



NATIONAL  
MEETING  
SPRING 2023

LOUISVILLE

*Our Meeting Will Begin Shortly*

# WELCOME TO THE TITLE INSURANCE (C) TASK FORCE

## VIRTUAL ATTENDEES

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Date: 3/15/23

*2023 Spring National Meeting*  
*Louisville, Kentucky*

**TITLE INSURANCE (C) TASK FORCE**

Thursday, March 23, 2023

3:45 – 5:00 p.m.

**ROLL CALL**

Eric Dunning, Chair	Nebraska	Troy Downing	Montana
Kevin Gaffney, Vice Chair	Vermont	Jennifer Catechis	New Mexico
Mark Fowler	Alabama	Mike Causey	North Carolina
Karima M. Woods	District of Columbia	Judith L. French	Ohio
Michael Yaworsky	Florida	Glen Mulready	Oklahoma
Doug Ommen	Iowa	Michael Humphreys	Pennsylvania
Vicki Schmidt	Kansas	Elizabeth Kelleher Dwyer	Rhode Island
James J. Donelon	Louisiana	Michael Wise	South Carolina
Kathleen A. Birrane	Maryland	Larry D. Deiter	South Dakota
Grace Arnold	Minnesota	Scott A. White	Virginia

NAIC Support Staff: Anne Obersteadt/Aaron Brandenburg

**AGENDA**

1. Adopt Fall National Meeting Minutes—*Eric Dunning (Nebraska)* Attachment One
2. Discuss the Task Force’s Charge to Open Model 628—*Eric Dunning (Nebraska)*
3. Hear an Update on Requested Information from Votxtur—*Eric Dunning (Nebraska)*
4. Hear a Presentation on United Wholesale Mortgage’s Alternative to the Traditional Lender Title Process and FANNIE MAE’s Pilot Program on Title Insurance Requirements —*Steve Gottheim (American Land Title Association—ALTA)* Attachment Two
5. Discuss if Additional Questions Should be Added to the *Survey of State Insurance Laws Regarding Title Data and Title Matters* before it is Distributed for Update —*Eric Dunning (Nebraska)* Attachment Three
6. Any Other Matters

# Consider Adoption of its Fall National Meeting Minutes

—*Eric Dunning (NE)*

## Draft Pending Adoption

Draft: 12/22/22

Title Insurance (C) Task Force  
Tampa, Florida  
December 14, 2022

The Title Insurance (C) Task Force met in Tampa, FL, Dec. 14, 2022. The following Task Force members participated: Eric Dunning, Chair, and Connie Van Slyke (NE); Kevin Gaffney, Vice Chair (VT); Michael Conway represented by Peg Brown (CO); David Altmaier represented by Anoush Brangaccio (FL); Colin M. Hayashida represented by Samuel Thomsen (HI); Vicki Schmidt represented by Julie Holmes (KS); James J. Donelon represented by Chuck Meyers (LA); Kathleen A. Birrane represented by Mary Kwei (MD); Chlora Lindley-Myers represented by Marjorie Thompson (MO); Mike Causey represented by Angela Hatchell (NC); Judith L. French represented by Maureen Motter (OH); Glen Mulready represented by Holly Mills (OK); Michael Humphreys represented by Michael McKenney (PA); Elizabeth Kelleher Dwyer represented by Patrick Smock (RI); Michael Wise represented by Melissa Manning (SC); and Scott A. White represented by Don Beatty (VA). Also participating was: Tom Zuppan (AZ).

### 1. Adopted its Oct. 24 Minutes

The Task Force conducted an e-vote that concluded on Oct. 24 to adopt its 2023 proposed charges.

Gaffney made a motion, seconded by Smock, to adopt the Task Force's Oct. 24 minutes (Attachment One). The motion passed unanimously.

### 2. Heard a Presentation on New Title Insurance-Like Alternatives that Use AOLs Backed by an Enhanced Errors and Omissions Policy Through the Surplus Lines Market

According to Stacy Mestayer (Voxtur), Voxtur is a licensed title and escrow agent in over 30 states. It has been working in this space for over 20 years. Title insurance costs have doubled in the last 15 years, despite advances in property data collection and technology. The Voxtur Attorney Opinion Letter (AOL) product is not the same AOL of the past. It is a viable alternative to title insurance, as it offers the same basic benefits and protection. The use of standardized letter templates and processes produced in the same manner as title insurance offer consistency that was not available with traditional AOLs. Technology allows these new AOLs to be produced at scale, minimizing attorney time and costs. The Voxtur AOL also offers the same insurance coverage, beyond the traditional professional liability for the attorney. The Voxtur AOL is a viable alternative that has the potential to meaningfully benefit consumers.

According to Mestayer, various comparisons that have been circulated since the Federal National Mortgage Association (FNMA) announced its acceptance of AOLs are based on limited information and do not apply to all versions of the AOL. One version of the AOL alternative product that has been used in comparisons was created by a lender and is being used internally at the lender's business. This product's property restrictions do not apply to all the properties that the Voxtur AOL would apply to and is only available in certain states. It also offers no owner's coverage, has no fraud protection, and is more expensive. In contrast, the Voxtur AOL is available in all 50 states; has a flat fee; offers a closing protection letter (CPL); and offers protection to the lender, investor, and consumer for the life of the loan through an insurance wrapper.

According to Mestayer, an AOL can be used in refinance transactions. Voxtur offers both lender's and owner's coverage in the same way as title insurance with appropriate insurance backing. Unlike some other AOLs, the coverage can follow the loan into the secondary market for the life of the loan. If there is no owner's coverage, it is not likely that a bar will obtain its own insurance coverage, as most do not understand it. This creates a serious risk for homeowners. The attorneys issuing the opinions are regulated by the state bar association, and the

## Draft Pending Adoption

underlying carriers who are producing the liability coverage are regulated by the insurance department of each state. With the insurance wrapper, there is no gap in coverage between the Voxtur AOL and title insurance, because the Voxtur AOL coverage extends through recording. When an AOL is produced using the same rails as title insurance—i.e., the same data, examination, and processes—the results are the same in that if something is missed, it is covered. Title insurance typically includes exceptions to coverage that exempt matters not shown in the public records from coverage. The claims process for an AOL is quicker and simpler than the title claims process. All Voxtur's carriers are AM Best rated multiline carriers that are accustomed to paying claims. The Greenberg Traurig LLP comparison analysis of Voxtur's AOL and title insurance that has been circulated does not use the Voxtur AOL.

According to Mestayer, there is often a disincentive for title insurers to pay claims, which is why the claims are pushed to the agents who get most of the premiums. It is the title agents' errors and omissions insurance that covers them in many cases. In states where title rates are promulgated, the Voxtur AOL can save the consumer 20–70%. In other states with inexpensive title insurance, the Voxtur AOL may not be competitive.

Beatty said if he were to go to his local county courthouse and see that someone else filed a lean on his property and the title company missed it, the title company has a contractual obligation to defend the title. With the Voxtur AOL, there could be a claim against the lawyer, but it will be passed off to an insurance company. The insurance company does not have a contractual relationship with him, but rather a duty to defend the lawyer. With title insurance, a complaint can be filed with the department of insurance (DOI). The company is subject to the *Unfair Claim Settlement Practices Act* (#900), and the issue is often resolved without having to go to court. The AOL insurance wrapper is a surplus lines product, so the DOI cannot help the consumer and does not approve the policy form, which could have provisions of limited liability. Beatty asked about how the Voxtur AOL places the consumer in a better legal position if an issue occurs. He also asked if the attorney would be able to raise its rates for opinion letters in response to title claims.

According to Ms. Mestayer, Voxtur's policies are issued as master policies, where the lender, service provider, and borrower are insured under the policy, so they have the property of contract with the insurer and can file a claim directly. Those policies are subject to review by state insurance departments because the insurers are regulated. However, if the carrier is a surplus lines company, it limits the insurance department's role. The insurer would pay the claims, so it should not affect the attorney's premium, as it is a claims-based policy. Voxtur partners with several title service providers to offer this solution under their own names but using the Voxtur platform. These title service providers license the platform, and Voxtur caps what they can charge. Voxtur partners with several other title service providers to offer this solution. A surplus lines broker places the insurance.

Gaffney said Voxtur's rates are not regulated and filed. He asked for an example of how the flat fee works.

According to Mestayer, Voxtur uses a tiered fee structure. For example, refinance transactions are \$495 in every state and include the insurance wrapper. For purchase transactions, the fee is \$695–\$995 based on the purchase price.

Meyers asked which insurance companies are issuing the coverage and how fraud is protected.

Chris Mallon (Voxtur) replied that Hallmark Insurance is the insurer. According to him, the CPL includes the same protections against fraud that would be seen in a CPL issued with title insurance. Borrower fraud is covered in the master policy that wraps around the letter.

Brangaccio said surplus lines carriers only write in lines where there is no admitted coverage in Florida. He asked what Voxtur's operations are in Florida, given Florida's stipulation that the surplus lines market cannot compete

## Draft Pending Adoption

with the admitted market if it is available in the admitted market. He also asked if Voxtur's forms have a prominent notice that they do not participate in the guarantee fund.

Mestayer replied she would take this information back to Voxtur's carrier. Voxtur has had discussions with a couple other states that the coverage is positioned as errors and omissions insurance rather than title insurance.

Gaffney said only Texas and Maryland have guarantee funds for title insurance.

Smock said title insurers are subject to statutory oversight in Rhode Island. Copies of forms, insurance policies, and CPLs are filed with the DOI. Title insurers are also expected to notify the insurance department immediately if they or their title agents are subject to any enforcement action. Smock asked what the oversight process is for Voxtur's AOL and if it knows how the carrier is reserving.

According to Mestayer, Voxtur has a network of contracted attorneys that are vetted through an automatic electronic process before being onboarded. Vetting includes annually verifying the attorneys' credentials, standing, resumes, and licensure. Anyone who has an expired license will be temporarily locked out of the system and unable to complete their letters. Only law firms are onboarded, then the firms' attorneys are separately onboarded. This ensures that the law firms are also in good standing. Voxtur is required by all its client contracts to notify any client if their attorney has an enforcement action. The carriers have not shared their reserving methods.

Zuppan said title companies in Arizona are required to provide access to a title plan. He asked how this operates with Voxtur.

According to Mestayer, Voxtur pulls title data from various sources for refinances and produces a decisioning report based on the data. For purchases, it has access to abstracts, pulls property data and voluntary lean data from various sources, and examines it with the same process that would occur to issue a title insurance policy.

Hatchell asked for clarification on whether FNMA and U.S. Department of Veterans Affairs (VA) accept AOLs.

According to Mestayer, that is correct. The FNMA issued a release in April stating that it would accept AOLs as alternatives to title insurance. Voxtur worked closely with the FNMA and the Federal Home Loan Mortgage Corporation (FHLMC) before this to ensure that they were comfortable with its program. Several aggregators have also looked at the program. The Federal Home Loan Bank (FHLB) also approved of it in its guidelines.

Birny Birnbaum (Center for Economic Justice—CEJ) said the title industry has made tremendous progress in data collection and innovative use of technology over the last few decades. However, there has been no reduction in price for consumers. For example, in Texas, the median home has a title insurance policy cost of thousands of dollars. Claims by title insurers about lesser consumer protections should be carefully examined for subdivision homes where the developer has already purchased a title policy. The CEJ also shares concerns about the use of a surplus lines product. However, this should be taken in context with the lesser concern for surplus lines products for things such as private flood, which are far more challenging. It is unclear why the availability of admitted title insurance would bar the use of this surplus lines product because it is not title insurance. Any insurer who issues a policy for any line of insurance should have established reserves since their actuaries must certify the reserves, and they are subject to audit. State insurance regulators can also do an examination of any company if they have concerns. The title industry is most in need of a competitive alternative insurance product.

Director Dunning asked Voxtur to clarify what it means when it says it is licensed in over 30 states. He also asked for feedback on why Voxtur would not comply with a request to supply the Task Force with a copy of their standard letters and policy so it can verify the information provided.

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According to Mestayer, Voftur is in the process of working with a law firm to do a proper comparison of the Voftur AOL and title insurance. The law firm is also a licensed title agent. The insurers that are issuing the policies are regulated, so Voftur is not comfortable supplying copies of its letters and policies, as they are proprietary. They will be issuing a white paper addressing conflicting characterizations.

Director Dunning said Voftur is relying on the regulatory structure built around the policy offered by the surplus lines carrier. He asked how state insurance regulators get access to these documents so they can verify the information provided by Voftur. He also asked if Voftur would use its influence to bring its carriers in to discuss these matters with the Task Force.

According to Mestayer, she is not employed by the insurers and does not have knowledge of the insurance practice in detail. State insurance regulators should be able to go to those carriers directly for the information. Mestayer said Voftur would be happy to have a conversation about bringing in its insurers for conversations with the Task Force in a non-public forum.

Meyers asked if Voftur is moving away from the title insurance industry in its settlement services.

According to Mestayer, Voftur is offering both settlement services in conjunction with the AOL.

Steve Gottheim (American Land Title Association—ALTA) said title costs have only gone up over the last 15 years. However, the cost of title insurance has gone down by 7.8% over the last 10 years due to technology. The high costs of adopting new technology do not reduce costs immediately but over time. The claim that title insurers do not pay claims is false. Title insurers paid almost \$600 million in claims in 2021. The duty to defend makes title insurance different from other lines. Title insurers close about 40% of claims every year. Looking only at total claims paid out is not always the most accurate assessment of how consumers are helped after they have been issued a policy.

### 3. Heard a Presentation on Closing Trends, Including Results from ALTA's Recent Digital Closing Survey

Gottheim said ALTA's 2022 Digital Closing Survey results include about 40,400 companies. The industry continued to show progress towards using less paper in transactions, driven recently from the pandemic. About 93% of closings in 2021 were paper, compared to 100% in 2017. The uptake has started to decelerate in 2022, as the mortgage market has shifted to a more purchase-focused environment, as opposed to a refinance environment. Remote online notarizations (RONs) are increasing, with 5% being done remotely in 2021. Use of in-person electronic notarization (IPEN) peaked at 22% of title companies in 2020, but it decreased to 6% in 2021. This reflects a priority to adopt RON over IPEN.

The biggest barrier to adoption of electronic transactions is lender acceptance. About 80% of title companies and about 20% of lenders are reluctant to do more digital transactions. Most of the volume going through digital channels is driven by title companies or attorneys doing the work. The seller side of the transaction is reluctant because mortgage lenders do not want to digitize their entire operation until every state allows for the use of these electronic notifications. About 29% of title companies have used RON in the last year. Most companies anticipate some increase in usage of this closing method. Usually, once companies try it, they want to find a way to use it as much as possible. There is also a trend toward title companies using fewer platforms and specialized teams to gain processing efficiencies. Most title companies only use one RON platform provider, have one to five RON notaries on staff, and prefer to use in-house notaries. Where electronic document recording (eRecording) is available, there is heavy adoption. Half of title companies use eRecording for most of their transactions. About 88% of title companies have eRecording available in at least some of the jurisdictions where they operate.

## **Draft Pending Adoption**

Market trends include competing products, such as the AOL process. United Wholesale Mortgage (UWM) offers an AOL product called [Title Review And Closing \(TRAC\)](#). Additionally, U.S. Rep. Blaine Luetkemeyer (R-MO), top Republican on the Subcommittee on Consumer Protection and Financial Institutions and Congressman Brad Sherman (D-CA), top Democrat on the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, sent a [letter](#) on Oct. 11 to the Federal Housing Finance Agency (FHFA) regarding concerns on the use of title insurance alternatives. Additionally, the Federal Bureau of Investigation (FBI) released its [2022 report](#) on real estate wire fraud. Finally, there has been a growing request for title companies to get involved with helping the federal government in combating money laundering using real estate. The federal government is expected to issue a rule creating a more formalized process for title companies to be part of the anti-money laundering system in the next year.

Having no further business, the Title Insurance (C) Task Force adjourned.

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# Discuss the Task Force's Charge to Open Model 628

—*Eric Dunning (Nebraska)*

# Hear an Update on Requested Information from Voxtur

—*Eric Dunning (Nebraska)*

# Hear a Presentation on United Wholesale Mortgage's Alternative to the Traditional Lender Title Process and FANNIE MAE's Pilot Program on Title Insurance Requirements

*—Steve Gottheim (American Land Title Association—ALTA)*



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# Unregulated Title Alternatives Update

Steve Gottheim: American Land Title Association

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# Agenda

- Background refresh
- Questions about these products
  - For consumers
- United Wholesale Mortgage TRAC
- What the industry is doing to support affordable housing

# BACKGROUND

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# April 6, 2022: Fannie Mae Selling Guidance on Attorney Opinion Letters

## Attorney title opinion letter

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We updated the *Selling Guide* to permit lenders to obtain either a lender's title insurance policy or, in limited circumstances, an attorney title opinion letter. By selling a loan to us the lender must ensure the loan is covered by either a title policy issued by an acceptable insurer (including any required endorsements) or a title opinion letter issued by an attorney. Some of the requirements for using an attorney title opinion letter include:

- The attorney issuing the title opinion letter must be licensed to practice law in the jurisdiction where the subject property is located and must be insured against malpractice in rendering opinions of title in an amount commonly prevailing in the jurisdiction.
- The attorney title opinion letter must:
  - be addressed to the lender and all successors in interest of the lender,
  - be commonly accepted in the area where the subject property is located,
  - provide gap coverage for the duration between the loan closing and recordation of the mortgage,
  - list all other liens and state they are subordinate, and
  - state the title condition of the property is acceptable and the mortgage constitutes a lien of the required priority on a fee simple estate in the property.

The lender must report Special Feature Code 155 when delivering a loan that uses an attorney title opinion letter in lieu of a title insurance policy. See the *Selling Guide* for a complete list of requirements and ineligible transactions.

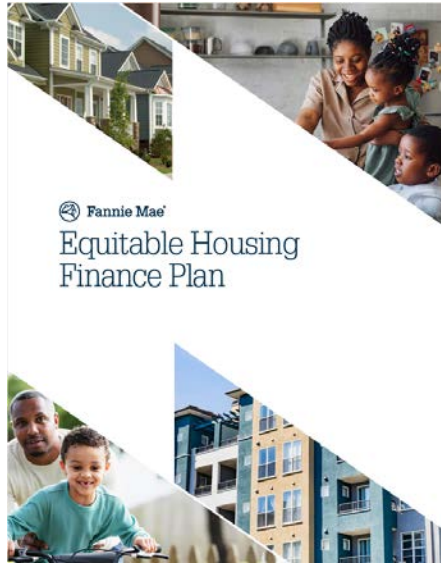
**Effective:** Lenders may begin using attorney title opinion letters immediately.



## **Voxtur to Provide Attorney Opinion Letters on Fannie Mae Loans**

📅 April 7, 2022

# June 2022: GSE Equitable Housing Finance Plans



*Federal Housing Finance Agency: Plans are designed to promote the Enterprises' safety and soundness and foster housing finance markets that provide equitable access to affordable and sustainable housing.*

# Title in the plans

**Attorney Opinion Letter:** Update the *Selling Guide* to encourage lenders to allow borrowers the option to utilize an attorney opinion letter in lieu of traditional title insurance more often, which may be cheaper than traditional title options. We believe more common use of attorney opinions could lead to savings for some borrowers. We are looking into how we will be able to utilize internal and/or external data to track usage of this option.

**Title Insurance Cost Reduction:** Pilot options to reduce title insurance costs to borrowers. Potential options could include coordination of bulk purchase of title insurance, with savings passed to consumers, or a subsidy for qualifying buyers. While the specifics will vary depending on the pilot, we will evaluate success based on the number of borrowers who leverage the pilot benefits and the estimated average savings for each of these borrowers.

## 4.3: Single-Family Title Insurance Cost Reduction

### Market Challenges and Barriers

Freddie Mac requires clean title for all mortgages, which lenders almost always satisfy with a title insurance policy. Title insurance is a significant part of the borrower's cash-to-close. The policy premium is usually the largest closing cost, and these costs are disproportionately felt by Black and Latino borrowers.

Title insurance policies, attorney opinions of title and certificates of title (collectively "policies") insure that title to real property is held by the person(s) identified in the deed, with a lien by the lender shown on the mortgage. Policies are underwritten by conducting title examinations prior to closing the mortgage loan. We require policies to be delivered with every mortgage.

Policies are expensive, averaging over one percent of the loan amount, and most consumers do not shop for lower rates, even when they are available. Furthermore, smaller-balance loans pay relatively higher rates.

Complete failure of title is extremely rare and usually leads to Seller/Service remedy. Refinances, in particular, present less risk, as major title problems should have been cured at purchase and the incremental risk of title defects arising between purchase and refinance is small.

### Our Actions

We are working with the industry to determine how we might lower the cost of title insurance, especially for low-balance loans.

# October 2022: United Wholesale Announces TRAC

- TRAC = Title Review and Closing
  - Announced at Association of Independent Mortgage Experts' (AIME) fifth annual Fuse event in Las Vegas.
- TRAC offers an alternative to the traditional title and closing process
  - Lenders Coverage only

# February 2023

**POLITICO**PRO

Fannie moves to revamp title insurance despite  
GOP warnings of risk



## **Fannie Mae rumored to be looking at forgoing title insurance**

The GSE is reported to be looking at launching a pilot program that would grant certain lenders a waiver on title.

**THE REAL DEAL**  
REAL ESTATE NEWS

## **Fannie Mae looks at possibly bypassing title insurance**

Program would eliminate requirement for some mortgage lenders



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# QUESTIONS ABOUT UNREGULATED TITLE PRODUCTS

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# Consumer/Insured Questions



How are these products marketed to consumers?



What type of title search and curative work is done with these alternatives?



What are the differences in coverage? Who takes on the additional risk?



Is owners' coverage provided and how does it compare to title insurance?



Is there a duty of defense?



Are these products being sold in the market?

# Regulatory questions

- Why are these products not title insurance?
  - See NAIC Model Title Insurer Act #628
  - “Title insurance business” or “business of title insurance” means:
    - Guaranteeing, warranting or insuring searches or examinations of title to real property or any interest in real property; or
    - Guaranteeing or warranting the status of title as to ownership of or liens on real property and personal property by any person other than the principals to the transaction; or
    - Doing or proposing to do any business substantially equivalent to any of the activities listed in this subsection in a manner designed to evade the provisions of this Act.

# How have courts looked at similar products

- Norwest Corp. v. State, Dep't of Ins., 253 Neb. 574, 571 N.W.2d 628 (1997)
  - Court found alternative product involving a title search and representation that loan was in first lien position was title insurance because representation involved a transfer of risk.
  - “In TOP, the risks and perils insured against for the benefit of Freddie Mac are the same as those insured against if Freddie Mac was the assignee in a traditional lender's title insurance policy. As such, the function of TOP and a lender's title insurance policy is to provide title protection to secondary market purchasers.” Norwest Corp. v. State, Dep't of Ins., 253 Neb. 574, 571 N.W.2d 628, 635 (1997)



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- State, Div. of Ins. v. Norwest Corp., 1998 S.D. 61, 581 N.W.2d 158
  - TOP was created to replace lender's title insurance. It is marketed as a cheaper alternative to title insurance. There is a shifting of the risk between a borrower and NMI and Freddie Mac and NMI. While Norwest Parties have tried to avoid being regulated as insurance, when one looks at the core of the program, it is title insurance as defined in South Dakota. State, Div. of Ins. v. Norwest Corp., 1998 S.D. 61, ¶ 35, 581 N.W.2d 158, 165

# Other questions

- What type of license do these company's hold?
- Are their coverage and forms filed publicly?
- What level of reserves for future loss does the insurer hold?
- How are those reserves actuarially determined?

# UWM TRAC



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# TRAC Basics

## A FASTER, CHEAPER AND EASIER CLOSING PROCESS

Available exclusively from UWM, TRAC (Title Review And Closing) is a process that's entirely new to the industry. It changes the way you handle title work and closing, creating a cheaper and more efficient process for all parties. When you elect TRAC, UWM will review title and closing docs, check to make sure your title is clear, then help facilitate the closing process, making it incredibly simple for you and your borrowers. Offer your borrowers significant savings with a cheaper title review process.

**Choose from Reltco, Nations Title Agency or FIN Title Company to close your loans and pay a flat \$350 closing fee**

- Available for conventional loans
- TRAC process helps you get your title docs ready in an average of 1 day.
- We've reduced title and closing fees by removing the need for Lender's Title Policy
  - An LLPA of 20bps for refinances will be applied to the loan
  - An LLPA of 30bps for purchases will be applied to the loan
- Run UWM's One-Click AUS to determine eligibility
- Easy step-by-step process. Select TRAC in Products and Pricing, choose your product and run One-Click AUS to see if the loan is eligible for TRAC. If eligible, order TRAC through Processor Assist.

**Or, choose your own settlement agent to close your loan and pay up to a \$500 closing fee**

We give our clients the flexibility to use an agent of their choosing with an easy step-by-step process. When you choose an agent outside the three we suggest, the settlement agent can charge up to \$500 for the title closing fee.

[Click here](#) for the latest Closing Indemnification Letter.

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*NOTE: TRAC is currently available in most states. Eligibility determined by county. Information subject to change. Certain restrictions apply. Subject to borrower approval. TRAC does not replace owner title policy.*

*TRAC is not available for co-ops, manufactured homes, Texas 50 (a)(6), HELOCs, PUDs, BorrowSmart, SM Refi Possible loans, condos, government loans and non-agency loans. Not eligible in the state of IA. For a full list of ineligible products, search The Source for "TRAC Process Guide."*

# Availability



# How it works

UWM will take on the risk of title defects & issue an Attorney Opinion Letter

## What happens if a claim is made?

- UWM is not issuing title insurance for the owner. If there is a defect, the ATOL includes instructions for either UWM held securities, or subsequent lenders, to notify UWM and includes the options UWM has which can include, among other options, repurchasing the loan or remedying the issue.

## What happens since there is no lender title insurance?

- UWM will “self-indemnify” the title against defects & entities with rights that precede the AOL for themselves or any lender that subsequently purchases the loan.
- UWM will remedy any defects, and/or, make whole any previous rights for any lender that subsequently purchases the loan. This is not an owner’s policy, the borrower is free to purchase their own policy separately that will protect their own interests.

Is the person that completes the attorney opinion letter the same person that will be going out to the closing of the loan?

- Our attorney will complete the attorney opinion letter
- An abstractor or other contract service, may also reach out to the client

For the question of “what happens if a claim is made”.. what does it mean that UWM will “remedy” the title?

- That will depend on the type of claim or remedy necessary

For the questions of “what happens since there is no title insurance”.. what does it mean that UWM will “self indemnify” the title against defects.

- In the event of a claim, UWM will cover the cost of retaining our lien position on title
- This does not cover the borrower, neither does Lenders Title



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# Consumer Coverage

## What happens to the buyer?

- TRAC is title protection for the “lender”, not the buyer/borrower
- Some borrowers may choose to have a separate “owners” policy
- The borrower is free to purchase a separate “owners” policy separately as with any transaction

## What if the borrower wants to purchase their own Owners Policy?

- If the borrower wants coverage to protect their down payment, and or ownership interest, they are able to purchase an Owners Policy

## Choose your own settlement agent to close your loan and pay up to a \$500 closing fee

- Settlement agents can sign up to be TRAC-approved
- Use TRAC with your choice of settlement agent:
  - There's a downloadable [Settlement Agent Packet](#) available in The Source with a cover letter and directions for the settlement agent
  - The settlement agent will fill out the document, then click the link in the packet to be directed to the Settlement Agent Agreement page and sign (this will automatically be sent to UWM)
  - The wire instructions and E&O Policy will need to be sent back to UWM to be reviewed by our Client Approval team
  - Once the settlement agent is approved, you can move forward with the closing process the same way you would on a non-TRAC loan — simply collect and upload the CIL and the settlement agent's wire instructions
- There is a \$500 cap on what the settlement agent can charge when they are settling a TRAC loan vs. the flat \$350 fee if you choose to use Reltco, Nations Title Agency or FIN Title Company settlement agents
- If your settlement agent chooses not to sign the agreement or doesn't want to use TRAC, you'll have 3 options:
  - Find another settlement agent to be approved (or who is already pre-approved)
  - Continue with TRAC using Reltco, Nations or FIN Title
  - Choose not to go with TRAC and use the traditional title process instead



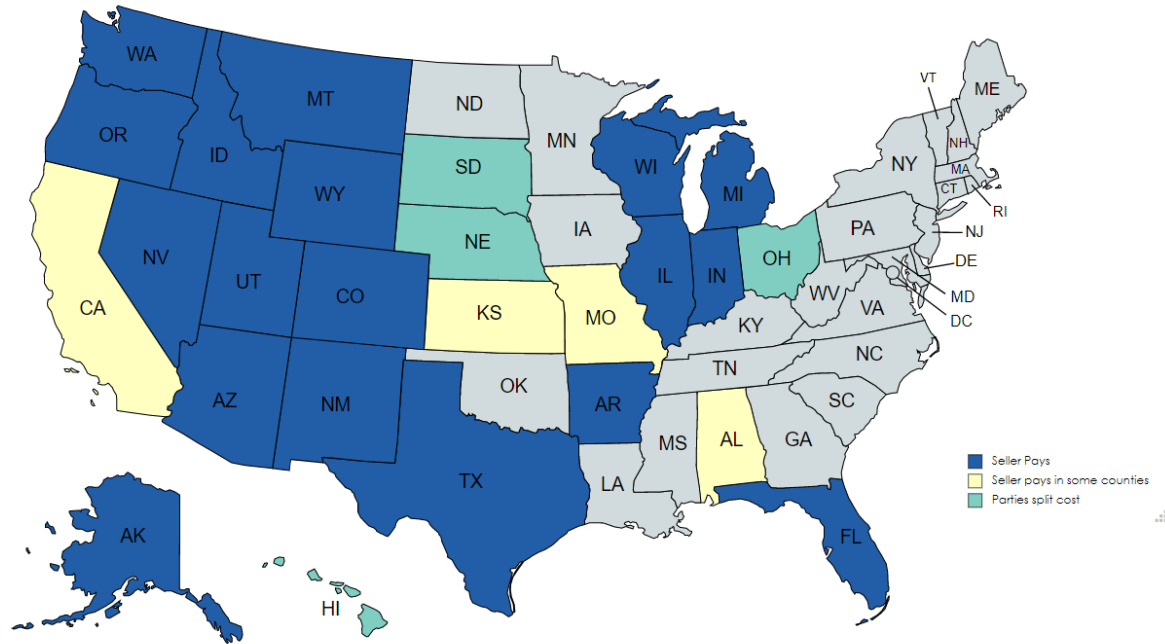
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# Pricing

- Purchase transaction: 30 basis points
- Refinance transaction 20 basis points
- Example:
  - \$370,000 loan
  - Purchase: \$1,110
  - Refi: \$740

# States where sellers pay for Owners' Policy



# Simultaneous Issue Discount

- Filed discount when both a loan and owners policy are purchased together from same insurer
  - Discount typically applies to loan policy
- Examples for \$370,000 loan:
  - Texas: \$100
  - Nebraska \$75
  - Arizona: \$100
  - Florida: ~\$400 depending on endorsements
  - Colorado: \$550
  - Missouri: \$300

# Closing Protection

- UWM requires settlement agent to issue a Closing Indemnification Letter
- Settlement agents must:
  - Execute documents
  - Obtain payoffs
  - Conduct recordings
  - Determine taxes
- Approved agents can charge up to \$500 for settlement

The loss is caused exclusively by:

1. Company's failure to comply with Lender's written closing instructions as they relate to:
  - i. The distribution of monies required to establish first lien position.
  - ii. The obtaining of executed documents, specifically required by Lender, but only to the extent the failure to obtain the required executed document affects the priority, validity, enforceability of the security instrument and/or the status of lien position.
2. Inappropriate Conduct of the Company in handling your documents or funds in connection with the settlement and/or disbursement to the extent that Inappropriate Conduct relates to the status of the lien position or enforceability of the security instrument and/or lien.

# WHAT INDUSTRY IS DOING ON AFFORDABLE HOUSING



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# Ways in which industry is helping on affordable housing

- First time homebuyer discounts
- Special Purpose Credit Program/Community Reinvestment rates
- Partnering with state housing agencies

# QUESTIONS?

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# Discuss if Additional Questions Should be Added to the Survey of State Insurance Laws Regarding Title Data and Title Matters before it is Distributed for Update

—*Eric Dunning (NE)*

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### **NEW QUESTION FROM RI:**

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## **NEW QUESTIONS FROM LA:**

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**Does the state department regulate the pricing of title opinion letters?**

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## Any Other Matters

—*Eric Dunning (NE)*