

Conestoga Quarterly



2023 Third Quarter

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Conestoga Resource Center Webinar

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



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A Message from the President



Celebrating 50 Years of Success

I am delighted and honored to announce that Conestoga Title Insurance Co. will celebrate a remarkable milestone on October 11th, 2023 – our 50th anniversary in business! This momentous occasion not only celebrates our enduring success but also serves as a testament to our unwavering commitment to excellence in customer service.

Half a century ago, we embarked on a journey with a vision to make a difference in the lives of our customers. Today, as we reflect upon our past, we feel a deep sense of humility when considering the path that has led us to this point. Our success is not a mere stroke of luck; it is the result of tireless dedication and the commitment of our employees, the loyalty of our customers, the guidance of our Board of Directors, and the steadfast support of our parent company.

Our Employees: Our greatest asset has always been our people. Through their passion, dedication, and hard work, they have transformed title industry challenges into opportunities and obstacles into stepping stones. It is their commitment to our values that has powered our growth. We take this moment to celebrate our invaluable team members, for their relentless pursuit of excellence.

Our Customers: Over the past five decades, our agents, approved attorneys and policyholders have entrusted us with their business. Their loyalty, feedback, and trust have been our guiding lights. Their satisfaction and success are our most cherished rewards. As we celebrate this milestone, we renew our promise to continue delivering the exceptional service they deserve.

Our Board of Directors: The guidance and wisdom imparted by our esteemed Board of Directors have been instrumental in shaping our company's strategic direction. Their support and commitment to our long-term vision have played a pivotal role in our sustained success.

Our Parent Company: We owe a debt of gratitude to our parent company, Donegal Mutual Insurance Company, whose support and belief in our mission has allowed us to thrive. Their partnership has enabled us to innovate and expand while maintaining our commitment to excellence.

In closing, I wish to express my deepest gratitude to all who have contributed to our success. Together, we have built a legacy of excellence, and we look forward to the exciting opportunities that the future holds. We will continue to evolve, adapt and thrive in an ever-changing business landscape. Thank you for being part of our remarkable journey.

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

Policy and Premium Reporting - Policy Status and Premium Variance Reports

Don Delgado, VP Agency Administration

Are you current with your policy and premium reporting requirements per your Agency Agreement with Conestoga? Conestoga is required by Department of Insurance regulations to accurately report premiums generated and liability assumed each month. In order for Conestoga to be compliant, it is critical that agents report all premiums collected as outlined in the Agency Agreement. That means reporting within 30 days of settlement. It is also important that copies of all policies and settlement statements are reported within 30-60 days of settlement. If you are already complying with these requirements – Thank you – we appreciate your timely reporting.

Conestoga's Policy Status Report reflects how current you are with your premium and policy reporting. It shows all commitments that have not yet been fully reported (with the premium and policy copy). It also shows any policy corrections that are needed in order to complete processing of policies received. If you are current with your reporting, the report will only show unclosed files and files that closed within the last 30-60 days. Following are the meanings for items that appear on the Status Report:

“Unpaid” means we have no record of receiving anything for the file.

“Need Policy Copy” means we received the policy premium. We need the policy copy and the settlement statement copy (unless the settlement statement was sent with the premium).

“Need Correction” means we received the premium and some/all of the policy, but a correction or something else is needed in order for us to complete the processing.

Your goal should be to have a report that only reflects unclosed files or ones that closed within the last 60 days.

Conestoga's Premium Variance Report reflects policies that have been fully processed, but the premiums received differ from the amounts expected. Ideally, this report is blank. However, we understand that there are many things that can cause overpayments and underpayments (“variances”). Comments will appear on the report if we are able to determine what the causes are.

NEW - You can now run your own policy status and premium variance reports within our Agent Extranet by going to Policy Management on the left side menu and selecting Agent Policy/Variance Reports. Select Report Type from the dropdown and then click the Search button on the right side of the screen to generate the report selected.

We strongly encourage you to run these reports once a month and to make every effort to stay current with reporting, whether that means making changes to your reporting procedures and/or catching up. If you run a report and notice any discrepancies with your records, please notify us.

Understanding FIRPTA in a Real Estate Transaction

Rick Hecker, Sr. VP General Counsel

When dealing with foreign investors in Real Estate,¹ having a working knowledge of the Foreign Investment in Real Property Tax Act (FIRPTA) is important. FIRPTA is a federal tax law that can significantly impact the sale or purchase of real estate involving foreign individuals or entities. Specifically, FIRPTA was enacted in 1980 and designed to ensure that foreign investors in U.S. real estate pay their fair share of taxes. Under this law, when a foreign person or entity sells a U.S. real property interest, the buyer² is required to withhold a portion of the sale proceeds and remit it to the Internal Revenue Service (IRS). The primary objective of FIRPTA is to collect taxes on any potential capital gains earned by foreign investors in the United States.

Key Elements of FIRPTA

U.S. Real Property Interest: FIRPTA applies to the sale of a "U.S. real property interest." This includes not only physical properties but also leaseholds, certain personal property, and shares in certain U.S. real property holding corporations.

Withholding Requirement: The buyer of a U.S. real property interest from a foreign person or entity is generally required to withhold 15% of the purchase price. This amount is then remitted to the IRS.

Exceptions and Exemptions: FIRPTA provides various exemptions and exceptions, including transactions where the purchase price is less than \$300,000, involves certain types of residential properties, and sales involving U.S. citizens or resident aliens.

Implications for Buyers

Buyers in real estate transactions involving foreign sellers must be aware of their FIRPTA obligations. Failure to withhold and remit the required amount to the IRS can result in penalties and interest charges. Therefore, it is crucial for Buyers to thoroughly assess the Seller's residency status and seek professional guidance to ensure compliance with FIRPTA regulations.

¹ If the foreign investor has not self-reported their status in the Agreement of Sale or through a closing affidavit, an indicator that you may be dealing with a foreign investor is if they are not a U.S. Citizen or entity and do not have a "green card". While this is not fully dispositive, it is an indicator.

² This a key concept in FIRPTA, namely the Buyer is charged with compliance in dealing with the act, despite it being the Seller that owes the tax debt.

Understanding FIRPTA in a Real Estate Transaction

Continued

Implications for Title Agents

As FIRPTA is truly a tax imposed upon the Buyer (payable by the Seller), the title insurance policy does not provide coverage against it. In short, it is the obligation of the Buyer to determine whether a withholding is required and to what extent. When an Agent or Approved Attorney identifies a scenario where FIRPTA may be implicated, we encourage our Agents and Approved Attorneys to advise the parties to seek advice from an attorney or tax professional.

For Conestoga, we see an Agent's duties as the following:

- 1.) Alert the Buyer if you have knowledge that FIRPTA Compliance may be an issue with a transaction.
- 2.) Obtain an Affidavit of Transferee (Buyer) Under IRS Section 1445 – Foreign Investment in Real Property Tax Act.³
- 3.) If Buyer requires the withholding, administer the withholding and remit the funds to the IRS along with forms 8288 and 8288-A to the IRS within 20 days of closing.

Please note, it is the Buyer (and their tax advisors) responsibility to determine whether evidence provided by a Seller is sufficient for an exemption or if the withholding is required. When a Seller exemption or withholding is waived or reduced by the Buyer, you will need to have direct written instructions from the Buyer waiving or reducing the withholding. We strongly encourage our Agents not to provide tax advice on these matters.

FIRPTA is a critical component of any real estate transaction involving foreign investors in the United States. Buyers and sellers alike must be aware of their respective obligations under this law to ensure a smooth and compliant transaction. Seeking professional advice from tax experts and legal advisors is highly recommended to navigate the complexities of FIRPTA and to optimize the outcome of the real estate deal. If you should be presented with a transaction and have concerns about your duties as an Agent under FIRPTA, please do not hesitate to contact Conestoga's Underwriting Service Team.

³ If you do not have this affidavit, please contact the Conestoga Underwriting Team for a form affidavit.

Spot the Imposter: Tips for Identifying and Preventing Real Estate Imposter Scams

Anna Marie Sossong, Underwriting Counsel

It seems that every day we learn of a new way fraudsters are invading the real estate world. Most of these frauds have involved fraudulent bank accounts and various money laundering or wire transfer schemes aimed at your agency and the buyer. Those are still in use and several of our agents have either fallen victim or identified the fraud before they were victimized, so continue to keep vigilant for the money laundering and wire transfer schemes which still represent the largest segment of real estate fraud matters.

However, there is a reoccurring, less technology-dependent, and unfortunately, easier way for real estate owners and title companies to fall prey to fraudsters. This crime begins with a vacant lot or building. Generally the property is one that is long-vacant, untended, or owned by a senior citizen. If there is a building, it will not be owner-occupied, though it may be occupied by tenants. The property will not have a mortgage or lien of any type. The fraudster identifies the property by performing a title search.

Once identified, the fraudster will pose as the owner, contact a Realtor (generally through email) and list the property for sale. It is not unusual for the fraudster to list the property at less than fair market value or to express a desire for a quick sale or cash sale. The property will be sold and the funds will be transferred to the fraudster at closing. The actual fraud may not be discovered for some time when the true owner surfaces.

So, what can you do to help make sure you don't participate or facilitate this type of fraud?

1. These types of fraud are generally conducted through email without any in-person contact between the seller, Realtor and title agency. Be especially vigilant when handling completely electronic transactions. Confirm with the Realtor whether or not s/he has ever met with the seller or has any prior experience with the seller.
2. If the seller has listed the property below fair market value or is most eager for a cash deal, and wants to close quickly, carefully review the transaction.
3. If the seller will not attend settlement in person and instead wants to sign the documents at the fraudster's location using their own notary, be extremely wary. If the seller is in a foreign country and does not agree to use the services of a U.S. Consular Notary, do not proceed with the transaction. Generally, you should manage any notary matters – making notary appoints in other jurisdictions or arranging for the U.S. Consular Notary services.

Spot the Imposter: Tips for Identifying and Preventing Real Estate Imposter Scams continued

4. If the fraudster/seller directs that you disburse the proceeds to some entity other than the seller, do not agree. As a title agent, you must disburse the transaction to the seller identified by you in your search – the owner of the property.
5. Review all the identification provided carefully. Double-check the photograph provided to make sure it looks like the seller (if the seller actually attends closing). If one form of ID isn't conclusive, ask for another. If the seller does not attend closing, compare the signatures on previous seller-signed documents with the signature on the agreement of sale and other subsequently signed documents. If they don't appear the same, don't close the loan and decline to insure.

Examples of what you can do:

- A. If the owner of the property purchased it in 1980 and there have been no subsequent transfers, but the seller that you are dealing with appears to be much younger than would be expected – be extremely wary. Don't hesitate to terminate your involvement.
- B. Using the official tax records, communicate with the current record owner via U.S. Mail or telephone to confirm that they are selling the property. Ask for photo identification to confirm they are the owner. If they are not selling the property, then a criminal fraud report should be filed by both you and the true owner.

If you are working on a transaction and you suspect fraud, do not tell the realtor that you suspect fraud. Such an accusation transmitted to another may lead to a slander charge. Just decline to insure and report the matter to Conestoga and your local police. Conestoga can help you report it further to the FBI. Remember – your due diligence can prevent claims and the loss of valuable assets. Use your instincts. If the transaction feels wrong, don't hesitate to refuse to insure.

Social Media for Your Title Agency or Law Firm

Lisa Fischer, Delmarva Agency Representative

It is evident that the majority of businesses today need an online presence. Building and managing this outreach on a variety of social media platforms can seem like an overwhelming task. Whether you are starting out or already a pro, here are a few ideas to up your social media game and more successfully market your business.

Target Your Efforts

Consider that all social media platforms are not the same. Where are the people you want to reach? Do your current and potential customers more frequently use Facebook, LinkedIn, TikTok, Instagram, YouTube, or any others? While it might seem *everyone* is on *every* platform, there is a chance there are some they use more often to connect with their professional life. Perhaps look closely at all the social media options and start by developing your brand on one or two platforms with the best chance to engage your customers. If you are already using a couple of platforms regularly, consider broadening your reach by working on a new platform.

Content is Key

Users' social media feeds and timelines are saturated, and it can be hard to stand out. Offering relevant, current, and quickly digested content engages users. A two-minute read, or video view is a great target. Consider not what *you* want to say but what *they* want to hear. What information helps your customers succeed today and tomorrow? Also, do not feel the pressure to generate all the content yourself. Find great sources and news in your marketplace and post and share links to already developed content. Do some homework for your customers and aggregate information for them, and you will be considered a valuable source. Dedicate your time to posting relevant content on a couple of platforms instead of being inconsistent across every platform. Use a calendar to plan posts to keep yourself on track, and choose quality over quantity.

Use Your Resources

Many smaller agencies or law firms rely on one person to produce all social media content, but allowing other employees to contribute has its benefits. Each team member has a unique perspective on the industry and set of skills to contribute to the content. Customers like to know the faces behind a company and allowing individual employees to generate content really humanizes your business.

Reviews and Testimonials

Customer reviews and comments make great social media posts, and they can also be featured on your company's website. Utilizing this positive feedback engages current customers, draws in new customers, and builds trust and credibility around your product or service. Sticking to the quickly digested content rule still applies here, so do not post an entire testimonial. Pick a couple of key phrases that summarize the customers' experiences as a whole.

Utilizing social media is an important step when building your company's online presence. Many social media apps can track your metrics, as long as you set up a business account. Site reports can help you effectively analyze your strategy and adjust accordingly.



Dot Your Eyes, Cross Your Tees, and Mind Your Peas and Queues

Alena Postlethwait, Agency Administration Assistant

He made shore to where a Thai to the interview.

Spellcheck, what we assume is our final line of defense, can actually be our downfall. Clearly that prior sentence is riddled with errors, but spellcheck fails to catch them. Take the time to double-check your work. Your best weapon is your own set of eyes. I also find previously missed mistakes by reading my writing out loud. This does not mean reading so loud that Stacey in the next cubicle over has to put in her earbuds. Whispering or mouthing the words also works just fine. Another helpful tip is to take a step back from what you have written and come back to it later to check for mistakes.

I like to think that I don't fall under the category of grammar police. I don't correct people in public or in the Facebook comment section (please don't be *that* guy). I do cringe internally, pretty regularly, when your and you're are used interchangeably or when "like" is used as every other word in a sentence. Please enjoy this example from Kylie Jenner's 2016 New Year's resolution:

"Like, I feel like every year has a new energy, and I feel like this year is really about, like, the year of just realizing stuff. And everyone around me, we're all just, like, realizing things."

I would like that on a t-shirt. While I believe that texting and social media have stunted grammar, spelling, and punctuation abilities, I do not think we should settle for second best, especially in the workplace. We can do better!

Communication comes in many different forms in today's business world: emails, letters, memos, instant messages, etc. While it may not seem important, putting effort into grammar, spelling, and punctuation goes a long way in responding to an email. Every exchanged correspondence is a chance to make an impression. I have received written responses that have said "thx," "no prob," and my personal favorite, "k." Do I understand what they are saying? Sure, but, with responses like these, I feel like I am not respected or worth their time.

It should go without saying, you should always make your customers feel important and worth your time. The use of proper grammar, spelling, and punctuation gives your business the reputation as a trustworthy source and can lead to an edge over careless competitors. The wrong use of their/there/they're or other homophones can completely change the meaning of a sentence. Customers might be left trying to decode your message. This could lead to them asking you to clarify or, in the worst-case scenario, you could lose customers who do not have the time to try to figure out what you are trying to communicate.

Effective workplace communication has been proven to boost productivity and a positive work environment. Clear written instructions and guidelines help employees understand what is expected of them. Instead of wasting time trying to understand badly written instructions, employees can focus on doing their jobs.

No matter the size of your business, grammar, spelling, and punctuation are vital to gaining new clients and maintaining current ones and keeping a reputation of trustworthiness and care. Before you hit send on that email, read it one more time. You only get one first impression.

Another Tip: "Irregardless" is NOT a word.

Conestoga Title Resource Center

A new website built exclusively for Conestoga agents & attorneys

Mark Your Calendar: Introductory Webinar on Oct.17th 12:00PM

- ◆ **Comprehensive Agency Materials:** Elevate your agency or firm with exclusive materials covering underwriting guidelines, best practices, endorsements and more.
- ◆ **Available On All Your Devices:** No more flipping through hard copy manuals. The resource center is completely digital and easy to navigate.
- ◆ **A Variety of Resources:** Streamline your workflow with state-of-the-art resources developed by Conestoga's own title experts and links to documents on other sites.

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