



*A Division of Ohio Bar Title Insurance Company  
A First American Company*

# TITLE ALERT

**Title Alert 2014-12**

**October 30, 2014**

**Recording Requirements**

**Purpose:** This Title Alert will set forth the Company's policy relating to the timely recordation of closing documents for Approved Attorneys in regard to Consumer Real Estate Transactions (as defined below). Procedures must be established in each office promoting compliance with this policy.

**Background:**

**American Land Title Association:** The American Land Title Association ("ALTA") published its Title Insurance and Settlement Company Best Practices ("ALTA Best Practices") on July 19, 2013, to guide its members in the mortgage lending and real estate settlement industry ("Industry") on best practices to protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. While these best practices are voluntary and designed to help those in the Industry, Penn Attorneys/Ohio Bar Title Insurance Company intends to follow the ALTA Best Practices.

**Failure to Timely Record or to Record at All:** The timely recording of closing documents is crucial to the title insurance underwriting process. Until the closing documents are properly recorded, we are exposed to claims for intervening liens, transfers, and the potential that our insured transaction could be set aside by a bankruptcy trustee. This has become a significant area of claims for the Company. These claims result from either the failure to timely record closing documents or, worse, the failure to record the closing documents at all.

**Standard:** In any Consumer Real Estate Transaction, you must submit or ship documents for recording to the county recorder (or equivalent), or to the person or entity responsible for recording, within two (2) business days of the later of (i) the date of Settlement (as defined below), or (ii) receipt of the documents by the Approved Attorney if the Settlement is not performed by the Approved Attorney.

For purposes of this Standard, a Consumer Real Estate Transaction is any real estate transaction involving 1-4 family residential real property in which a Penn Attorneys/Ohio Bar Title Insurance Company title insurance policy or guarantee is being issued.

The ALTA Best Practices define "Settlement" as follows: 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.

If a state has a more stringent requirement to record within a specified time period, that requirement must be met and is not replaced by this Standard.

While the provisions of this Standard apply specifically to Consumer Real Estate Transactions, the Company continues to require the prompt and timely recording of documents consistent with prudent underwriting practices in connection with other types of transactions.

**Rejection of Documents:** If documents in a Consumer Real Estate Transaction are rejected for recording, the rejected item(s) must be reviewed to determine the corrective action required for recording within two (2) business days of receipt of the rejected documents. Documents and corrective actions, including resubmission, must be tracked. All documents must be resubmitted for recording within thirty (30) days.

**Underwriting and Claims Department Notification:** In the event the parties to a Consumer Real Estate Transaction who signed the documents are unwilling to cooperate in the document correction efforts or the documents cannot be amended and re-presented to the recorder within this (30) day period, then as soon as a potential problem in getting the documents resubmitted for recording within the 30 day period becomes known, the Approved Attorney must notify us in writing, so that advice may be given regarding the appropriate course of action to mitigate the Company's risks. In any event, if a document has not been resubmitted for recording within the 30 day period, the Approved Attorney must submit the matter to Penn Attorneys/Ohio Bar Title Insurance Company by email at [erie@pennattorneys.com](mailto:erie@pennattorneys.com).

If you have any questions, please feel free to contact us.

Note: Under the Approved Attorney system, the scope of our relationship is limited to the functions of underwriting and the issuance of title insurance policies on your behalf and does not include closing or escrow services. We sometimes provide information and recommendations with regard to your closing or escrow business as a courtesy to you. Moreover, some communications, depending on whether noncompliance could impact on liability under our policies or closing protection letters, should be considered directives. This Advisory is being provided to you with those considerations in mind.

**WARNING: This Underwriting Communication is intended solely for the employees of Penn Attorneys/Ohio Bar Title Insurance Company and its Approved Attorneys, and is not to be distributed to third parties, and any reliance by any other person or entity is unauthorized. This Underwriting Communication is intended solely for the purpose of underwriting policies of Ohio Bar Title Insurance Company.**

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