

# Conestoga Quarterly



## 2023 Second Quarter

- Reviewing Owner's & Loan Policies
- Enabling Google Business Services
- Seller Impersonation Fraud
- Submerged Land & Navigable Waters
- Agency Support Team Access
- Coming Soon! Conestoga Agent Resource Center new website

Celebrating  
50 years of  
providing  
exceptional  
personal  
service for our  
independent  
agents and  
approved  
attorneys



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# A Message from the President

Recently Conestoga Title introduced our Agency Support Team and Central Email Center. In order to better serve our network's agency needs, a central email address has been established for the submission of policies, bank statements, reconciliations, CPL verification requests, agent good standing letters, extranet questions, etc. The new email address is [Agencydept@conestogatitle.com](mailto:Agencydept@conestogatitle.com). Through the utilization of this new communication method, our company has the ability to be more responsive regardless of any one individual employee's schedule. Agency related email is now monitored by an Agency Department Administrator who is readily available to respond to inquiries and delegate matters to available staff members. Please look for details contained in the announcement appearing later in this newsletter.

This initiative mirrors our Underwriting Service Team and Central Email Center which was established a few years ago and has proven to be a big success. The underwriting email address is [UWrequests@conestogatitle.com](mailto:UWrequests@conestogatitle.com). As a reminder, we encourage our agents to utilize this email address for the submission of underwriting emails, including over-limit approvals, endorsement approvals, foreclosure reviews, sheriff/marshal sale reviews, etc. Underwriting email is received by an Underwriting Department Administrator who distributes the underwriting requests to one of our underwriting attorneys. We have found that the system leads to quicker response times as we are better able to disseminate underwriting requests based on the availability of our underwriting attorneys.

Conestoga Title is focused on providing quality agency and underwriting services to our network of agents and approved attorneys. We are dedicated to providing the tools and services to assist you in attracting and maintaining valuable customer relationships. We pride ourselves in providing prompt and reliable service without the need to navigate through a hierarchy of management layers before receiving the ultimate answer or direction needed to proceed with any specific real estate transaction. I encourage our agents to fully utilize the resources made available through our Underwriting Resource and Agency Support Teams. As always, feel free to contact me at [jnikolaus@conestogatitle.com](mailto:jnikolaus@conestogatitle.com) or (800) 272-3570 with questions or concerns. We value our relationship with you and look forward to working with you as we enter the summer market.

*John M. Nikolaus, CLTP*  
President, Conestoga Title Insurance Co.

# Conestoga Title recently hosted a CE CLE Seminar in Annapolis, MD



Welcoming agents and attorneys from Maryland, Virginia and Delaware, Conestoga Title offered a 4 credit in person seminar in May 2023.

Speakers included **Anna Marie Sossong, Esq.** Conestoga Title Underwriting, presenting on FIRPTA as well as on Commercial Transactions and **Rich Angelo, Esq., CLTP** teaching an hour addressing Ethics in the Title Industry.

**Lisa Fischer, Conestoga's Delmarva Agency Representative and Agency Training Coordinator**, was on hand to help the day run smoothly and greet our agents.

Conestoga Title was glad to welcome the following sponsors for the seminar:

[Closing Lock](#)

[Dalton Digital Design](#)

[Escrow Resolution Services](#)

[Link Bank](#)

[Norman—Spencer](#)

**Michele Blanco** of Norman-Spencer was a sponsor and a speaker talking to our group about a variety of cyber fraud issues.



# Navigating the Parts of An Owner's Policy & Loan Policy

Earthvi Patel <sup>1</sup>

There are two primary policies that are utilized in title insurance – the owner's policy and loan policy. The owner's policy insures the title to the real property. <sup>2</sup> The loan policy, in addition to insuring title, provides assurances specific to the mortgage held by the insured. <sup>3</sup>

## Owner's Policy

The owner's policy begins with the policy jacket, where you will find areas of covered risks. This section provides circumstances where the insurer will cover a loss or damage incurred by the insured. This includes, but is not limited to: loss due to defects in lien or encumbrance on the title, unmarketable title, no right of access to and from the land, or a violation or enforcement of a law.

The defense of covered claims section of the policy jacket provides additional coverage for a defense in litigation related to any covered claims insured by the policy.

The exclusions from coverage section of the policy jacket provides matters that are excluded from coverage. This section excludes loss or damage to property due to law or governmental regulation, eminent domain, or potential defects or liens created by the insured, among others.

The conditions section provides definition of the terms and additional provisions regarding conditions on coverage. Conditions include provisions regarding continuation of coverage, notification of unmarketable title on the part of the insured, or limitation on liability of the insurer.

After the policy jacket, the substantive provisions of the policy are found. This includes a Schedule A, which includes the name of the insured, along with the type of interest held in the property, the title holders and the legal description of the land. The legal description may be a metes and bounds description or a reference to the plan. Next, the policy will include a Schedule B, with subparts I and II. Schedule B-I provides specific exceptions from coverage relating to the respective policy, while Schedule B-II provides certain affirmative coverages. The exceptions or affirmative coverages may address certain matters regarding minerals, public or private roads, or things like uninsured easements.

## Loan Policy

The policy jacket of a loan policy includes assurances specific to the mortgage or deed of trust held by the insured. <sup>4</sup> The loan policy jacket comprises of the same sections, with varying provisions. For example, the area of covered risks differ in a loan policy versus an owner's policy. Provisions 9 -14 of Coverage of Risks specifically cover loss or damage to property due to potential issues in the lien priority.

The exclusions from policy coverage also differ between a loan and owner's policy. Provisions 4 and 5 of the Exclusions from Coverage state that loss or damage to property is excluded if it is due to unenforceability of a mortgage because of the insured's failure to comply with law or invalidity of the lien because of Consumer Protection Laws.

<sup>1</sup> Earthvi is a summer legal intern with Conestoga Title Insurance Co.

<sup>2</sup> Bushnell Nielson, Title and Escrow Claims, American Land Title Association 546 (2023).

<sup>3</sup> *Id.* At 545

<sup>4</sup> *Id.*

Article continued on next page

## Navigating the Parts of An Owner's Policy & Loan Policy: continued

Additionally, most loan policies provide enhanced coverage by adding endorsements. Endorsements fall into two categories, those that remove policy exceptions and those that give affirmative assurances not found in the Covered Risks section.<sup>5</sup>

These are the general sections and provisions to keep in mind when navigating an owner's policy or loan policy. While an owner's policy insures title to the property, the loan policy addresses specific concerns related to lien priority and providing assurance for lenders. Understanding the parts of an owner's policy and loan policy can help mitigate potential financial risks in real estate transactions.

<sup>5</sup> *Id.* at 660

## Enabling Google to Work for You

**Jonathan Markel, VP Marketing**

I wrote a similar article last year on the power of Google reviews and thought it was worth revisiting. I still see a lot of title agencies and law firms not taking advantage of Google reviews. Let's take a quick look at the advantages and how this will benefit your company.

First and foremost, you will have to create a "Google Business" profile. It is very simple to set up the profile and there are many tutorials and walkthroughs on the internet on how to create this account. As an example, if you Google a local restaurant, you will likely see the restaurant pop up with pictures, a map, contact info and Google reviews on the right-hand side of your screen. This is what you will be aiming to do with your title agency or law firm.



Once your Google Business Profile is set up, you have the ability to start receiving reviews. Make it a habit to ask for reviews at every opportunity. A good practice is to contact your close referral partners (Realtors, loan officers, investor clients, etc.) or the buyer with whom you recently had a very smooth closing and kindly ask if they are willing to leave a review. To make it easier for reviewers, provide a direct link to the review site in an email.

Google reviews are on a scale between 1 and 5 stars (with 5 being the best). The more overall reviews you have, the more visible your company becomes and this is where search engine optimization (SEO) comes into play. When someone googles "Title Insurance in XYZ county Pennsylvania," the top results on Google's first page will be skewed toward companies that have more Google reviews.

One other important tool for you to use is your interaction with any comments made in the reviews. If someone leaves a positive review, you as the owner can respond to that review, "thank you for the kind review, we really enjoyed working with you!" The same goes for any negative reviews, which are inevitable. It is important that you address negative reviews by leaving a reply to the comment such as, "we are sorry for your experience..." and determine if you can offer a solution to the problem presented.

In conclusion, I highly recommend that you create a Google Business Profile and request reviews from clients. This is a great marketing tool to draw more awareness to your business and makes your business easier to find online.

# Seller Impersonation Fraud

**Don Delgado, VP Agency Administration**

One of the newest real estate scams that title agents need to be on the lookout for is Seller Impersonation Fraud. According to the U.S. Secret Service there has been a sharp increase in reports of this type of fraud with vacant land and property that is unencumbered/free of liens.

The typical scheme goes something like this:

- The criminal seller searches public records to identify properties that are free of liens and identify the record owner. Vacant lots and rental properties (non-owner occupied) are common types of property that fit this.
- The criminal seller contacts a real estate agent identifying themselves as the record owner and requests the property to be listed below market value to attract immediate interest from potential buyers.
- The criminal seller prefers a cash buyer who can close quickly.
- The criminal seller makes up a reason for not being able to attend closing in person and requests a remote notary. They typically claim to be out of state or traveling at the moment.
- The criminal seller provides falsified, notarized documents to the title agent or closing attorney.
- The title agent/closing attorney completes the closing; records the falsified Deed and sends the proceeds to the criminal.
- All communication is electronic, via email or text. The criminal seller always has an excuse for not being available to talk on the phone, meet in person or appear virtually.

Title agents, closing attorneys and Realtors are the first line of defense to prevent this type of fraud from occurring. Following are precautions that need to be taken when the above described circumstances arise:

- Verify with the Realtor that they know the seller personally or that they have met them and verified their identity. Ask for the source of the lead and make sure it wasn't some random person that contacted them. Take the extra measure to verify the seller's identity yourself prior to scheduling a closing. This can be done by using a third-party service provider who uses Knowledge-based Authentication KBA and by obtaining a color copy of their government issued ID prior to scheduling closing.
- Mail the seller at the address on the tax records.
- Ask the seller for copies of the settlement statement and title policy from when they purchased the property.
- Ask the seller for copies of receipts for their most recent real estate tax payments.
- Ask questions to determine the seller's knowledge of property information not readily available in public records.
- Manage the notarization and vet the notary if you have never used them before. Do not allow the seller to select a notary. Try to work with another title agent or closing attorney instead of a random notary and require the seller to go to their office.
- If the sales price seems low, get a valid explanation.
- Do not wire proceeds. Disburse by check. If funds must be wired, require a copy of a voided check with a disbursement authorization.

**WHEN IN DOUBT – DO NOT CLOSE!**

# Submerged Lands & Navigable Waters

**Rick Hecker, Sr. VP General Counsel**

With the first days of summer arriving in rapid fashion, I am confident many readers are contemplating a watery retreat as part of their summer vacation plans. While vacations are certainly for relaxation, if you want to keep your mind engaged in the world of title insurance this summer, a discussion of submerged lands and navigable waters will certainly fit the bill.

When speaking about the concept of submerged lands, in title insurance, we are primarily referring to the areas beneath navigable waters within a specific state's jurisdiction.

The legal framework governing submerged lands in the United States is primarily established through federal laws and regulations. At its core, the Submerged Lands Act of 1953 grants states ownership and control over the submerged lands within their boundaries at the time they entered the Union. Meanwhile, the Outer Continental Shelf Lands Act, enacted in 1953 and amended in 1978, delineates federal control over submerged lands extending beyond state jurisdiction. This act empowers the federal government to manage and lease these lands for activities such as offshore energy exploration and extraction.



As can be imagined, for purposes of title insurance, our primary concern is with the Submerged Lands Act of 1953, as that is the more frequently encountered. Under the Act, "lands beneath navigable waters" is primarily defined as:

[A]ll lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a Member of the Union . . . .

Specifically, navigable bodies of water are segregated from public lands at the ordinary high-water elevation, which is the line that the water impresses on the soil sufficient to cause a lack of vegetation. Accordingly, title to the beds of navigable bodies of water are not insurable, as that title is held by the state in which the bed is located.

When issuing a title insurance policy, this issue arises with land that abuts navigable waters in a particular state. In those instances, Conestoga has developed the following exception for use on the policy:

Subject to rights of the United States of America, the State of \_\_\_\_\_, the public and other riparian owners between the high and low water marks of (name of body of water)

Should you be presented with a transaction abutting a potentially navigable body of water and have questions on the applicability of the exception, please do not hesitate to contact your Conestoga Underwriting Service Team to confirm coverage.

# Launching later this summer: **Conestoga Agent Resource Center**

A new website built exclusively for Conestoga agents & attorneys

- ◆ **Comprehensive agency Materials:** Elevate your agency or firm with exclusive materials covering underwriting guidelines, best practices, endorsements and more.
- ◆ **Insider Insights:** Stay ahead of the curve with training videos and valuable tips from industry experts.
- ◆ **Cutting-Edge Resources:** Streamline your workflow with state-of-the-art resources developed by Conestoga's own title experts.

**Watch your email for notice of an introductory webinar later this summer.  
Empower your success with the Conestoga Agent Resource Center!**

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