



# Title Talk

[www.CorporateTitle.com](http://www.CorporateTitle.com)

**"Making You Look Good is Our #1 Priority"**

January-February 2009 Edition

## WHAT'S NEW AT CORPORATE TITLE

Our new Florida office (2<sup>nd</sup> location) is up and running (and definitely warmer than our Michigan locations right now)! The address is:

**Gateway Title & Abstract Co.**

6719 Winkler Road, Ste. 216

Fort Myers, FL 33919

Phone: 239-415-9200

Fax: 239-437-2200

Renee Grandon is the new manager of our Petoskey office. Congratulations, Renee!

Janine Vargo is the new Office Manager, and Sara Burkholder a new Closing Officer and Billye Dulyea our new Title Examiner at our Greenville office. All of the ladies are experienced title insurance professionals and are a wonderful asset to our Greenville branch.

Please stop by to welcome them if you are in their area.

## Did you know?

Jerome Jelinek, Esq., owner, is a former president of the Michigan Land Title Association (MLTA) and is currently serving on the legislative committee for the MLTA. Doug McFarlane, Executive Vice-President of Corporate Title Agency is the President-Elect for the MLTA. Moreover, our on-staff attorneys consistently update and educate the staff on all of the latest changes, requirements, legislation, case law, etc... affecting our industry. Our owners and staff stay informed and educated to better serve your needs. You can be confident you are dealing with competent, knowledgeable professionals when you work with Corporate Title Agency.

## Market News

RESPA has issued its final rule with regard to its RESPA reform (a 341 page document). Many of the new requirements set forth under said Rule become mandatory January 1, 2010, although there are a few aspects which became mandatory January 16, 2009, including average rule charges

(what we can charge the customer for items/services for which we pay a 3<sup>rd</sup> party). The ultimate goal of the reform is to provide the consumer with better disclosure, more accurate fees, and a clearer method of setting forth all charges involved in a mortgage transaction in order

to encourage consumers to shop for loans by making it easier to compare loans from different lenders and the fees quoted on the Good Faith Estimate with the actual fees paid as reflected on the HUD-1/1A, settlement statement.

## Condominium News

Condominium Loans: With many lenders already casting a wary eye on condo loans because of their default rate, Fannie Mae will be adding a fee of .75 percent of the loan amount of a 30-year fixed mortgage, for borrowers who put down 25 percent of the purchase price or less, effective April 1, 2009. For example, for a condo priced at \$290,000, with a mortgage of \$230,000, if Fannie Mae will be purchasing the loan from your lender, it will assess the buyer an additional \$1,725.00.



**Corporate Title Agency** has many Michigan branch offices to serve you—  
Traverse City,  
Benzonia,  
Suttons Bay,  
Elk Rapids,  
Charlevoix,  
Petoskey,  
Harbor Springs,  
Gaylord,  
Bellaire,  
Mt. Pleasant,  
Big Rapids,  
Greenville, and  
Grayling and 2 Florida branches which service all of Florida.

Providing Stability  
in a Changing  
Market-

Corporate  
Title Agency



## Real Estate Transfer Tax Act:

Governor Granholm recently signed **PA 473 of 2008** into law, relative to an expansion of the State Real Estate Transfer Tax Act, which has attempted to close a “loophole” in transfer tax avoidance. The law states that transfer tax shall be collected upon the transfer or acquisition of a controlling interest in any entity if the real property owned by the entity comprises 90% or more of the entity’s fair market value. (Controlling interest means more than 80% of total stock value of a corporation or more than 80% interest in capital/profits of a partnership, LLC or other unincorporated form of doing business; or more than 80% interest in a beneficial trust. It does NOT include: a transfer between a corporation and its stockholders or creditors; between a partnership and its partners, an LLC and its members or a trust and its beneficiaries or when the transfer is to effect a dissolution and the real property is being transferred to the individual stockholders, members, partners, beneficiaries or creditors; a transfer between an LLC and its members, a partnership and its partners if the ownership interests were held by the same people and in the same proportion as in the entity before the transfer; a transfer if the transfer of the property would have qualified for an exemption if it had been accomplished by a deed between the people who were parties to the transfer; and a transfer in connection with a reorganization of an entity if the beneficial ownership does not change.

## Appraisal legislation:

There have been several recently passed Public Acts relative to real estate appraisals:

1) **2008 PA 531:** Makes it a misdemeanor for a licensed appraiser, in violation of Real Estate Appraiser Standard (Article 26), to develop and communicate an appraisal used as an investment or as collateral for a loan in a real estate-related financial transaction, by developing and communicating that appraisal as a result of the client’s or intended user’s doing either or both of the following:

A) setting preconditions on the outcome of the appraisal as a prerequisite for being selected to develop and communicate an appraisal or for obtaining future appraisal work;

B) representing or implying that payment for the development and communication of the appraisal was based on attaining a desired minimum appraisal value.

2) **2008 PA 530: Secondary Mortgage Act:** Makes it a misdemeanor for a person to willfully or intentionally coerce or induce a real estate appraiser to inflate the value of real property used a collateral for a secondary mortgage loan;

3) **2008 PA 529: Mortgage Brokers, Lenders and Servicers Licensing Act:** Makes it a misdemeanor for a person willfully or intentionally to coerce or induce a real estate appraiser to inflate the value of real property used as collateral for a mortgage loan.

## Fraudulent legal documents:

Last session, Rep. Tobocman introduced legislation in order to speed the reinstatement of title to someone whose deed was forged. Jerome Jelinek was the lead on this for the MLTA and handled negotiations that improved the language to the satisfaction of MLTA. The bill was signed into law by the Governor and is **PA 378 of 2008**. The Act provides not only for possible conviction for a felony (up to 14 years), but for the circuit court to enter an order indicating that the fraudulent document is invalid and require a copy of the invalid document and a certified copy of the Order to be recorded at the Register of Deeds for the county in which the property lies, OR reference to the liber and page of the fraudulent document (if it had been previously recorded) in the Order which is then recorded. The Register of Deeds must also make reference to the liber and page of the fraudulent/invalid document in the index of the recorded documents.

## Mortgage Foreclosures/Condominium Association Liens:

In **Oakbrook Condominium Association v Hubbell and Midfirst Bank**, an Oakland County Circuit Court case, the court determined that a mortgage assignment was actually a “conveyance” to an assignee/purchaser of the mortgage interest. Further, the priority that a mortgage has over a subsequently recorded condominium association lien only extends to the original mortgagee, not to its assignee. This could have a significant implication on a mortgage foreclosure. For example, if a mortgage to lender “A” is recorded in 2000, a condominium lien is recorded in 2001, lender A then assigns its mortgage to assignee B in 2002, and assignee B later forecloses, the condominium lien recorded in 2001 has priority over that foreclosed mortgage and is not extinguished by the foreclosure.

## Recording Act Amended. In PA 357 of 2008 and PA 358 of 2008,

Michigan has revised its recording act to eliminate entry books, but has requested that the register maintain a general index of instruments accepted for recording after the instruments have met the recording requirements; to post a general index date; to note the date, time and hour an instrument is delivered for recording once the recording requirements have been met; and to provide public access to instruments during what was termed the “gap period” (the date between the Register of Deeds receiving the instrument that has met the recording requirements and the date it is entered into the general index). Many underwriters were taking on a significant risk by insuring transactions without being able to research the gap period, resulting in a multitude of claims, particularly in the Metro Detroit Area. This legislation was designed to reduce significant fraud and losses arising from legitimate and fraudulent documents being recorded in this gap period.



**Maura A. Snabes, Esq.,**  
**CES, Underwriting Counsel**  
**Phone: (231) 547-5220/802 Bridge St., Charlevoix, MI 49720**  
**e-mail:**  
[msnabes@corporatetitle.com](mailto:msnabes@corporatetitle.com)

**Friendly Reminder:**  
If you change your e-mail address, please let us know so that we can ensure that you receive our e-mails and newsletters in a timely manner.  
Thank you!

This Newsletter may be construed as an advertisement as defined in Public Law 108-187. A recipient of this Newsletter may decline to receive future messages by making such a request to the above e-mailed address.

