

# Conestoga Quarterly



## 2021 Fourth Quarter

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# A Message from the President

On behalf of the entire team at Conestoga Title, I would like to extend Season's Greetings! Conestoga is fortunate to have such an impressive network of agents and approved attorneys. The title industry experienced healthy business levels in 2021 accompanied by a challenge to meet consumer demand. I am grateful that our company was able to assist you and your clients with your underwriting needs. Thanks to your hard work, Conestoga experienced higher than expected premium revenue and extremely low claim expenses, a winning combination!

Real estate professionals are predicting a strong housing market as we enter 2022. While property appreciation is expected to slow, real estate values are expected to experience continued growth. Understandably, refinance activity is expected to be lower in 2022 with rising mortgage interest rates. Historically speaking, rates are still forecast to be relatively low which will support continued vibrant residential sale activity. Commercial volume has been impressive in 2021 and we expect the same for next year. Foreclosure volume will increase as moratoriums expire. Rising foreclosure volume normally prompts increased claim activity. However, the robust level of equity in the real estate market is expected to buffer claim losses.

Budgeting in the title business will be a challenge as we enter the New Year. In my view, budgeting revenue will depend on your firm's sources of business. If your firm depends heavily on lender driven refinance activity, your projections will need to be realistic and reflect a decrease in business unless you are able to diversify your client base and attract more Realtor and investor business. If you already predominantly rely on real estate sale business, you will be better postured in your attempt to sustain a similar level of business in 2022. Inflationary pressure will require budgeting for higher expenses which will narrow profit margins. Overall, the hope is that the real estate market will continue to be strong which will assist all of us in achieving our budgetary goals.

Looking forward to 2022, Conestoga Title remains committed to providing quality educational opportunities for our agents and approved attorneys. After not seeing so many of you last year due to the pandemic, we are excited to resume Conestoga College an in person, one day, continuing education event on January 17, 2022. In addition, due to high demand, we plan to resume monthly webinars throughout the balance of 2022. Please contact us if you do not already receive event notices.

In closing, thank you for your business and your loyalty to Conestoga Title. From our team to yours, we wish you a joyous holiday season and happy, healthy and prosperous New Year!

*John M. Nikolaus, CLTP*

President, Conestoga Title Insurance Co.



## Private Roads Can Lead to Trouble

Bill Parker Esq., VP Claims & Underwriting

How many agents have had the situation (usually a day or two before settlement) where they find out the client's property adjoins or is benefitted by a private road?

The agent may find out when it is mentioned by one of the parties in passing or raised by a lender inquiry. Either way it almost always results in a postponement of settlement and extra paperwork to clear. There is almost never an accompanying agreement for use or maintenance of the road. Possibly neither party knows exactly where the road is.

In addition, regulations for federally backed mortgages like Fannie Mae, VA, USDA and FHA loans require these properties to have an agreement for the maintenance of the private roadway, outlining responsibility of repairs, including what each owner's share is, remedies for default and terms of the agreement. Without an agreement in place, these lenders will not provide financing to close the transaction.

The presence of a private road has also been the substance of many claims over the years. The land has changed hands and the folks who made a verbal arrangement about the road are long gone. Now, however we have PA state law that helps to clear the issue. This law now mirrors the Planned Communities and Condominium Acts requiring participation and contribution by all parties for common areas

By passing this long overdue act, the Pennsylvania legislature has closed a cumbersome title loophole. PA Act 75 of 2021 amends the General road law to include the following:

### Section 15:

A private road shall be opened, fenced and kept in repair by and at the expense of the property owner at whose request the private road was granted and laid out and by the owner's heirs and assigns.

Each property owner that shares a common benefit from the private road SHALL contribute in proportion to the amount of private road utilized to maintain the private road at the current level of improvement and shall have the right to bring a civil action to enforce the requirement of this section.

This section shall not apply to a private road (already) subject to a written maintenance agreement.

The new law takes effect on December 8, 2021.

By mandating agreements and contribution the owner of the road and anyone who benefits from the road now know that they must cooperate to may sure the road is available for all who need it .

# Three Ways Title Companies Can Attract More Local Clients Online

Justin Gooderham, President, Dalton Digital

Most title companies provide title insurance and escrow services to real estate agents and home buyers in the state where they are located, rather than nation-wide. Because of this, it is vital that your title company is getting its fair share of local search engine traffic and visitors. Is your website showing up on Google for those important searches related to title insurance? Is your website user-friendly, and more importantly, is it mobile friendly?

According to Google, over 60% of the 3.5 billion daily Google searches are conducted on a mobile device. Furthermore, 88% of all mobile searches are for local businesses! This represents a massive opportunity to attract new agents and buyers to your website – engaged clients that are actively looking for **YOUR** service.

Here are three simple ways to ensure your title company is showing up for local Google searches.

## 1. Optimize Your Website Content

In order for local real estate agents to find your website, you must prove to search engines that your website and its content are relevant to what they are searching for. For example, a title company might want to appear on Google for a keyword search such as “title insurance company Lancaster county”. To show up in searches for that, that phrase should appear naturally throughout your website’s content.

As obvious as it may sound, you should be including your business name, address and service areas on your website. This is another item that Google scans when determining which title company’s website it will show in a given area. Websites without this information have a lower chance of showing up in the search results, even if the rest of their content is highly relevant.

**Bonus Tip:** It is critical that your business name, address, and phone number (known as ‘NAP’) are listed consistently across the web. This includes your website, social media profiles, online directories, and trade associations. Search engines like Google reward you for consistency as it sees this as being a better experience for its customers and will show your website in a higher position in the search results.

## 2. Get Found Locally, For Free

A great way to list your title insurance company locally and for free is to create a [Google My Business](#) page. It allows you to build visibility for your title company in Google maps and in local area searches. The Google My Business page outlines a few simple steps for you to start managing how your business appears across Google. It also allows you to interact with customers and provides a way for customers to review you.

In addition to showing important business information to potential customers, it also allows you to “own” more of the Google results page. Couple that with your organic SEO listing and you’ve got yourself some prime real estate that clients can’t ignore!

### 3. Win the Popularity Contest

Search engines like Google prefer websites that other important websites link to. It is like a popularity contest. The more high-quality inbound links you have to your website, the higher the likelihood is that Google will show your website. In addition to Google Business that we discussed earlier, there are many other directories that you may consider listing with. Just ensure your name, address and other details are consistent across all directories.

[Yelp](#) – Yelp is a popular site for customers to read and write reviews on a business, but it is also beneficial from a search engine optimization perspective. Again, when Google sees that an influential site like Yelp is linking to you, it directly influences where and when Google will show you in its search results. Go ahead and create a Yelp Business page, or, if someone has already reviewed you on Yelp, you can “claim” the page as owner, and edit the details to confirm accuracy.

**Trade Associations and Other Local Directories** – Having a listing and link on your state association website can be very beneficial in helping new clients find you. Some websites contains a lot of relevant content and can provide an inbound link to your website, signaling to Google that you are legit. Consider sponsoring events or advertising with any county Realtor associations as well.

Other local directories vary from city to city, but most will have a Chamber of Commerce or similar that will post your business listing upon submission. You may need to become a paid member, but the link to your website alone may be worth the cost of membership. These types of links to your website are invaluable.

**The Takeaway:** Potential clients are constantly searching for title and real estate services right in their city or community. Your title company can benefit greatly from being at the top of the search engines results. Make sure your website content is reflective of what your clients are searching for and make your business easy to find by submitting your website to several local listing directories.

Dalton Digital is an Arlington, VA based [digital marketing agency](#) that helps **Title Companies grow** by designing stunning, mobile-friendly websites and driving growth through search engine and social media marketing.

At the request of agents, we are pleased to offer with limited seating:

**Conestoga College Classroom**—an in person one day seminar for a 6.0 credits CE/CLE.

Offered with PLTA, [click here](#) to view the agenda, and register now for this event. Breakfast and Lunch will be provided.



**Jan. 17, 2022**

**8:30am –5:00pm**

**Lancaster, PA**

# End of Year Checklist

Don Delgado, VP Agency Administration

As another calendar year comes to a close, please remember to complete the following agency operations housekeeping items:

- 1) Make sure that all Conestoga premiums collected during 2021 are remitted to Conestoga by December 31, 2021.
- 2) Make sure copies of all policies issued during 2021 have been submitted to Conestoga by December 31, 2021 - settlement statements must accompany the policy copies if they were not submitted with the premiums.
- 3) Complete all outstanding policy correction requests that you received from Conestoga during the year.
- 4) Review the Annual Review Report that you received from Conestoga this year and make sure you have addressed all recommendations and required actions.
- 5) Make sure monthly three-way reconciliations are current for all active and dormant fiduciary accounts (escrow, trust, recording, etc.) and complete the following:
  - Research and resolve files with outstanding/deposits in transit and fund from operating where necessary;
  - Research and resolve files with negative balances and fund from operating where necessary;
  - Disburse funds for files with positive balances unless they are being held in connection with and escrow agreement;
  - Research and resolve outstanding checks for payoffs, recording, taxes, judgments, municipal charges, HOA dues and Homeowners insurance;
  - Determine what funds are eligible for escheating to the state and make a plan to do so in 2022.
- 6) Make sure all documents from settlements conducted during the year have been recorded.
- 7) Cancel all commitments that have not closed within 180 days of being issued.
- 8) Make plans for filing your 2021 1099S reports with the IRS.
- 9) Establish your 2022 budget, business goals/objectives.
- 10) Review and update your ALTA Best Practices Manual.
- 11) Make sure your settlement software, operating systems, network firewalls, anti-virus, malware and other computer security systems are current and up to date with the most recent versions.

Taking the time to do these things at the end of the year will allow you to begin 2022 knowing your operations are in good order so you can focus on the year ahead.

# Medicaid Liens

Rick Hecker, VP General Counsel

Medicaid provides health coverage to millions of Americans, including eligible low-income adults, children, pregnant women, and elderly adults with disabilities. It is administered by the states, in accordance with certain federal requirements and is jointly funded by the states and federal government.

In large, the receipt of these funds by individuals does not impact title to real property. Nevertheless, as most title agents are well aware, each state has an "Estate Recovery Program" whereby each state attempts to recover monies expended on those who received Medicaid payments during their lifetime. In particular, the 1993 Omnibus Budget Reconciliation Act required all states to seek reimbursement of long term care costs for individuals over the age of 55.

The parameters of each state's estate recovery program tend to be unique to that particular state, but there are several commonalities that exist. In particular, each state authorizes a department within their state government that is responsible for the administration of the estate recovery program. Through these programs Medicaid can and does place liens on a Medicaid recipient's home.

Generally, a lien is filed by the state when the Medicaid recipient is institutionalized and is not likely to return to their home. If the recipient does return home, then the lien may be removed. Nevertheless, the sale of a home while the recipient is still living does not often arise as it can result in a Medicaid disqualification due to the excess proceeds being paid to the recipient. Because of this, the most common place title agent's encounter these liens is when dealing with an estate.

In Pennsylvania, the Department of Human Services has a claim for reimbursement for Medical Assistance paid on behalf of the Decedent during the Decedent's lifetime. All estate property is subject to the Department's claim and a purchaser of real estate from an estate is liable to pay the Department's claim to the extent the purchaser did not pay fair market value. Unfortunately, this claim is not filed with the Prothonotary, nor is it recorded with the Recorder of Deeds, so a letter must be sent to the Department of Human Services to verify the nature and extent of the lien. The timeframe for the Department's response can be lengthy and lead to some levels of frustration from the parties in the transaction.

In Ohio, the estate recovery program is handled by the Ohio Department of Medicaid, with authority granted to Ohio's Attorney General to recover from an estate. Interestingly, the Attorney General's office will occasionally delegate some of their estate recovery files to special counsel, who can be somewhat aggressive in their collection because they receive a portion of the funds collected.

In Maryland, the estate recovery program is handled by the Department of Health and Mental Hygiene. Unlike other states, Maryland has a relatively short statute of limitation on estate recovery claims, which claims must be brought within six months of final publication of the appointment of the personal representative.

In Virginia, it is the Department of Medical Assistance Services that handles the estate recovery program and specifically formed a "Third Party Liability/Estates" unit to handle the recovery. A particularly tricky interplay in Virginia law arises in cases which involve transfer on death deeds as the transfer is nonprobate, but yet, it is subject to claims of the decedent's creditors for a period of one year.

While these Medicaid liens are not an everyday occurrence for most agents, the Underwriting Service Team reviews a fair number of them each year. If you run into these types of issues and would like more insight, I encourage you to contact the Underwriting Service Team here at Conestoga Title Insurance Co.

## CLAIMS FRAUD AVOIDANCE: “BBB MORTGAGE SERVICES”

Joe Kambic, VP Claims & Recovery

The following claim is real, for the most part. Some of the facts were changed to create non-identifiable information. The identity of the title agent and the State of practice are not important for what is to be learned here. I ask that you make note of the red flags that you spot as you read through the claim.

Settlement occurred on April 1, 2006, at which CARTER purchased from SADIE AIDIE real property for \$735,000. Financing was provided to CARTER by ABC Bank in the form of two mortgages; the first mortgage was for \$500,000. and the second mortgage for \$235,000.

The title search concluded prior to Settlement revealed four encumbrances on the property. The first was a 1970 mortgage given by BENZ to ROCKIE bank in the principal amount of \$6,000. The second mortgage on record was given by BENZ to FARMOUT Funding in the principal sum of \$70,000. Neither Mortgage had an assignment on record. **QUESTION:** In the State where you conduct business, would these two mortgages have needed to be paid at the Settlement in 2006?

The third mortgage on the property was for \$608,000., loan #111222333, recorded July 1, 2004 and borrowed by SADIE AIDIE from MERZ. The fourth mortgage was for \$76,000., also recorded on July 1, 2004 and borrowed by SADIE AIDIE from MERZ. Neither mortgage had an assignment on record.

For our Insured ABC Bank to have its two mortgages in first and second lien positions, the Agent needed to address at Settlement all four prior mortgages. For purposes of this Fraud Avoidance article, we will only focus on the SADIE AIDIE \$608,000. mortgage.

In part, the payoff letter received by the title agent read as follows:

*BBB MORTGAGE SERVICES 1234 D.P. Blvd, Suite 50517 City, State 00001 ph. 888-555-1234*

*PAYOFF QUOTE SCHEDULE March 15, 2006*

*Fax to: SADIE AIDIE RE: Loan #111222333*

*Dear SADIE AIDIE: As requested, the following is a breakdown of the payoff funds due on or before April 15, 2006. [Payoff calculations provided.] All checks must be made payable to BBB MORTGAGE SERVICES. All payoff funds must be in one of the following forms: Cashier's Check, Bank Certified Check, Title Company check or Attorney's check. Payment remittance information must include BBB MORTGAGE SERVICES. [A mailing address is provided for overnight delivery and bank account wiring instructions are also provided here.]*

One last bit of information is that the payoff letter faxed to SADIE AIDIE was given by her to her attorney who then provided it to the settlement Agent.

**QUESTION:** Did you see the following red flags?

### RED FLAGS:

1. Payoff letter sent to Seller SADIE AIDIE. I would never blindly accept a payoff letter sent to any party to the transaction. I've even seen a payoff letter sent to the buyer. ALWAYS communicate directly with the last known company or person on record that/who holds the mortgage.
2. Payoff letter given was by SADIE AIDIE's attorney to the title agent. SEE #1 above.
3. BBB MORTGAGE SERVICES purportedly services or holds the MERZ #1 mortgage, but there are no documents on record evidencing that. The Agent should have requested recorded documentation from BBB MORTGAGE SERVICES evidencing its authority to provide a payoff letter on the MERZ #1 mortgage. At the same time, the agent should have reached out to the last recorded mortgage holder to request a payoff figure.
4. Suite #50517. I saw that suite number and read it as 50<sup>th</sup> floor, Suite 517. I know of no office building floor that has, or could possibly have, 517 Suites. I conducted an online search of the address, 1234 D.P. BLVD City, State 00001 and quickly learned that Suite 50 at that address belongs to a U.P.S. Store. The conclusion reached is that Suite 50517 refers to mail box 517 at Suite 50; i.e., the U.P.S. Store. That raised a major red flag as to the legitimacy of BBB MORTGAGE SERVICES. Fraudsters are known to use U.P.S. boxes, rather than U.S.P.S. boxes for receiving mail and packages.

### POSTSCRIPT:

BBB MORTGAGE SERVICES was registered in the state where its U.P.S. box was located. It did indeed have a banking account to which the wiring instructions applied. BBB MORTGAGE SERVICES absconded with the funds and ceased operations within twelve months of receiving the \$608,000. Its registered agent, we later learned, had connections with people in the state where Carter bought the property. We also later learned that the same registered agent had filed a Power of Attorney to act for SADIE AIDIE when she bought the property.

### CONCLUSION:

In addition to following our Underwriting guidelines, it's important to develop and to follow your instincts spotting potential title issues prior to closing. I emphasize that ALL documents received related to real estate title need to be read prior to closing. If anyone in your office who is reviewing the documents spots anything that doesn't look or feel honest or legal, then reach out to me or one of our Underwriters to review as soon as possible.

## Pet Safety in the Holiday Season

Lisa Fischer, Sr. Agency Auditor

Food safety during the holidays is always a concern for our furry friends. A garbage can full of leftovers is a large temptation. Make sure you properly dispose of left over bones and scraps so that you pets cannot gain access. A very expensive trip to the vets or worse yet, death, can really dampen the holiday spirit. Be cautious while preparing your holiday feast, raw bread dough, raw eggs, artificial sweeteners and chocolate can all be toxic to our furry friends. While we think they look adorable in costumes, make sure they are not too tight around their neck to cut off breathing and make sure they fit properly so your pet doesn't have an accident down the stairs tripping over it! If you like live plants in the house for the holidays, make sure you know which are toxic to your pets. Poinsettias are beautiful this time of year, however, they are very toxic, as well as chrysanthemums and acorns. Last but not least, please be mindful of family and friend gatherings. These can cause a lot of stress on your pet and, while they are normally happy and playful, they could become scared and stressed and bite incidents have been known to happen out of fear for their safety. If you are not sure how your pet will react, relocate them to a safe area until your guests have left. If you are traveling with your pet, make sure you take along their vaccination records and microchip information in case of an emergency while out of town .



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