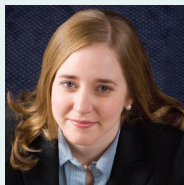


THE NC CONNECTION

AN INVESTORS TITLE COMPANY PUBLICATION



New ALTA Endorsements

by Charity Taylor, Esq.

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Click [here](#) for Charity's bio.



On April 2, 2012, the American Land Title Association (ALTA) published a group of new endorsement forms and made minor updates to several existing endorsements.

Specifically, ALTA has added endorsements to the ALTA 3-06, ALTA 9-06 and ALTA 28-06 series and introduced

two new endorsement groups with the ALTA 35-06 and ALTA 36-06 series. Please note that, although ALTA has approved these endorsements, they are not yet available for use in NC. Status updates will be published in future editions the NC Connection Newsletter.

The ALTA 3.2-06 (Zoning – Land Under Development) is an addition to the existing ALTA zoning endorsements, ALTA 3-06 for unimproved land and the ALTA 3.1-06

“ALTA has added endorsements to the ALTA 3-06, ALTA 9-06, and ALTA 28-06 series...”

which applies when a structure is located on the property. The 3.2-06 is being introduced to address requests for zoning coverage when the transaction involves contemplated construction in order to address the compliance of proposed improvements.

The ALTA 9-06 series has been the source of considerable discussion following the outcome in *Nationwide v. Commonwealth*. The title industry has responded by encouraging further revisions to this series of endorsements. As a result, each of the ALTA 9-06 endorsements has been amended to include a preamble to clarify that the coverage provided by the endorsement is subject to “the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.” Also, Section 1(b)(2),

which addresses coverage for private rights in any instrument containing covenants, conditions or restrictions, has been removed from the existing endorsements and is now addressed in a new ALTA 9.6-06 (Private Rights – Loan Policy). Other new endorsements to the series are the ALTA 9.7-06 and the ALTA 9.8-06 (Land Under Development) which address projects under construction.

(Continued on page 2)

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Finally, as a result of the above revisions to the series, the ALTA 9.4-06 and ALTA 9.5-06 were withdrawn.

The ALTA 28.1-06 (Encroachments – Boundaries and Easements) is joining the existing ALTA 28-06 to provide coverage regarding encroachments. Currently, the ALTA 28-06 provides coverage against loss or damage to existing structures due to an easement holder’s exercising or maintaining an easement on the property. The ALTA 28.1-06 specifically addresses encroachments and now provides a form for loss by reason of forced removal of an improvement encroaching into an easement or onto adjoining land.

The ALTA 35-06 series was introduced to address the lack of separate mineral endorsements. Previously, the only mineral coverage available in an ALTA form was by issuance of an ALTA 9-06 endorsement. Now, with the ALTA 35-06 forms, the insured can select the appropriate mineral coverage based on the type of improvements located or to be located on the land and the nature of the mineral rights involved. The ALTA 35-06 (Minerals and Other Subsurface Substances – Buildings) provides coverage for loss or damage

for the enforced removal or alteration of existing buildings resulting from the exercise of an existing right to use the surface for extraction of minerals. The ALTA 35.1-06 (Minerals and Other Subsurface Substances – Improvements) extends the same coverage as the ALTA 35-06 but replaces the term “buildings” with “any improvement” and defines improvement as “a building, structure located on the surface of the land, and any paved road, walkway, parking area, driveway or curb, affixed to the Land at Date of Policy.” The ALTA 35.2-06 (Minerals and Other Subsurface Substances – Described Improvements) provides similar coverage as the first two but allows the title company to list the improvements that will be covered in the event of damage due to the exercise of mineral rights. Lastly, the ALTA 35.3-06 (Minerals and Other Subsurface Substances – Land Under Development) provides coverage for loss or damage in the event of enforced removal of existing improvements and future improvements. Each of the ALTA 35-06 series endorsements includes a Paragraph 4 that details exclusions from coverage, including hazardous events from the exercise of mineral rights such as fire or earthquake, negligence in exercising a mineral right, or a specified exclusion determined and set forth by the underwriter.

With the increased focus on developing domestic energy sources, ALTA has responded with the ALTA 36-06 series to meet the coverage needs of participants in energy projects, specifically solar panel and windmill farms. Collectively, this group of endorsements recognizes some relevant definitions for energy projects, provides coverage for easements and/or leasehold interests that may be involved with these projects, and sets forth a “Valuation of Title” that addresses the manner of determining loss or damage by valuing the title for the affected party. Within the series, there are endorsements for both the owner and lender related to leasehold interests, encroachments, and for land under development. Due to the complexity and size of these

transactions, these endorsements will entail special underwriting requirements and a closer review of the structure of the transaction.

For more information on the new and revised ALTA endorsements,

“Previously, the only mineral coverage available was by issuance of an ALTA 9-06...”

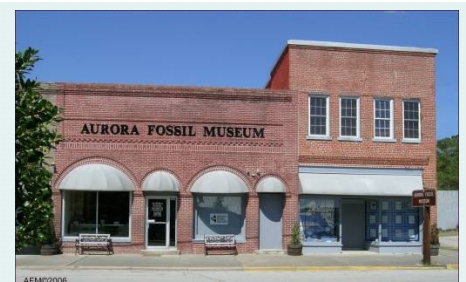
please visit <http://www.alta.org/forms/>. Investors Title Insurance Company is eager to assist with your commercial transactions. We are ready and willing to work with you to provide the best coverage to your client through utilizing the appropriate ALTA endorsements.

NC FUN FACTS



Fifteen million years ago, much of North Carolina’s coastal plain was underwater. The Aurora Fossil Museum, in Aurora NC, has hundreds of whale and shark fossils, mostly from the waters off North Carolina. You may even find your own fossil by sifting through local fossil bed diggings.¹

¹ <http://www.visitnc.com/journeys/articles/quirky-nc/1/north-carolina-s-unique-and-unusual>





The Claims Process

What can a claimant expect once they have filed a claim in writing?

Investors Title Insurance Company will provide a written acknowledgment of claim usually within two (2) business days of having received the claims notice. New claims may be forwarded to newclaims@invtitle.com. The acknowledgment will contain the name and contact information for the claims administrator assigned to the claim. After the claim has been received and acknowledged, the claims administrator will immediately begin assembling information.

Once a file has been created, the claim will be investigated. *Note: If the claimant does not receive an acknowledgement of the claim within one week of filing the written claim, please contact the claims department immediately.*

What does the investigation of a claim involve?

First, the claim will be investigated for coverage. The length of time required to complete the investigation is dependant on the nature of the claim and the quality and quantity of the information provided by the claimant.

If coverage exists for the claim, repair/ resolution options will be evaluated. If there is no coverage for the claim, notification will be provided in writing.

How will the claim be resolved?

The policy provides that Investors Title Insurance Company has several options to repair or to resolve a claim. For example, Investors Title Insurance Company may choose to:

1. Seek to repair and/or restore the claimant to the title position as insured by the policy.
2. Negotiate a settlement, or pay the claim against the title.
3. Prosecute or defend a court case related to the claim.
4. Pay the insured the amount required by the policy.
5. Take other action which will protect the insured.
6. Cancel the policy by paying the policy amount and costs in accordance with the terms of the policy.

Note: Review of policy terms and conditions provided on the policy

jacket is recommended for a more complete discussion of claim resolution.

How long will it take to resolve the claim?

The length of time to repair or resolve the claim will depend on the nature of the claim.

Who does a claimant call if they have questions regarding a claim?

The written acknowledgement of the claim will contain the name and contact information for the assigned claims administrator. Please contact the administrator with specific questions regarding your claim.

NOTE: Before the claims department is able to respond to any specific questions, the claim must have been filed in writing and the claimant must have received an acknowledgment of the claim.

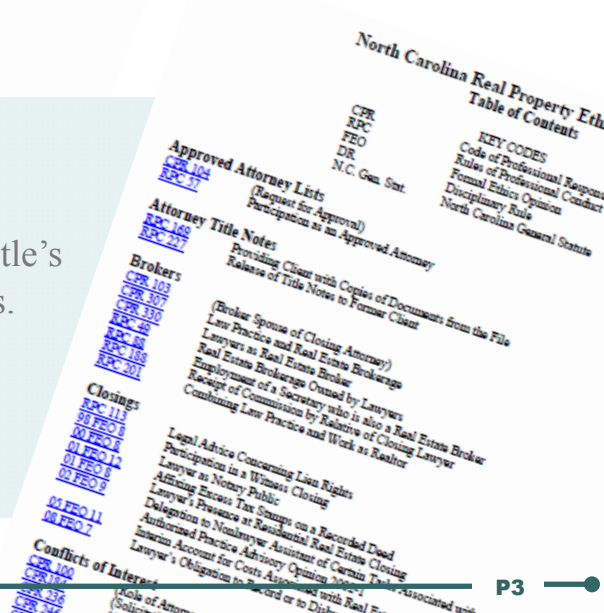
Can a claimant receive legal advice from Investors Title Insurance Company?

No. Investors Title Insurance Company is not able to provide a claimant with legal advice. If legal advice is required, and an attorney has not been retained on the claimant's behalf, it is recommended that the claimant seek the advice of an attorney.

NC Ethics Handbook Update

The NC Real Property Ethics Handbook housed on Investors Title's website has been revised to reflect recent ethics opinion updates. Please refer to highlighted topics in the handbook for changes.

Visit nc.invtitle.com | Resource Center | Ethics Handbook or click [here](#).



NC CONTENT ONLY

Investors Title Insurance Company

ON-DEMAND EDUCATION

WHAT IS IT?

An online-based portal through which continuing education (CLE/CPE) credit may be earned.

HOW DO I CREATE AN ACCOUNT?

Go to nc.invtitle.com/ondemand and follow the link to the course portal. Select "Register" on the top menu to create an account.

HOW MUCH DOES IT COST?

Free to create an account. Non-Credit Courses = \$0 (Free)
Credit Courses = \$25 (Pay online with a credit card.)

HOW IS MY CREDIT HANDLED?

Please review the "Credit FAQs" section provided on the portal.

NC CONTENT ONLY

Why Investors Title On-Demand?

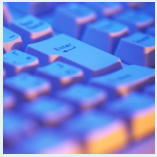
...because it is quality content ...because it is competitively priced
...because Investors Title submits the credit on your behalf

The image displays three screenshots of the Investors Title On-Demand portal. The first screenshot shows the 'Back to Basics - Legal Descriptions' course page, including an overview, seminar information (Seminar Date: January 22, 2009; Expiration Date: April 19, 2012 12:00 AM), and navigation tabs for Overview, Specs, Credit, and Preview. The second screenshot shows a category selection page for 'Paralegal Courses for CPE Credit (3 Seminars)'. The third screenshot shows a video player for the course 'How Did It Go Wrong and What Do We Do Now?', featuring a play button, a 'Products' sidebar with a 'Resembling' item priced at \$24.00, and a 'Sign Up' button.

nc.invtitle.com/ondemand

Investors Title Insurance Company





Softpro: Group Deposits

By Holly Simmons, Esq.

Why is using the Group Deposit function so important? Because the Group Deposit function in ProTrust allows a user to assign a “group number” to all deposits or pending deposits posted to your ledgers for that day, and make one large deposit at the bank to cover all the small deposits in each of your ledgers. For example, you can post the funds received from the borrower and lender as

separate entries in your ledger but do just one deposit slip for the total of the two entries. The Group Deposit function will group the two entries in your ledger under one deposit number, therefore making it easier to reconcile.

1. Select Tools/Group Deposits. A message will appear explaining that other users of ProTrust must save their work and exit before continuing.
2. After other users have exited ProTrust, select OK. A prompt will appear.
3. Enter a trust account code and select OK. The Group Deposits window will appear.
4. Enter the desired deposit number in the Deposit Number: field. The only requirement to determining what your desired deposit number will be is that your number must be greater than zero.
5. Select one or more deposits from the list of pending deposits. Note: Select Total of highlighted deposits to view the total for the pending deposits selected.
6. Select Assign Deposit Number. Note: To remove a deposit number from selected pending deposits, select Remove Deposit Number(s) instead.
7. Select Close. A message will appear prompting you to save any changes you have made to your ProTrust database.
8. Choose Yes to save your work.

Transaction	Number	Date	File ID	Payor Name	Amount
Pending Deposit			20060001	John Smith	8008.23
Pending Deposit			20060001	Lender	240000.00

Investors Title Insurance Company

ON-DEMAND EDUCATION

Now Available!

How to Prepare the HUD-1 in ProForm

This free course is now available on Investors Title’s NC On-Demand portal (nc.invtitle.com/ondemand). This course reviews procedures for preparing a HUD-1 settlement statement in ProForm (see course outline to the right).

Click [here](#) to access the portal.

- I. Introduction
- II. Getting started
 - a. Toolbars
 - b. Searching for an existing file
 - c. Navigation and Shortcut Keys
 - d. Creating a new file
- III. Review of General Tab Screens
 - a. Order Entry
 - b. Accessing Lookup Table
 - c. Notes
 - d. Earnest Money
 - e. Funding
- IV. Review of HUD 1 & Closing Tab
 - a. Tax Screens
 - b. 700s - Commissions
 - c. 800s - Items Payable in Connection with Loan
 - d. 900s - Items Required by Lender to be Paid in Advance
 - e. 1000s - Reserves Deposited with Lender
 - f. 1100s - Title Charges
 - g. 1200s - Gov't Recording & Transfer Charges
 - h. 1300s - Additional Settlement Charges
 - i. 100s - Gross Amount Due from Borrower
 - j. 200s - Amounts Paid by or in Behalf of Borrower
 - k. 400s - Gross Amount Due to Seller
 - l. 500s - Reductions in Amount Due to Seller
 - m. Comparison of GFE and HUD-1 Charges
- V. Printing the HUD-1

MEET OUR MARKETING MANAGERS



Kathy Baum

Email: kbaum@invtitle.com

Kathy Baum was born in Rockingham, NC but grew up in Denton. She attended Davidson County Community College and earned an Associates Degree in Law – Paralegal in 1978. Prior to joining Investors Title Insurance Company, Kathy worked as a real estate paralegal for 10 years and in the mortgage lending industry for six years. Kathy joined Investors Title in 1997 as the Office Manager for the Lexington branch and was promoted to her current position of Regional Marketing Manager in 2001, covering 15 counties in North Carolina. She is an NC State Bar Certified Paralegal and is a charter member of the Piedmont Triad Commercial Real Estate Women (PT-CREW).

Additional Articles Available Below

[Best Laid Plans and Plats](#)

[Cancelling Equity Lines of Credit Just Got Easier](#)

[APAO 2002-1 Revisions Approved by Executive Council!](#)

[A Brief Introduction to Title Insurance](#)

[Short Sale Transactions and Lender Concerns](#)

[A Cautionary Tale for the Real Estate Practitioner](#)

Investors Trust Company



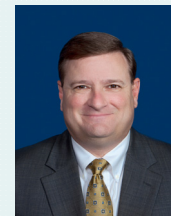
Smith v. Marez

If the owner of a Rollover Individual Retirement Account (IRA) does not name a beneficiary that meets the custodian's requirements, the assets will likely be distributed to the takers in default, in accordance with the custodian's IRA contract. That decision came in a case before the North Carolina Court of Appeals that developed after the death of Leonard Smith in 2008. Before his death, Smith contacted the IRA custodian, Pershing LLC, a New York-based financial firm, indicating on the beneficiary forms that he wanted his IRA assets "distributed pursuant to my Last Will and Testament," which he had signed in November 2007. The Will left \$100,000 to his girlfriend, Suzanne Smith (Suzanne), and distributed his remaining assets to three of his four children. It also appointed Suzanne as the Personal Representative of Smith's estate. A month later—in December 2007—Smith and Suzanne married, and Smith died of cancer a

few weeks later. Pershing distributed the assets to Suzanne, as the surviving spouse, and Smith's surviving children sued, arguing that they should have received the IRA proceeds. The trial court granted summary judgment in favor of Suzanne on January 27, 2011, and Smith's children appealed. The appellate court affirmed. In reaching that outcome, the Court of Appeals applied New York law because the IRA agreement had specified that it controlled—a valid provision because "[o]ur Courts have recognized the validity of a choice of law provision in a contract." Ultimately, the court concluded, Smith had not complied with the contract, which specifically required IRA owners to name either individuals or specific entities (such as "a trust") as the designated beneficiary. Since Smith's designation had not met that requirement, Pershing was free to distribute the assets as though there was no beneficiary designation. Under the terms of the IRA contract, that distribution meant that the assets were properly distributed to the default beneficiary—the surviving spouse alone. --*Smith v. Marez*, No. COA11-475, N.C. Ct. App. 12/6/11

The above article is for informational purposes only and does not constitute legal advice.

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