, currently, there is no industry standard for such requirements. As a result, each lender is imposing different criteria. So production of a unique packet of necessary documentation and information for each lender is very time-consuming and costly for the closing attorney.



## ALTA Best Practices 2.0, Assessment and Certification

In mid-2012 ALTA began developing standards/best practices for agents (and, by extension, to our approved attorneys) to help ALTA members highlight practices currently exercised by the title industry to protect lenders and consumers. ALTA released an article [ALTA Develops Best Practices to Protect Consumers, Ensure Quality Service](#) (10/16/2012) describing the best practices as outlined below.

On January 2, 2013, ALTA published its initial version of “Title Insurance and Settlement Company Best Practices,” setting forth industry guidelines for business procedures and service levels. The best practices address seven main areas ranging from controls regarding trust accounts to protecting customers' personal information and responding to complaints. They are a means for settlement service providers to address the need for lenders to know more about the companies with whom they do business and processes they have in place to protect consumers. ***Implementation of the Best Practices is voluntary and designed as a guide to help settlement service providers protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. The Best Practices are not intended to encompass all aspects of title or closing activity.*** The Best Practices are a way to highlight the strong business practices employed by those handling title examination and closings that protect lenders and consumers. For more information about the Best Practices, ALTA has also compiled a list of [Frequently Asked Questions](#).

On July 19, 2013, ALTA released its [Title Insurance and Settlement Company Best Practices Version 2.0](#), in addition to [Assessment Procedures](#) and [Certification Package](#) as part of an overall Best Practices Framework to provide an objective and uniform method of determining and certifying whether a closing attorney or title agent meets the Best Practices. As proposed, the Certification Package contemplates that the Assessment Procedures will be used to review a closing attorney for compliance with the Best Practices and that a Certification of compliance would be issued. The closing attorney would then certify to consumers, mortgage originators and mortgage servicers that it is in compliance with the ALTA Best Practices in all material respects and represent that the law firm will remain in material compliance for the next two years. It is expected that in the future lenders will request a Best Practices Certification package as part of their due diligence in utilizing third party service providers.

**What’s Next?** What has not yet been established is *who* would be performing the assessments or from whom lenders will accept such assessments.

### Instructions for using the ALTA Best Practices Framework

[Assessment Procedures](#) give a guideline for a law firm to perform a self-assessment to address particular areas of concern, to approach any changes in “chunks” – piece by piece – and to have talking points on putting together a Certification Package for lenders’ approval.

- Capitalized Terms appearing in both these Assessment Procedures and the ALTA Title Insurance Settlement Company Best Practices (Best Practices) shall have the meanings set forth in the Best Practices document.
- Detailed notes or documentation copies should be maintained for a minimum of five (5) years to support testing performed and testing exceptions for each procedure.
- Where possible, the same file sample may be used throughout the assessment to test multiple attributes.
- Some of the Assessment Procedures will not be applicable to some attorneys due to laws, regulations, or business model.



- Many of the Assessment Procedure Numbers are followed by an Asterisk (\*). This indicates that a particular Assessment Procedure is a requirement and that a FAIL on that particular Assessment Procedure results in a FAIL for that Best Practice.

The [Certification Package](#) is comprised of a Cover Page and 3 Parts. These documents should be prepared and either posted or delivered in the following order:

- Certification Package Cover Page
- Agency Letter (Part 1)
- Best Practices Certificate (Part 2)
- Declarations Page (Part 3)

### **In a hurry for information?**

The **American Land Title Association (ALTA)** has established a section on their site devoted to the CFPB Proposed Rule and Forms and Best Practices. [www.alta.org/bestpractices](http://www.alta.org/bestpractices).

Visit the **CFPB (Consumer Financial Protection Bureau)** website [www.consumerfinance.gov](http://www.consumerfinance.gov). Under the heading Law and Regulation, you find the links to the Guidance page (the CFPB Bulletin is there) and the Regulations page (the proposed rule is there). You can check out the docket information (<http://www.regulations.gov/#!docketDetail;D=CFPB-2012-0028>) including the public comments made.



## North Carolina Best Practices Task Force

At the August 5, 2013, meeting of the North Carolina Bar Association Real Property Section Council, Chair David Woods recommended that a joint task force be organized among the leadership of the [Real Property Section](#), the [Real Estate Lawyers of North Carolina \(RELANC\)](#) and the [North Carolina Land Title Association \(NCLTA\)](#) to address issues on behalf of North Carolina attorneys handling residential real estate closings. The Task Force goals would include development of suggested written procedures, contacting and meeting with lenders, educating attorneys and others in the industry, and any other tasks which the group determines are appropriate.



## HISTORY:

- May 24, 2000** Gramm-Leach-Bliley privacy regulations:  
[http://ftc.gov/privacy/privacyinitiatives/PrivacyModelForm\\_FR.pdf](http://ftc.gov/privacy/privacyinitiatives/PrivacyModelForm_FR.pdf)  
[www.ecfr.gov](http://www.ecfr.gov), Title 16: Commercial Practices, Part 313, Privacy, 15 U.S.C. 6801 *et seq.*, 65 FR 33677, May 24, 2000
- July 21, 2010** Dodd-Frank Act (Dodd-Frank Wall Street Reform and Consumer Protection Act),  
[www.sec.gov/about/laws/wallstreetreform-cpa.pdf](http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf): Among other things, creates the Consumer Financial Protection Bureau (CFPB) [www.consumerfinance.gov](http://www.consumerfinance.gov) and directs the combination of consumer disclosure forms.
- January 4, 2011** The CFPB ([Consumer Financial Protection Bureau](http://www.consumerfinance.gov)) issued a [press release](#) announcing its partnership with state regulators to supervise providers of consumer financial products and services.  
Has supervisory and enforcement authority over banks and nonbanks for compliance with federal consumer financial laws.  
Has supervisory and enforcement authority over service providers to banks and nonbanks for compliance with federal consumer financial laws.  
A current [list of institutions](#) supervised by CFPB is available on the [CFPB website](#).
- April 13, 2012** CFPB Bulletin 2012-03 ([http://files.consumerfinance.gov/f/201204\\_cfpb\\_bulletin\\_service-providers.pdf](http://files.consumerfinance.gov/f/201204_cfpb_bulletin_service-providers.pdf)).  
Guidance document to the industry specifying five steps to be taken by the banks and nonbanks under CFPB supervision, to ensure that business arrangements with service providers do not present unwarranted risks to consumers.
- July 9, 2012** CFPB 1,099 page [proposed rule](#) [Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)]. Deadline for comments was November 6, 2012.
- November 2012** The Consumer Financial Protection Bureau [announced](#) that it will not require lenders to provide to consumers the new disclosures created under Title 14 of the Dodd-Frank Act. Instead, these disclosures (such as “Total Interest Percentage” and “Average Cost of Funds”) will go into effect once the Bureau finalizes its effort to integrate disclosures from the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). Several warehouse lenders postponed implementation of their vetting requirements until further notice. As a result, it is expected that mortgage lenders and brokers who utilize these companies' warehouse services will do the same. Amerisave Mortgage Corporation and Generation Mortgage Company postponed their January 1, 2013 deadline for title and settlement companies to obtain certification from third-party vetting companies in order to continue receiving business from them.
- January 2, 2013** The American Land Title Association (ALTA) [www.alta.org](http://www.alta.org) released the [ALTA Title Insurance and Settlement Company Best Practices](#) (Best Practices) to its membership. Recent bulletins and consent orders from the Federal Reserve, CFPB and Office of the Comptroller of the Currency (OCC) have caused lenders to reexamine their relationships with service providers, including closing attorneys and title insurance settlement agents, and in some instances utilize the services of vetting companies. ALTA created the Best Practices as a way to highlight the strong business practices employed by title and settlement companies that protect lenders and consumers.
- June 25, 2013** The CFPB issued [Bulletin 2013-06](#) which encourages parties which are subject to CFPB's enforcement authority to self-police and self-report potential violations of consumer financial laws. Specifically, the bulletin describes actions which could be taken by a party that would be considered “responsible conduct” and potentially result in a more favorable resolution of a CFPB enforcement investigation.
- July 19, 2013** The American Land Title Association (ALTA) released its [Title Insurance and Settlement Company Best Practices Version 2.0](#), refining the guidelines it had established with the initial release of the Best Practices on January 2, 2013. In addition, an [Assessment Procedures](#) and [Certification Package](#) was published as part of an overall Best



Practices Framework to provide an objective and uniform method of determining and certifying whether an attorney or title agent meets the Best Practices standards.

**October 2013**

The CFPB has indicated that October 2013 is when it plans to release the final rule merging the mortgage disclosures required under RESPA and the Truth in Lending Act (TILA). As proposed, the rule establishes, among other things, new disclosure requirements and forms for most residential real estate transactions. Guidance regarding compliance is included in the CFPB's proposed rule, including samples of the proposed forms. A new 3 page Loan Estimate replace the current Good Faith Estimate (GFE), and a new 5 page Closing Disclosure will replace the current HUD-1.

**January 2014,  
postponed  
possibly to  
January 2015**

According to the [CFPB'S blog post](#), they do not expect to start working on implementing the new forms or other requirements in the final rule until after January 2014. On July 3, 2013, [the CFPB announced](#) its intention to start working on implementing the new combined mortgage disclosure forms required under RESPA and the Truth in Lending Act (TILA) sometime after January 2014.



ALTA Best Practices Framework:

# Title Insurance and Settlement Company Best Practices

*Version 2.0*  
*Published July 19, 2013*



## ALTA Best Practices Framework

The ALTA Best Practices Framework has been developed to assist lenders in satisfying their responsibility to manage third party vendors. The ALTA Best Practices Framework is comprised of the following documentation needed by a company electing to implement such a program.

- ALTA Best Practices Framework: Title Insurance and Settlement Company Best Practices
- ALTA Best Practices Framework: Assessment Procedures
- ALTA Best Practices Framework: Certification Package (Package includes 3 Parts)

### Version History and Notes

Date	Version	Notes
1/2/2013	None	Publication of the ALTA Title Insurance and Settlement Company Best Practices, approved by the ALTA Board of Governors on December 20, 2012.
7/19/2013	2.0	Publication of the revised ALTA Title Insurance and Settlement Company Best Practices, along with other documents in the ALTA Best Practices Framework, approved by the ALTA Board of Governors on July 19, 2013.



## Title Insurance and Settlement Company Best Practices

### Mission Statement

- ALTA seeks to guide its membership on best practices to protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. These practices are voluntary and designed to help members illustrate to consumers and clients the industry's professionalism and best practices to help ensure a positive and compliant real estate settlement experience. These best practices are not intended to encompass all aspects of title or settlement company activity.
- ALTA is publishing these best practices for the mortgage lending and real estate settlement industry. ALTA accepts comments from stakeholders as the Association seeks to continually improve these best practices. A formal committee of ALTA members regularly reviews and makes improvements to these best practices, seeking comment on each revision.

### Definitions

**Background Check:** A background check is the process of compiling and reviewing both confidential and public employment, address, and criminal records of an individual or an organization. Background checks may be limited in geographic scope. This provision and use of these reports are subject to the limitations of federal and state law.

**Company:** The entity implementing these best practices.

**Escrow:** A transaction in which an impartial third party acts in a fiduciary capacity for the seller, buyer, borrower, or lender in performing the closing for a real estate transaction according to local practice and custom. The escrow holders have fiduciary responsibility for prudent processing, safeguarding and accounting for funds and documents entrusted to them.

**Escrow [or] Trust Account:** An account to hold funds in trust for third parties, including parties to a real estate transaction. These funds are held subject to a fiduciary capacity as established by written instructions.

**Federally Insured Financial Institutions:** A financial institution that has its deposits insured by an instrumentality of the federal government, including the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA).

**Licenses:** Title Agent or Producer License or registration, or any other business licensing requirement as required by state law, or a license to practice law, where applicable.

**Non-public Personal Information:** Personally identifiable data such as information provided by a customer on a form or application, information about a customer's transactions, or any other information about a customer which is otherwise unavailable to the general public. NPI includes first name or first initial and last name coupled with any of the following: Social Security Number, driver's license number, state-issued ID number, credit card number, debit card number, or other financial account numbers.

**Positive Pay or Reverse Positive Pay:** Any system by which the authenticity of a check is determined before payment is made by the financial institution against which the check is written.

**Settlement:** In some areas called a "closing." The process of completing a real estate transaction in accordance with written instructions during which deeds, mortgages, leases and other required instruments are executed and/or delivered, an accounting between the parties is made, the funds are disbursed and the appropriate documents are recorded.

**Trial Balance:** A list of all open individual escrow ledger record balances at the end of the reconciliation period.

**Three-Way Reconciliation:** A three-way reconciliation is a method for discovering shortages (intentional or otherwise), charges that must be reimbursed or any type of errors or omissions that must be corrected in relation to an Escrow Trust Account. This requires the escrow trial balance, the book balance and the reconciled bank balance to be compared. If all three parts do not agree, the difference shall be investigated and corrected.



# 1 LICENSING

Establish and maintain current license(s) as required to conduct [the business of title insurance and] settlement services.

## Purpose

Maintaining state mandated [insurance] licenses and corporate registrations (as applicable) ensures that the company remains in good standing with the state.

## What You Should Know

Residential real estate closings must be handled in compliance with Authorized Practice Advisory Opinion 2002-1, rev. January 26, 2012. This includes the preparation or aiding in the preparation of deeds, mortgages; abstracting or passing upon titles, assisting by advice, counsel, or otherwise in any legal work; and to advise or give an opinion upon a person's legal rights. N.C. Gen. Stat. 84-2.1. Attorneys are required to maintain remain licensed and in good standing with the North Carolina State Bar, [www.ncbar.com](http://www.ncbar.com), including attending continuing legal education, in order to practice law in North Carolina or to handle real estate transactions regarding North Carolina property. They must also practice in compliance with the Revised Rules of Professional Responsibility and the Ethics Opinions promulgated by the State Bar. Closing documents must be recorded prior to disbursement of closing funds, assuring priority of the clients' interests. N.C. Gen. Stat. 45A-1 *et seq.* Attending professional meetings, conventions and CLE presentations adds professional skills as well as providing an opportunity to learn more about changes in the industry which are critical to a lawyer's practice.

A title insurer may not issue a title insurance commitment or policy unless and until the title insurer has obtained the opinion of an attorney, licensed to practice law in North Carolina and not an employee or agent of the company, who has conducted or caused to be conducted under the attorney's direct supervision a reasonable examination of the title. N.C. Gen. Stat. 58-26-1(a).

## Items to Consider and Discuss

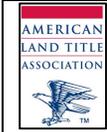
- NC ethics opinions and Good Funds Settlement Act require that a NC licensed attorney supervise a real estate closing, assuring that title is as insured and documents recorded prior to disbursement of the closing proceeds.
- What is your plan for vacations, medical leave, etc. to assure continued compliance?
- How many in the office are licensed?
- How many in your office are specialists? Do you highlight this in your firm publicity and display the certificates in the office?
- How many in your office are certified paralegals or other professionals?
- Who should be licensed or certified? Anyone who interacts directly with a client?
- How might the perception of your office be improved by the addition of more licensed or certified staff?
- Do you advertise your professional designations in some way?
- How are individual licenses and certifications tracked?
- Do you and others with licenses and certifications attend high quality continuing legal education, including RESPA and real estate focus, to maintain the best skills for your clients' representation?





## Procedures to meet this best practice:

- Establish and maintain applicable business License(s).
- Establish and maintain compliance with Licensing, registration, or similar requirements with the applicable state regulatory department or agency.
- Establish and maintain appropriate compliance with ALTA's Policy Forms Licensing requirement.



**See ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE (later in this handbook)**

## Sample Licensing Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Knowledge, maintenance and compliance with state regulations regarding applicable <b>business</b> licenses	<ul style="list-style-type: none"> <li>• Establish list of required business licenses</li> <li>• Confirm appointment status with State Bar and</li> <li>• Approval status with underwriter(s)</li> <li>• Maintain an electronic or paper file with a log of licenses, expiration dates and copies of licenses for quick reference</li> <li>• Calendar appointment renewals</li> </ul>			
Knowledge, maintenance and compliance with state regulations regarding applicable <b>individual</b> licenses	<ul style="list-style-type: none"> <li>• Establish list of individual licenses</li> <li>• Confirm license status with State Bar</li> <li>• Confirm approval status with underwriters</li> <li>• Maintain an electronic or hard copy folder with a log of licenses, expiration dates and copies of licenses for quick reference</li> <li>• Calendar appointment renewals</li> <li>• Notify underwriter(s) when an attorney leaves your firm</li> </ul>			





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on the best practices of having current license(s) as required to conduct the business of title insurance and settlement services.

Step	Description	When Completed
<input type="checkbox"/> Applicable business licenses	Have applicable business license(s) and maintain compliance with licensing, registration, or similar requirements with the applicable state regulatory department or agency	
<input type="checkbox"/> ALTA's Policy Forms Licensing requirement	Any issuing agent of title insurance is required to hold a license for the continued use of ALTA's policy forms. For more information, go to <a href="http://www.alta.org/membership/policyformslicense_FAQ.pdf">www.alta.org/membership/policyformslicense_FAQ.pdf</a>	
<input type="checkbox"/> Collect licensing information	Maintain an electronic or hard-copy folder with up-to-date licensing information	

*This information is not a substitute for legal advice, is for your reference only, and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice, and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.*

Go to [www.alta.org/bestpractices](http://www.alta.org/bestpractices) for more information.



# 2 TRUST\* ACCOUNT CONTROLS

Adopt and maintain appropriate written procedures and controls for Escrow Trust\* Accounts allowing for electronic verification of reconciliation.

(\*Trust" and "Escrow" used interchangeably.)

## Purpose

Appropriate and effective escrow controls and staff training help title and settlement companies meet client and legal requirements for the safeguarding of client funds. These procedures ensure accuracy and minimize the exposure to loss of client funds. Settlement companies may engage outside contractors to conduct segregation of trust accounting duties.

## What You Should Know

North Carolina attorneys must comply with the State Bar Trust Account Handbook, on-line at [www.ncbar.gov](http://www.ncbar.gov)--> Programs →Trust Accounting, and Rule 1.15-3, Records and Accountings, of the Revised Rules of Professional Conduct

### Trust Account Control Procedures

- Establish separate accounts for trust funds and operating funds.
- Identify these accounts accordingly as trust accounts and ensure appropriate identification appears on all account-related documentation, including bank statements, disbursement checks and deposit tickets.
- Use positive pay, automated clearing house (ACH) blocks and international wire blocks where available.
- Provide your banking institution with names of authorized personnel who can initiate or approve banking transactions or sign checks.
- Set appropriate levels of authorization for employees; review and adjust annually.
- Remember to update all if individuals leave your employment.
- Segregate duties so reconciliations are not performed by an authorized signatory or approver of bank transactions. Use an outside reconciliation service if necessary.
- NOTE: State Bar exemption from random audits if firm uses CPA.
- Reconcile receipts and disbursements of the trust account daily.
- Prepare trial balances for all trust accounts and be sure to document all outstanding file balances.
- Perform a monthly three-way reconciliation and have the results reviewed by management.
- Perform credit and background checks on new employees
- Run credit checks annually and background checks every three years, especially on employees with access to customer funds.
- Conduct ongoing training for employees or independent contractors with respect to the proper management of escrow funds.

## Items to Consider and Discuss

- How many trust accounts do you have or need? One for each office or one for each underwriter?
- Who has access to your trust account(s)? How many check signers do you have or do you need?
- Do you have proper safety measures in place for wiring funds out of your trust account?
- Do you have a procedure in place for termination of an employee with signatory or wiring authority?
- Do you have centralized disbursement for multiple offices?
- Have you performed credit and/or background checks on your staff?
- Do you complete three-way trust account reconciliations monthly?
- Who prepares your trust account reconciliations? Consider value of staff time/experience to prepare reconciliations? Or is now the time to consider using an outside reconciliation service?
- Do you segregate duties to ensure the reliability of the reconciliation and reconciliations are conducted by someone other than those with signing authority.
- Who reviews and approves your trust account reconciliations? Are results of the reconciliation reviewed by management and are problems resolved as quickly as possible?
- Do you maintain electronic reconciliation statements for future reference?



# Resources

## Ethics Rules & Opinions

- State Bar Trust Account Handbook, on-line at [www.ncbar.gov](http://www.ncbar.gov)--> Programs →Trust Accounting,
- Rule 1.15-3, Records and Accountings, of the Revised Rules of Professional Conduct
- Title Insurance Company audit, 2008 FEO 13
- On-line banking, 2011 FEO 7

## Trust/Escrow Reconciliation Services

- **First Banking Services** | <http://www.firstbankingservices.com/escrowaccounting.aspx>
- **Precision Reconciliation Services** | 2952 Stone Creek Drive, Sandy Hook, VA 23153 | 804.503.2380

## Trust Account Management Software

- **Rynoh Live** | [www.rynoh.com](http://www.rynoh.com) | 397 Little Neck Road, 3300 S. Building Suite 210, Virginia Beach, VA 23452 | 877.467.9664
- **SoftPro** | 4800 Falls of Neuse, Suite 400, Raleigh, NC 27609 | 800.848.0143 x 2208

## Employment Background Checks & Screening Services

- **LexisNexis/First Advantage** | <https://contractor.lexisnexis.com/CS/fntg> | Contact: 866.237.2135

## Misc. Services

- **EC Purchasing** | <https://www.ecpurchasing.com> | 601 Riverside Avenue, Bldg 5. 1st Floor, Jacksonville, FL 32223 | 888.387.0223
- **reQuire** | <http://www.gorequire.com> | 5029 Corporate Woods Drive, Suite 225, Virginia Beach, VA 23462 | 757.226.8058





# Procedures to meet this best practice:

1. Establish separate bank accounts for escrow funds and operating funds.  
Escrow funds or other funds the company maintains under a fiduciary duty to another are not commingled with the company's operating account or an employee or manager's personal account.
2. Unless directed by the beneficial owner, escrow trust accounts should be maintained in Federally Insured Financial Institutions.
3. Make sure that accounts are identified as "escrow" or "trust" accounts.  
Appropriate identification as an escrow or trust account appears on all account related documentation, including bank statements, bank agreements, disbursement checks and deposit tickets.
4. Utilize positive pay, Automated Clearing House blocks and international wire blocks, if available.
5. Transactions are conducted by authorized employees only OR underwriter approved 3<sup>rd</sup> Party Notary Services.
  - Only those employees whose authority has been defined to authorize bank transactions may do so.
  - Appropriate authorization levels are set by the company and reviewed for updates annually.
  - Former employees are immediately deleted as listed signatories on all bank accounts.
6. Impose a segregation of duties to make it difficult for someone to both create and approve/sign their own checks. Segregate the reconciliation duties from those that prepare checks and those that are check signers to minimize the ability to tamper with the reconciliation process.
7. Make sure that outstanding file balances are documented (i.e. holding escrowed funds/escrow agreement).
8. On at least a daily basis, perform a reconciliation of the receipts and disbursements of the escrow trust account.
9. Prepare Trial Balances for escrow trust accounts.
  - A 'Trial Balance Report' is a report listing each file for which funds are being held, as well whether the file is overdrawn (such as where a check was lost and replacement check was issued but both ended up getting cashed) or whether the file may have uncleared funds (such as where a taxing authority fails to receive or deposit a payment check). A trial balance is necessary to complete a proper reconciliation.
  - At a minimum, on a monthly basis, escrow trust account balances are reviewed by using "Three-Way Reconciliations". This method of reconciliation not only compares the bank's listing of deposits, withdrawals, wires, etc. with your accounting system's listing of those items, but also helps identify which files are may be overdrawn or uncleared.
10. On at least a monthly basis (**we recommend a minimum of daily**), perform a Three-Way Reconciliation in order to reconcile the bank statement, check book and Trial Balances.
11. Management should review the results of the reconciliations to be sure that no issues are being hidden **and that action is being taken to fund shortages timely, etc.** It is strongly encouraged that the reconciliations and bank account status be available remotely. **(If you have a third party reconcile your accounts, you must review those as well and fund any necessary shortages timely).**
12. When hiring employees, perform credit and background checks. The goal is to avoid people who are in financial difficulty and may be tempted to illegally access your escrow account funds. Credit checks should be run annually or bi-annually, while background checks (public records, arrest records) might be more suitably run every three years – see below. **(For example, establish an account with ADP)**
13. At least every three years, obtain Background Checks going back five years for employees who have access to customer funds.
14. **Conduct regular internal audits on your closing files (see next page).** Conduct ongoing training for employees in proper management of escrow funds and escrow accounting.



**See ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE (later in this handbook)**



<b>Escrow File Audit Checklist –HIGH RISK</b>	
1	The print date noted by the system on the HUD-1 (where applicable) is the same or prior to the signature date of the buyer/seller.
2	The HUD-1 was signed by all parties to the transaction.
3	An amended HUD-1 was prepared for any updates subsequent to the closing.
4	Evidence that an amended HUD-1 (if applicable) was sent to the affected parties (borrower/seller/lender) is in the file.
5	Supporting documentation exists for disbursements including payoffs (invoice, demand, etc.).
6	Supporting documentation agrees to the amount and payee shown on the HUD-1.
7	Transactions on the HUD-1 are accurately stated and in agreement with the check register (the HUD-1 and check register are consistent and in agreement) and purchase contract.
8	Requirements specified in the lender's instructions pertaining to the preparation of the HUD-1 were met.
9	The HUD-1 loan terms agree to the lender's closing instructions.
10	The GFE comparison box does not obscure a tolerance violation.
11	For short sales, the transaction complies with all requirements outlined in the Short Sale Final Approval Letter from the lender.
12	If the Short Sale Final Approval Letter is not received directly from the short sale lender (i.e., it is addressed to the seller/borrower), the contents, including the amount, expiration date and terms and conditions are verified with the
13	For short sales, the transaction includes the required Short Sale language in an amendment.
14	For short sales, the short sale approval letter was signed by the buyer(s) and the seller(s) on a short pay sale and the borrower(s) on a short pay refinance.
15	Third party deposits are disclosed on the HUD-1.
16	Third party deposits are processed via third party deposit instructions.
17	Third party deposits are noted in the lender's instructions or approved by the lender (in writing).
18	For transfers between escrow accounts, proper authorization from the affected principals is noted in both escrow files.
19	For transfers between escrow accounts, proper authorization from the operation's manager (or designee) is noted in both escrow files.
20	Disbursements are made when funds are available and in accordance with state and local regulations as applicable (Good Funds Law applies in certain states)
21	Seller, lender and/or mortgage broker credits are fully described and supported.
22	Title fees do not vary from filed or promulgated rates (where applicable). (Note: If the Title unit is solely responsible for calculating rates and is separate from the County Office (such as a CPF), exceptions will be classified as "Other.")
23	Escrow fees (including ancillary fees) do not vary from filed or promulgated rates (where applicable).
24	Payoff demands are not accepted from mortgage brokers, realtors or borrowers.
25	Seller proceeds are only disbursed to owners of record. Disbursements to any other parties are approved in writing by the lender.
26	Borrower proceeds (if applicable) are disbursed per funding lender's instructions. Disbursements to any other parties are approved in writing by the lender.
27	For all Home Equity Lines of Credit (HELOCs) noted on schedule C of the prelim/commitment, the Credit Line Authorization form is sent with the payoff demand request or the payoff to the lender.
28	For all HELOCs, the written payoff request sent to the lender includes specific "freeze language".
29	The Company's Document Execution Guidelines (Approved Notaries in most cases).
30	Underwriting requirements: There is a current title report/date down.
31	Underwriting requirements: Recorded liens on the prelim/commitment are satisfied/cleared.
32	Underwriting requirements: Party names and legal descriptions are correct on the insured documents.
33	Underwriting requirements: Documents are recorded within two business days of settlement.
<b>OTHER</b>	
34	Seller, lender and/or mortgage broker credits are properly disclosed on the HUD-1.
35	For all HELOCs, updated payoff figures were obtained no more than two days prior to full payment of the loan.
36	Checks payable to credit card companies at the lender's instruction, are mailed directly to the credit card companies (not given back to the borrower). The file copy of the check includes complete payee name, address & account number. These are disclosed in the 1300 series, unless the file contains specific instructions to the contrary received from the funding lender. Approval is obtained from the lender for payments made to credit card companies based on credit card statements retained in the file that differ from amounts listed in the lender's instructions.
37	The correct lines/series per RESPA guidelines and/or company policy are used for entries on the HUD-1. In addition, a supplemental page is attached when there is not enough space on the designated line item. Earnest money deposits are properly disclosed on the HUD-1 in accordance with RESPA guidelines.
38	State Withholding (CA, CO, GA, HI, ME, MD, MS, NJ, NY, OR, RI, SC, VT, VA, WV) is appropriately documented and processed.
39	For FIRPTA (Foreign Investment in Real Property Tax), the Waiver of Settlement Agent Responsibility form is completed for all purchase transactions or the waiver language is incorporated into the escrow instructions, where applicable unless the principals determined withholding applied and signed the FIRPTA Escrow Instructions. Copies of the applicable IRS forms are in the file.
40	IRS reporting requirements are met including completion of a 1099-S or 1099-S solicitations form.
41	Photocopy of deposit check, incoming wire and/or funding number (as applicable) is located in the escrow file or is readily accessible.
42	A payoff demand is addressed to the respective title company, or the payoff information is verified via phone, and the result is documented. The payoff demand is verified.
43	Sections A through I of the HUD-1 are complete and accurate.



# Sample Trust Account Controls Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices 2.0. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Maintain account information - includes active and inactive, trust account separate from business account, closing and disbursement, construction disbursing, taxes, recording, pay premium and similar purposes	<ul style="list-style-type: none"> <li>• Create list of accounts, including contact person at bank</li> <li>• Verify operating account and Trust Account(s) are separate</li> <li>• Verify each Trust Account is titled as an “escrow account” or “trust account”</li> <li>• List account numbers and type for each bank account</li> <li>• List authorized signatories, wire initiators and wire approvers for each account, including designations of who is the account owner</li> <li>• Maintain the lists in a secure Controls and Procedures file for external audit</li> <li>• Provide your banking institution with names of authorized personnel to initiate or approve all banking transactions</li> </ul>			
Monitor staff with trust account access and wire transfer authority	<ul style="list-style-type: none"> <li>• List personnel with Trust Account access (authorized signers, and wire transfer initiators and approvers)</li> <li>• Signature stamps are <i>not recommended</i>. However, if a signature stamp is used to sign trust account checks, verify only authorized signatories have access to the stamp and that the stamp is securely stored at all times</li> <li>• Perform credit and five year Background Checks upon hiring and every three years</li> <li>• Maintain record of completed reports</li> </ul>			
Utilize positive pay or reverse positive pay, automated clearing house (ACH) blocks and international wire blocks for each account, if available	<ul style="list-style-type: none"> <li>• Document conversation(s) and image all written correspondence/authorizations into escrow file or Controls and Procedures file</li> <li>• Determine number of approvals and approval level required to initiate and approve an outgoing wire</li> </ul>			
Reconcile Trust Accounts in accordance with the requirements of the North Carolina State Bar Trust Account Handbook	<ul style="list-style-type: none"> <li>• Segregate duties so reconciliation is not performed by a Trust Account signatory or approver of bank transactions</li> <li>• Perform a three-way reconciliation at least monthly</li> <li>• Reconcile receipts and disbursements at least daily</li> <li>• Attach summary report of open issues (i.e., files that need correction) for each month - this will help tracking of specific items and trends</li> <li>• Managing Attorney approve completed reconciliation</li> <li>• Maintain approved reconciliations in electronic format for your records or audit(s)</li> </ul>			
Employee Training	<ul style="list-style-type: none"> <li>• Develop documentation for handling check stock, disbursements, wire transfers, making deposits, account reconciliation, and all aspects of safeguarding Trust Accounts</li> <li>• Train employees and document completion of instruction on management and safeguarding of escrow funds and Trust Accounts</li> </ul>			





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for escrow trust accounts.

Step	Description	When Completed
<input type="checkbox"/> Include account numbers and type for each bank account on checklist <input type="checkbox"/> Image into a Controls and Procedures file for external audit	Verify operating account and escrow trust account(s) are separate	
<input type="checkbox"/> Document conversation(s) and image all written correspondence/authorizations into escrow file or Controls and Procedures File <input type="checkbox"/> Provide your banking institution with names of authorized personnel to initiate or approve all banking transactions <input type="checkbox"/> Determine number of approvals and approval level required to initiate an outgoing wire <input type="checkbox"/> List all authorized signors in a secure banking file	Utilize positive pay, automated clearing house blocks and international wire blocks, if available	
<input type="checkbox"/> Perform a three-way reconciliation at least monthly <input type="checkbox"/> Reconcile receipts and disbursements at least daily <input type="checkbox"/> Segregate duties so reconciliation is not performed by an escrow trust account signatory or approver of bank transactions <input type="checkbox"/> Create and approve complete reconciliation in electronic format for your records, underwriter(s) or audit(s)	Reconcile Escrow Trust Accounts	

*This information is not a substitute for legal advice, is for your reference only, and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice, and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.*

Go to [www.alta.org/bestpractices](http://www.alta.org/bestpractices) for more information.



**A sample of a simplified escrow account controls checklist and procedure**

Function	When	Who	Notes	Last Completed Date
Create List of Accounts, including contact person at bank				
Is each account titled as an 'escrow account' or 'trust account'?				
Are Positive Pay, Automated Clearing House blocks and international wire blocks in place for each account?				
List of Authorized Signatories, including designations of who is the account owner. Procedure at employment termination to remove signatories.				
List of personnel for whom credit report/background checks were performed, as well as last date each report was completed				
Current monthly reconciliations completed?				
Owner/Manager Review completed?				
Attach summary report of open issues (i.e., files that need correction) for each month. (This will help tracking of specific items and trends)				



# North Carolina State Bar Audit Checklist

## Rule 1.15-1 Definitions

- (1) Does the trust account contain only the funds of a client(s) for whom a lawyer is engaged to perform or is performing a legal service? Please note the exceptions permitted in Rule 1.15-2(f).
- (2) Is a "dedicated trust account" (a special interest bearing trust account) maintained solely for the benefit of a single client or a specific transaction?
- (3) Is the term "general trust account" used to denote trust accounts other than dedicated trust accounts?
- (4) Is a "fiduciary account" designated as such and maintained solely for the deposit of fiduciary funds or other entrusted property of a particular person or entity (i.e., an estate, guardianship, power of attorney, trust, or escrow)?
- (5) Is the financial institution where the trust accounts are maintained a bank or savings and loan association chartered under North Carolina or federal law?

## Rule 1.15-2 General Rules

### *Safekeeping*

- (1) Is entrusted property (i.e., trust and fiduciary funds, and other property) identified, held, and maintained separate from the property of the lawyer?
- (2) Are all trust funds promptly deposited in a general or dedicated trust account?
- (3) Are all general trust accounts established as IOLTA accounts, from which interest is remitted to NC IOLTA at the State Bar?
- (4) Are all fiduciary funds promptly deposited in a fiduciary or general trust account?
- (5) Is all entrusted property not otherwise deposited in a trust or fiduciary account (e.g. stock certificates) promptly identified and labeled as property of the person or entity for whom it is held?
- (6) Is entrusted property (other than money) in a safe deposit box or other suitable place of safekeeping?
- (7) Is the location of the entrusted property disclosed to the client or other person for whom it is held?
- (8) Is the safe deposit box or other place of safekeeping located in North Carolina?
- (9) If not, has the client or other person for whom the entrusted property is held given written authorization to maintain the property outside North Carolina?
- (10) If a dedicated trust account is maintained at a bank outside the state or in a financial institution other than a bank in or outside North Carolina, has the client provided a written consent to do so?

### *Deposits and Disbursements*

- (1) Are only client funds deposited in the trust account, except lawyer funds sufficient to open or service the account or funds belonging in part to a client, third party, or lawyer?
- (2) When funds belonging in part to the lawyer and in part to the client (e.g., a client check for legal fees and court costs) are received, are the funds deposited intact into the trust account?
- (3) Are checks for legal fees or expenses that are drawn on a trust or fiduciary account and made payable to the lawyer entered as disbursements on the client's ledger card?
- (4) Are all items drawn on a trust or fiduciary account made payable to a specific person or entity and not cash or bearer?
- (5) Is entrusted property used to obtain credit or other personal benefit only for the legal or beneficial owner of the entrusted property?

### *Notifications*

- (1) Has a bank directive been filed with the bank where a trust or fiduciary account is maintained (see Section VIII)?
- (2) Is the client promptly notified of the receipt of any entrusted property belonging in whole or in part to the client?

### *Miscellaneous*

- (1) Is entrusted property belonging to the client and to which a client is entitled paid or delivered promptly to the client or to third persons as directed by the client?
- (2) Does the lawyer hold any entrusted property or title to property as security for the payment of any fees or other obligations to the lawyer (e.g., deeds of trusts or liens)?



- (3) If so, is the property clearly identified as property held as security and not as a completed transfer of ownership to the lawyer?
- (4) Has the lawyer promptly reported to the North Carolina State Bar any knowledge or reasonable belief that entrusted property has been misappropriated or misapplied?
- (5) Has all interest earned on a trust or fiduciary account been paid to the client or other person or entity entitled to the principal or to the State Bar IOLTA program as required by Rule 1.15-2 and Rule .1316 (see Section XII)?
- (6) Has the lawyer complied with the requirements of Chapter 116B concerning the escheating of abandoned/unidentified property?

### **Rule 1.15-3 Records & Accountings**

- (1) Are the checks for all general trust accounts, dedicated trust accounts, and fiduciary accounts business-sized and do they contain an Auxiliary On-U's field in the MICR line? Rule 1.15-3(a).
- (2) Do bank receipts or deposit slips list source and date of deposit? For deposits to the general trust account, do bank receipts or deposit slips also list the name of the client or other person to whom the funds belong and source of funds if other than personal?
- (3) If records of canceled checks are furnished by the bank in digital image or CD-Rom format, do the digital images or CD-Roms satisfy the requirements of Rule 1.15-3(b)(2)(A)?
  - Do they show amount, date, and payee, and, for the general trust account, do they show the client balance against which the item is drawn?
  - Is the lawyer/firm using business checks that contain an Auxiliary On-U's field?
  - Is the digital image a legible reproduction of front and back of the original item and not smaller than 1 3/16 x 3 inches?
  - Does the bank maintain, for at least six years, the ability to reproduce electronically additional or enlarged images within a reasonable time?
  - Is the lawyer retaining these records for the required six year period?
- (4) Are all instructions or authorizations to transfer, disburse, or withdraw funds from the trust account including electronic or written transfer records retained?
- (5) Are all bank statements and other documents received from the bank regarding the trust account, including any notices of insufficient funds, retained?
- (6) For the general trust account, is a ledger containing a record of receipts and disbursements for each person or entity from whom or for whom funds are received maintained? Does this ledger show the current and accurate balance of funds held in the trust account for each person or entity?
- (7) Are depository receipts or deposit slips for all deposited funds retained and do the receipts list the source and date of receipt?
- (8) Are all statements and other documents received from the depository bank regarding the account, including notices of insufficient funds, retained?
- (9) Are general trust accounts reconciled at least quarterly in the following manner: the individual client balances shown on the ledgers are totaled and reconciled with the current bank statement balance for the trust account as a whole?
- (10) Are general trust accounts reconciled monthly in the following manner: the balance of the trust account as shown on the lawyer's record is reconciled with the current bank statement balance for the trust account?
- (11) Are written accountings provided to the client upon the final disbursement of funds (i.e, when the balance reaches zero), when reasonably requested by client, and at least annually if funds are retained more than 12 months?
- (12) If not required by law, is a written accounting of fiduciary funds and other entrusted property rendered to the beneficial owners or representatives at least annually and upon termination of lawyers' professional fiduciary service?
- (13) Are complete and accurate records of all entrusted property received by the lawyer retained for six years from last transaction to which the record pertains?



# 3 INFORMATION & DATA PRIVACY

Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.

## Purpose

Federal and state laws (including the Gramm-Leach-Bliley Act) require title companies to develop a written information security program that describes the procedures they employ to protect Non-public Personal Information. The program must be appropriate to the Company's size and complexity, the nature and scope of the Company's activities, and the sensitivity of the customer information the Company handles. A Company evaluates and adjusts its program in light of relevant circumstances, including changes in the Company's business or operations, or the results of security testing and monitoring.

## What You Should Know

An attorney is required to protect the confidentiality of all client matters, including information in paper and electronic media.

Rule 1.6, Confidentiality of Information, of the Revised Rules of Professional Conduct.

The Federal Trade Commission defines NPI as:

- any information an individual gives you to get a financial product or service (for example, name, address, income, Social Security number, or other information on an application);
- any information you get about an individual from a transaction involving your financial product(s) or service(s) (for example, the fact that an individual is your consumer or customer, account numbers, payment history, loan or deposit balances, and credit or debit card purchases); or
- any information you get about an individual in connection with providing a financial product or service (for example, information from court records or from a consumer report).

Examples of NPI include:

- bank, loan payoff and credit card statements;
- insurance, retirement and tax information;
- Social Security numbers and dates of birth; and
- real estate/title related items, commission amounts and loan fees.

## Items to Consider and Discuss

- Is your entrance separated from your closing rooms and workspaces by a door, a receptionist or some other form of protection?
- Where is your server located? Is it isolated in a locked closet, room or other area with limited access?
- Who has access to the areas that have private/confidential information? Consider cleaning services, repair technicians, realtors, other clients and other third parties. Do vendors, such as janitorial services, water and coffee suppliers, etc. have access to areas that have private/confidential information in use?
- Do you have a "clean desk" policy?
- Do you have a proprietary email address? Do you assure *noone* in your firm shares client NPI on a public network such as using their private gmail, hotmail, yahoo or AOL email?
- Do you meet with clients in a conference room rather than your office? Are other clients' matters visible? Do other parties have access to a closing file if you leave the room?
- Could an employee or others upload or download data using a portable memory device?
- How do you dispose of paper records?
- What would happen in the event of a natural disaster – flood, hurricane or accidental disaster (power outage, sinkhole, fire, vehicle impact to building)?
- What does your current insurance cover in the event of a disaster? Research various insurance coverages available. Do you need to adjust your coverage?



There are many sources within a company where NPI can be found. Physical locations such as paper-based files, desktop or reception area, the closing table and warehouse. With the widespread use of smart phones, be vigilant of the documents visible to anyone other than vetted employees, such as at the closing table.

There are also many electronic locations where NPI is housed. These include:

- Computers, laptops, ipads, flash/thumb drives, network servers, email servers, instant messaging servers, fax servers, copy machines with internal hard drives or network storage devices, web servers, etc.
- Cloud storage (e.g., Google, Dropbox)
- Backup tapes; online backup services
- User-provided devices/media (e.g., smart phones, tablets, USB storage devices)

Additionally, NPI can be found and in possession of vendors a company may utilize. These include notaries, couriers, online backup services or off-site backup tape storage vendors, email service providers, and server and website hosts. Take reasonable steps to select and retain service providers that are capable of appropriately safeguarding NPI.

## Ethics opinions

- **Rule 1.16, Confidentiality of Information, Revised Rules of Professional Conduct, Reasonable precautions and expectation of privacy, Comment 18**
- **Recycling, RPC133**
- **Disposal of client files, RPC 209**
- **Email, RPC215, 2009 FEO 1**
- **Cellphone, RPC 215**
- **Website /internet storage, 2008 FEO 5**
- **Software as a service 2011 FEO 6**

## Resources

- North Carolina State Bar [www.ncbar.gov](http://www.ncbar.gov) → Ethics
- [“How To Comply with the Privacy of Consumer Financial Information Rule of the Gramm-Leach-Bliley Act”](#)
- [Federal Trade Commission Data Security Best Practices](#)
- [FTC Guidance on Privacy and Security](#)
- [FCC Small Business Cyber Planner](#)
- [Financial Institutions and Customer Information: Complying with the Safeguards Rule](#)
- [Security Check: Reducing Risks to Your Computer Systems](#)
- [Securing Your Server: Shut the Door on Spam](#)
- General discussion on data security – whitepapers, trade associations, conferences: [www.cdpconferences.org](http://www.cdpconferences.org)
- Gramm-Leach-Bliley privacy information: [http://ftc.gov/privacy/privacyinitiatives/PrivacyModelForm\\_FR.pdf](http://ftc.gov/privacy/privacyinitiatives/PrivacyModelForm_FR.pdf)
- [www.ecfr.gov](http://www.ecfr.gov), Title 16: Commercial Practices, Part 313, Privacy, 15 U.S.C. 6801 *et seq.*, 65 FR 33677, May 24, 2000
- [The Treiber Group](#), Cyber Security Insurance
- [Real Estate Data Shield](#), 271 Madison Ave, New York, NY 10016, 212.951.7302, <https://realestatedatashield.com/>
- [LexisNexis/First Advantage](#) employment background checks and screening services
- [uFax](#), fax to voicemail in the cloud, [uReach](#), visual voicemail, Holmdel Corporate Plaza  
2137 State Highway 35 & Union Avenue  
Holmdel, NJ 07733, 877-717-8732, <http://www.ureach.com/>
- Commercial national companies –
  - [Iron Mountain](#)
  - [IBM – Data Privacy & Security](#)
  - [HP](#)
- Business continuity –
  - Introductory Powerpoint [www.valuecontinuity.com](http://www.valuecontinuity.com)
  - Policy templates – Data Security – [www.altiusIT.com](http://www.altiusIT.com) (see Sample Policy Structure)
- [ECPurchasing](#), 601 Riverside Avenue, Bldg 5. 1st Floor, Jacksonville, FL 32223 | 888.387.0223



## Procedures to meet this best practice:

- Physical security of Non-public Personal Information.
  - Restrict access to Non-public Personal Information to authorized employees who have undergone Background Checks at hiring.
  - Prohibit or control the use of removable media.
  - Use only secure delivery methods when transmitting Non-public Personal Information.
- Network security of Non-public Personal Information.
  - Maintain and secure access to Company information technology
  - Develop guidelines for the appropriate use of Company information technology.
  - Ensure secure collection and transmission of Non-public Personal Information.
- Disposal of Non-public Personal Information.
  - Federal law requires companies that possess Non-public Personal Information for a business purpose to dispose of such information properly in a manner that protects against unauthorized access to or use of the information.
- Establish a disaster management plan.
- **Appropriate management and training of employees** to help ensure compliance with Company's information security program.
- Oversight of service providers to help ensure compliance with a Company's information security program.
  - Companies should take reasonable steps to select and retain service providers that are capable of appropriately safeguarding Non-public Personal Information.
- Audit and oversight procedures to help ensure compliance with Company's information security program.
  - Companies should review their privacy and information security procedures to detect the potential for improper disclosure of confidential information.
- Notification of security breaches to customers and law enforcement.
  - Companies should post the privacy and information security program on their websites or provide program information directly to customers in another useable form. When a breach is detected, the Company should have a program to inform customers and law enforcement as required by law.



See [ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE](#) (later in this handbook)



# Sample Information & Data Privacy Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Restrict access to Non-public Personal Information (NPI) to authorized employees who have undergone credit and five year Background Checks at hiring and/or after policy has been implemented	<ul style="list-style-type: none"> <li>Establish a policy for conducting five year Background Checks and credit checks for all employees with access (or potential access) to NPI</li> <li>Perform background/credit checks</li> <li>Maintain record of completed reports</li> </ul>			
Maintain physical security for every company location where NPI may be stored	<ul style="list-style-type: none"> <li>Have secure points of entry to the building and any interior offices where NPI may be stored</li> <li>Security systems should include individual access codes or personal keys/fobs, as appropriate</li> </ul>			
Implement a Clean Desk Policy	<ul style="list-style-type: none"> <li>Close paper and electronic files containing NPI and lock workstations when employees are away from their desks</li> <li>At the end of the work day, all files, documents, portable devices, and electronic media containing NPI should be locked in a desk, file cabinet, or secure room overnight</li> </ul>			
Protect NPI accessed through a computer network or hardware	<ul style="list-style-type: none"> <li>Only authorized persons should use company servers, workstations, laptops or other mobile devices, copiers, printers, scanners and fax machines</li> <li>Establish a Network Usage Policy and require all employees to annually acknowledge in writing what is acceptable use of company information technology, including email and internet access</li> <li>Software should not be installed on company hardware unless authorized by management</li> <li>Password-protect or encrypt devices, data and files containing NPI</li> <li>Passwords should be strong – at least eight characters using a combination of numbers, uppercase and lowercase letters and special characters</li> <li>Separate accounts and passwords should be established for each user - employees should not share user names, passwords or accounts</li> </ul>			



ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Protect NPI transmitted via email, internet based services or websites	<ul style="list-style-type: none"> <li>Spam filters and firewalls should be used on email servers</li> <li>Emails containing NPI should be encrypted – communicate with customers and vendors about which encryption services can be utilized based on various system requirements and considerations</li> <li>Email attachments containing NPI should be password protected</li> <li>For title order placement, closing package delivery, etc. use sites utilizing secure file and data transmission encryption – look for <i>https</i> at the beginning of the website address, not just <i>http</i></li> </ul>			
Protect NPI stored on removable media, especially when media is carried while traveling	<ul style="list-style-type: none"> <li>If NPI must be stored on removable media or a portable device it must be encrypted</li> <li>Create a policy limiting an employee’s ability to leave documents, portable devices or electronic media containing NPI in a location (unlocked vehicle, hotel room, etc.) accessible to others</li> <li>Establish a policy that it is the user’s responsibility to protect portable devices in their possession from theft or unauthorized access</li> <li>NPI must not be stored on personal electronic devices</li> </ul>			
Protect NPI when delivering information to parties outside the company security system boundaries or firewall	<ul style="list-style-type: none"> <li>Establish procedures for couriers and closers to protect against unauthorized disclosure of NPI</li> <li>Confirm that backup services use generally accepted encryption protocols</li> </ul>			



# Sample Data Security Policy

**Note: This document does not constitute a data security policy; however, if you, with your IT consultant, take this form and expand on each of the concepts by listing the specific steps/procedures, software, systems, etc. and timeframes that you are implementing, it will turn into a Data Security Policy**

---

## Security Statement

(Your law firm) has taken measures to guard against unauthorized or unlawful processing of personal data and against accidental loss, destruction or damage. This includes:

- Adopting an information security policy (this document is our policy)
- Taking steps to control physical security (projects and staff records are all kept in a locked filing cabinet)
- Putting in place controls on access to information (password protection on files and server access)
- Establishing a business continuity/disaster recovery plan (including, at a minimum taking regular back-ups of its computer data files and this is stored away from the office at a safe location)
- Training all staff on security systems and procedures
- Detecting and investigating breaches of security should they occur

## Basic Principles

1. Personal data is to be collected only for the purpose specified.
2. Data collected is to be relevant but not excessive for the purposes required.
  - On an annual basis, title insurance application forms and any other forms that we use are reviewed to confirm that we are not asking for irrelevant information.
3. Data is not to be kept for longer than is necessary for the purposes collected, including complying with applicable laws. Within 30 days of closing:
  - Files are scanned into our secure server and paper copies are shredded
  - Files are moved to locked files in a secure location in our office
4. We protect the data with appropriate technical and organizational measures to minimize the risk of unauthorized or unlawful processing and against accidental loss or destruction or damage to personal data.
  - Servers are stored in locked facilities with access limited to: *[list employees or job positions applicable]*
  - Remote access to files (is)(is not) available.
  - The servers and computers are disconnected from the internet during non-business hours.
  - [other procedures]
5. Data is not removed from the office, except when contained on/within appropriately secured data transmission methods.
  - Paper files are never removed from the office except as needed for a remote closing
  - Remote access (is) (is not) provided to our server for employees.
  - When access is provided, the following security measures are in place: It is a condition of remote access to the office network by staff that their home computers also have anti-virus software installed which is regularly updated with the latest virus definitions.
6. Access to data whether current or archived is provided to those individuals who, in the course of performing their responsibilities and functions, must use the specified data.  
Access is limited to the following job positions:\_\_\_\_\_
7. All data on the network is protected by XXXXXXXXXXXX anti-virus software that runs on servers and workstations, and is updated automatically with on-line downloads from the XXXXXXXXXXXX website / via updates received on CD. (Use as applicable). This includes alerts whenever a virus is detected.
8. Any viral infection that is not immediately dealt with by XXXXXXXXXXXX is notified to the (Agency Owner).
9. All user data is backed up to tape automatically on a daily basis, using an appropriately secure system for fast indexing and data restoration.
10. A full server backup to tape takes place weekly.
11. Daily and weekly backups are securely stored in a room remote from the server room and reused on a fortnightly basis.
12. A half-termly archive tape is preserved, and for the next half-term is securely stored off site, in case of catastrophic system loss such as a fire.
13. A separate business continuity plan is established.



# Sample Disaster Management Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

PART I: BUSINESS INFORMATION		ANSWERS & COMMENTS
1	How many locations/branches does your operation have?	
2	How many departments does your operation have?	
3	Do you have an Emergency Evacuation Plan that accounts for all personnel and clearly sets forth procedures to protect life safety in the event of an evacuation, heart attack, bomb threat, etc.?	
4	Do you currently have a Disaster Management Program in place (including a Crisis Management plan, Department Recovery workbooks, Emergency Evacuation Plan, etc.)?	
5	If you have a Disaster Management Program in place, is it documented and audited?	
6	If you have a Disaster Management Program in place, are your documents and operation tested annually?	
7	Do you have a program in place that allows you to track audit requirements for your documentation annually so that you remain in a state of audit readiness?	
8	If you had a disaster today, do you know how much that would cost you in lost opportunity, recovery expenses, penalties and fees?	
PART II: OPERATIONAL INFORMATION		ANSWERS & COMMENTS
9	Do you have an established Local Crisis Management Team with predestinated and well defined roles and responsibilities? If so, is your team tested annually?	
10	Do you have documented prioritized recovery strategies for critical departmental processes in you operation?	
11	Do you know how much revenue your operation would lose if you were shut down due to an unplanned business outage, and do you know over time when that loss would occur (Day 1, 3, 7, 30)?	
12	Do you know who you would need to contact in the event of a disaster, and is that list documented?	
13	Do you have documented procedures for recovering lost or destroyed original documents and forms?	
PART III: TECHNOLOGY INFORMATION		ANSWERS & COMMENTS
14	If you lost your critical applications and data today, do you know how much that would cost you in lost opportunity, recovery expenses, penalties and fees?	
15	Do you currently have a system in place to recover lost data that is stored locally in your office, and are those procedures clearly documented?	
16	What are the applications that your operation relies on in order to perform your business tasks? Are those applications hosted locally or by a third party provider?	
17	Do you know how long it would take to recover your lost data?	
18	If you lost access to all of you applications, do you know the priority in which those applications would need to be restored according to potential revenue loss?	
19	Do you currently have documented procedures to replicate your technology infrastructure at an alternate work facility?	
20	Do you have documented procedures that outline what you would do with your phone system in the event of the loss of your work facility?	
21	Are your applications accessible outside of the office? If so, then how?	



PART IV: VENDOR INFORMATION		ANSWERS & COMMENTS
22	Do you know what kind of impact a disaster at your critical vendors' locations would have upon your operation?	
23	Do you know what recovery time capabilities your critical vendors have in place?	
24	Do you know if your critical vendors have plans in place that ensure the continuity of their service to you?	
25	Do you have service-level agreements with your critical vendors?	
26	Do you have standardized documentation for inquiring about your critical vendors' recovery capabilities and time frames? Do you know what questions to ask?	
27	Do you know which vendors you will need to contact in order of importance in the event of a disaster?	





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for network security of protecting Non-public Personal Information (NPI).

Step	Description	When Completed
<ul style="list-style-type: none"> <li><input type="checkbox"/> Establish a Network Usage Policy and require all employee and vendor users to read and sign an acknowledgement annually</li> <li><input type="checkbox"/> Use strong passwords (minimum of eight characters and mixture of (upper and lowercase), numbers, and special characters</li> <li><input type="checkbox"/> Ensure employees lock workstations when away for more than a few minutes</li> <li><input type="checkbox"/> Separate accounts and passwords should be established for each individual user; User accounts should not be shared among multiple employees.</li> </ul>	<p>Maintain and secure access to company information technology</p>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Ensure only authorized persons use company hardware (servers, computers, laptops, tablets, mobile devices, fax machines, copiers, scanners, printers, etc.)</li> <li><input type="checkbox"/> Ensure unauthorized software is not installed on company hardware</li> <li><input type="checkbox"/> Ensure user names and passwords are not shared</li> </ul>	<p>Develop guidelines for the appropriate use of company information technology</p>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Only store NPI on encrypted devices and never store NPI on personal devices</li> <li><input type="checkbox"/> Train staff to be aware of "snooping" to view other clients NPI</li> <li><input type="checkbox"/> Establish and own your own true business domain email account and address</li> </ul>	<p>Ensure secure collection and transmission of NPI</p>	

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## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for physical security of protecting Non-public Personal Information (NPI).

Step	Description	When Completed
<input type="checkbox"/> Establish a policy for conducting background checks for all employees with access (or potential access) to NPI	Restrict access to Non-public Personal Information to authorized employees who have undergone background checks at hiring	
<input type="checkbox"/> Password-protect or encrypt devices, data and files with NPI <input type="checkbox"/> Create a policy limiting an employee's ability to leave documents, portable devices or electronic media containing NPI in a location (unlocked vehicle, hotel room, etc.) accessible to others <input type="checkbox"/> Establish a policy that it is the user's responsibility to protect portable devices in their possession from theft or unauthorized access	Protect NPI stored on removable media, especially when media is carried while traveling	
<input type="checkbox"/> Establish procedures for couriers and closers to protect against unauthorized disclosure of NPI	Protect NPI when delivering information to parties outside the company security system boundaries or firewall	
<input type="checkbox"/> Close paper and electronic files containing NPI when they are away from their desks <input type="checkbox"/> At the end of the work day, all documents, files, portable devices, and electronic media containing NPI should be locked in a desk, file cabinet, or secure room overnight	Implement a Clean Desk Policy	
<input type="checkbox"/> Have secure points of entry to the building and any interior offices where NPI may be stored <input type="checkbox"/> Security systems should include individual access codes or personal keys/fobs	Maintain physical security for every company location where NPI may be stored	

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# 4 SETTLEMENT POLICIES & PROCEDURES

Adopt standard real estate settlement procedures and policies that help ensure compliance with Federal and State Consumer Financial Laws as applicable to the Settlement Process.

## Purpose

Adopting appropriate policies and conducting ongoing employee training helps ensure the Company can meet state, federal, and contractual obligations governing the Settlement.

## What You Should Know

### Office Settlement Procedure Manual

Create an office settlement procedure manual to ensure all closings are handled in the same manner. Consider including items such as:

- Procedure for conflicts
- Closing checklists, including compliance with RPC 191, Good Funds Settlement Act, recording prior to disbursement, follow up on satisfactions and final title opinions
- Timelines and tracking for recording and forwarding of title policies
- Accountability – whose job is it at each step?
- Process for tracking overpayments and refunding customers

### Employee Training

- Regular meetings with attorneys to update staff
- Meet after attorneys attend CLE to educate employees on new trends
- Review work and discuss any issues or misunderstandings with employees
- Recommend paralegal certification
- Attend ongoing CPE for closing and title examination paralegals

### Electronic Recordings

- E-Recording may streamline closing process, but must be carefully monitored, depending on on-line delays and lack of remote access to court records.

## Items to Consider and Discuss

### Office Settlement Procedure Manual

- Do you have a detailed step-by-step process for handling closings, from intake to final satisfactions and title policies?
- Who is responsible for each step in the process?
- What is the procedure for conflicts? If there are two sets of closing instructions (one general and one specific) and one set contradicts the other, what is your office procedure?

### Employee Training

- With the rapid changes occurring in our industry, how are you making sure you and your employees are keeping current and in compliance with state and federal requirements?

### Electronic Recordings

- Which counties in your area accept e-recording?
- How could e-recording streamline your closing process?



# Resources

## [Ethics Rules \(North Carolina State Bar\)](#)

- Rule 1.1, Competence, of the Revised Rules of Professional Conduct
- Rule 1.3, Diligence, of the Revised Rules of Professional Conduct
- Residential Closings, APAO 2002-1
- Recording and Disbursements, RPC 191, and the Good Funds Settlement Act
- Satisfactions, 99 FEO 5
- Tacking , RPC 99, 2009 FEO 17
- Independent paralegal, RPC 216

## **Electronic Recording**

Simplifile | [www.simplifile.com](http://www.simplifile.com)  
<http://www.erecordingpartners.net/>

## **Premium Calculation**

Chicago Title North Carolina Website | [www.northcarolina.ctt.com](http://www.northcarolina.ctt.com) → Online Calculators → [Premium Calculator](#)



## **Procedures to meet this best practice:**

- Recording procedures.
  - Review legal and contractual requirements to determine Company obligations to record documents and incorporate such requirements in its written procedures.
    - Submit or ship documents for recording to the county recorder (or equivalent) or the person or entity responsible for recording within two (2) business days of the later of (i) the date of Settlement, or (ii) receipt by the Company if the Settlement is not performed by the Company.
    - Track shipments of documents for recording.
    - Ensure timely responses to recording rejections.
    - Addressing rejected recordings to prevent unnecessary delay.
    - Verify that recordation actually occurred and maintain a record of the recording information for the document(s).
- Pricing procedures.
  - Maintain written procedures to help ensure that customers are charged the correct title insurance premium and other rates for services provided by the Company. These premiums and rates are determined by a mix of legal and contractual obligations.
    - Utilize rate manuals and online calculators, as appropriate, to help ensure correct fees are being charged for title insurance policy premiums, state-specific fees and endorsements.
    - Ensure discounted rates are calculated and charged when appropriate, including refinance or reissue rates.
    - Quality check files after Settlement to help ensure consumers were charged the company's established rates.
    - Provide timely refunds to consumers when an overpayment is detected.



**[See ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE \(later in this handbook\)](#)**



*This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice, and you should consult legal counsel and subject-matter experts to determine the appropriate policies, procedures and strategies applicable to your office or organization. For more information about the ALTA Title Insurance and Settlement Company Best Practices, please visit [www.alta.org](http://www.alta.org).*  
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## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for recording and pricing.

Step	Description	When Completed
<ul style="list-style-type: none"> <li><input type="checkbox"/> Submit documents for recording to the county recorder (or equivalent) or the person or entity responsible for recording in a timely fashion (generally within two business days of settlement)</li> <li><input type="checkbox"/> Use electronic recording where available</li> <li><input type="checkbox"/> Track shipment of documents being recorded</li> <li><input type="checkbox"/> Respond timely to recording rejections</li> <li><input type="checkbox"/> Maintain a record verifying documents were recorded</li> </ul>	<p>Determine your legal and contractual requirements for recording documents and incorporate into procedures</p>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Utilize rate manuals and online calculators</li> <li><input type="checkbox"/> Ensure discounted rates are charged when appropriate, including refinance and reissue rates</li> <li><input type="checkbox"/> Review files after settlement to ensure consumers charged proper rates</li> <li><input type="checkbox"/> Timely refund consumers when overpayment is detected</li> </ul>	<p>Develop procedures to ensure customers are charged established rates for services</p>	

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Go to [www.alta.org/bestpractices](http://www.alta.org/bestpractices) for more information.



# Sample Settlement Policies & Procedures Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices 2.0. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Determine your legal and contractual requirements for recording documents and incorporate into procedures	<ul style="list-style-type: none"> <li>• Submit documents for recording to the county register of deeds for recording immediately upon update of title and prior to disbursement of any funds.</li> <li>• Use electronic recording where available</li> <li>• Respond immediately to recording rejections, since disbursement must be delayed until completed.</li> <li>• Maintain a record verifying when documents were recorded</li> </ul>			
Develop procedures to ensure customers are charged established rates for services	<ul style="list-style-type: none"> <li>• Utilize the <a href="#">Chicago Title filed rate guide online rate calculator</a></li> <li>• Ensure discounted rates are charged when appropriate, including reissue rates</li> <li>• Review files after closing to ensure consumers were charged proper rates</li> <li>• Timely refund consumers when overpayment is detected</li> </ul>			



## SAMPLE WRITTEN POLICY: FOR SETTLEMENT POLICIES & PROCEDURES

- 1) We acknowledge that Lenders expect full disclosure of all receipts and disbursements in accordance with written mutual instructions.
- 2) All sets of Closing Instructions are collected and reviewed prior to closing.
- 3) If any one set of Closing Instructions is adverse to another set of closing instructions – we obtain **in writing from all parties** consent to the changes made to correct the adverse matters **prior** to closing.
- 4) The closing is performed in accordance to all instructions from:
  - a) Lender Closing Instructions
  - b) Title Commitment
  - c) Purchase Agreement
  - d) Any other misc. agreements (Escrow Agreements, etc.)
- 5) Follow all regulations and lender instructions in preparation of the Settlement Statements and be sure that ALL disbursement checks MATCH EXACTLY as to what is shown on the final Settlement Statement.

### Specific Detailed Guidelines: Disbursement Of Proceeds

#### Buyer/Borrower Proceeds:

- Any amount shown as funds due from Buyer/Borrower on the Settlement Statement must come into your trust account from the borrower or be disbursed to your borrower as shown.
- Any funds received by any other party must reflect on the appropriate line, designating the source of funds.

In regions in the where the buyer/borrower funds are credited prior to the printing of the final settlement statement, those funds should be appropriately reflected on the Settlement Statement.

#### Seller Proceeds:

Seller proceeds must not be assigned other than as accurately reflected and approved by all parties and are disbursed to Seller, as defined in the Loan Closing instructions and Settlement Statement. Where the Seller requests the proceeds to be paid otherwise, pre-closing clearance is obtained by us.

Multiple disbursements to the same payee are not acceptable especially when asked to disburse in increments of \$10,000 or less as this may be perceived as participation in a money laundering scheme.

Borrower proceeds from a refinance, if any, are only be paid in strict compliance with the written closing instructions provided by the funding lender. Pre-closing consent is obtained from the lender on any request to pay additional parties. If such consent is paid, the changes are listed on the Settlement Statement. We do not rely on approval of the mortgage broker. Additionally, the funder's approval of the Settlement Statement is not sufficient.

If a lender disapproves of any requested disbursement the seller or borrower, as appropriate, is notified in writing.

- Where directed or allowed by Lender, we will accept written instructions:
  - Deposit proceeds directly into a bank account on behalf of the principals.
  - Cut separate checks or send a wire in the name of each individual seller or borrower.

#### Mortgage Payoffs:

- Payoff Statements should only be accepted directly from the lender being paid off – NEVER from an individual who delivers it to you. (It could have been altered).
- Payoff Statements must be in writing and should reference loan number and property address in addition to borrower's name.
- Watch home equity lines of credit and obtain a signed 'closing letter' from the borrower to the lender requesting that the credit line be closed.
- Put sufficient detail on the payoff check to identify the property and borrower.
- If property is in foreclosure, make certain you have accounted for any attorney's fees and other court costs.
- Sellers are never to deliver their own payoff check. Payoff checks must be delivered in a manner in which the date and time of receipt of the check can be documented.



## **Escrowed Funds Disbursement:**

### Purpose:

- a. Approvers' and/or check signers' responsibilities on external disbursements are to ensure the payment amounts are supported, proper vendors are paid, and disbursements have been properly authorized by the closing attorney and parties.
- b. Approvers' and/or check signers' responsibilities over our fee income are to ensure that check/journals to recognize our fees are only processed after the closing is completed

### Procedure:

All trust account disbursements (check and/or wire) require two approvers. Evidence of the two approvals is required on the check/wire request and the check disbursement register for every escrow.

## **Cancelled Checks and Stop Payments:**

### Purpose:

Check fraud and wire fraud are expensive issues. The 'holder in due course' doctrine gives legal protections to innocent third-party recipients of checks and wires that are presented to them and not patently counterfeit.

A Cashier or Teller check in the hands of holder without knowledge of a defense must be honored by the financial institution on which it is drawn because it is the obligation of the financial institution not the closing attorney. Failure to observe this requirement may result in the closing attorney and/or title company being personally liable if the consumer or client suffers a loss on the transaction when the lost, stolen or destroyed item is subsequently presented and paid.

### Procedure:

#### **Cashier's or Teller Checks**

- Payment on a Cashier's or Teller check issued by the Company may not be stopped without :
  - Obtaining approval from the closing attorney before directing that a replacement item is issued.
  - Obtaining an affidavit concerning the lost, stolen or destroyed item from the person whose obligation is paid by the Cashier's or Teller.
  - Satisfying any requirement by the bank upon which the check is drawn to obtain a bond or other form of security for the amount of the check , if the bank is going to reissue the check before a 90 day period has elapsed.

#### **Trust Account Checks**

- A check that has been issued, processed in the accounting records, but subsequently lost, stolen or returned to the attorney is "voided".
- If the original check has been returned, mark it "Void", remove the signature portion of the check and forward it to accounting for adjustment to the appropriate records. Voided checks, if found, must be retained.
- Unless a check has been lost or stolen, do not stop payment without consulting the closing attorney.
- If the check has been lost or stolen, first determine if the check has cleared the bank. The accounting department should contact the bank to verify that the check has not cleared the bank.
- If it has not cleared, the bank should be advised both orally and in writing to place a stop payment on the check.
- No check should be reissued until it has been determined that it has not cleared the bank and you have received authorization from the accounting department.
- If the original check is subsequently found, it should be forwarded to the accounting department with a note across the face of the original check stating that a stop payment was issued on this check and indicating the date of the stop payment.



### **Disbursement or Receipt of Funds By Wire:**

#### Purpose:

Wire transfer transactions usually involve large dollar amounts that must be processed quickly. There is also finality to a wire transfer transaction at the time of execution. Generally, wire transfers are not subject to a stop payment, recall, cancellation or adjustment; once a wire request has been executed the funds immediately become the property of the transfer recipient. Because of these concerns and to minimize the risk of loss from errors or fraud, wire transfer authority is to be centralized within a limited number of management, accounting or administration employees.

#### Procedure:

- No employee shall be unilaterally authorized to issue or accept a wire transfer.
- Customers are to communicate all wire transfer requests in writing and each closing attorney will then communicate the wire transfer information to one of the authorized employees in writing *or by fax* and confirmed in writing.
- In all cases of initiation of a wire transfer by a closing attorney or other authorized party, a reasonable security procedure must be used to validate the transfer.

### **Mortgage Fraud Awareness and Prevention:**

#### Purpose:

It is in our own self-interest to be vigilant for signs of potential mortgage fraud. The costs of becoming drawn into a mortgage fraud investigation are substantial, and you personally may be drawn into an investigation. Regulators and Underwriters, as well as the general public, consider us to be a significant part of the process and system for minimizing mortgage fraud. Our law firm will not tolerate ANY deviation from standard closing procedures that would result in Mortgage fraud

#### Procedure:

- Adhere to all Underwriting Bulletins concerning Settlement Issues.
- Mortgage fraud has many moving pieces, but can include any of the following:
  - A person that knowingly, with the intent to defraud, does any of the following is guilty of the crime of residential mortgage fraud, punishable as provided in this section.
  - A person that makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact during the mortgage lending process.
  - A person that, during the mortgage lending process, makes or uses a false pretense, or uses or facilitates the use of another person's false pretense, concerning the person's intent to perform a future event or to have a future event performed.
  - A person that uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact during the mortgage lending process.
  - A person that receives or attempts to receive any proceeds or any other money in connection with the mortgage lending process that the person knows resulted from a violation.
  - A person that files or causes to be filed with the register of deeds of any county of this state any document involved in the mortgage lending process that the person knows to contain a deliberate material misstatement, misrepresentation, or omission.
  - A person that fails to disburse funds in accordance with the settlement or closing statement for the mortgage loan.
  - A person that solicits, encourages, or coerces another person to participate in any of the above activities.



## SAMPLE: Real Estate Closing Checklist

- Title Commitment
- Check the title exceptions and review with examiner if needed
- Survey ordered and received prior to closing
- Mortgage payoffs ordered or releases acquired for old mortgages on title
- Home Equity payoffs ordered, if applicable, need "Account Close" Letter to be signed off by Borrowers and delivered with the payoff check – if no payoff (zero balance) deliver "Close" Letter!
- Check transfer tax guide for your municipalities' requirements for transfer stamps
- Check on real estate tax payments
- Tax prorations computed for closing; real estate taxes, association fees, water, sewer
- Real estate broker commission and splits
- Amount of earnest money; brought to closing or retained by broker
- Power of Attorney
- Seller's documents for closing:
  - Deed (check vesting, spelling of names)
  - Affidavit of Title
  - Bill of Sale, if applicable
  - State and County Tax Revenue Declaration, if applicable
- Check for any city and county requirements
- If Condominium
  - Right of First Refusal
  - Paid HOA dues and assessment Letter
  - Certificate of Insurance transferred to new owner
- If Investment
  - Copies of Leases
  - Security Deposit Log
  - Letters to Tenants
  - Prorations of Rents and Security Deposits
- Buyers Documents for Closing
  - Drivers' license or acceptable form of I.D. from each buyer
  - Home Owners Insurance with paid receipt
  - Settlement Statement from sale of previous home, if applicable
- Closing confirmed with all parties
  - Buyer(s) – Borrower(s)
  - Seller(s)
  - Lender
  - Seller's attorney (if applicable)
  - Buyer's attorney (if applicable)
  - Listing Broker
  - Selling Broker



## SAMPLE: Documents for Recording

### DEEDS

- Address of NC attorney who prepared document
- Address to which to return document after recording
- Address of property
- Name and address of the Grantee for tax billing purposes
- Deed dated
- Legal description same as the title opinion, contract, commitment and survey
- Consideration recited & applicable excise tax stamps and transfer stamps (actual consideration should be used on an administrator's, executor's or guardian's deed)
- Notarized
- PIN# match the tax records
- Grantor residency statement

### GRANTOR - INDIVIDUALS

- Marital status stated?
- Does the grantor have the capacity to convey? *i.e.*, not a minor, incompetent or other legally disabled person
- If titleholder is married, spouse must sign to waive marital rights

### GRANTOR - PARTNERSHIPS

- Deed must recite the state in which the partnership was formed
- Verify name from partnership agreement (for general partnership)
- Verify name with Secretary of State records (for limited partnership)
- Verify partner(s) with the authority to sign the Deed – from the partnership agreement or, for limited partnership, from records filed with the Secretary of State
- Record Assumed Name Certificate
  - Terms of the Partnership Agreement
  - Copy of the Agreement
  - Copy of any Amendments, if any

### GRANTOR – CORPORATIONS

- Deed must state the state of incorporation
- Certified copy of the Corporate Resolution authorizing the conveyance of the property or the mortgage
- Corporate Articles and By-laws, to verify authority of officers for the transaction
- Verify name with Secretary of State records
- Certificate of Good Standing

### GRANTOR - RELIGIOUS ENTITIES

- How is title held? Do you know who is authorized to sign the Deed?
  - Non-Profit corporation? Review Secretary of State records
  - Trustees? Verify current trustees as of last election and authority for this transaction
  - Unincorporated nonprofit association? Assure recording of appropriate Certificate
- Review By-laws, denominational requirements (if any)
- Resolution passed by the members of the party in title authorized the conveyance
- Proper procedure: Form of notice, meeting, attendance/quorum, number of votes at election

### GRANTOR - LIMITED LIABILITY COMPANY

- Deed must recite the state in which the company was formed
- Certificate of Good Standing
- Articles of Organization
- List of managers or members from last filed Annual Report
- Certification that no event of dissolution has occurred



## SAMPLE WRITTEN POLICY: Settlement Policies & Procedures - Pricing Procedure

1. When rate change bulletins are issued according to the North Carolina Title Insurance Rating Bureau, the software provider (Softpro Corp., Ramquest, etc.) is contacted to confirm that they have been notified by the underwriter and will have the proper updates made to the software. Updates will be downloaded timely.
2. On each title order, commitment invoices are reviewed to assure correct fees are being charged for policy premiums, state specific fees, and endorsements.
3. Applicable rate discounts, such as Simultaneous Issue and Refinance Rates are calculated and charged when appropriate.
4. A written record of all rate calculations is kept in the file.

## SAMPLE WRITTEN POLICY: Settlement Policies & Procedures - Recording Procedure

1. Documents are submitted for recording to the proper office of the Register of Deeds prior to disbursement of funds, in compliance with the Good Funds Settlement Act and lender written closing instruction
2. We verify that recording actually took place and maintain recording information for each document in each file, as well as a separate log of all recordings.
3. When notice is received that a document has been rejected, the document is treated as a 'new closing' and all effort is made to resolve the problem and submit for re-recording immediately, prior to disbursement of funds. If a solution is not forthcoming, we consult with our underwriter and develop a strategy to mitigate immediately.



## SAMPLE: Simplified Recording Checklist

File Number:

Task	Notes	Date Completed
Document identified by name		
If Consideration is not recited on deed – show excise tax consideration and transfer tax (in applicable counties)		
Real Estate Transfer Valuation Affidavit listing consideration & attached to deed, where required		
Exemption clauses for revenue stamps & transfer taxes, if applicable		
NC Attorney Drafter/Preparer By Name/Address		
Return To Name/Address		
Document Dated date		
Grantor Name/Address		
Marital status of Grantor		
Joinder of spouse of Grantor, if any		
Grantee Name/Address		
Mortgagee/Assignee/Borrower Name Address		
Marital Status of Grantee		
a/k/a or f/k/a verbiage, if needed		
POA/Trust/Probate/Death Certificate Verbiage, if needed		
Trust/Corporate or other entity signature block/identification		
Legal Description (Proofed against title examination, commitment & closing instructions)		
Property tax ID number		
Exhibit/Rider indicated and/or attached (i.e. see attached Exhibit A)		
Grantor residency verification		
Signature(s) – match typed names beneath		
Name(s) printed under all signature(s)		
Notarized		
<ul style="list-style-type: none"> <li>• Notary County in which commissioned</li> </ul>		
<ul style="list-style-type: none"> <li>• State Referenced in Acknowledgement</li> </ul>		
<ul style="list-style-type: none"> <li>• Notary “Acting In” County</li> </ul>		
<ul style="list-style-type: none"> <li>• Notary Expiration Date</li> </ul>		
<ul style="list-style-type: none"> <li>• Individual/Company Name(s) in Notary Acknowledgement</li> </ul>		
<ul style="list-style-type: none"> <li>• Date in Acknowledgement</li> </ul>		
<ul style="list-style-type: none"> <li>• Printed Notary Name</li> </ul>		
Light ink or blurry Notary Stamp (will get kicked back unrecorded)		
Margins & font Sizes meet state requirements		
Printed ink color – black (ROD Requirements? Lender Requirements?)		
DOUBLE CHECK recording in proper county ROD that Property is located in!!!		



# 5 TITLE CERTIFICATION AND OBTAINING TITLE POLICY

Adopt and maintain written procedures related to submitting final title opinion, documents and premium to title insurer in order to obtain timely issuance of title insurance policies post-closing.

## Purpose

Appropriate procedures for the delivery of final title opinions, documents and premiums to the title insurer ensures attorneys meet their legal and contractual obligations under the lender's written closing instructions.

## What You Should Know

One issue lenders funding and selling loans have is primarily with the timely delivery of title policies and completion of post-closing requirements. Lenders are becoming more aware of the importance of the final policies and are enlisting the aid of title insurance underwriters to follow up on missing title insurance policies. Attorneys who are consistent offenders may notice a decrease in business from that lender.

## Title Examination and Certification

[Real Estate Lawyers Association of North Carolina Standards of Practice May 9, 2011](#)

Join the [NCBA Real Property Section](#).

Participate in seminars on both Real Property practice as well as Practice Management.

Don't just document your procedures, use this opportunity to review and revise your procedures. The more efficient and scalable your procedures are, the better you will be able to handle the ebbs and flows of title examinations and opinions without hiring and firing.

## Items to Consider and Discuss

- How close is your office to complying with the recommendation of delivering final opinions, documents and premium to title insurers in sufficient time for issuance of policies within 30 days post-closing? What needs to be addressed in the written procedures to incorporate into your day to day, weekly and monthly workflow to improve to meet that expectation?
- How do you track that information?
- Who is responsible for making sure the procedures are being adhered to?
- If you are falling short, what can you do to improve?
- How will you communicate the **adopted** written procedures to your employees?
- Establish training to ensure compliance to affected employees. Document employee training.
- Develop a written process (see attached sample) to outline how to implement the written policy based on day to day operations/workflow.
- Establish law firm internal monitoring process to ensure ongoing compliance in the workflow.
- Title examination standards and ongoing CLE and CPE.



# Resources:

[reRequire Release Tracking](#)

5029 Corporate Woods Drive, Suite 225

Virginia Beach, VA 23462

Direct 757.615.8880

[gorequire.com](http://gorequire.com)



## Procedures to meet this best practice:

- Title policy production and delivery.
  - Title insurance policies are issued and delivered to customers in a timely manner to meet statutory, regulatory or contractual obligations.
    - Issue and deliver policies within thirty days of the later of (i) the date of Settlement, or (ii) the date that the terms and conditions of title insurance commitment are satisfied.
- Premium reporting and remittance.
  - Title insurance policies are reported and premiums are remitted to the underwriter in a timely manner to meet statutory, regulatory or contractual obligations.
    - Report policies (including a copy of the policy) to underwriter by the last day of the month following the month in which the insured transaction was settled.
    - Remit premiums to underwriter by the last day of the month following the month in which the insured transaction was settled.



See [ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE](#) (later in this handbook)



# Sample Title Policy Production Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Final title opinions, documents and premium are delivered to the title insurer in sufficient time to facilitate issuance of the title insurance policies to lenders in a timely manner to meet statutory, regulatory and contractual obligations.	<ul style="list-style-type: none"> <li>Establish a written procedure for issuance and delivery of final title opinions, documents and premium to the title insurer immediately after closing</li> <li>Issue and deliver policies within 30 days of settlement if terms and conditions of title insurance commitment have been satisfied</li> <li>Develop process to track delivery of policies to insureds</li> </ul>			
Title examination standards and ongoing CLE	Attend regular CLE, especially on newly developing matters Join <a href="#">NC Bar Association Real Property Section</a> , regularly read newsletters, attend CLE, review listserv posts Participate in local real property CLE and legal groups to assure maintaining most current information and practice standards			



## SAMPLE WRITTEN POLICY: Title Policy Delivery; Reporting & Premium Remittance

- A. Policy Delivery to Insured Parties: While our goal is to deliver policies to our customers within thirty days of a closing performed by us, provided that all of the terms and conditions of the title insurance commitment have been satisfied, title policies are generally delivered to customers no later than by the end of the first full month after the closing.
- Final title opinions are generally drafted and submitted to the title insurer for policies to be issued after the closing documents and necessary releases are recorded.
  - For closings and disbursements made by us, the policy may be issued to the customer prior to receipt of the release, if waiting for the release to be recorded will cause the policy issuance to be delayed beyond the time frame above.
  - For closings and disbursements not performed by us, the policy will be issued when all necessary documentation is of record. We follow up on the status of these transactions every 60 days.
- B. Policy Reporting: For closings performed by us, final title opinions, documents and premium will be submitted to the title insurer no later than by the end of the first full month after the closing.
- C. Payment of Premiums: Title premiums will be paid no later than the end of the first full month after the closing.
- D. Premium accounts for funds owed to underwriters: We maintain premiums owed to our title insurers in our separate real estate trust account [discussed in Best Practice #2 above].



## SAMPLE WRITTEN POLICY: Title Policy Production and File Maintenance

- A. Title insurance searches and exams will be made in accordance with the standards of practice of real estate law in North Carolina, and with title insurers' underwriting requirements, including any state or federal applicable requirements. Each policy issued in reliance on our title certifications or opinions is issued upon a determination of insurability of title by the title insurer which includes, but may not be limited to:
  - (i) a search from earliest public records or in accordance with applicable state law and/or the title insurer's commitment requirements and written instructions; and
  - (ii) an examination of all documents affecting title to the subject property.
- B. Each title opinion and transaction documents are prepared and maintained in a separate title file that contains all documents upon which we relied to make our determination of marketability, including, but not limited to: affidavits, maps, plats, lien waivers, surveys, title reports, searches, examinations, and abstracts, together with a copy of each commitment, policy, endorsement and other title assurance issued.
- C. We maintain a separate closing file for each transaction, with closing file containing, without limitation; closing statements, disbursement worksheets, copies of all checks disbursed and receipted, deposit slips, escrow agreements and any other instruments or documents executed or created at Closing. We generally keep both the title and closing files for each property together in one physical folder or electronic filing system that allows tracking and future review.
- D. The title and closing files are preserved in accordance with applicable State document retention requirements, or in the case of a legal hold order, in accordance with the order.
- E. In the event that we destroy or disseminate the files for any reason, we shall maintain and protect any confidential or private information contained in such files in accordance with the North Carolina State Bar Revised Rules of Professional Conduct and applicable State and Federal law.
- F. When claims are filed and the underwriter requests a copy of the file in question, or when files are requested for other reasons, we promptly search for and provide the requested documentation, upon request of a client in the transaction (lender or owner). These include
  - i. all documents received by closing attorney in which the client is a party to any administrative and/or judicial proceedings;
  - ii. all written complaints or inquiries made to any regulatory agency regarding transactions involving title insurance policies, endorsements, commitments or other title assurances of a particular title insurer;
  - iii. any information alleging a claim involving a policy, commitment, endorsement or other title assurance of a title insurer or a transaction for which a title insurer may be liable; and
  - iv. all original documentation and work papers associated with the transaction or conduct giving rise to any examination, claim or complaint.





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for the production, delivery and remittance of title insurance policies.

Step	Description	When Completed
<input type="checkbox"/> Develop a procedure for delivery of policies to insureds	Title insurance policies are issued and delivered to customers in a timely manner to meet statutory, regulatory or contractual obligations.	
<input type="checkbox"/> Develop mechanism to track when insureds receive policies	Issue and deliver policies within 30 days of settlement if terms and conditions of title insurance commitment have been satisfied.	
<input type="checkbox"/> Transmit title policy data and policy images to underwriter using a standard format as part of an integrated process to avoid rekeying and errors  <input type="checkbox"/> Remit premiums from trust or premium accounts to underwriter by the last day of the month following the month in which the insured transaction was settled  <input type="checkbox"/> Confirm receipt of policy data and premiums with underwriter	Title insurance policies are reported and premiums are remitted to the underwriter in a timely manner to meet statutory, regulatory or contractual obligations.	

*This information is not a substitute for legal advice, is for your reference only, and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice, and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.*

Go to [www.alta.org/bestpractices](http://www.alta.org/bestpractices) for more information.



# 6 INSURANCE

Maintain appropriate professional liability insurance and fidelity coverage.

## Purpose

Appropriate levels of professional liability (errors and omissions insurance) ensure that attorneys have the financial capacity to stand behind their professional services. In addition, lenders may require a law firm to maintain fidelity bond and surety bond policies with prescribed minimum amounts of coverage.

## What You Should Know

Malpractice insurance provides coverage for the attorney in the event of negligence in performing their professional duties.

Fidelity Policy may be desirable. Consider:

1. Protection against theft from operating or trust accounts by either law firm employees and/or other attorneys.
2. Protection against computer fraud including hacking. Ensure that coverage does not lapse. This could cause you to lose retroactive coverage!

Make the coverages part of a comprehensive lender presentation package.

An expanded coverage Escrow Security Fidelity Bond (ESB) may include provisions for crime insurance including:

- Loss caused directly by a third-party hacker who fraudulently enters data or changes data elements and authorizes wire transfers from a trust account.
- Loss caused by the theft or embezzlement of lenders' funds by employees.
- Loss caused as a result of the closing attorney's liability to Chicago Title under a closing protection letter or a title policy as a result of the theft of settlement funds by an employee, partner, sole proprietor, shareholder, member or director.
- Loss caused by the dishonest or fraudulent acts of employees, including embezzlement, larceny, payroll and accounts payable/receivable fraud, and theft of incoming checks.

## Items to Consider and Discuss

- How do you track your insurance expiration dates and who is responsible for that?
- What does your E&O or professional liability (malpractice) policy define as a claim?
- Are your independent contractors also insured?
- Have you verified your title insurer and state requirements?
- What are your coverage dates? What about for potential claims prior to your current policy?
- Do you have enough coverage? Do you need to increase you coverage?
- Do your title insurance underwriters have a copy of your current policy?
- Any agency offering a truly comprehensive package will not only provide protection from a number of potentially business killing threats, but will provide an opportunity for the insured to also market these coverages to current and potential customers.
- Does your policy cover owners and corporate officers?
- Do you have protection from computer fraud, including third party account hacking?



# Resources

Malpractice carriers: Lawyers Mutual, Zurich, CNA, and others



## Procedures to meet this best practice:

- The Company maintains professional liability insurance or errors and omissions insurance.
- The Company complies with requirements for professional liability insurance, errors and omissions insurance, fidelity coverage or surety bonds, as provided by state law or title insurance underwriting agreements.



See **ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE** (later in this handbook)



# Sample Insurance Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Adequate coverage of attorneys and firm for professional liability or errors & omissions insurance coverage	<ul style="list-style-type: none"> <li>Obtain professional liability policy covering the risks from certifying title and handling closings</li> <li>If you rely upon independent searchers, verify they obtain a policy covering searching errors and that your policy covers searching errors from these sources</li> <li>Respond thoroughly to questions concerning title search procedures, closing services, transaction volume, revenue and number of employees</li> <li>Ensure policy covers the risks created by your law firm's size, services and procedures</li> <li>Provide evidence of the coverage and subsequent renewals to your underwriter(s) and lender(s)</li> </ul>			
Adequate coverage of firm for errors & omissions by employees and independent contractors	<ul style="list-style-type: none"> <li>Consider E&amp;O coverage for risks from certifying title and handling closings</li> <li>If you rely upon independent searchers, verify they have a policy covering searching errors which they provide</li> </ul>			
Adequate coverage of firm for fidelity bond coverage	<ul style="list-style-type: none"> <li>Consider fidelity bond coverage</li> <li>Provide evidence of the coverage and subsequent renewals to your underwriter(s)</li> </ul>			
Adequate coverage of firm for surety bond coverage	<ul style="list-style-type: none"> <li>Consider surety bond coverage</li> <li>Provide evidence of the coverage and subsequent renewals to your underwriter(s)</li> </ul>			





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on best practices for maintaining appropriate professional liability insurance and fidelity coverage.

Step	Description	When Completed
<input type="checkbox"/> Explain to an insurance broker that you require an E&O policy covering the risks inherent in your business mix or model <input type="checkbox"/> Secure an E&O policy covering the risks from the taking of an order through policy issuance <input type="checkbox"/> If you rely upon independent searchers, verify your broker obtains a policy covering searching errors from these sources <input type="checkbox"/> Respond thoroughly to questions concerning title search procedures, closing services, transaction volume, revenue and number of employees <input type="checkbox"/> Ensure policy covers the risks created by your title agency's size, services and procedures and avoid "off-the-shelf" policies	Obtain an amount of professional liability insurance that is acceptable to your underwriter, given the company's size, complexity and scope of operations in an amount not less than agreed to in your underwriting agreement(s).	
<input type="checkbox"/> Determine if fidelity coverage is required by state law or contractual obligations <input type="checkbox"/> Contact an insurance broker and get the necessary coverage	Obtain the required amount of fidelity bond coverage from a carrier that is acceptable to your underwriter. If not required, obtain coverage given the company's size and scope of operations.	
<input type="checkbox"/> Determine if surety coverage is required by state law or contractual obligations <input type="checkbox"/> Determine if your underwriter for the transaction carries an agent surety bond	Obtain the required amount of surety bond coverage from a carrier that is acceptable to your underwriter. If not required, appropriate amount of surety coverage from a carrier that is acceptable to the underwriter.	

*This information is not a substitute for legal advice, is for your reference only, and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice, and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.*



## SAMPLE WRITTEN POLICY: Professional Liability and Fidelity Coverage Policy

### 1. Professional liability or errors and omissions insurance

The company maintains professional liability insurance in the amount of no less than \$\_\_\_\_\_. This amount is appropriate given the company's size and complexity and the nature and scope of its operations; the amount is not less than the amount agreed to in the company's underwriting agreement(s).

The insurance carrier is nationally known and has appropriate Best ratings.

Coverage's / Endorsements are reviewed annually and are added or subtracted to reflect current changes in the practices of the industry and to reflect new threats to our business as they arise, such as cybercrime.

### 2. Fidelity bond coverage (Protection against employee dishonesty)

The company maintains a fidelity bond policy in an amount of not less than \$\_\_\_\_\_. The company reviews both State law and our Issuing Agency Contracts to verify that our coverage meets or exceeds their respective requirements. This coverage is carried even if State law or our Issuing Agency Contract does not require it from time-to-time as conditions or laws change.

### 3. Surety coverage, Closing Protection Letters (Protection for consumers against closing disbursement issues). For Example:

(Alternate A) In some states, state law requires us to offer closing protection coverage to buyers, sellers, and lenders. We encourage buyers, sellers, and lenders to purchase those products and maintain a signed disclosure form in our files evidencing our compliance with state law in connection with those.

(Alternate B) Also as required by state law, the company possesses surety bond coverage for closings where title insurance is not being purchased. Coverage is in the greater of the \$250,000 or state mandated amount.

(Alternate C) Alternatively, the company ensures that the Closing Protection Letter coverage, where mandated by statute, is issued in connection with the disbursement or that a statutory indemnity fund is established to cover fidelity losses not otherwise covered by the protections afforded by the underwriter.



# 7 CONSUMER COMPLAINTS

Adopt and maintain procedures for resolving consumer complaints.

## Purpose

A process for receiving and addressing consumer complaints is important to ensure that any instances of poor service or non-compliance do not go undiscovered.

## What You Should Know

The CFPB bulletin issued in April 2012 addresses the need for lenders to manage their third party service providers to limit the potential for statutory or regulatory violations and related consumer harm.

Closing attorneys are encouraged to establish internal controls and monitoring of their interaction with clients with an eye to compliance with consumer laws, including a process to take prompt action to address fully any problems identified. Creating and maintaining a formal complaints procedure demonstrates a commitment to reducing risks to consumers.

## Items to Consider and Discuss

- Who will be responsible for handling complaints?
- What kind of training can you provide to equip your employees to handle clients and client complaints?
- How can you track and monitor client complaints to assure that you are notified and they are appropriately handled?
- How can you use complaints as a tool to improve your law firm?





## Procedures to meet this best practice:

- Consumer complaint intake, documentation and tracking.
  - Standard procedures for logging and resolving consumer complaints helps ensure consumers provide the company with sufficient information to understand the nature and scope of the complaint.
    - Develop a standard consumer complaint form that identifies information that connects the complaint to a specific transaction.
    - Set a single point of contact for consumer complaints.
    - Establish procedures for forwarding complaints to appropriate personnel.
    - Maintain a log of consumer complaints that includes whether and how the complaint was resolved.



See **ALTA ASSESSMENT PROCEDURE ON THIS BEST PRACTICE** (later in this handbook)



# Sample Consumer Complaints Checklist

This sample is designed to help you develop the plans and procedures which demonstrate that your law firm meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

ISSUE	ACTIONS	NOTES	PERSON RESPONSIBLE	DATE COMPLETED
Consumer Complaint Coordinator	<ul style="list-style-type: none"> <li>Select a key person on staff to be responsible for overseeing client complaint process</li> <li>Person should have experience with client relations as well as industry experience in order to understand nature of any complaints</li> </ul>			
Established written procedures for handling client complaints	<ul style="list-style-type: none"> <li>Employee training on handling client complaints</li> <li>Include acceptable response time frames</li> </ul>			
Maintain log of consumer complaints	<ul style="list-style-type: none"> <li>Create an electronic or paper file to record consumer complaints</li> <li>Document the contact (call, email), the concern and any necessary follow up</li> </ul>			

## SAMPLE WRITTEN POLICY: Summary of Procedure

Action	Timeframe
Customer complaint received	
Complaint intake form is filled out	By the end of the day
Complaint intake form delivered to Complaint Coordinator	By the end of the day
Customer is contacted for acknowledgment of receipt of complaint and/or to obtain additional information	By the end of the second day
Status update is made to the consumer If the complaint is not resolvable within 3 additional business days.	By the end of the 5 <sup>th</sup> business day
Status update every 3 <sup>rd</sup> business day thereafter.	By the end of the 8 <sup>th</sup> business day and subsequent days until the complaint is resolved.
Complaint intake form is completed and a copy is either uploaded to server or kept in a separate file along with others	At resolution of the complaint.



# Sample Consumer Complaints Procedure

## General Procedure

- All employees need to be sensitive to the idea that consumers may make a complaint in a variety of ways, including phone calls, voice mail, email, or regular mail.
- If you see or hear something that looks or sounds like a complaint, fill out the Complaint Intake Form (attached). Attach a copy of the email printout or letter, or notes from the voice mail, to the Complaint Intake Form. Deliver it to the Complaint Coordinator (Ms. ABC) as soon as possible, but in no event later than at the end of the day.
- Complaint Coordinator maintains the Complaint Log (see attached) and will either handle the resolution of the complaint directly or ask the attorney or firm manager to resolve the complaint. The attorney or firm manager will contact the client by the end of the second business day to acknowledge receipt of the complaint and update the client with the status, such as ‘just started looking into it’ or ‘we’ve resolved it by...’
- Further, upon receipt of a complaint, Complaint Coordinator will investigate to determine the validity of the complaint, any mitigating factors, and the best solution. The determination of the best solution may involve others in the office.
- The goal will be to resolve the complaint within 3 business days, but if not able to be resolved by then, to provide the client with an update on what is happening and when a result is expected.

## Record Keeping and Reporting

Copies of all materials, such as the initial complaint, the Complaint Intake Form, etc. should either be put in an individual file folder or scanned to the server in an electronic file folder.

## Follow Up Meeting

On a monthly basis, Complaint Coordinator will make a brief presentation to the Staff about the complaints received. The purpose is to keep the Staff informed and to provide an opportunity for suggestions on how to avoid similar complaints in the future. If there are repeated complaints on the same subject, consider additional training in this area for all staff.



# Sample Complaint Intake Form

This sample is designed to help you develop the plans and procedures which demonstrate that your business meets or exceeds the ALTA Best Practices. It is intended to be used as a starting point and should be customized to suit the specific needs of your law firm.

CLIENT INFORMATION	
Name of Client	
Phone#	
Address	
Email	
COMPLAINT INFORMATION	
Date Received	
Details (Attach extra sheets if necessary)	
CLIENT CONTACT 1 INFORMATION	
Date & Time	
Notes	
CLIENT CONTACT 2 INFORMATION	
Date & Time	
Notes	
RESOLUTION INFORMATION	
Date & Time	
Resolution	
Date & Time Uploaded/Copied	
Signature	Printed Name





## Title Insurance and Settlement Company Best Practices Checklist

ALTA is creating checklists to help you begin the process of gauging where your company stands in meeting the Best Practices. The checklists are meant to be an internal document and should be used as a tool to help organize your efforts to meet the Best Practices. Here, we focus on the best practices of adopting and maintaining procedures for resolving consumer complaints.

Step	Description	When Completed
<input type="checkbox"/> Point person for consumer complaints	Identify a key person on staff responsible for handling customer complaints. This person should have experience with customer relations as well as industry experience in order to understand nature of any complaints.	
<input type="checkbox"/> Document complaint-handling process	Create an electronic or paper file to document company's process of handling customer complaints	
<input type="checkbox"/> Maintain log of consumer complaints	Create an electronic or paper file to record consumer complaints. Document the call, the concern and any necessary follow up.	

*This information is not a substitute for legal advice, is for your reference only, and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice, and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.*

Go to [www.alta.org/bestpractices](http://www.alta.org/bestpractices) for more information.



ALTA Best Practices Framework:

# Assessment Procedures

*Version 2.0*

*Published July 19, 2013*



*This information is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice, and you should consult legal counsel and subject-matter experts to determine the appropriate policies, procedures and strategies applicable to your office or organization. For more information about the ALTA Title Insurance and Settlement Company Best Practices, please visit [www.alta.org](http://www.alta.org).*

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## ALTA Best Practices Framework

The ALTA Best Practices Framework has been developed to assist lenders in satisfying their responsibility to manage third party vendors. The ALTA Best Practices Framework is comprised of the following documentation needed by a company electing to implement such a program.

- ALTA Best Practices Framework: Title Insurance and Settlement Company Best Practices
- ALTA Best Practices Framework: Assessment Procedures
- ALTA Best Practices Framework: Certification Package (Package includes 3 Parts)

### Version History and Notes

Date	Version	Notes
7/19/2013	2.0	Publication of the ALTA Best Practices Framework: Assessment Procedures, along with other documents in the ALTA Best Practices Framework, as approved by the ALTA Board on July 19, 2013. This is the first publication of the ALTA Best Practices Framework: Assessment Procedures.



## Please Note

### Capitalized Terms:

- Capitalized Terms appearing in both these Assessment Procedures and the ALTA Title Insurance Settlement Company Best Practices (Best Practices) shall have the meanings set forth in the Best Practices document.

### Documentation Guidelines:

- Detailed notes or documentation copies should be maintained for a minimum of five (5) years to support testing performed and testing exceptions for each procedure.

### Testing Guidelines:

- Where possible, the same file sample may be used throughout the assessment to test multiple attributes.

### Not Applicable (NA):

- Some of the Assessment Procedures will not be applicable to some agencies due to laws, regulations, or business model.

### Assessment Procedures Marked with an Asterisk (\*)

- Many of the Assessment Procedure Numbers are followed by an Asterisk (\*). This indicates that a particular Assessment Procedure is a requirement and that a FAIL on that particular Assessment Procedure results in a FAIL for that Best Practice.



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 1:</b></p> <p><b>Establish and maintain current License(s) as required to conduct the business of title insurance and settlement services.</b></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 1 FAILS.</b></p>
1.01*	<p>Confirm the active status of the Company and/or individual Licenses/registrations for each state in which the Company conducts business. Validate compliance with ALTA Policy Forms Licensing Requirement. Documentation reviewed may include actual licenses, Department of Insurance or appropriate state regulatory agency websites/screenshots, Bar Association status, corporate or business registrations with the state and other documentation as applicable to state/license.</p> <p>Sample Selection:</p> <ul style="list-style-type: none"> <li>◆ 100% of all required licenses and corporate registrations in all states in which Company operates on assessment date.</li> <li>◆ View Company's active ALTA Policy Forms License or verify compliance on ALTA website.</li> </ul>	<p>PASS / FAIL</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 2:</b></p> <p><b>Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.</b></p> <p><i>Note: These procedures apply to all custodial or fiduciary accounts including closing and disbursement accounts, recording and tax accounts, construction disbursing accounts, underwriter remittance/premium accounts and other similar accounts.</i></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 2 FAILS.</b></p>
2.01*	<p>Obtain Company's written procedures and controls for Escrow Trust Accounts, hiring and training, and, at a minimum, verify all sections of ALTA Best Practice 2 are included.</p>	<p>PASS / FAIL / NA</p> <p>If no written procedures, Procedure 2.01 FAILS.</p>
2.02*	<p>Obtain a complete listing, certified by Company, of ALL open (active and inactive; escrow and non-escrow) bank accounts and authorized signers/ wire initiators and approvers on the accounts.</p> <p>Sample Selection:            Select a minimum sample of 5 or 10%, whichever is greater, of authorized signers on Escrow Trust Accounts (maximum of 25). If total population is less than 5, select 100%. Perform the following:</p> <ol style="list-style-type: none"> <li>a. Compare against the active listing of employees to verify all signers, wire initiators and approvers are actively employed.</li> <li>b. If signatory stamps are being used to sign escrow checks, test to confirm only authorized signers have access to the stamp.</li> <li>c. Obtain evidence (invoice/documentation in personnel files, etc.) that 5 year Background Checks were conducted upon hiring or within the past 3 years.</li> <li>d. Verify compliance with the Company's process for training employees on management of escrow funds and Escrow Trust Accounts.</li> </ol>	<p>PASS / FAIL / NA</p> <p>If any exception is noted for any sub-procedure, Procedure 2.02 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
2.03*	<p>Obtain two month end Three-Way Reconciliations for each escrow or trust account and perform the following:  <i>Note: Three Way Reconciliation documentation at a minimum includes bank statement, reconciliation sheet/summary page with book balance, outstanding deposits list/deposits-in-transit, open escrow file listing or trial balance and outstanding disbursements list, all as of the reconciliation date. All amounts should equal between the book balance, reconciled bank balance and trial balance.</i></p> <p>Definition of Significant items:</p> <ul style="list-style-type: none"> <li>◆ Individual transactions/file balances over \$10,000 over 10 days old.</li> <li>◆ Aggregate transactions over \$10,000 for shortages.</li> <li>◆ Outstanding checks depending on payee as noted in sub-procedure 2.03.k in excess of \$5,000 over 180 days old, mortgage payoffs over 10 days old.</li> </ul> <p>Definition of Active versus Inactive/Dormant Accounts:</p> <ul style="list-style-type: none"> <li>◆ Active Account - Used for current transactions.</li> <li>◆ Inactive/Dormant Account <ul style="list-style-type: none"> <li>▪ No new incoming funds into account.</li> <li>▪ No disbursements related to new closings from account.</li> <li>▪ No activity through account in last six months (dormant).</li> </ul> </li> </ul> <p>Sample Selection:</p> <ul style="list-style-type: none"> <li>◆ Two months reconciliations for ALL Escrow Trust Accounts (also maintain for documentation).</li> <li>◆ For a Company performing more than 100 transactions per month, perform sub-procedures 2.03.a through 2.03.f for all accounts for at least one of the two months.</li> </ul>	<p><b><u>Active Accounts</u></b></p> <p>If any individual sub-procedure FAILS for any account, Procedure 2.03 FAILS.</p> <p><b><u>Inactive/Dormant Accounts</u></b></p> <p>If sub-procedure 2.03.g FAILS, Procedure 2.03 FAILS; otherwise, revert to Active Account criteria for PASS/FAIL.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p>a. Verify that reconciliations were completed monthly and within 10 business days of the closing date of the bank statement.</p> <p>b. Verify that daily and monthly reconciliations are prepared independently by someone not associated with the receipt and disbursement function.</p> <p>c. Verify that reconciliations are reviewed and signed off by management or a supervisor.</p> <p>d. Verify that reconciliations, bank statements and supporting documentation are accessible electronically by the Company's contracted underwriters.</p> <p>e. Determine whether accounts are in balance, contain all supporting reports, and that a proper three-way reconciliation is being produced. The book balance, reconciled bank balance and trial balance should be in agreement.</p> <p>f. Verify that the bank statements and account related documentation for each Escrow Trust Account is clearly labeled by the bank as an Escrow Trust Account and that the escrow checks and deposit tickets/records clearly identify the associated file numbers.</p> <p>g. Verify that for inactive/dormant accounts, senior management approval is required for any disbursement of funds.</p> <p>Sample Selection:</p> <ul style="list-style-type: none"> <li>◆ For a Company performing 100 or more transactions per month, the following additional procedures must be performed on a sample of accounts representing at least 50% of the total number of accounts.</li> <li>◆ For a Company performing fewer than 100 transactions per month, the following procedures must be performed on 100% of the total number of accounts.</li> </ul> <p>h. Agree opening bank and book balances to ending balance on prior month's</p>	



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p>reconciliation or differences are identified.</p> <ul style="list-style-type: none"> <li>i. Review bank statement activity noting bank charges, insufficient funds charges, negative daily balances, investigate and confirm resolution. Verify that all bank charges are funded by the Company's operating account within 30 days from reconciliation.</li> <li>j. Test significant outstanding deposits listed on the most current reconciliation, investigate and verify resolution.</li> <li>k. Determine Company's process for follow up on outstanding checks. Verify clearing or adherence to follow-up process for significant outstanding checks including but not limited to checks to recording clerk, tax collector, hazard insurance checks, underwriter checks or checks for mortgage payoffs and any other high risk items.</li> <li>l. Review the Trial Balance and test significant file shortages, dormant funds (significant file balances over 180 days), and significant miscellaneous files to verify documentation of their status and that shortages were funded within 5 days of completion of reconciliation.</li> <li>m. Review and test adjustments (reconciling items) needed to bring the account in balance and verify their validity.</li> <li>n. Verify that the Company is not comingling fiduciary funds, including underwriter premium, with operating funds.</li> <li>o. From a review of cancelled checks or disbursement registers, select a sample, maximum of 25, and test checks, if any, that may require further review, such as checks going back into escrow, paid to cash or employees, transferred between accounts, suspicious payees, multiple checks to the same payees, and any other questionable disbursement. These disbursements should be agreed to a closing file and settlement statement.</li> <li>p. Select a sample of three days within the assessment period for the escrow</li> </ul>	



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	funding/settlement/disbursement accounts and verify closing attorney is performing, at a minimum, a daily reconciliation of the receipts and disbursements.	
2.04*	Select a minimum of 5 or 10% of all interest bearing escrow or trust accounts, whichever is greater, (maximum of 25). If total population is less than 5, select 100%. Verify that the Company maintains records/documentation supporting activity for interest bearing (customer investment) escrow accounts.	<p>PASS / FAIL / NA</p> <p>If 25% or more of items tested FAIL, Procedure 2.04 FAILS</p> <p>If NA, PASS</p>
2.05*	For ALL Escrow Trust Accounts, determine whether the Escrow Trust Accounts are maintained at Federally Insured Financial Institutions unless directed by the beneficial owner.	PASS / FAIL
2.06*	<p>Sample Selection:</p> <p>Select a sample of 5 files or 100% of closed files, whichever is less, during the assessment period and perform the following:</p> <ol style="list-style-type: none"> <li>a. Compare the settlement statement and file ledger and investigate differences. Review closed file for supporting documentation for disbursements over \$1,000 listed on the settlement statement. Investigate any unsupported disbursements.</li> <li>b. Verify disbursement and receipt dates and amount on the file ledger with the bank statement or copies of cleared checks, to determine timely clearance. Verify funds were received/ deposited prior to disbursement.</li> <li>c. For outgoing wire transfers, verify compliance with Company's policy for initiation and approval.</li> </ol>	<p>PASS / FAIL / NA</p> <p>If 20% or more of items tested for any sub-procedure FAIL Procedure 2.06 FAILS.</p> <p>If NA, PASS</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
2.07*	For accounts reviewed in Assessment Procedure 2.03, verify that the Company utilizes Positive Pay or Reverse Positive Pay, ACH and international wire blocks, if available in Company's marketplace, to protect against unauthorized transactions. Review bank documentation such as monthly account analysis statement or bank positive pay entitlement documentation.	PASS / FAIL / NA  If NA, PASS



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 3.</b></p> <p><b>Adopt and maintain a written privacy and information security plan to protect Non-public Personal Information as required by local, state and federal law.</b></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 3 FAILS.</b></p>
3.01*	<p>Obtain the Company's information security program/policy to protect its Non-public Personal Information and verify that the program/policy is reviewed and updated at least annually, as necessary.</p>	<p>PASS / FAIL</p> <p>If no written procedures, Procedure 3.01 FAILS.</p>
3.02*	<p>Select a sample of 25 employees who have access to Non-public Personal Information (or 100% if fewer than 25 employees). Obtain evidence that they were trained in the Company's information security program/policy to protect Non-public Personal Information.</p>	<p>PASS / FAIL</p> <p>If 20% or more of items tested FAIL, Procedure 3.02 FAILS</p>
3.03*	<p>Obtain the Information Security Risk Assessment, including the risk ranking of information systems.</p> <p>Review the Company's process for assessing risk to its customer information and verify that it includes the following:</p> <ul style="list-style-type: none"> <li>a. Locations, systems, and methods for storing, processing, transmitting, and disposing of its customer information.</li> <li>b. Potential internal and external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of Non-public Personal Information or customer information systems and assessments of the likelihood and potential damage to the Company and its customers of these threats.</li> </ul>	<p>PASS / FAIL</p> <p>If no written Information Security Risk Assessment, Procedure 3.03 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
3.04*	<p>Verify that key controls, systems and procedures of the information security program are regularly tested by qualified independent staff in accordance with the risk assessment.</p> <p>Specifically, review that the following are included in the testing:</p> <ul style="list-style-type: none"> <li>a. Management’s documented approach for testing the information security program and evidence of testing.</li> <li>b. Frequency of testing of the information security program.</li> <li>c. Documentation of approach for tracking and remediating exceptions and/or control gaps.</li> </ul>	PASS / FAIL
3.05*	<p>Verify employees are required to complete an acceptable use of information technology assets agreement at least annually (e.g., acceptable use of the Internet, email, and Company information resources). For the sample of employees tested in Assessment Procedure 3.02 above, review the signed Acceptable Use Policy.</p>	<p>PASS / FAIL</p> <p>If 20% or more of items tested FAIL, Procedure 3.05 FAILS</p>
3.06*	<p>Obtain and review written policies and procedures to verify logical access to information systems (i.e., network, data base, and application layers) containing Non-public Personal Information is restricted to authorized persons only.</p>	<p>PASS / FAIL</p> <p>If no written procedures, Procedure 3.06 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
3.07*	<ul style="list-style-type: none"> <li>a. For the sample of employees tested in Assessment Procedure 3.02 above, test the user access provisioning process to determine if access is approved in accordance with policy prior to granting.               <ul style="list-style-type: none"> <li>o Obtain evidence (invoice/documentation in personnel files, etc.) that 5 year Background Checks were conducted upon hiring or within the past 3 years.</li> </ul> </li> <li>b. Select a sample of 5 terminated employees or 100% if less than 5 within the assessment period.               <ul style="list-style-type: none"> <li>o Verify the user access de-provisioning process to determine if access for terminated employees was removed per policy.</li> </ul> </li> <li>c. Verify administrative access rights (i.e., ability to add, modify and remove user access) to systems containing Non-public Personal Information are not assigned to personnel performing business transactions within the system.</li> <li>d. Verify access review is being performed by management at least annually to confirm that only required employees have access to customer information or customer information systems necessary to perform job functions.</li> <li>e. Verify that logical access controls (e.g., unique User ID's, complex passwords, etc.) to the network and information systems containing Non-public Personal Information are in place.               <ul style="list-style-type: none"> <li>o Obtain listing of user ID's for systems with Non-public Personal Information. Verify ID's are unique and assigned to specific users.</li> <li>o Test password configuration controls in accordance with policy.</li> </ul> </li> </ul>	<p>If 20% of sub-procedures 3.07.a or 3.07.b FAIL, the sub-procedure FAILS</p> <p>If sub-procedure 3.07.c, 3.07.d, or 3.07.e FAIL, the applicable sub-procedure FAILS</p> <p style="text-align: center;"><u>Overall</u></p> <p>If any individual sub-procedure FAILS, Procedure 3.07 FAILS</p>
3.08*	<ul style="list-style-type: none"> <li>a. Review documented policies regarding the use of removable media (e.g., restricting the use of USB ports, CD/DVD writable drives, etc.).</li> <li>b. Obtain evidence of system configuration settings demonstrating the restriction of removable media in accordance to policy.</li> </ul>	<p>PASS / FAIL</p> <p>If sub-procedure 3.08.b FAILS, Procedure 3.08 FAILS.</p> <p>If sub-procedure 3.08.a FAILS, but 3.08.b PASSES, then Procedure 3.08 PASSES.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
3.09*	Inquire of management to determine if the Company: <ul style="list-style-type: none"> <li>a. Provides encryption of electronically transmitted or stored Non-public Personal Information.</li> <li>b. Can provide evidence of system configuration settings demonstrating the use of encryption.</li> </ul>	PASS / FAIL  If sub-procedure 3.09.b FAILS, Procedure 3.09 FAILS.  If 3.09.a FAILS, but 3.09.b PASSES, then Procedure 3.09 PASSES
3.10*	<ul style="list-style-type: none"> <li>a. Obtain and review documented procedures for monitoring, detecting attacks/intrusions into customer information systems, and responding to incidences. If monitoring of external threats has been outsourced, obtain evidence of reporting and subsequent management review.</li> <li>b. Obtain a sample of 5 or 10%, whichever is greater, of notifications of security alerts (maximum of 25) and verify management's follow-up activity.</li> <li>c. Obtain and review documented procedures for security breach notification, including evidence of program review at least annually.</li> </ul>	PASS / FAIL  If no written procedures, Procedure 3.10 FAILS.  If any individual sub-procedure FAILS, Procedure 3.10 FAILS.
3.11*	<ul style="list-style-type: none"> <li>a. Verify access to physical locations containing customer information, such as buildings, computer facilities and record storage facilities, is limited to authorized personnel only. Inspect physical locations to verify that they are secured and access is limited to authorized personnel.</li> <li>b. Obtain and review the Clean Desk Policy and verify compliance through inspection.</li> </ul>	PASS / FAIL  If any individual sub-procedure FAILS, Procedure 3.11 FAILS.



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
3.12*	<p>a. Obtain and review change management procedures when technology and business function changes are made.</p> <p>b. Verify procedures are in place to determine that systems modifications (hardware and software) are consistent with the approved security program. Specifically, test a sample of 5 or 10%, whichever is greater (maximum 25) of hardware or software changes to verify that they are documented, tested and approved.</p>	<p>PASS / FAIL</p> <p>If sub-procedure 3.12.b FAILS, Procedure 3.12 FAILS.</p> <p>If sub-procedure 3.12.a FAILS, but 3.12.b PASSES, then Procedure 3.12 PASSES</p>
3.13*	<p>Obtain management's procedure for data and system backup and business resumption to protect against destruction, loss, or damage of information from potential environmental hazards, such as fire and water damage or technological failures.</p>	<p>PASS / FAIL</p>
3.14*	<p>Determine whether the Company provides Non-public Personal Information to any other party or whether any other party has access to Non-public Personal Information through service provided directly to the Company.</p> <p>a. Verify and obtain evidence that Company conducted due diligence in selecting its service providers and taking information security into consideration.</p> <p>b. Verify that Company has controls to monitor security procedures of service providers to safeguard customer information (i.e. review the results of audits, security reviews or tests, intrusion logs, or other evaluations).</p>	<p>PASS / FAIL</p> <p>If any individual sub-procedure FAILS, Procedure 3.14 FAILS.</p>
3.15*	<p>Verify whether Company provides Privacy Policy to customers. Obtain and inspect evidence of notification using the same sample as in Assessment Procedure 2.06 above.</p>	<p>PASS / FAIL</p> <p>If 20% or more of items tested FAIL, Procedure 3.15 FAILS</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
3.16*	<p>Determine through inquiry of management whether the Company maintains a website. If so, inspect the Company's website and verify the following:</p> <ul style="list-style-type: none"> <li>a. The website includes a privacy statement.</li> <li>b. The website's privacy statement accurately discloses what Non-public Personal Information is obtained on the site.</li> </ul>	<p>PASS / FAIL</p> <p>If any individual sub-procedure FAILS, Procedure 3.16 FAILS.</p>
3.17*	<ul style="list-style-type: none"> <li>a. Obtain and inspect policies and procedures over record retention and disposal. Verify procedures are in place for disposal of Non-public Personal Information.</li> <li>b. If document/electronic media disposal services are provided by a third party, obtain evidence of the contract agreement/SLA and a recent document disposal certificate from the vendor.</li> </ul>	<p>PASS / FAIL</p> <p>If any individual sub-procedure FAILS, Procedure 3.17 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 4</b></p> <p><b>Adopt standard real estate settlement procedures and policies that help ensure compliance with Federal and State Consumer Financial Laws as applicable to the Settlement process.</b></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 4 FAILS.</b></p>
4.01*	<p>Obtain and/or document Company's written procedures to maintain compliance with established rates and legal and contractual requirements for recording documents.</p>	<p>PASS / FAIL / NA</p> <p>If no written procedures, Procedure 4.01 FAILS.</p>
<p>Sample Selection</p> <p>Instructions for</p> <p>Next Two Assessment Procedures</p>	<p>Sample Selection for Assessment Procedures 4.02 and 4.03:</p> <p>Based on Company's process (centralized versus decentralized), select sample as follows:</p> <p>Centralized:</p> <ul style="list-style-type: none"> <li>• 25 files or 100% of last 3 months of closed files, whichever is less.</li> </ul> <p>Decentralized:</p> <ul style="list-style-type: none"> <li>• At least 1 file per state in which Company writes (a minimum of 25 files in total) or 100% of last 3 months of closed files, whichever is less.</li> </ul>	



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
4.02*	<p>For sample selected as noted above, confirm the following:</p> <ul style="list-style-type: none"> <li>a. Documents were submitted or shipped for recording to the county recorder (or equivalent) or the person or entity responsible for recording within two (2) business days of the later of (i) date of Settlement, or (ii) receipt by the Company if Settlement is not performed by the Company. Documents are tracked and recording information retained.</li> <li>b. If recording was rejected, item was addressed within two (2) business days of receipt of the rejected documents. Documents and corrective actions, including resubmission, are tracked. In no instance should resubmission take more than 30 days.</li> </ul>	<p>PASS / FAIL</p> <p>If 25% or more of items tested for any sub-procedure FAIL or any one file takes more than 30 days to be submitted/shipped/resubmitted, Procedure 4.02 FAILS.</p>
4.03*	<p>For sample selected as noted above, perform the following:</p> <ul style="list-style-type: none"> <li>a. Test compliance with current filed or promulgated rates, endorsements, and/or rates established by the Company's title insurance underwriter(s) or rating bureau in each state, and where overpayments occurred, verify that refunds are issued upon discovery.</li> <li>b. Ensure discounted/reissue rates are calculated and charged when appropriate.</li> <li>c. Test transactions to determine whether non-title insurance rates for services provided by the Company agree with the Company's established rates.</li> <li>d. Document the Company's quality review process to ensure compliance with underwriter and/or agent established rates as determined by state law and where overpayment occurred, that refunds are issued upon discovery.</li> </ul>	<p>PASS / FAIL</p> <p>If 10% or more of items tested for any sub-procedure FAIL, Procedure 4.03 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 5</b></p> <p><b>Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.</b></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 5 FAILS.</b></p>
5.01*	<p>Obtain Company's written procedures and controls for title policy production, delivery, reporting and premium, and, at a minimum, ensure all sections of ALTA Best Practice 5 are included.</p>	<p>PASS / FAIL / NA</p> <p>If no written procedures, Procedure 5.01 FAILS.</p>
5.02*	<p>Using the sample selected above for Assessment Procedures 4.02 and 4.03, perform the following:</p> <ol style="list-style-type: none"> <li>a. Verify title insurance policies are issued and delivered to customer within 30 days of Settlement if terms and conditions of title insurance commitment have been satisfied.</li> <li>b. If terms and conditions of title insurance commitment were not satisfied at Settlement, verify policy was sent within 30 days from the date on which all terms and conditions of commitment were satisfied.</li> <li>c. Compile a list of the sample selected and provide to applicable underwriter for written confirmation of receipt of policy, accuracy of premium remitted including split, in accordance with the Company's agency contract, and date when premium was received.</li> <li>d. The correct portion of the premium collected was remitted to the underwriter by the last day of the month following the month in which the insured transaction was settled.</li> </ol>	<p>PASS / FAIL</p> <p>If 10% or more of items tested for any sub-procedure FAIL, Procedure 5.02 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 6</b></p> <p><b>Maintain appropriate professional liability insurance and fidelity coverage.</b></p>	<p><b><i>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 6 FAILS.</i></b></p>
6.01*	<ul style="list-style-type: none"> <li>a. Obtain a list of the Company's current professional liability insurance, errors and omissions insurance, fidelity insurance policies and surety bonds including coverage amounts and expiration dates. Verify accuracy of the list by comparison to policy declaration pages.</li> <li>b. Verify that Company maintains professional liability insurance or errors and omissions insurance.</li> <li>c. Obtain written confirmation from each underwriter regarding the acceptability of the coverage and that the coverage is in accordance with the Company's underwriting agreement(s).</li> <li>d. If coverage is required by state law, verify that coverage meets minimum requirements for each state in which the Company is licensed.</li> </ul>	<p>PASS / FAIL / NA</p> <p>If any exception is noted for any sub-procedure, Procedure 6.01 FAILS.</p>



Assessment Procedure Number	ALTA Best Practices Framework: Assessment Procedures	Assessment Recap
	<p><b>ALTA Best Practice 7</b></p> <p><b>Adopt and maintain written procedures for resolving consumer complaints.</b></p>	<p><b>Overall Assessment Recap: If any individual procedure marked with an asterisk FAILS, Best Practice 7 FAILS.</b></p>
7.01*	<p>Obtain written policies and procedures for tracking and resolving consumer complaints. Verify that the following are included:</p> <ul style="list-style-type: none"> <li>a. A standard complaint form is utilized that identifies information that connects the complaint to a specific transaction and provides information to understand the nature and scope of the complaint.</li> <li>b. A single point of contact and/or department has been established for consumer complaints.</li> <li>c. Procedures have been established for forwarding complaints to appropriate personnel.</li> <li>d. A written log of consumer complaints is maintained that includes whether resolution is necessary and how resolved.</li> </ul>	<p>PASS / FAIL</p> <p>If no written procedures or written procedures do not include all sub-procedures, Procedure 7.01 FAILS.</p>
7.02*	<p>Obtain the consumer complaints log for a period of 1 year immediately preceding the assessment and verify that the Company followed the procedural guidelines for addressing complaints.</p> <p>Sample Selection:</p> <p>Select 25% of the complaints. The sample should contain a minimum of 3 and a maximum of 25.</p>	<p>PASS / FAIL</p> <p>If 10% or more of items tested FAIL, Procedure 7.02 FAILS.</p>



ALTA Best Practices Framework:

# Certification Package

**Version 2.0**  
**Published July 19, 2013**



## ALTA Best Practices Framework

The ALTA Best Practices Framework has been developed to assist lenders in satisfying their responsibility to manage third party vendors. The ALTA Best Practices Framework is comprised of the following documentation needed by a company electing to implement such a program.

- ALTA Best Practices Framework: Title Insurance and Settlement Company Best Practices
- ALTA Best Practices Framework: Assessment Procedures
- ALTA Best Practices Framework: Certification Package (Package includes 3 Parts)

### Version History and Notes

Date	Version	Notes
7/19/2013	2.0	Publication of the ALTA Best Practices Framework: Certification Package, along with other documents in the ALTA Best Practices Framework, as approved by the ALTA Board on July 19, 2013. This is the first publication of the ALTA Best Practices Framework: Certification Package.

### Certification Package Overview

The Certification Package is comprised of a Cover Page and 3 Parts. These documents should be prepared and either posted or delivered in the following order:

- Certification Package
  - Certification Package Cover Page
  - Agency Letter (Part 1)
  - Best Practices Certificate (Part 2)
  - Declarations Page (Part 3)

This certification package is issued in accordance with the ALTA Best Practices Framework, which includes the ALTA Title Insurance and Settlement Company Best Practices, Assessment Procedures, and Certification Package. The Framework is published and available at <http://www.ALTA.org/bestpractices>.



American Land Title Association

Certification Package  
ALTA Best Practices Framework

Agency: ACME Title Agency, Inc.

This Certification Package contains this cover page and three parts, as follows:

- Part 1: Agency Letter
- Part 2: Best Practices Certificate
- Part 3: Declarations Page



ALTA Best Practices Framework: Certification Package  
Agency Letter (Part 1)

**[Instructions: Print on Company letterhead and update references to “Company” to actual Company name]**

Date: **[Insert Date]**

Subject: ALTA Best Practices Framework Dated July 19, 2013.

We are providing this letter in connection with the ALTA Best Practices Framework (“Framework”) dated July 19, 2013. We intend that it be considered by any consumer, mortgage originator or mortgage servicer doing business with our company during the 24-month period following the date of this letter.

“**Company**” has implemented the ALTA Title Insurance and Settlement Company Best Practices (“Best Practices”) dated July 19, 2013, listed in the attached ALTA Best Practices Certificate. As of the date of this letter, we comply with the Best Practices in all material respects.

We represent that, during the 24 month period commencing on the date of this letter, we will remain in material compliance with each of the Best Practices.

Attached to this letter, please find (i) an ALTA Best Practices Certificate issued to us pursuant to the Framework, and (ii) a copy of the current Declarations Page for our errors and omissions or professional liability insurance.

Sincerely,

\_\_\_\_\_, President

“**Company**”



## **Certificate**

Issued to:

**ACME Title Agency, Inc.** “the Company”

**Blank Company** performed the assessment procedures enumerated in the ALTA Best Practices Framework: Assessment Procedures dated July 19, 2013 (“Procedures”). These Procedures were agreed to by the Company to assist it in evaluating compliance with the ALTA Title Insurance and Settlement Company Best Practices, dated July 19, 2013 (“Best Practices”), as of \_\_\_\_\_.

Procedures executed related to the following ALTA Best Practices:

- 1. Licensing
- 2. Escrow Accounting Procedures
- 4. Settlement Procedures
- 5. Title Policy Production & Delivery
- 6. Professional Liability Insurance Coverage
- 7. Consumer Complaints
  
- 3. Privacy and Information Security

Our performance of such Procedures rendered a resulting grade of:

**PASS**

The scope of our engagement was limited to performance of the Procedures. We neither express an opinion regarding (i) the sufficiency of the Procedures for any particular purpose, nor (ii) compliance with the Best Practices.

This certificate is intended solely for the use of the Company. It is not intended to be relied upon by anyone other than the Company itself. Use of or reference to this certificate other than by the Company is at the user’s sole responsibility and risk.

**Blank Company**

By: \_\_\_\_\_  
Authorized Signatory



**[Insert Copy of Errors and Omissions or  
Professional Liability Declaration Page]**

