



*First American
Title Insurance Company*

Maine Spotlight

June/July 2012

Title Agent and Agency Licensing in Maine

The Maine Bureau of Insurance requires that an issuing agent for a title insurance company hold an active Producer License in Maine. Additionally, any firm that is comprised of more than one attorney or a title company is required to hold an active Business Entity License in Maine.

The links to the Maine Bureau of Insurance pages for retrieving the National Association of Insurance Commissioners (NAIC) Uniform Application for Individual Insurance Producer License (Agent license) and the NAIC Uniform Application for Business Entity Insurance License (Agency license) are:

http://www.maine.gov/pfr/insurance/producer/producer_app.htm

<http://www.maine.gov/pfr/insurance/producer/agency.htm>

It's a good idea to review your license(s) from time-to-time to ensure that all information is accurate. To review your license, visit: <http://pfr.informe.org/almsonline/almquery/SearchIndividual.aspx> to search for a "Producer" or <http://pfr.informe.org/almsonline/almquery/SearchCompany.aspx> to search for a "Business Entity." In particular, you should review your "Address," "Employer" (your Underwriter names should appear in this section), "Affiliated Agents" (all Producers for your firm/title company should appear in this section), and the "Responsible Individual." If any of that information requires updating, you can find the various change forms at: <http://www.state.me.us/pfr/insurance/producer/index.htm>

Please feel free to contact our office if you need assistance with the licensing process or with updating your license information. You may also contact the Maine Bureau of Insurance – Licensing Division at (207) 624-8413.

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AgentNet® Did You Know...

that you could electronically remit your policies and payments to First American through our AgentNet website? Many of our agents are currently using this service and are enjoying the benefits and costs savings of "going green." If you are interested in learning about the eRemittance process and how you can save money and reduce your impact on the environment, please contact **Beth Holman** at bholman@firstam.com or **Lori Rice** at lrice@firstam.com to schedule a training session.

News Brief



Congress Extends Flood Insurance For 60 Days

“On May 30, 2012, the House of Representatives passed a 60-day extension of the National Flood Insurance Program (NFIP).”

National Association of REALTORS®, June 1, 2012

To read the article in full, please visit: <http://www.realtor.org/articles/congress-extends-flood-insurance-for-60-days>

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Speeding Up Short Sales

“With rules that take effect next month, federal regulators have hopes of greatly streamlining the short-sale process.”

By: Vickie Elmer, *The New York Times*, May 24, 2012

To read the article in full, please visit: http://www.nytimes.com/2012/05/27/realestate/mortgages-speeding-up-short-sales.html?_r=1

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Risk Of Mortgage Fraud Declines to Lowest Level Since '09

“Mortgage fraud risk declined during the first quarter to the lowest level measured since the middle of 2009, according to analytics firm Interthinx.”

By: Jon Prior, *Housing Wire*, May 30, 2012

To read the article in full, please visit: <http://www.housingwire.com/news/risk-mortgage-fraud-declines-lowest-level-09>

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Refinancing Now: Lower Rates, Fees Coming Soon

“The government is about to make refinancing FHA mortgages more affordable — and potentially easier — for hundreds of thousands of homeowners.”

By: Polyana da Costa, *CNBC*, May 21, 2012

To read the article in full, please visit: <http://www.cnbc.com/id/47508289>

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Expiring Mortgage Debt Relief Act Fuels Strategic Default: Survey

“A foreclosure prevention agency found that the pending expiration of the Mortgage Debt Relief Act of 2007 is prompting struggling homeowners to strategically default on their loan.”

By: Esther Cho, *DSNews*, May 29, 2012

To read the article in full, please visit: <http://www.dsnews.com/articles/survey-reveals-expiring-mortgage-debt-relief-act-leads-to-more-strategic-defaults-2012-05-29>

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Behind the Numbers: Does Case-Shiller Show a Market Bottoming Out?

“Tuesday’s (5/29/12) S&P/Case-Shiller home-price indexes show a market in which U.S. home prices are still falling, but not as dramatically as in previous months.”

Wall Street Journal, May 29, 2012

To read the article in full, please visit: <http://blogs.wsj.com/developments/2012/05/29/behind-the-numbers-does-case-shiller-show-a-market-bottoming-out/>



First American Exchange Company

Tax Saving Strategies Utilizing 1031 Exchanges

The 1031 tax deferred exchange is widely known and utilized by investors to defer capital gains tax when selling and buying investment property. To qualify under IRC Section 1031, the basic requirements to maximize your tax-deferral are:

- Acquire “like-kind” property to be held for investment or productive use in a trade or business;
- Identify replacement property within 45 days of closing the relinquished property;
- Reinvest all your cash and acquire replacement property(ies) of the same value or more 180 days from the first closing; and
- Use a qualified intermediary to meet the safe harbor.

There are, however, additional tax savings that are not as widely known that can be beneficial when it comes to selling your primary residence or vacation/second home. One of the strategies is briefly described below and, when properly executed, can help you save tax dollars.

QUALIFYING VACATION HOMES FOR 1031 TREATMENT

Many properties are owned as vacation homes, and a common area of confusion has been whether or not a vacation home qualifies for a 1031 exchange. In 2008, a revenue procedure was issued that provides a safe harbor for vacation homes*. The following are the requirements under the safe harbor:

- Both the relinquished and replacement properties must have been owned by the taxpayer for at least 24 months immediately before and after the exchange.
- In each of the two, 12-month periods immediately before and after the exchange, the properties must be rented at a fair-market value for 14 days or more.
- The taxpayer’s personal use cannot exceed the greater of 14 days or 10% of the days during each 12-month period that the property was rented at a fair-market value.
- Personal use includes: the taxpayer’s family members, any other person with an interest in the property or their families, anyone using the property under an arrangement which enables the taxpayer to use some other property (even if no rent is charged); or if the property is rented for less than fair market value rent.

With a bit of planning you can take advantage of the 1031 exchange and defer taxes on your gain when you sell your vacation home.

Understanding the tax saving strategies available through the 1031 exchange, along with proper planning and tax advice can help you save tax dollars! For additional information about the tax deferred exchange and these concepts contact your local First American representative.



Flood of Knowledge

By: James D. Nadeau, Nadeau Land Surveys

Every mortgage note created is an investment for several parties. The homeowner enjoys the benefit of the improvements with the promise made at closing to conform to terms of the loan. An investor benefits from interest earned assessed as a loan condition. Risk is one of many key components of each transaction, and a mortgage loan inspection (improperly called a Class D Survey) aids in defining risk by determining if the improvements used as loan collateral comply to municipal building setback compliance at the time of construction, and if said improvements horizontally scale in a Special Flood Hazard Area (SFHA) resulting in the mandatory purchase of flood insurance. These determinations do not take vertical elevations into account at this point.

To improve the analysis of flood risk, the Flood Insurance and Mitigation Administration (FIMA), a component of the Federal Emergency Management Agency (FEMA), which manages the National Flood Insurance Program (NFIP), initiated Risk Mapping, Assessment, and Planning (Risk MAP) to deliver quality data, increase public awareness, and reduce risk to life and property. This process includes the implementation of Digital Flood Insurance Rate Maps (DFIRMs) intended to more accurately map flood risk. All the paper maps were created based on communities and the new DFIRMs will be based on counties.

Oxford and Kennebec Counties have made the transition to the DFIRMs, and the remaining counties are still using the paper maps. Eventually, all counties in the state of Maine will implement the DFIRMs. The participation into the program will remain optional and will remain at a community level. Most communities in Maine currently participate in the program and each homeowner in a participating community can purchase flood insurance. Coverage is available for residential, commercial, condominium, contents, and investment properties regardless of location relative to the SFHA. Premiums are based on the horizontal or vertical location of improvements in relation to the flood zone.

The program acknowledges map imperfections and has created options to challenge apparent incorrect determinations. Future or current policy holders who have identified risk can benefit from premium savings prior to a map change. The "it won't happen to me" mentality is slowly being removed from homeowners' thoughts, because it did happen to them or someone they know. Homeowners should be made aware that flood damage is much more likely to occur than a house fire, and proper flood mitigation will protect infrastructure and resources, enhance public awareness and safety, and save tax dollars. With large local and global changes continuing to occur, flood problems will increase, not decrease.

Flood of Knowledge

(Continued)



It is of great importance that homeowners understand they can transfer policies to buyers if certain conditions are met, because extinguishing a flood policy prior to closing, or even at closing, can have a negative impact on the parties involved. Also, 25% of all flood claims occur outside the SFHA because of outdated flood studies and maps, increase in development, incorrect Base Flood Elevations, vegetation loss, poor designs, improper fill, etc.

If the National Flood Insurance Program understands that errors exist in these maps and it has avenues to challenge flood determinations which erroneously places a home in a SFHA, isn't it safe to assume the opposite scenario could exist? Actually, it would be naïve to believe a home could only be incorrectly placed in a Special Flood Hazard Area and never outside of one. Very few applicants will question

this logic if their home scales out, since mandatory insurance is not required and often viewed as an unnecessary additional cost. These homes would be at high risk and are often without a Preferred Risk Policy. This policy provides the same coverage as a high risk policy, but at a much lower premium. Understanding flood risk for any real estate investment could prove extremely valuable for all involved.

Jim Nadeau is a Professional Land Surveyor, Certified Floodplain Manager and Surveyor, and Realtor. He can be reached at (207) 878-7870 or jim@nadeaulandsurveys.com. His firm produces a free monthly electronic flood zone/survey/real estate newsletter, "Welcome To The Flood Zone." To subscribe, please forward your e-mail address to info@nadeaulandsurveys.com. Reprinted with permission.

The Maine Spotlight

is a news and information service provided by First American Title Insurance Company for its policy-issuing agents. It is designed to be a communications grapevine to keep you abreast of legal, marketing and technological changes that impact the title insurance business.

We welcome your article submissions and commentary. Please send photos, articles, suggestions and comments to Lori Rice at Lrice@firstam.com.



All First American Title offices will be closed
Wednesday, July 4, 2012, for Independence Day.



Sometimes an Exception is Not Enough:

Beware of the ALTA 9-06 Restrictions, Encroachments, Minerals Endorsement

By Robin Watts, Maine State Counsel

The ALTA 9-06 Restrictions, Encroachments, Minerals Endorsement is frequently issued with residential and commercial Loan Policies. The endorsement is automatically incorporated into the insuring provisions of the Eagle Loan Policy. The ALTA 9-06 is sometimes referred to as a “comfort letter” for lenders because it provides assurances and affirmative coverages with respect to certain exceptions set forth in Schedule B of the Loan Policy. Generally speaking, the endorsement provides coverage for loss or damage resulting from certain provisions in covenants, conditions or restrictions affecting the land and for various types of encroachments. In addition, the endorsement provides limited coverage for damage to improvements due to the exercise of a right to use the surface of the land for extraction or development of minerals or other subsurface substances.

It is important to keep in mind that much of the coverage provided by the ALTA 9-06 is in the nature of “affirmative coverage.” That is, the ALTA 9-06 provides coverage for certain provisions in instruments even though the instruments are listed as exceptions in Schedule B of the Loan Policy. The following are examples of this type of coverage:

1. The ALTA 9-06 insures against loss or damage resulting from the existence of covenants, conditions or restrictions if a present or future violation of the covenants, conditions or restrictions would divest, subordinate or extinguish the lien of the insured mortgage or impair the validity, enforceability or priority of the insured mortgage.
2. The ALTA 9-06 insures against loss or damage relating to the existence of any present violations on the land of any covenants, conditions, or restrictions affecting the land unless the exceptions in Schedule B of the
3. The ALTA 9-06 insures against loss or damage sustained by reason of the existence of any encroachment of existing improvements located on the land onto that portion of the land subject to any easement, unless the exceptions in Schedule B of the policy specifically identify the encroachment.

Since the ALTA 9-06 Endorsement provides this type of affirmative coverage, merely taking exceptions in Schedule B of the Loan Policy for instruments containing covenants, conditions, or restrictions and minerals reservations or for surveys is not sufficient to completely exclude from coverage these items or any violations arising from or disclosed by these items. In addition to taking an exception for the instrument or survey, it is also necessary to specifically identify and take exception for the provision or violation intended to be excluded (i.e., forfeiture provision, known violation, encroachment).

The ALTA 9-06 Endorsement may only be issued after a review of any recorded covenants, conditions, or restrictions and minerals reservations affecting the land. In addition, any available survey evidence or recorded plans should be reviewed. If this review discloses any concerns about the ability to provide the assurances and affirmative coverages set forth in the ALTA 9-06, contact the Maine State Office for guidance.



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\$269

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First American Title Agents can join discownts in three ways ... connect through AgentNet®, contact your First American Sales Representative for an invitation, or go to www.discownts.com and enter MAINE0712 and you'll be on your way. Start reducing your operating costs. Enroll today!*

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