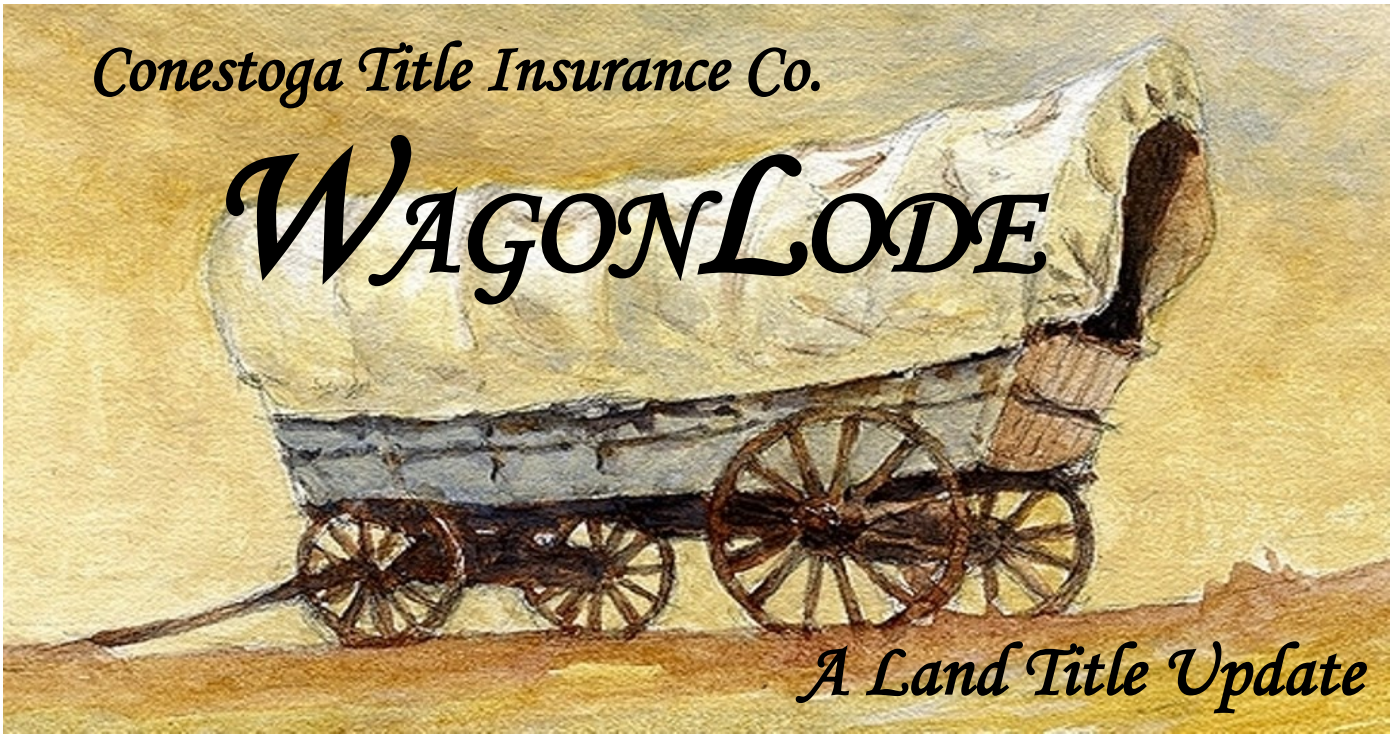


2019 Third Quarter

Articles Inside this Issue

Message from the President

CONESTOGA TITLE INSURANCE CO.

The Strength and Grace of the Conestoga Wagon

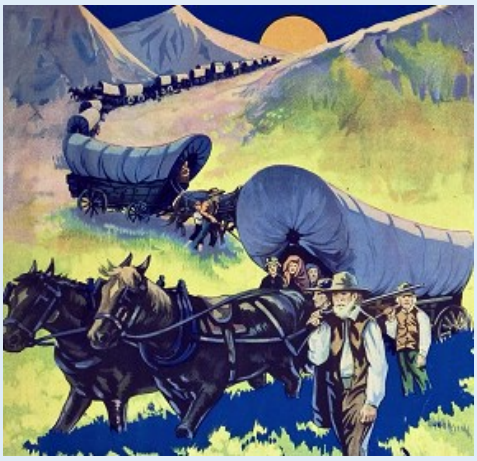
Conestoga wagons were the supply vehicles for General George Washington's armies during the American Revolution. They carried arms, munitions, food, and other provisions to the troops in the front lines. Returning from the front, they transported the sick and wounded to makeshift field hospitals.

The wagon's unique design was a combination of grace and great strength. Its name came from the Conestoga River Valley of Lancaster County, Pennsylvania – the heart of "Pennsylvania Dutch" country. As early as 1717, skilled wagon makers were hard at work designing and constructing these durable vehicles.

During the years between 1720 and 1750, the Conestoga wagon design became standardized in a form resembling a land-bound boat with wheels, and was nicknamed "Prairie Schooner" as westward movement of Americans increased.

By the 1790's, it was common to see long lines of 50 to 100 "Conestogas" moving between Lancaster and Philadelphia. This wagon route linking the two cities became the first turnpike in the United States.

Pulled by a team of four to six stout horses, each wagon was capable of carrying over a ton of cargo. From 1820 to 1840, the Conestoga wagon experienced the peak of its use. As settlers pushed west, the wagons carried all of their belongings.



Today, the Conestoga wagon stands as an excellent example of American ingenuity and is an important part of our heritage.

Just as the mighty Conestoga wagon served our ancestors, Conestoga Title proudly serves our policyholders. Our company provides great strength by means of our financial stability and our tradition of standing behind our obligations. Our company exemplifies grace through the prompt and courteous support that we provide to our network of agents and approved attorneys. In the same manner that the Conestoga wagon demonstrates American ingenuity, Conestoga Title has been pioneering new initiatives to assist our agency network in the areas of software upgrades, integrations and title search production. Stay tuned, captivating announcements will follow in Conestoga's fourth quarter issue of the "WagonLode."

John M. Nikolaus, CLTP

President, Conestoga Title Insurance Co.

8 Key 'E' Definitions

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for Conestoga Title Insurance Co. WagonLode 2019 Third Quarter

Trying to explain electronic mortgages and closings to your customers and staff can be difficult. Use these definitions to help aid the conversation and discussion.

E-mortgage: A mortgage loan where the critical loan documentation, specifically the promissory note (e-note), is created electronically, executed electronically, transferred electronically and ultimately stored electronically. This often includes a wet-signed security instrument.

E-note: An e-note is another term for an e-mortgage. An e-closing produces an e-mortgage if the promissory note is signed electronically.

E-closing: The act of closing a mortgage loan electronically. This occurs through a secure electronic environment where some or all of the closing documents are executed and accessed online.

E-vault: Provides the ability to accept and receive and securely store electronic mortgage documents post-closing and prior to investor delivery.

Hybrid closing: E-closing process where certain key documents (e.g., Note, Security Instrument) are printed to paper and traditionally wet-signed, while other documents throughout the process are signed electronically.

Remote Notary: A legally commissioned notary public who is authorized to perform notarizations via audio-visual communication.

Electronic Notary: Electronic notarization is a process whereby a notary affixes an electronic signature and notary seal (where required) to an electronic document.

Smart Doc: An electronic document created to conform to a specification standardized by MISMO. A SMART Doc can lock together data and presentation in such a way that it can be system-validated to guarantee the integrity of the document. SMART is an acronym meant to explain the purpose of the document standard – to make documents Securable, Manageable, Archivable, Retrievable and Transferable.

Using LinkedIn to Grow Your Title Agency

Jon Markel, Regional Agency Representative

As a title agent, you are always looking to grow your book of business. Over the years, you may have relied on word of mouth marketing, referrals, direct mail, and even knocking on doors or cold calling. Although these marketing channels are still beneficial today, the use of social media as a marketing tool continues to grow and should be considered for your title operation. This article will briefly explain the benefits of using social media, with a main focus on LinkedIn.

Simply put, social media platforms allow people to interact online. Users communicate, make plans, and share information such as videos, news articles and images. The benefits of *marketing* with social media are increased exposure, traffic and leads, ultimately resulting in improved sales.

Social media allows you to connect with a larger network of individuals and businesses than ever before, at little or no cost (other than time).

An ancillary benefit of social media marketing is that the more you use it, the more visible you become online. Constant and consistent social media marketing improves your search ranking (otherwise known as Search Engine Optimization, or SEO).

There are dozens of social media sites out there including LinkedIn, Facebook, Twitter, Instagram, YouTube, Snapchat, and many more, but if you choose to actively market on just one social media site, I recommend LinkedIn. I personally use LinkedIn on a regular basis to obtain access to thousands of professionals in the real estate industry. LinkedIn excels at establishing connections, especially professional ones. It is easy to connect with current clients, alumni, friends, and new prospects. The fact is, practically every Realtor and loan originator uses LinkedIn, which provides a great opportunity to connect with potential referral sources. Once connected, you have the opportunity to send a message to that person, and see updates that they share and vice versa. In short, you have the ability to maintain constant contact with your existing clients as well as prospects.

Also, remember that it's not all about you. You should be consistently reacting to and interacting with other people's posts. Liking and commenting on other's posts builds familiarity and trust, the value of which should not be underestimated.

Like any tool, LinkedIn is only of value if you use it regularly. There are several keys to maximizing the benefits of LinkedIn.

- 1. Build a strong profile. Your profile is a way for you to promote yourself and your business. Make sure to provide a detailed description of your job or business. Illustrate your value, explain what you bring to the table, and describe what distinguishes you from competitors.
- 2. Engage in consistent interaction. Make sure you are regularly sharing quality content. If you are pressed for time, do not worry; the content need not be original. You can simply share an article from Forbes or the Wall Street Journal that you feel is relevant to your target market.
- 3. Do not be afraid to ask your connections to write up a recommendation or endorse you for skills, and offer to do the same for your solid connections.

If you need help in starting a LinkedIn page or have any questions in general about using social media, please give me a call or email me at Jmarkel@conestogatitle.com.

Bankruptcy: "Discharge" vs "Lien Avoidance"

Rick Hecker, Underwriting Counsel

A little fear creeps into my mind when thinking about examining title to property whose owner has been through a recent bankruptcy. Based upon the questions we receive from our agents, I am confident that I am not alone on this. Of those bankruptcy-related questions, the most frequently asked is: what becomes of a debt secured by real property?

The debtor will invariably insist that the "debt was discharged" in the bankruptcy. Unfortunately, the debtor is conflating "discharge" on one hand, and "lien avoidance" on the other.

A bankruptcy discharge releases debtor from personal liability for most debts, but (without more) does not remove those debts from the realty they encumber. That's were lien avoidance comes in.

11 U.S.C. § 522(f) lays out the conditions under which a debtor may avoid the fixing of a lien on real property. To do so, the debtor must request the Court to enter a specific order avoiding the enumerated lien. Without this Order Avoiding Lien, a properly attached lien continues to encumber the real property even if the debtor receives a discharge of his personal obligation to pay the debt.

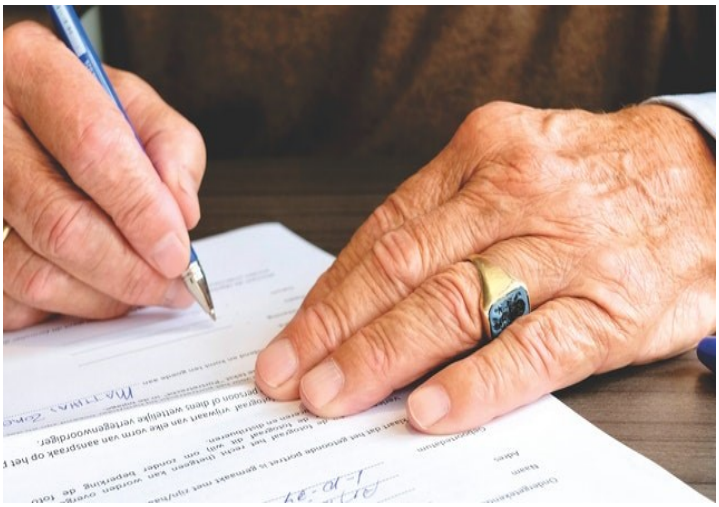
This fact can come as a surprise to your client and may be met with some resistance, but without an order specifically avoiding the lien, the lien will need to be paid to clear the title to the property. If you run into one of these situations and have questions about whether a lien was avoided in bankruptcy, always feel free to contact our Underwriting Service Team for clarification.

Be Invested in How It's Vested

Bill Parker, Esq. Underwriting Counsel

The average homebuyer has little understanding of the consequences of choosing one vesting method over another. Thus, it is important for you as the title agent to take a vested interest (pun intended) in how the purchase will be titled. Granted, it is not as exciting as designing their new space or going furniture shopping, but the right choice now may avoid unintended consequences down the road. Homebuyers should be made aware that there are several options, and the best one depends on the facts, circumstances and goals of the buyers.

You, as the title agent, should make the homebuyer aware that there are various titling options. Attorney agents should discuss the clients' reasons for buying and what the future may hold for them. For example, a common scenario is a young couple buying real property BEFORE they are married. Assuming that they do get married will they need a change in the title? What happens to the interest of each in the event the marriage does not take place? Answers to these questions and more depend on the method of taking title. Here are the basics:



What is a title?

A property title is the bundle of rights that dictates who has legal or equitable interest in the property.

What are the different ways to hold a title?

Although title rules vary from state to state, generally all states recognize the following most common forms of title:

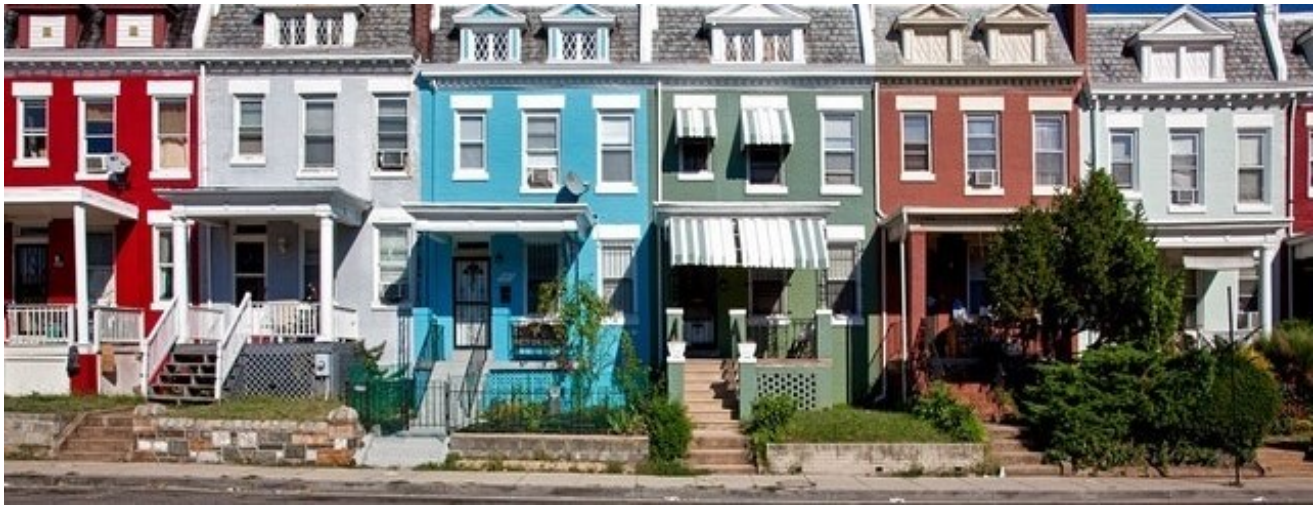
Sole ownership

As the name suggests, sole ownership property is titled in the name of only one person.

Joint tenancy with the right of survivorship

Where two or more individuals are purchasing property together, each person owns an equal portion of the property and each has an equal right to possess the property. Under joint tenancy, if one person dies, the other owner or owners generally acquire decedent's interest in the property without the need for probate.

Be Invested in How It's Vested



Tenancy in common

Under this method, as with a joint tenancy, multiple people may hold title to the property together, but unlike a joint tenancy, each is able to independently sell her interest, or pass it on to beneficiaries of her choosing after she passes away. You should make the client aware that if she owns a property as a tenant in common and does not have a Will, her share of the property will be distributed based on state probate law.

Tenants by entirety

Some states allow married couples (and only married couples) to own property via this title method. This method also allows joint ownership of property, but unlike other methods of joint ownership, tenancy by the entirety gives each spouse an undivided interest in 100% of the property. From a debtor/ creditor standpoint, the marital unit owns the property (not the individual spouses), and therefore creditors can't lay claim to the property if they're pursuing a debt that is owed by only one of the spouses. In the event one spouse dies, the other receives full ownership of the property without the need for probate (similar to joint tenancy and unlike tenancy in common). The caveat with this method of holding title, and a difference between it and a joint tenancy, is that one spouse cannot sell his share of the property without consent from the other spouse.

In a living trust

A trust is an estate planning vehicle that allows passage of one's property at death to beneficiaries without the need for probate.

What to know: if clients mention the desire to title property in the name of a trust, advise them to seek out a lawyer qualified to draw up the trust. In the event a trust already exists, please review it carefully (or send to your underwriter for review) to ensure that the trust language is adequate and appropriate to accomplish the needs of your clients.

These principles are very general and the facts of each case may vary. If you as the title agent have any questions or concerns please contact your Underwriting Service Team.

Wire Fraud Resources

Don Delgado, VP Agency Administration

Wire fraud in real estate transactions remains prevalent. No matter what preventative measures are taken by the industry, fraudsters will always try to remain one step ahead. All indications are that this problem is not going away any time soon. All real estate professionals (Realtors, lenders and title insurance agents) need to remain vigilant and proactive in this ongoing battle. It is incumbent upon all parties involved in real estate transactions to educate consumers and staff about the wire fraud threat and about the best ways to combat it. Don't fret – you do not need to create your own material to do this. Following is a list of resources available to title insurance agents that can be used to educate consumers and staff. We strongly encourage you to utilize as many of these resources as is practical for your office:

Share this web page with consumers as soon as you receive the order for settlement services: Home Closing 101 – Protect Your Money: https://www.homeclosing101.org/protect-your-money/

Conestoga has rack cards about wire fraud that you can display in your reception area and hand out to consumers. A sample can be found here: https://www.homeclosing101.org/wp-content/uploads/2017/08/alta-wire-fraud-infographic.pdf . If you would like to order a supply of these cards, please contact Colleen Sheerin (csheerin@conestogatitle.com).

Download CertifID's Complete Guide to Understanding and Preventing Real Estate Wire Fraud and share it with your staff: https://certifid.com/ebook-clear-to-close/ . This is a guide published by CertifID explaining why wire fraud happens, how it happens, what to look out for and ways to help prevent it. It also provides information on insurance coverage and how to recover from wire fraud.

Read this article titled Business Processes That Prevent Wire Fraud: https://certifid.com/business-processes-wire-fraud-prevention/. It was published by CertifID founder, Tom Cronkright and provides really good advice on processes title agents can implement to help prevent wire fraud.

View this video: Avoiding Wire Fraud in the Mortgage Closing Process: https://www.youtube.com/watch?v=PF-bSDMxIjo. It was published by the CFPB in conjunction with ALTA and provides helpful information and tips.

Watch this video about enabling Two-Factor Authentication (2FA) on email accounts and social media accounts: https://vimeo.com/327480838. Share it with your Realtors, loan officers and anyone else that you communicate with regularly about transactions. Following are additional instructions for enabling 2FA with specific providers:

Microsoft - https://support.microsoft.com/en-us/help/12408/microsoft-account-how-to-use-two-step-verification

Gmail - https://www.google.com/landing/2step/

AOL mail- https://help.aol.com/articles/2-step-verification-stronger-than-your-password-alone

Yahoo mail - https://help.yahoo.com/kb/SLN5013.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAFAhhtg0HHz2JpFfBI0Cw_cvnvr1hpfRdfphO5RYTjdDKKul1_9UizfHTlmBFyUCK3mWF80DW7DQnHyaYADHgEjffy2lsxkht0013oj_9QUng-ZgMsWmc8yd41-0ybwgvf71NL6wMK9TpDjjS16M7jxRIl7yla8z6AuFIayuM00q

Education and training may not be enough to give you peace of mind. Following are vendors that offer products to help safeguard funds that are wired in connection with real estate transactions:

CertifID - https://certifid.com/ - CertifID is a real-time identity platform for real estate, mortgage and title industry professionals to authenticate parties in a transaction and securely transfer wiring information.

SafeWire - https://www.safechain.io/product-features - SafeWire uses a combination of identity verification and bank authentication technology to help title agents eliminate the threat of wire fraud and keep their customers' funds safe.

ClosingLock - https://www.closinglock.com/ - ClosingLock is a service for companies to use to securely share wire transfer instructions and other documents with their customers (residential or commercial buyers and lenders).

Do not ignore the real estate wire fraud threat. It can happen to anyone and it can be devastating when it does happen. Education of consumers and staff is of the utmost importance. Take the time to review the resources described above and take advantage of what they have to offer.

WHAT Exactly *Is* MERS, WHY Was It Created and HOW Might It Help You?

Eric Borgia, Underwriting Counsel

What is MERS?

MERS is an acronym for a corporation called Mortgage Electronic Registration Systems, Inc. (MERSCORP).

MERS is also a shorthanded way to refer to the MERS® System (the System).

So "MERS" actually refers to two different things; a corporation, and a system. (They are of course related, in that MERSCORP is a subsidiary of parent company MERS Holdings, Inc., which also operates the System.)

MERSCORP is a Member-driven organization with over 5,000 Members, including banks, credit unions, non-depositary mortgage companies, investors and service providers. Click to confirm a party's participation in the MERS® eRegistry.

The System is a national electronic database that tracks changes in mortgage servicing and tracks transfers of promissory notes between its Members.

Under the System, MERSCORP is and always remains the beneficiary of the mortgage (i.e., the mortgagee), no matter how many times the promissory note is transferred or servicing rights are transferred between Members. Under the System, Members no longer need to record assignments of the mortgage because the mortgage remains in the name of MERSCORP.

Why was it created?

The System enables Members to avoid the costs, in terms of manpower, money and time, associated with the traditional mortgage assignment recording process. MERSCORP claims that the System lowers costs for consumers as well as Members, and also claims that the System provides a central source of information and tracking for mortgage loans, among other benefits.

MERS: How Might it Help You?

Every MERSCORP mortgage will include a unique 18-digit Mortgage Identification Number (MIN), which is used to track a mortgage throughout its existence, from origination to assignment to payoff (or foreclosure). With the MIN, title agents are able to verify the servicer for a payoff received, which can be useful if the borrower is not sure who is servicing their loan. Also, in the case of a prior paid off but unsatisfied loan, the MIN can help to identify the lender that is responsible for satisfying the loan. Since the MIN is also included on the satisfaction piece, it can be helpful in cases where the satisfaction piece contains a scrivener's error, or the wrong party satisfied the mortgage, or the chain is not clear. It is also a helpful verification tool in that the System will show the loan as "inactive" if it has been paid off.

You can locate servicer information for a mortgage loan using the following search criteria:

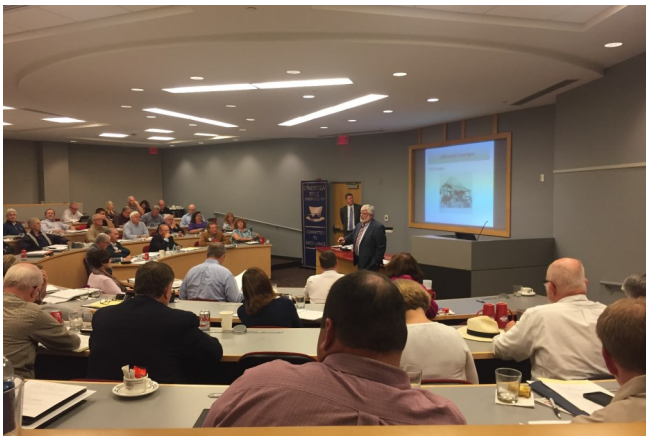
- 18-digit Mortgage Identification Number (MIN)
- Property address/Borrower Details
- FHA/VA/MI Certificate

Here is the MERS link to search for such information.

The System is not without its critics, who claim that it has a negative effect on the integrity and transparency of the public recording system. County Recorders of Deeds, among others, have filed lawsuits claiming that the System violates recording statutes. Some of these suits have been victorious while others have not. With more than half of all residential mortgages in the System, the lost revenue to the Recorders of Deeds is an obvious underlying issue.

Still Seats Available

for Conestoga Title Insurance Co.'s next seminar taking place at **The Ohio State University** in Columbus, Ohio on 10/9/19. This seminar is approved as two courses: four CE Title credits and one CE Ethics credit. Five hours of Ohio CLE is pending. Register now **Here** or email Colleen Sheerin at csheerin@conestogatitle.com.



SAVE THE DATE

Conestoga College 2020

January 20-21

Lancaster, PA

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