

# 2019-2020

## **EXECUTIVE VICE PRESIDENT REPORT TO MEMBERSHIP**

***SERVING THE TITLE INDUSTRY FOR OVER A CENTURY***



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# CLTA Officers



**DIA DEMMON**

President



**RANDY BRADLEY**

1st Vice President



**RICK KERSENBROCK**

2nd Vice President



**MIKE MARCONI**

Treasurer



**KEVIN CHIARELLO**

Immediate Past President



**CRAIG C. PAGE**

Executive Vice President  
and Counsel

## Welcome

Representing the title industry in California since 1907, CLTA's staff strives to help our President and Officers to manage the association in a way that protects the title industry, our many business partners, and consumers who buy our products and services.

Behind all of CLTA's member title companies stand thousands of employees who serve customers-clients throughout the largest and most diverse state in the country. While it is an awesome responsibility knowing so much is at stake as we face various legislative, regulatory, and other challenges every year, knowing that we are fighting for an invaluable industry makes the efforts worthwhile.

This year's challenges included surviving a major pandemic that has resulted in numerous political and regulatory changes that have had adverse impacts on consumers, affiliated business partners, and CLTA staff. We believe our CLTA member companies have shown great courage and resilience in how they have adapted and modified practices so that the title industry can ride out this storm while still serving our clients and consumers.

At the end of the day, we at CLTA hope you believe that we have earned your trust and support. On behalf of the CLTA President, Officers and the Board Governors, we thank you for your continued support of the title industry and the association and we look forward to fighting the good fight for another year.

Best Regards,

A handwritten signature in black ink, appearing to read 'Craig C. Page', with a stylized flourish at the end.

**Craig C. Page**

*Executive Vice President  
and Counsel*

# 2019-20 Board of Governors

**Kazmer Bernath**

*Stewart Title Guaranty*

**Randy Bradley**

*Placer Title Company*

**Dan Buchanan**

*First American Title Insurance Company*

**Scott Chandler**

*Westcor Land Title Insurance Company*

**Thomas Chandler**

*Inter-County Title Company of El Dorado County*

**Kevin Chiarello**

*Old Republic National Title Holding Group*

**Dia Demmon**

*States Title/North American Title Company, Inc.*

**Rick Dosa**

*Old Republic Title Company*

**James Duncan**

*Fidelity National Law Group*

**Cindy Fried**

*Fidelity National Title Company*

**Neil Gulley**

*Equity Title Company, Title Resource Group*

**Roger Jewkes**

*Fidelity National Title Group*

**Trevor Joyner**

*Bidwell Title & Escrow Company*

**Don Kennedy**

*First American Title Insurance Company*

**Jeff Kerns**

*Yosemite Title Company*

**Rick Kersenbrock**

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*TransCounty Title Company*

**Margery Lee**

*North American Title Group*

**Ed Lorette**

*Western Resources Title*

**Rich Macaluso**

*Orange Coast Title Company*

**John Marconi**

*Orange Coast Title Company*

**Mike Marconi**

*Orange Coast Title Company*

**Darrell Martin**

*Placer Title Company*

**Joseph McCabe**

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*Equity Title Company, Title Resources Group*

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*Stewart Title Guaranty Company*

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*Placer Title Company*

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*Old Republic Title Company*

**David Windle**

*Cal-Sierra Title Company*

**Dennis Wolfe**

*First American Title Company*

# Inside the CLTA

## CLTA Launches Online Resource Page in Response to Coronavirus

The CLTA continues to closely monitor restrictions on businesses in California imposed by the Governor and local governments in response to the coronavirus outbreak in the state as well as other steps taken at the national level. This information can be found on the CLTA's resource page:

(<https://www.clta.org/page/CLTAResourcePage>) including:

- CLTA's free Podcast: Recording in a Pandemic, an audio recording you can listen to now. Hear CLTA ask county recorders in Alameda, Los Angeles and San Diego, how they are handling recordation of documents during government-imposed restrictions on businesses.
- A list of all county recorders and how they are handling recordation, both paper and e-Recording, along with a list of all 58 county recorders for title companies or CLTA members seeking further information.
- A Commercial e-Recording warning that some county recorder offices may not be able to handle large files associated with commercial transactions due to MB size and bandwidth issues.
- A template for an "Essential Employee Letter" for title company employees to print and carry if needed.
- Guidance on what is an "Essential Business" along with guidance from the California Department of Insurance, Secretary of State and others.
- A letter issued by a coalition of industry organizations to Governor Newsom along with a suggested Draft Executive Order requesting a stop-gap fix to provide for or affirm recognition of remote notarizations (RON) conducted outside of California and associated recording provisions by county recorders.
- Updated Selling Guidance issued by Government-Sponsored Enterprises Fannie Mae and Freddie Mac with respect to RON and Power of Attorney (POA), along with a list of RON vendors identified as having been reviewed by the GSEs.
- The new CAR Form entitled the Coronavirus Addendum/Amendment (Form CVA) intended for use when circumstances relating to the coronavirus affect the closing date of a real property transaction and allows buyers and sellers to agree to extend escrow for a default period of 30 days.

***Given the constantly changing environment involving this issue, CLTA is strongly recommending that members frequently check this resource page and linked documents for updates.***

The CLTA continues to send our monthly eNews and we will send out important updates as necessary. Our greatest resource is our title industry and affiliated community.

# Inside the CLTA

## New Member Title Company

One new member title company was approved as a regular member by the CLTA Board of Governors this year:

- **Hollywood Title Company** is headquartered in Sherman Oaks, CA and conducts business in Los Angeles County.

The CLTA regularly reaches out to California underwritten title companies and title insurers doing business in California, reinforcing the value of CLTA membership.

## CLTA Budget Remains Lean

The CLTA remains focused on being a strong and effective association in the most populous state in the nation, while being sensitive to the demands placed on its members.

Every year, the title industry is faced with regulatory, legislative and political challenges, requiring the CLTA to aggressively respond to protect the interests of our members. Our goal continues to be an efficient organization and to that end the CLTA has kept its budget lean.

## CLTA Committee Work

CLTA Committees met in person and via conference call throughout the year to establish and effectuate the goals of the CLTA.

- Board of Governors – The CLTA Board of Governors meets four times a year to set the direction and policies of the association and to consider action on important issues facing the title industry
- Forms & Practices Committee – The Forms and Practices Committee holds four meetings a year to consider recommended title practices in connection with title insurance policy issuance and to revise and recommend adoption of various title industry insurance forms and endorsements.
- Executive Committee – The Executive Committee typically meets via conference calls to consider matters requiring decisive action in between scheduled Board meetings.



## CLTA Committee Work (Continued)

- Claims Awareness Committee – The Claims Awareness Committee has held four conference calls this year as it discussed the latest trends in claims. The Committee publishes the Claims Awareness Hot Sheet bi-annually which offers tips to those on the front line on how to spot potential red flags for items like fraud, etc., in the future.
- Education Committee – The Education Committee has held four conference calls this year as it discussed and planned CLTA webinars throughout the year. The work of the Committee is represented this year by webinars on subjects ranging from commonly used title forms to probate issues. In the 2020/2021 year, CLTA strives to increase the number of educational offerings to CLTA members.
- Legislative Committee – The Legislative Committee reviews legislation to recommend CLTA positions and to suggest amendments to legislation. Throughout the year individual members and subcommittees are also asked for input as bills are amended in the legislative process. At the end of the Legislative session the Committee reviews bills for inclusion in the CLTA Summary of Legislation, edits the summaries and makes referrals to the Forms and Practices Committee for its consideration.
- Litigation Committee – This Committee meets as needed when the CLTA is asked to file amicus briefs with the courts concerning significant title and escrow issues. The Committee then makes a recommendation to the Board as to whether the CLTA should participate in the litigation.
- Settlement Committee – The CLTA Settlement Committee is intended to provide a forum for the discussion of legislative and educational ideas on settlement-related issues of particular interest to the title industry and CLTA member companies. The Committee meets via conference call on a monthly basis and considers issues ranging from remote notarization to the C.A.R. Residential Purchase Agreement.

# Inside the CLTA

## CLTA President Dia Demmon Announces 2020 Presidential Awards

CLTA President Dia Demmon formally recognized outstanding volunteers in the title industry who have gone out of their way to contribute to CLTA's efforts to have an impact on policymaking, both in California and Washington DC, as well as other efforts undertaken by the association.

Normally, these awards would be given to these volunteers at the CLTA Annual Convention where they would be recognized by their peers in a formal setting befitting their importance. Unfortunately, after numerous restrictions were imposed on businesses and hotels by the Governor and local government, the CLTA convention was cancelled so CLTA pivoted to abbreviated award presentations during our recent remote CLTA Board Meeting and further acknowledgement through this broader CLTA communication.

The CLTA Presidential Award is given to highlight the person, or persons, who have done important volunteer work for CLTA and the title industry. In addition to their time-consuming and challenging "day jobs" with member companies, these volunteers have made significant contributions to the association and entire industry. One could argue that in these last few months, their contributions have been even more important than before.

This year's CLTA Presidential Award Recipients are:

- Dan Buchanan, Vice President, Senior Counsel - First American Title Insurance Company
- Steve Tjaden, Senior Vice President, Chief Privacy Officer - Old Republic
- Shari Schneider, Underwriting Counsel - Stewart Title Guaranty Company

## **CLTA Leads Allied Trade Associations In Issuing Letter to Gov. Newsom Requesting Issuance of Executive Order on Remote Notarization in California; Secretary of State's Office Issues Request for Data**

On 3/19/20, the Governor signed an Executive Order that required California residents to “shelter in place” and avoid contact with others outside their homes. This obviously had a negative impact on the ability of title companies to perform physical signings and notarize documents required to consummate various transactions.

While notaries were designated as “essential workers” under state and federal pronouncements, the “shelter in place” Executive Order created a great amount of fear among consumers and notaries who had no option to notarize documents other than in person.

In an attempt to lessen the need for “in-person” notarizations, a coalition of trade associations led by the California Land Title Association sent a letter and draft Executive Order to Governor Newsom respectfully requesting the issuance of an executive order expressly affirming that California law recognizes the validity of documents remotely notarized outside the state in compliance with the state laws in which the notary resides and is commissioned.

Despite concerted efforts by CLTA and industry partners, the requested Executive Order was never adopted, irrespective of consumer and notary concerns. In order to ensure uniform acceptance and recording of documents by all 58 counties, the draft executive order also would have expressly provided that the remote online notarized documents from out of state be accepted for recording in either paper or digital form.

CLTA responded to multiple requests by the Secretary of State to provide further information highlighting the problems confronting consumers and California notaries but the Secretary of State never signaled that it believed a more consumer friendly approach was necessary, irrespective of the ongoing coronavirus warnings in the state.

To date, neither the Governor or Secretary of State have responded to the CLTA request and we anticipate that the coronavirus restrictions imposed by government will soon be lifted, however, the need for remote online notarization as an option might still be necessary in the future if government officials impose sheltering in place restrictions again.

# Policy & Advocacy

## **CLTA Leads Allied Trade Associations in Issuing Letter to California Congressional Delegation in Support of SECURE Act on Remote Notarization**

A coalition of trade associations led by the California Land Title Association sent a letter to California Congressional delegates urging their support of the Securing and Enabling Commerce Using Remote and Electronic Notarization Act (SECURE Act) – which would have given notaries nationwide the authority to conduct remote online notarizations (RON) on a temporary basis – within U.S. Senate and U.S. House COVID-19 legislative response packages or as standalone legislation.

The letter, sent during the height of shelter-in-place orders associated with COVID-19, noted that the SECURE Act would “allow Californians to work with notaries to conduct remote online notarizations” at a time when requirements for in-person notarization were in conflict with orders to shelter at home.

## **CLTA Closely Monitors Governor Newsom’s Budget Proposal to Create a California Department of Financial Protection and Innovation**

Throughout 2020, CLTA has closely monitored a budget proposal made by Governor Newsom to restructure the current California Department of Business Oversight (DBO) into the California Department of Financial Protection and Innovation (DFPI), which would have more broad regulatory and enforcement authority than the DBO. The Legislature deferred to include the Governor's proposal in its June budget.

CLTA staff have worked with a member working group to examine the law for applicability to CLTA member companies and continues to track its progress through the legislative process.

## **CLTA Participates in National Title Insurance Conferences and Events**

Throughout the year CLTA Executive Vice President and Counsel Craig Page and CLTA Officers participate in national conferences, including the American Land Title Association Advocacy Summit and the ALTA Annual Convention (“ALTA ONE”). The CLTA represents the California title insurance industry during these events and provides input and feedback on national matters from a California perspective.



## CLTA Joins Real Estate Trade Associations in Sending Letter to Governor Requesting “Essential” Designation for County Recorders

A coalition of real estate trade associations, including the California Land Title Association, sent a letter to Governor Newsom requesting that recordation and other services provided by the state’s county recorders be declared an essential service. The coalition also included the California Escrow Association, California Bankers Association, and California Mortgage Bankers Association.

The signatories expressed concern over the economic effects of the ongoing pandemic and related mitigation efforts, and that interruptions to certain essential government services, such as document recordation, could have severe “negative economic ramifications.”

The letter suggests that online or electronic document recordation, or submission by mail-in or via in-person delivery by appointment with appropriate safeguards, could continue to ensure the safety of county recorder staff while allowing for the critical function provided by the agencies to continue.

## CLTA Sends Comments to Consumer Financial Protection Bureau on TRID

CLTA President Dia Demmon and CLTA Executive Vice President Craig Page signed a joint letter to the CFPB as the Bureau assessed the existing Truth-in-Lending RESPA Integrated Disclosure (TRID) form.

The letter focused on the ongoing consumer confusion caused by the use of a disclosure that misrepresents the title charges that commonly occur in transactions wherein there is a simultaneous issue of an owner’s and lender’s policy. The letter also pointed out that the current TRID form does not allow for a proper disclosure of how costs are allocated and the corresponding cost savings to the parties.

Rather than a complete overhaul of TRID, in which the title industry has invested millions in implementation, the CLTA suggested that the CFPB instead issue a survey of settlement professionals to gauge whether the buyer or seller typically pay for title costs, whether consumers experience confusion with the form, and if professionals end up providing other information to help explain the actual costs to consumers.

The CLTA also suggested that the CFPB might find that a clearer disclosure of title costs, including discounts, which do not unintentionally misrepresent a particular consumer’s costs, might be preferable to the current approach.

## Consumer Financial Protection Bureau (CFPB) Modifies TRID Due to Pandemic

The Consumer Financial Protection Bureau (Bureau), on Wednesday April 29th, took steps to make it easier for consumers with urgent financial needs to obtain access to mortgage credit more quickly as they adapt to the governmentally imposed restrictions on commerce in the midst of the coronavirus outbreak in the United States. Consumers would be allowed to waive the waiting periods under the TILA/RESPA Integrated Disclosure Rule and Regulation Z rescission rules.

“The steps we are taking today will help consumers facing financial emergencies obtain access to mortgage credit faster,” said CFPB Director Kathleen L. Kraninger. “The pandemic is resulting in consumers facing various challenges, and our temporary and targeted solutions are intended to ensure that consumers receive the credit they need in a timely manner.”

The CFPB stated that the changes will help institutions better serve consumers to obtain access to mortgage credit quickly. These steps are intended to reduce regulatory uncertainty and allow creditors to focus their resources on meeting consumers’ needs. The Bureau is issuing an interpretive rule clarifying that consumers can exercise their rights to modify or waive certain required waiting periods under the TILA-RESPA Integrated Disclosure Rule and Regulation Z rescission rules. The Bureau is also issuing an FAQ document that addresses when creditors must provide appraisals or other written valuations to mortgage applicants in order to expedite access to credit for consumers affected by the COVID-19 pandemic.

The CFPB said if a consumer determines that his or her need to obtain funds due to government restrictions imposed as a reaction to the coronavirus outbreak (1) necessitates consummating the credit transaction before the end of the TRID Rule waiting periods or (2) must be met before the end of the Regulation Z Rescission Rules waiting period, then the consumer has a bona fide personal financial emergency that would permit the consumer to utilize the modification and waiver provisions, subject to the applicable procedures set forth in the TRID Rule and Regulation Z Rescission Rules.

In addition, the CFPB concluded the coronavirus outbreak and resulting governmental restrictions imposed on consumers and lenders is an extraordinary event that permits creditors to provide consumers with revised estimates reflecting changes in settlement charges.

“Accordingly, for purposes of determining good faith, creditors may use revised estimates of settlement charges that consumers would incur in connection with the mortgage transaction if the COVID-19 pandemic has affected the estimate of such settlement charges,” the bureau stated in the interpretive rule.

## CLTA Joins in Letter to Attorney General Requesting Temporary Forbearance from California Consumer Privacy Act Enforcement

In March 2020, a group of trade associations, companies and organizations sent a joint letter to Attorney General Becerra asking him to forebear from enforcing the CCPA until January 2, 2021.

The CLTA joined in the letter as part of its ongoing work addressing the new law and regulations. The request was founded upon the current health crisis that hinders businesses' attempts to develop processes for compliance and the time necessary to implement the final regulatory requirements that are still not final.

Although the CCPA provides for the AG to refrain from bringing an enforcement action before July 1, 2020, it does not restrict the AG from providing an appropriate period of addition time for implementation before beginning enforcement.

## CLTA Meets with Remote Online Notarization Group

Legislation that would have authorized California notaries to conduct remote online notarizations (RON) in California, AB 199 (Calderon), stalled in the Assembly Judiciary Committee in mid-2019 amid concerns raised by Committee staff, the Secretary of State and privacy advocates.

Subsequently, a stakeholder group of interested parties, including the CLTA, met to discuss the topic and various options going forward. The attendees represented a wide array of industries and perspectives. The meeting covered a range of topics, including: current technologies and advances; benefits of RON; concerns with RON; and potential next steps for RON legislation in California.

Unfortunately, this effort stalled in the California Legislature due to opposition to RON legislation from consumer and privacy groups.

## California Revises Electronic Recording Regulations and CLTA Notifies Members

The California Attorney General issued new regulations specifying the amount of general liability coverage required of an authorized submitter and/or agent in the amount of one million (\$1,000,000) dollars, aligning references to standards and guidelines with the latest publication dates, clarifying the requirements for a county recorder entering into a contract with an authorized submitter, and upgrading ERDS standards-based technologies. The regulations became effective January 1, 2020. The CLTA notified its members of the changes through the CLTA eNews.

# Policy & Advocacy

## CLTA Notifies Members of the Reissuance of FinCEN GTOs for U.S. Housing Markets

The CLTA communicated to its members the reissuance of Geographic Targeting Orders (GTOs) for a number of U.S. housing markets, including several within California, which originally became effective in 2016.

The GTOs require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate in 12 metropolitan areas. The purchase amount threshold remains \$300,000 for each covered metropolitan area. In addition, covered purchases using virtual currencies must be reported. CLTA issued several notifications on new GTOs; one extending through May 9, 2020, and the other extending through November 5, 2020.

The extended GTOs through May 9 remained the same except for one modification: the new GTO did not require reporting for purchases made by subsidiaries of U.S. publicly traded companies. Real estate purchases by such entities are identifiable through other business filings, according to FinCEN. The Order extending through November 5, 2020, was identical to the Order ending May 9.

The CLTA continually updates the members-only “FinCEN Resource Center” on its website to act as an information hub for members.

## California Drafts PACE Regulations to Protect Consumers Based on CLTA-Supported Legislation

The CLTA has been at the forefront of supporting legislation to better protect consumers from the predatory aspects of the PACE (Property Assessed Clean Energy) financing program. Now, the California Department of Business Oversight (DBO) has proposed regulations to provide explicit consumer protections. The regulatory action follows on the heels of CLTA-supported legislation enacted in 2017 that was designed to enhance consumer protections and government oversight in the PACE market.

The proposed regulations address what constitutes misleading statements or dishonest dealings by program administrators, PACE solicitors, and PACE solicitor agents and requires a program administrator to implement a procedure to prohibit PACE solicitors and PACE solicitor agents from engaging in prohibited activity that includes 16 specific items.

Of particular interest to the title industry, the proposal prohibits misrepresenting to a property owner that the assessment contract will transfer to a new buyer, unless the owner is informed that some lenders require the balance on the contract to be paid off prior to financing or refinancing the property.

CLTA concerns over the predatory nature of the PACE financing process were validated when the County of Los Angeles recently prohibited PACE financing within its borders.



## CLTA Joins Business Coalition to Clarify the California Consumer Privacy Act and Suggests Regulatory Changes

The CLTA submitted comments on the California Attorney General draft privacy regulations highlighting several ambiguities. In addition, the California Land Title Association took part in a large and diverse coalition of businesses, ranging from wineries and movie studios to retail stores and hospitals, that came together to propose amendments to improve the workability of the California Consumer Privacy Act (CCPA).

The changes to the initial draft regulations addressed several of the issues, including those raised by the CLTA. The coalition is led by the California Chamber of Commerce and advocates for common-sense changes crucial to business operations. The goal of the CLTA is to ensure that compliance standards of the CCPA are as clear as possible.

## CLTA Sends Comments to the California Law Revision Commission on its Recommendations on Transfer on Death Deeds

The California Law Revision Commission (CLRC) deliberated throughout 2019 on recommended changes to Revocable Transfer on Death Deeds (ROTDD). Among other items, the Commission was looking into whether to recommend expanding the ROTDD to 1) stock cooperatives or other common interest developments and 2) transfers to a trust or other legal entity.

The CLTA submitted written comments to the Commission, generally expressing its continuing concern over the use of the deeds to transfer property outside of probate unless through proper trusts. The CLTA was concerned that designating a trust as a beneficiary to receive property upon death simply adds a layer of complexity to the process.

If a trust already exists, the CLTA suggests that it is simpler to transfer property to the trustee and address its final disposition under the terms of the trust. The recommendation could also create problems if the transfer does not correctly name the trustee but instead designates the trust itself as the beneficiary. The CLTA pointed out the problems that occur due to lack of legal advice with ROTDDs will likely be exacerbated when dealing with trusts and stock cooperatives.

# Policy & Advocacy

## CLTA Monitors Recorders and IRS Fee Dispute

In a letter sent to California recorders the IRS announced that effective October 1, it was lowering the fees it will pay for recording Federal Tax Liens and Releases of Federal Tax Liens. In response some counties refused to record federal liens and releases unless the IRS paid the California statutory fees.

California law on recording federal liens is found in the Uniform Federal Lien Registration Act that California adopted in 1979.

That act provides that the fee charged for recording and indexing each notice of lien or certificate or notice affecting the lien filed with the county recorder shall be the same as those established in the Government Code for the recording and indexing of documents. The CLTA discussed this fee dispute with recorders in order to enable the CLTA to keep members informed of the situation.

## Governor Newsom Issues Executive Order Extending Expiring Notary and CLTA Notifies Members

In early May, Governor Newsom issued an Executive Order N-63-20 to extend “critical deadlines that have been impacted by the COVID-19 pandemic.”

The Governor’s press release stated that, among other deadlines, “the order extends for 60 days the expiration dates for notaries public whose commissions are set to expire. The order also makes it clear that notaries public can use an expired [driver’s license] or identification card to confirm identification, consistent with prior action that extended expiration dates for driver’s licenses and identification cards.”

The executive order was drafted without consultation or input from CLTA or related notary groups before being issued and has apparently created some confusion within the state over the usefulness of the order.

## CLTA Monitors Ongoing Developments Related to California Privacy Legislation

Throughout 2019 and 2020, CLTA has continued to closely monitor developments related to California privacy legislation and associated regulations, including the California Consumer Privacy Act (CCPA) and the proposed ballot measure entitled the California Privacy Rights Act (CPRA).

In working to monitor this issue, CLTA works in close collaboration with numerous industry groups, including the California Chamber of Commerce. Specific developments that CLTA has monitored and/or participated in on this issue include: informational hearings held by the California Legislature, legislation to amend the CCPA, proposed CCPA regulations, as well as discussions and status updates related to the 2020 CPRA ballot initiative.

## CLTA Provides Input to Governor’s Task Force on Business and Jobs

The CLTA responded to a request from Allan Zarembeg, President and CEO of the California Chamber of Commerce and a member of the Governor’s Business and Jobs Recovery Task Force, to provide the Task Force with information on business and industry impacts resulting from governmental restrictions imposed on business and potential government policy changes.

In answering the questions the CLTA emphasized that moving forward, the requirement of an in-person notarization was one area that the Governor could address by Executive Order, allowing Remote Online Notarization (RON) to replace the current “in-person” notarization requirement. The CLTA pointed out the number of states now permitting RON and recent guidance from the government-sponsored entities Fannie Mae and Freddie Mac.

Various industries were asked to respond to five questions regarding the impact on jobs resulting from governmental restrictions imposed in reaction to the coronavirus, actions contemplated to expedite the recovery of jobs, how employment practices changed, which laws and regulations impede operations and productivity, and areas where government could improve customer service to help business.

## CLTA Provides Comments to ALTA on the NAIC Model Act on Privacy

The ALTA requested comments on a draft model insurance privacy act issued as an exposure draft by the Privacy Protections Working Group of the National Association of Insurance Commissioners (NAIC). The CLTA noted that California already has a number of comprehensive privacy laws on the books.

The CLTA commented that the model act under consideration by the NAIC should recognize that some states already have comprehensive laws and therefore the model act should contain comments that it is not intended to conflict with or replace existing comprehensive state privacy laws, nor the definitions contained in those laws.

The model act does contain provisions dealing with public records but the CLTA believes that the model act should mirror the scope of the California Consumer Privacy Act (CCPA) and it make clear that it does not apply to “publicly available information” as defined in the CCPA as “information that is lawfully made available from federal, state, or local government records.”

# Legislation

## CLTA Lobbies Legislature on Important 2020 Bills

- The CLTA closely monitors legislation and supports, opposes, or seeks amendments to protect the title industry. CLTA works both individually or as a part of larger business coalitions to achieve these goals.
- Examples of CLTA reviewed bills in the 2020 legislative session include:
- An eminent domain proposal for vacant housing along with a right of first refusal for tenants and housing sponsors prior to a judicial foreclosure, as seen within Senate Bill 1079 (Skinner). (Oppose)
- A bill that would create a permanent and indisputable legal presumption that all COVID-19 infections suffered by “essential workers” are work related for purposes of workers’ compensation benefit eligibility, as would be enacted under AB 196 (Gonzalez). (Oppose)
- A measure that would establish a moratorium on foreclosure actions and mandate specific financial outcomes for mortgage borrower relief under AB 2501 (Limón). (Oppose)
- A measure that, among other things, would prohibit judicial and non-judicial foreclosure related filings under AB 828 (Ting). (Oppose)
- A bill that would establish a temporary eviction moratorium and a 12-month rent repayment period, as well as procedures for the renegotiating or terminating of certain commercial tenancy leases in cases where a tenant is impacted by circumstances related to COVID-19, as under SB 939 (Wiener). (Oppose)
- A measure that would require articles of incorporation to include an attestation signed under penalty of perjury that the filer does not have an “outstanding judgment” for violation of a wage order, as under AB 3075 (Gonzalez). (Oppose)
- A bill that would have authorized a court to issue an order determining control of real property, possibly allowing for the invalidation of the transfer, encumbrance, or conveyance of real property as under AB 2517 (Gloria). (Initially opposed; neutral as currently drafted subsequent to CLTA-requested amendments)
- Legislation that will extend for a year the sunset date of California’s Revocable Transfer upon Death Deed (RTODD) program, as under SB 1305 (Roth). (Initially opposed; neutral as currently drafted)
- A bill that would have required a notary public to issue specified disclosures and service fees prior to providing services, as under AB 2424 (Calderon). (Oppose)



## CLTA Lobbies Legislature on Important 2020 Bills (Continued)

- A package of bills to cut local government housing fees and address homelessness, including a cap on government fees based on medium home prices and a limitation on fees based on square footage (Assembly Bills 1925 and 3145 (Grayson)). Also included within this package is a sliding scale of fee reductions for affordable housing units (Assembly Bill 3148 Chiu). *(Monitor)*
- Eliminating subdivision maps for specified infill small housing developments under Assembly Bill 3234 (Gloria), which would result in a substantial revision to the Subdivision Map Act. *(Monitor)*
- Conforming money Judgment exemptions in the law to the required Judicial Council adjustments, as would be required under Senate Bill 898 (Wieckowski). *(Monitor)*
- Clarifying taxes on reconstructed homes after destruction by defining what is “substantially equivalent” under Assembly Bill 2013 (Irwin). *(Monitor)*
- Imposition of fines for landlords renting to unlicensed cannabis facilities under Assembly Bill 2094 (Jones-Sawyer). *(Monitor)*
- Halving the amount of acquisition indebtedness eligible for tax deduction to raise revenue for the Housing and Homeless Response Fund as proposed by Assembly Bill 1905 (Chiu). *(Oppose)*
- A CEQA exemption for emergency shelters, supportive housing and certain affordable housing as provided by Assembly Bill 1907 (Santiago). *(Monitor)*
- Revisions to the independent contractor law enacted last year to address the “gig” economy, but without containing any specific details, was introduced as Assembly Bill 1850 by the law’s original author, Assm. Gonzalez. *(Monitor)*
- Providing for extension of a tentative map for an extra 12 months by a local ordinance as proposed under Senate Bill 1120 (Atkins). *(Monitor)*
- Governor Newsom proposed renaming and strengthening a financial services regulator in his budget, which would recast the California Department of Business Oversight as the Department of Financial Protection and Innovation and see its responsibilities and budget expanded. *(Initially opposed; neutral as currently drafted)*
- Allowing for a foreclosure notice of sale to have its place of publication changed from the city in which the property or some part of it is situated to, instead, a newspaper of general circulation in the public notice district in which the property, or some part of it, is situated as proposed by Senate Bill 1148 (Jones). The bill also specifies that the filing of a declaration of nonmonetary status by a trustee named in an action or proceeding based solely in its capacity as trustee does not constitute a motion or responsive pleading in the action or proceedings. *(Monitor)*
- The waiting time for a reverse mortgage application to be accepted after housing counseling would be shortened from seven to three days by Assembly Bill 1971 (Voepel) *(Monitor)*
- Change of ownership reporting expansion under Senate Bill 1319 (Bates) that specifies that if 90% or more of the direct or indirect ownership interests in a legal entity are sold or transferred in a single transaction, as defined, the real property owned by that legal entity has changed ownership whether or not any one legal entity or person that is a party to the transaction obtains control. *(Monitor)*

# Legislation

## Sampling of New 2019 Laws

The CLTA monitored and took positions on numerous pieces of legislation in 2019, including bills related to privacy and employment, as well as settlement services and housing. Examples of legislation and regulations tracked by CLTA that were enacted into law in 2019 are included below.

## Recording Fee Update for Governmental Lien Releases

Senate Bill 780 (Senate Committee on Governance and Finance) enacted in 2019, sets the government lien release fee at two times the cost of the regular one-page recording fee. As of January 1, 2020, a recorder can charge double the amount of the recording fee if the original lien, encumbrance, or notice was recorded without imposition of a fee. *(Monitor)*

## Update to California Data Breach Law

Assembly Bill 1130 (Levine) updates California's data breach law by adding specific data to the notification requirement through revisions to the definition of personal information. The revised definition adds unique biometric data and tax identification numbers, passport numbers, military identification numbers and unique identification numbers issued on a government document in addition to those for driver's licenses and California identification cards. *(Oppose unless amended)*

## New Building Energy Efficiency Standards

California's new Building Energy Efficiency Standards, which will require most new homes to have solar rooftop panels, officially took effect on January 1, 2020. When California regulators first announced the rule in 2018, the California Energy Commission estimated that the solar mandate, which only applies to new buildings under three stories tall, would add \$9,500 to the cost of a single-family home. In addition to solar, the standards encourage other energy saving technologies, including battery storage, heat pump water heaters, and high-performance attics, walls and windows. *(Monitor)*

## Resignation of Trustee Under a Deed of Trust

Senate Bill 306 (Morrell) was enacted to establish procedures for a person or entity, named as a trustee under a deed of trust pursuant to a substitution of trustee, to either resign or refuse to accept appointment as trustee. A new trustee named in a recorded substitution of trustee may either resign or refuse appointment as substitute trustee at that trustee's own election and without the consent of the beneficiaries, or their authorized agents, under the pertinent deed of trust. A trustee who is resigning or refusing appointment as trustee must give prompt written notice of that resignation or refusal by both mail and recordation. *(Initially opposed; neutral as enacted subsequent to CLTA-requested amendments)*

## Employment Legislation

Numerous employment law changes were passed by the California Legislature in 2019. Included among them were:

- A codification of the employee classification test adopted by the California Supreme Court in *Dynamex Operations West, Inc., v. Superior Court* to determine when a worker is an independent contractor, as provided by Assembly Bill 5 (Gonzalez). Numerous industry exemptions were included, including real estate licensees.
- The statute of limitations to allege a violation of the Fair Employment and Housing Act (FEHA) was extended by Assembly Bill 9 (Reyes) 2019 from one to three years.
- Legislation banning mandatory employment arbitration agreements via Assembly Bill 51 (Gonzalez). In 2018 Governor Brown vetoed a virtually identical bill citing his recognition that the bill “plainly violates federal law.” The new law does not apply to any arbitration agreements that were entered into prior to January 1, 2020.
- Lactation accommodation requirements were expanded under Senate Bill 142 (Wiener). Specifically, a lactation room must be close to the employee's work area, shielded from view, free from intrusion and have certain features, like electricity. The employer also must provide access to a sink with running water and a refrigerator. Employers must also create and implement a lactation accommodation policy.
- The deadline to complete sexual harassment prevention training is now January 1, 2021 under Senate Bill 778 (Committee on Labor, Public Employees and Retirement).

# Legislation

## Abatement Liens for Defensible Space Program

The Office of the State Fire Marshal is required under Senate Bill 190 (Dodd) to develop a model defensible space program for use by local governments in the enforcement of the defensible space provisions of the law. Components of the program include enforcement mechanisms for compliance and a local agency may recover the actual cost of abatement by using a recorded notice of abatement lien. *(Monitor)*

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## Statewide Rent Control Adopted

The Legislature passed a statewide rent control bill entitled The Tenant Protection Act of 2019. Assembly Bill 1482 (Chiu) limits rents in California by placing an upper limit on annual rent increases: 5% plus inflation. The bill also contains a just cause requirement for eviction. However, both the rent cap and the just cause eviction provisions are subject to exemptions including housing built in the past 15 years.

Single-family residences, including condominiums, are exempt unless owned by a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation. *(Monitor)*

## Recording Fees

Assembly Bill 212 (Bonta), authorizes until 2026 an additional purpose for the \$1 supplemental recording fee now used to defray the cost of converting the county recorder's document storage system to micrographics. The new law allows the fee to be used for restoration and preservation of the county recorder's permanent archival microfilm, to implement and fund a county recorder archive program as determined by the county recorder, or to implement and maintain or utilize a trusted system for the permanent preservation of recorded document images. *(Monitor)*

## Use of Pseudonyms in Civil Actions

Using a Pseudonym in a civil action is now permitted under Assembly Bill 800 (Chu), which permits a person who is a participant in the Secretary of State address confidentiality program and a party to a civil action to use a pseudonym and to exclude or redact other identifying characteristics from all pleadings and documents filed in the action. Parties to the action would be required to use the pseudonym at proceedings open to the public and to exclude and redact other identifying characteristics of the plaintiff from documents filed with the court. *(Oppose)*

# Legislation

## Accessory Dwelling Units

Assembly Bill 68 (Ting) revised the requirements for an accessory dwelling unit and their approval by local agencies. The act also required ministerial approval of specified accessory dwelling units and prohibited certain local government limitations by an ordinance. *(Monitor)*

## California Consumer Privacy Act

Prior to the end of the 2019 legislative session California lawmakers sent several bills to the Governor that amended the California Consumer Privacy Act (CCPA). CLTA worked closely with other allied businesses and the California Chamber of Commerce to lobby these bills. Among the measures passed were:

- Assembly Bill 25 (Chau), which provided an exemption from the CCPA for personal information collected by a business in relation to a person acting in the capacity of an employee or contractor for, or applicant to, a business. This exemption contains a one-year sunset provision. *(CLTA supported)*
- Assembly Bill 1355 (Chau), similarly exempted personal information collected during the course of business-to-business interactions. This exemption also contains a one-year sunset provision. *(CLTA supported)*
- Assembly Bill 874 (Irwin) modified the definition of “publicly available” within the CCPA to provide that information lawfully made available from federal, state, or local government records is not considered “personal information” under the CCPA. In addition, it also clarified that “personal information” does not include deidentified or aggregate consumer information. *(CLTA supported)*
- Assembly Bill 1564 (Berman) required businesses subject to CCPA to provide two separate contact methods via which consumers could submit CCPA-related requests. Businesses that operate exclusively online and have a direct relationship with a consumer from whom they collect personal information are only be required to provide an e-mail address for purposes of receiving consumer requests under CCPA. Businesses with websites would also be required to make the website available for the purposes of consumers submitting requests under the CCPA. *(CLTA supported)*



## 2019/20 CLTA Form Filings

Based upon the recommendation of the Forms and Practices Committee, and approval of the Board, the CLTA made several form filings with the Department of Insurance.

### Endorsement Corrections Filed May 28, 2019

- CLTA Endorsement 100.2-06/ALTA 9-06 (*Restrictions, Encroachments & Minerals – Loan Policy*)

A technical correction for purposes of clarity was made to CLTA Endorsement Form 100.2-06/ALTA 9-06 (12-01-18).

- CLTA Endorsement 137-06/ALTA 32-06 (*Construction Loan*)
- CLTA Endorsement 137.1-06/ALTA 32.1-06 (*Construction Loan-Direct Payment*)
- CLTA Endorsement 137.2-06/ALTA 32.2-06 (*Construction Loan-Insured's Direct Payment*)

A correction was made to the names of the CLTA 137 series endorsements to remove the reference to “Loss of Priority”.

### New Solar Energy Endorsement Filed December 1, 2019

- CLTA Endorsement 150-06 (*Solar Endorsement*)

The new CLTA Endorsement Form 150-06 (11-08-19) was filed to fill the need for an industry standard for situations in which an insurer chooses to clarify coverage with respect to the effect of a solar energy system situated on the land.

# Litigation

## CLTA Files Motion with U.S. Supreme Court on Criminal Courts Declaring Deeds Void

The CLTA filed a motion with the U.S. Supreme Court for leave to file an amicus brief in support of the Petition for Writ of Certiorari. In the case of *Deo v. California*, the issue is whether a court, in a criminal proceeding, can declare a deed void *ab initio* after a summary hearing. While the policy of criminalizing fraud makes sense, the CLTA believes that a truncated summary procedure in a criminal case is far inferior to a quiet title action where competing claims can be fully adjudicated. Unfortunately, as it does with over 97% of cases, the U.S. Supreme Court declined to hear the case.

## CLTA Files Brief in California Supreme Court Supporting California Regulatory System

The CLTA filed an amicus brief with the California Supreme Court in the case of *Villanueva v. Fidelity National Title Co.*, involving whether the Department of Insurance has exclusive jurisdiction over rates and fees charged by title companies. The CLTA Litigation Committee voted unanimously to file the brief in the case. The Supreme Court limited the issues on appeal to two: (1) Whether California law provides immunity to a UTC for charging customers for services for which there have been no rate filings and (2) whether the Insurance Commissioner has exclusive jurisdiction over any action against a UTC for services charged to the consumers, but not disclosed to the Department of Insurance. The CLTA believes that the Court of Appeal was correct and argued that its decision should be upheld by the California Supreme Court.

## CLTA's Online Policy & Endorsement Forms and CLTA Manual

### New On-line Portal

In 2019, CLTA moved the online CLTA Manual and P&E Forms publications to a new publication portal to give subscribers a secure portal with real-time updates and the ability to search print, and export forms.

## Annual Summary of Legislation

The 2019 Annual Summary of Legislation was distributed in December 2019. The Summary covers bills of interest to the title insurance industry that were enacted in 2019. The Summary of Legislation was released in a high-resolution electronic format, complete with live hyperlinks to chaptered bill text and exclusive web content.

As an ongoing feature, the CLTA Summary also contains brief summaries of court opinions during the year that are relevant to the title industry. The case summaries, complete with citations, contain links to the respective court opinions.

## Directory of Members

The 2020 Directory was printed and distributed to CLTA members as one of the many CLTA member benefits. The CLTA sends ten complimentary copies of the annual Directory to each member title company. Additional copies can be purchased through the CLTA by both members and non-members. Members receive substantial discounts in the purchasing price of additional directories. In addition, an electronic, searchable version of the Member Directory, entitled the CLTA eDirectory, is available on the CLTA website.

# Political Action

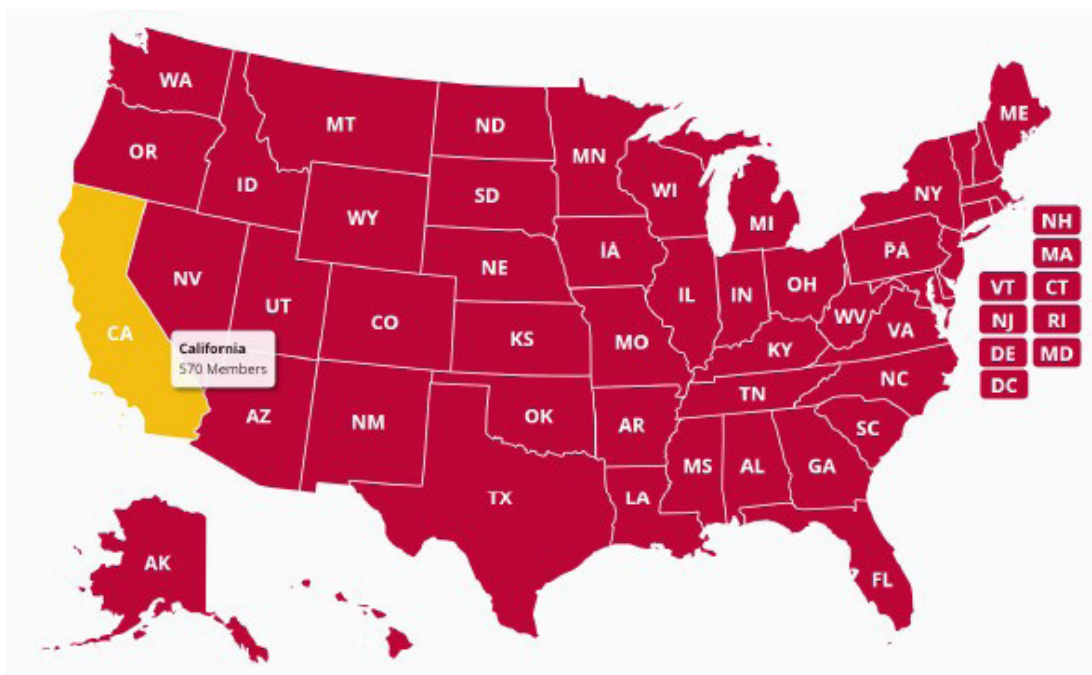
## CLTA-PAC

The CLTA continues to emphasize its Political Action Committee, CLTA-PAC. Under the continued leadership of Co-Chairs Neil Gulley and Rick Kersenbrock, CLTA-PAC has continued raising contributions to support the title industry's political efforts.

The CLTA Political Action Committee had another successful year, making contributions to a number of candidates for legislative offices and receiving contributions from CLTA members, including corporate and individual contributions. The message remains that every contribution to CLTA-PAC counts.

## Title Action Network

California membership in the Title Action Network (TAN) remains strong with the third largest membership at 375 members, behind New York which has 858 members and Florida with 673 members.



# Communication & Education

## CLTA eNews

The CLTA eNews is published and distributed monthly to over 1,000 recipients, allowing the CLTA to provide current information to its members in a regular, timely fashion.

The CLTA eNews showcases issues important to the title and escrow industries, including new legislation, recent court decisions, as well as other industry-related news, such as form filings and regulatory activity.

Examples of subjects covered in the publication include:

- Association news, including the addition of member companies, implementation of new member benefits, including online access to the CLTA Manual and P&E forms, and publication updates.
- Legislative and political developments in the state capitol, including updates on real estate and title insurance industry bills, the political climate and the state budget.
- News impacting title operations, including regulatory activities, court decisions, and revised title forms.

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<b>SACRAMENTO REPORT</b>	<ul style="list-style-type: none"> <li>• CLTA Seeks Consensus for Electronic Notarization Legislation</li> <li>• Governor Brown Signs AB 110, Exempting Government Entities from Recording Fees to SB 2</li> <li>• Higher Business Taxes and New Employer Reporting in Two New Bills</li> <li>• Sales Tax on Services Proposed</li> <li>• Cloaking Residential Addresses for Elder Abuse Victims</li> </ul>
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<b>CLTA NEWS</b>	<ul style="list-style-type: none"> <li>• Fidelity National Financial Announces Merger Agreement to Acquire Stewart Information</li> <li>• Register Now: Southern California PREP Chapter Meeting (May 8, 2018 in Norwalk, CA)</li> <li>• Freddie Mac Rate Survey Shows Slight Rate Drop</li> <li>• Homes Sales Steady While Refinance Activity Down</li> </ul>

**CLTA NEWS**

**CLTA's Annual Convention - Register Now!**  
The California Land Title Association's 111th Annual Convention will be held April 23-24, 2018 at the Old Union Inn, 200...

## Claims Awareness Hot Sheet

The CLTA released two editions of its Claims Awareness Hot Sheet, in Summer 2019 and Winter 2020. The Hot Sheets are sent to CLTA membership in electronic form. The covered topics in the publications varied from property access coverage to clouds on title.

## CLTA News Express

The CLTA electronically distributes numerous News Express bulletins to the title industry on topics ranging from legislation to issues impacting business practices. Examples of topics covered within the publication are included below.

## CLTA Joins Trade Associations in Sending Letter to Governor Requesting “Essential” Designation for County Recorders

The California Land Title Association joined other trade association to send a letter to Governor Newsom requesting that recordation and other services provided by the state’s county recorders be declared an essential service.

## CLTA Notifies Members of LA County Recorder Notary Acceptance Policy on Electronic/Remote Online Documents

The Los Angeles County Recorder recently generated a policy on the acceptance of electronic signatures and notaries relating to the recordation of documents that is apparently hard to find on their website. Please note that this policy is for LA County ONLY and you should contact your local recorder to find out if their policy differs from this.



## CLTA Advises Members of New CalFIRPTA Reporting Requirements

The CLTA reported on news that the FTB will require all title escrow professionals to report all sales, regardless of whether or not CalFIRPTA withholding applies. The FTB is now requiring “seeing the work” for every seller, on every sales transaction, including the seller’s computation of any loss.

And, it was noted that this new requirement may affect then-current transactions, such as: Title company escrow officers that currently had open transactions in the works that were meant to close in December but could roll over into 2020, as well as open transactions already scheduled to close after 1/1/20. It was also noted that prior versions of FTB forms would not work for 2020 closings.

## CLTA Notifies Membership of California Association of Realtors® Decision to Delay the Release of the Revised RPA

In a communication to real estate industry groups, the California Association of Realtors® announced that it will delay the release of the revised Residential Purchase Agreement (RPA) until December 2021.

In its announcement, C.A.R. said that the decision was made in order to avoid the unnecessary disruption that could result from overlapping the multi-month training effort to educate agents on the revised RPA along with a potential recovery from the downturn and disarray caused by the COVID-19 pandemic.

Members of the CLTA’s Settlement Committee have been working closely with C.A.R. as part of the RPA Study Group since 2019. CLTA supports the C.A.R.’s decision to delay the revised RPA’s release, agreeing that its postponement will be beneficial for the real estate industry as a whole, and looks forward to the opportunity to continue collaboration on the revisions going forward.

## **CLTA Notifies Membership of Updated Guidance Issued by GSEs on Remote Notarizations and Powers of Attorney**

Government-sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac issued updated Selling Guidance, including temporary requirements for remote online notarization (RON) and powers of attorney (POA).

The updated guidance permits lenders to sell loans with loan documents that have been remotely notarized in 43 listed states. California is not currently on the list of states. Both GSEs provide for states to be added to their lists pending a state's adoption of a law permitting the use of RON or if a state expressly accepts, either through state law or through the application of an express federal law, RONs lawfully performed out-of-state.

In addition to a number of other specified requirements, the updated guidance states that the RON platforms themselves must meet certain minimum standards.

Both GSEs will also temporarily allow for the use of a POA to execute loan and closing documents for loans with applications dates on or before May 17, 2020, subject to specified requirements as described within the updated guidance.

## **CLTA Informs Members on Recording Issues Due to Widespread PG&E Power Blackouts**

The CLTA reported on County Recorders reactions to PG&E power shut offs across Northern California. Some counties closed their offices, some have back-up generators for their offices and are keeping their operations open, and some are relocating to temporary offices. The CLTA suggested reaching out to specific County Recorders for their operational status and further information.

## Educational Webinars

The CLTA, sometimes in conjunction with other trade associations, conducts several webinars every year in order to update CLTA members on current issues. This past year, CLTA organized the following webinars:

Topic	Speakers	Notes
<b>Review of Commonly Used Title Forms</b>	Emilie Fox Kent Pelt	This webinar gave a brief review of the most commonly used title insurance forms, what they do and what they are used for, and was geared towards the beginner level participant.
<b>Death and Title: Estates of Decedents and Probate Issues</b>	Michael Dullea Gytis Nefas Tom Imperiale	This webinar overviewed the basics of probate including: TODDs; Insuring real property of small value; insuring surviving spouses; trusts and <i>Heggstad</i> orders; out of state probates; judgement liens; power of attorneys; orders of final distribution including forms of elder abuse; and more.
<b>New Laws / New Cases 2019</b>	Tom Imperiale Laura Lowe Steve Tjaden Craig Page	A range of new laws were discussed in this webinar, including California Consumer Privacy Act, substitution of trustee, recording fees, defensible space abatement liens and an update on proposed 2020 ballot measures. Also covered were a number of new cases dealing with issues of what liability trustee's take on when conducting a foreclosure, the basics of a chapter 20, if a judgment lien valid if filed by a suspended corporation, what does "free access" mean and what happens when a mechanic lien is filed to early.
<b>Fraud: What Was Old is New Again</b>	Randy Paslay Tom Imperiale	This webinar was postponed due to the Covid-19 Pandemic with plans to reschedule in June, 2020. The covered topics are of good old-fashioned fraud which is on the rise and here to stay. Deed scams, entity hijacking and forged reconveyance along with financial exploitation and elder abuse will all be included in this topic.

# Communication & Education

## CLTA Convention

The CLTA's 113th Annual Convention was to be held April 26th - 28th, 2020, at the Park Hyatt Aviara in Carlsbad, CA. Unfortunately, due to the current situation with the Covid-19 Pandemic, CLTA's 2020 Convention had to be cancelled.

A huge THANK YOU to all of CLTA's Convention Sponsors that stuck with us through these unprecedented times. These sponsors graciously offered to continue sponsorship even though CLTA's 2020 Annual Convention was canceled. Please find those sponsors here:

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- **Silver Sponsors** - Page 36 (Below)

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