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[PREP Newsletter](#)

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"Legislation in Several States Could Impact Cost, Ability to Access Land Records"

PRIA has been very involved in the issue of cost and accessibility of bulk records, creating a workgroup that is currently finalizing a white paper on sale of bulk records best practices and issues. It is a major issue in the United States and deserves thoughtful attention, which is why PRIA felt it was an excellent topic to deal with. When we received this timely and interesting article, from [ALTA's Magazine - "Title News" - April 2011](#) edition, we felt it was worth sharing with you. *"Bills proposed in several states and a court ruling in another could have a significant impact on the title insurance industry's timely and cost effective access to public land records..."*



[Blog](#) with PREP participants

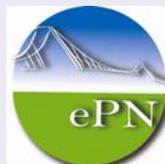
- Go to or subscribe to the [PREP Blog](#)
- Thanks to all those who have generously shared articles or comments on the blog - we have a strong number of subscribers now, but would like to have all of you participate and read the [BLOG](#).

Links to National News

[Property Records Give New Insights into bin Laden](#) - "The Pakistani



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who owned the compound that was Osama bin Laden's final hideaway meticulously bought up adjoining plots of land over two years and once cryptically told a seller that the property he bought for "an uncle" had become very valuable."

[Reports of Mortgage Fraud Reach Record Level](#) - "Reports of mortgage fraud, which have been increasing since the housing boom, rose to their highest level on record in 2010, Treasury Department figures showed."

[Delays Push Foreclosures to 40-month Low in April](#) - "More than 219,200 properties received a foreclosure filing in April, a 9% drop from March and the lowest level seen in 40 months, according to RealtyTrac."

[Bill Proposes Mortgage Shake-Up](#) - "Two lawmakers, a California Republican and a Michigan Democrat, are set to unveil legislation Thursday to replace mortgage giants Fannie Mae and Freddie Mac with at least five private companies that would issue mortgage-backed securities with explicit federal guarantees."

[U.S. MBA Mortgage Applications Index Increased 8.2% Last Week](#) - "Mortgage applications in the U.S. rose last week to their highest level in more than a month as declining borrowing costs spurred purchases and refinancing."

ALTA NEWS: ALTA Publishes Guidelines to Help Safeguard Private Information

In the fall of last year, employees at a northern Virginia title company couldn't log onto their online banking for several days. During that time, three unauthorized wires went out of the agent's escrow account to banks in New York and then immediately overseas to Russia.

The agent suffered a loss of more than \$200,000 and had to fund the escrow account for the shortage. What happened? A Zeus botnet virus infected either the bank's or the title agent's computer system and enabled the theft to occur. The Zeus botnet is hard to detect even with virus or malware systems on your computer. Agents are reminded to take the time to analyze computer security and internal procedures because a \$200,000 loss could force many small agencies out of business. To help ALTA members of all sizes safeguard sensitive customer and company information, ALTA's Technology Committee developed the ["Office Security and Privacy Guidelines."](#)

"The protection of Non-public Personal Information (NPI) is vital to the success of any title company," said Andy Maloney, chair of ALTA's Technology Committee. "It's essential for your customers to trust their

[\(other PRIA Standards and Publications\)](#)

PREP Chapter Meetings

May/June 2011

Metro Minnesota
Central Florida
Red River MN/ND
SE Minnesota
West Michigan
Nebraska
California
Washington State
West Michigan
South Florida
Missouri
Colorado

Contact Information

Do you have questions or suggestions on this newsletter or any updated information on co-chairs, emails, phone numbers etc. please contact us:

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[Mark Monacelli](#)

PRIA PREP Committee Co-Chair
Recorder

St Louis County, Minnesota

[Justin Ailes](#)

PRIA PREP Committee Co-Chair
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private data will be protected." NPI is personally identifiable 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. Social Security Numbers, Driver License Numbers and Financial Account Numbers are always considered NPI. All of this is information that title companies should protect. These protections are also required by federal law. With the advent of State "Notification of Breach" Laws and Federal legislation like the Gramm-Leach-Bliley Act (GLB) and the Fair and Accurate Credit Transactions Act (FACTA), all title operations should work to adequately safeguard NPI and protect their employees, clients, and consumers, according to Mark Littlejohn, chief information security officer for Stewart Title Insurance Co.

In terms of compliance, the key rules under GLB include the Financial Privacy Rule, which governs the collection and disclosure of customers' personal financial information by financial institutions. It also applies to companies, regardless of whether they are financial institutions, who receive such information. The Safeguards Rule requires all financial institutions to design, implement and maintain safeguards to protect customer information. The Safeguards Rule applies not only to financial institutions that collect information from their own customers, but also to financial institutions - including title companies - that receive customer information from other financial institutions. "When Gramm-Leach-Bliley passed in 1999, that hit home," Littlejohn said. "Before, many of the privacy laws only affected government and financial institutions. This specifically listed insurance companies. Since then, many states have jumped in with privacy laws."

States such as California, Texas and Massachusetts get specific about what data must be encrypted and what data can be transmitted and shared. Beyond helping title companies develop a system to thwart virus attacks, Maloney said the "Office Security and Privacy Guidelines" offers a plan to help title companies meet state privacy laws. The document offers guidelines for protecting physical documents, electronic documents, server and personal computer security, portable storage and disposing of non-public personal information. It is available exclusively to ALTA members and can be found under the Communications and Publications section on the Member Benefits page. "You mostly see retail chains and banks in the news, but crooks are going after any kind of financial data," Littlejohn said. "It's only a matter of time before these guys realize title companies have all of this valuable information and we must prepare for that." It's not just the large companies that should have safeguards in place, he added. "Companies of all sizes should have some

guidelines in place, including the mom-and-pop shops," Littlejohn said. "There are many agents who don't realize what they could be on the hook for."

To begin developing a plan, a title company should first identify and locate all NPI in the company's possession and control. Next, according to Maloney, a company should document policies, processes and procedures for collection, storage, protection and disposal of private information.

Physical Security: Title companies should adopt a clean-clean desk policy to make sure NPI is not accidentally disclosed. Employees should close files when away from desks and lock all documents, portable devices (such as laptops, netbooks, handheld mobile phones and devices) and electronic media (such as USB/Thumb drives, CDs, DVDs, memory cards, tapes and diskettes) containing sensitive data in a desk, file cabinet or secure room overnight.

Regular Mail and Faxing: Title companies should always use sealed envelopes to send NPI via inter-office mail. Littlejohn suggested using registered mail services such as FedEx or UPS to send private information to external parties. Use the signature services of FedEx and UPS to require a recipient signature, either at the place of delivery or at a package pickup location. "As an added precaution, it's good to follow up to ensure documents containing NPI safely reached their destination," Maloney said.

Electronic Security: Access to sensitive private information should be restricted to employees that have a valid business need to access the data. Tight control should be maintained over user login and password credentials. If possible, access should be disabled after unsuccessful login attempts, Littlejohn advised. Passwords should immediately be changed and access blocked when an employee is terminated.

E-mail: Maloney said title companies should never send email that contains NPI in the body text or subject line. Instead, omit or obscure the NPI, especially when replying or forwarding messages. "Private information may be sent via encrypted e-mail or in password-protected attachments if the password is sent separately," Maloney said. "You should delete older, unnecessary e-mail to reduce exposure if a computer is hacked, lost or stolen."

Web Sites: Encryption with Secure Sockets Layer (SSL) or Transport Layer Security (TLS) protocols must be enabled for any Web site that collects sensitive information. Check for the padlock icon at the bottom right of the browser window or look for "https" instead of "http" in the address bar. "You should never enter private information into third-party Web sites that you do not completely trust," Littlejohn said. "Always check the address bar to ensure that you have not been directed to a look-a-like web site. It's also advised to never use public

file stores or transfer utilities such as LeapFILE, FindMyFile or SendSpace for any files containing private information."

File Servers: Access to directories, file shares, databases, and critical applications containing private information should be restricted to those with legitimate business purposes. "Non-public information should never be stored on publicly accessible file shares," Littlejohn said. "It's important to ensure that server backups are encrypted and taken offsite by an approved tape storage vendor."

Personal Computers: To protect private information on computers, title agency employees should always log off and lock computer screens when away for more than five minutes. Strong passwords should be created by using eight-plus characters including numbers, symbols, upper and lowercase letters. Frequent password updates also should be required. "User login and password information should never be shared by employees," Littlejohn said. "Passwords should immediately be changed if you think someone has discovered them."

Portable Storage: Only encrypted portable devices and electronic media should be used to store sensitive information. As with personal computers, strong passwords should be used on company-owned portable devices and electronic media. Maloney said non-public information should never be stored on personally owned devices such as iPods, cameras, or mobile phones.

Disposal: When disposing of or donating a computer or other electronic media, title companies should wipe all hard drives and other electronic media. "Hard drives may be found in servers, desktop computers, laptops, scanners, copiers, and other office equipment," Littlejohn added. "Portable devices may also have hard drives as well as electronic media components like flash cards." Copy machines can pose a significant risk to the security of personal information. The concern is that some copy machines may retain scanned information, which can be viewed by others. Since 2002, nearly every copy machine has been built with a hard drive that stores images of every document scanned, copied or emailed by the machine. This can be a pot of gold for identity thieves because some copy machines retain scanned information, which can be viewed by others. Since 2002, nearly every copy machine has been built with a hard drive that stores images of every document scanned, copied or emailed by the machine. ALTA suggests you contact your photocopy vendor if you have concerns. It's advised that title companies use a cross-cut or "confetti" shredder to destroy all documents containing private information instead of throwing it in a trash can or recycle bin. "Agents should dispose of all unnecessary documentation received from lenders, Realtors, customers, or others as soon as legally allowable," Littlejohn said. In the event that private information is lost or disclosed to an unauthorized third party, staff should be instructed to immediately contact their supervisor, information security or legal personnel.

"It doesn't require much technology and can be as simple as what they have in the office now and use day-to-day," Littlejohn said. "Most of the information in the guidelines is about manual procedures. While these guidelines describe practices that should be implemented within each title company to ensure security in real estate transactions, they are not intended to be a substitute for legal advice as state laws and regulations vary."

PREP Chapter News

In this newsletter volume, we'll be highlighting the [East Central Missouri PREP](#) and the [North Central Texas PREP](#) Chapter(s). ([Read complete article](#)). You can also read the minutes from any of the [PREP Chapters](#) on the PRIA/PREP website.

East Central Missouri PREP:

Co-Chairs: Government, Shawn Hennessee at hennesha@jacksongov.org and Business, John Winkler at jwinkler@us-title.com

The East Central Missouri PREP met on March 17, 2011. The agenda consisted of a guest speaker, Wendy Cromer, President of the Missouri Land Title Association who gave a presentation called TITLE 101. It included an overview of the Search and Exam process, and the Title Insurance Commitment Prep and Closing Preparation. She gave a detailed history of some of the changes that have occurred in the title business and the processes that they undertake. There also was a presentation on the new software and policies utilized by the City of St. Louis Recorder of Deeds put on by employees from the Recorder of Deeds office and Fidar software. The next meeting will be in June, 2011.

North Central Texas PREP

Co-chairs: Business, Doug Hollowell at doug@integritytc.com and Government, Stacy Kemp at skemp@co.collin.tx.us

The North Central Texas PREP Chapter met on April 14, in Dallas, Texas. The North Central Texas Chapter of PREP has been established to provide a free flow of information between public and private sectors in order to encourage unified problem resolutions. The agenda at this meeting included the following: 1) Guest Speaker, Bob Philo, Former Deputy Commissioner of the Department of Insurance, Title Division and Chief Underwriting Counsel for a number of Title Insurance Underwriters. Currently Mr. Philo owns and operates Title Experts and Management Services (TEAMS) based in McKinney, Texas. The title of Mr. Philo's presentation was "Why Title

Insurance?" Mr. Philo has been in the title industry since 1973 after working in law enforcement and practicing law in the State of Maryland. Mr. Philo began his presentation with a history of the assurance of title. He stated the need for assurance of title can be traced back to the Bible. The current legal system involving the transfer of title has its roots in Judeo-Christian concepts. The Bible contains accounts of instances where land was "made sure" to a purchaser. Title insurance was developed because there was an unmet need for reliable assurance of title and indemnification of loss. Prior to title insurance, an abstractor would go to the courthouse to gather documents and information. Title insurance was needed as a way to recover property and loss if a mistake was made. Mr. Philo noted title insurance was born in the State of Pennsylvania in 1853 and is the only form of insurance invented in the United States. Prior to the 1930's abstracts were the generally accepted form of title evidence. Abstract companies created and maintained their own records. They were indexed geographically in large bound books. The first policy of title insurance issued in Texas was issued in 1906 in the City of Dallas. The policy was for \$77,000 and the premium was \$410. The current premium for the same amount is \$687. Premiums have gone up ½% per year compounded since title insurance started. There is legislation that wants to do away with our terms of premiums. Mr. Philo stated the insurance industry was not subject to federal regulation until 1944. The McCarren-Ferguson Act was passed in 1945 which said anti-trust acts apply to the business of insurance to the extent that such business is not regulated by state law. Mr. Philo spoke about RESPA, Real Estate Settlement Procedures Act of 1974. This act was designed to cause purchasers of residential real estate to receive timely information on the nature and costs of the real estate settlement process. RESPA is administered by HUD. The Texas Department of Insurance has biannual meetings to determine rates. In conclusion, Mr. Philo said abstract plans have to go back more than 25 years in order to be kept current. A question and answer session followed. Mr. Hollowell asked if title insurance will protect a former owner if they were brought into a lawsuit. Mr. Philo replied yes, and then he spoke about the differences between general warranty deeds and special warranty deeds. Ms. Kemp asked about quit claim deeds and special warranty deeds; she wanted to know why mortgage companies don't like filing quit claim deeds. Mr. Philo said a quit claim deed says I'm not guaranteeing I own this property, whereas a special warranty deed says I do own this property and I will convey it to you subject to the fact that I do own it now. Ms. Sisneros asked about the secondary mortgage market and bundled mortgages. Mr. Philo said in his opinion, this issue started with MERS (Mortgage Electronic Registration System). MERS tracks who owned mortgages as they were sold and re-sold. A discussion on this topic continued, with panel members talking about foreclosures and the Republic of Texas. Ms. Kemp asked Mr. Philo what he sees in the future for real estate. Mr. Philo said he sees the real estate market remaining bleak for another 18 months, although he feels North Texas is in better shape than other parts of the country. The discussion moved to reverse mortgages. Mr. Philo said he has not seen litigation yet involving reverse mortgages. Ms. Kemp said her office does not track reverse mortgages. Ms.

Mitchell stated there's nothing on the document to notify the county clerk's office that it is a reverse mortgage.

2) Legislative Update, PRIA Conference, NACRC/NACO Conference: Cynthia Mitchell, County Clerk, Denton County: Ms. Mitchell presented an update on legislative items, the PRIA conference and the NACRC/NACO conference. She attended the NACO conference in Washington, D.C. Ms. Mitchell is the chair of the Membership Committee. She reported that counties that were previously unable to become members of NACO were able to become members this year. Ms. Mitchell addressed legislative items. Among the items discussed was House Bill 456, which deals with contractors' liens. She's concerned that what the state will require them to file will not be a recordable document. House Bill 301 will require English to be the official language of Texas and all acts of government must be in English. Senate Bill 586 adds a foreign passport as an acceptable form of identification. She would like to see more stringent requirements for identification for a marriage license. Currently a birth certificate can be presented but that doesn't really identify the individual. House Bill 1392 is requesting a fee of \$95 for foreclosure deeds. Ms. Mitchell's concern is the way it is written, clerks won't be able to determine when it should be charged. Ms. Mitchell and Ms. Kemp noted their foreclosure filings were down for the previous month, but efilings were up. Ms. Mitchell continued with her presentation, touching briefly on various legislative items. Senate Bill 916 relates to ad lorem tax lien transfers. Mr. Bartlett stated a few years ago lenders were lending money to pay real estate taxes. Ms. Kemp said Representative Paxton called her on this bill. He was in favor of it but he wanted thoughts. Mr. Bartlett thought Representative Paxton should take a good look at this bill. In conclusion Ms. Mitchell stated she's worked with TLTA for several years. She's testified regarding having electronic fees passed along. She asked members to get in touch with her if there's anything they can do to help get this passed.

3) Update on Legislation and the Title Industry: Co-Chair Doug Hollowell, Integrity Title Records: Mr. Hollowell stated Ms. Mitchell touched on most everything he wanted to discuss, but there were still a few items he wanted to cover, such as a hearing scheduled for Monday on foreign ID's. Lis pendes has passed the Senate and is now scheduled for the House bill. He felt that should pass easily. There's legislation requiring HOA's to have to pass information on to homeowners. He spoke about mechanics' liens which historically had a statute of five years; that was reduced to one year and then six months. Mr. Hollowell concluded by saying they were told in December 2010 that they can use rates passed in 2008.

4) Round Table Discussion: Group Talk: Ms. Kemp stated the last meeting was October 8, 2010, at ACS with 23 in attendance. There was a panel discussion on electronic access to open records and legislative updates. Ms. Kemp asked for a motion to approve the minutes from the October 8, 2010, meeting. A motion was made and seconded and Ms. Kemp said the minutes were approved.

5) Set Date and Time for Next Meeting: Mr. Sisneros suggested having the meeting the day before the Area 4 meeting. Ms. Kemp said it depended on the topics and then asked for possible topics for future meetings. Mr. Sisneros thought property fraud and MERS were good topics. Ms. Kemp thinks it is time for smaller counties to get their records automated. Ms. Kemp stated the next meeting would be August 18th, 2011.
