

ILTA Hot Topics State Convention May 2, 2015

Best Practices

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.

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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.

SEVEN PILLARS:

1. Establish and maintain current License(s) as required to conduct the business of title insurance and settlement services.
2. Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.
3. **Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.**
4. 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.
5. Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.
6. Maintain appropriate professional liability insurance and fidelity coverage.
7. Adopt and maintain written procedures for resolving consumer complaints.

ALTA Best Practice: 3: 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.

ALTA Definition of NPPI:

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.**

I've heard a lot about the ALTA Best Practices so....

- If I don't do closings, why should I care about the CFPB and ALTA Best Practices?
- Doesn't the ALTA provide the necessary resources for compliance?
- What is important from the CFPB and August 1, 2015?*

*It is the effective date for the new TILA-RESPA rule and includes two new disclosure forms to be part of the closing process: Loan Estimate (replaces Good Faith Estimate) and the Closing Disclosure (replaces the Settlement Statement). And, implementation of the three-day rule that consumers must receive a final Closing Disclosure three days before the closing date.

Iowa Title Guaranty and Best Practices:

- Steps Taken
- e-Faxing
- Requirements of Members
- Timeframe for Implementation
- Training

Closings and Best Practices:

- 3 Days prior to closing:
- Consumer must sign HUD- unless the document is emailed or mailed to the buyer/borrower – then the limit is 6 days in advance.
- Absolutely no changes can be made to the HUD-1 in this time window from delivery to closing. If a change is needed the time window starts over.
- Basically things that got “left out” by certain parties will just not be on the HUD, and will be paid outside closing instead. Example: septic systems.

Cyber Best Practices:

- Employee education regarding security practices
- Large data
- Cyber liability insurance
- General insurance
- Large highly publicized security breaches

Procedures to meet ALTA Best Practice 3 - Create Checklist and Table of Contents:

- Physical security of Non-public Personal Information.
 - Restrict access to Non-public Personal Information to authorized employees who have undergone Background Checks at hiring.
(One resource: www.iowaCriminalHistory.iowa.gov)
 - 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.

Procedures to meet Best Practice 3 - create a Checklist and Table of Contents (cont):

- 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.

- **Identify Your Risks**
- **Create Policies and Procedures Notebook:
PUT IT IN WRITING!**
- **Create Your Own Business Domain Email
Account and Address**
- **Train Your Employees**

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