Fidelity Title Best Practices

In full compliance with ALTA

November 2014

2014

Fidelity Title

2014



**Mission Statement**

This Best Practices Manual has been developed by Fidelity Title Agency of Springfield, Inc. (FTA) in accordance with the guidelines set forth by the American Land Title Association and in compliance with both the Gramm‐LeachBliley Act and the Consumer Financial Protection Bureau established under the Dodd‐Frank Act. The goal of this manual is to outline the policies and procedures set forth by Fidelity in our commitment to protect the security of the consumers and continue to provide professional quality service to our clients.

**Definitions**

**Background Check**:

A background check is the process of compiling and reviewing both confidential and public employment, address, and criminal records of an individual or an organization. Background checks may be limited in geographic scope. This provision and use of these reports are subject to the limitations of federal and state law.

**Credit Report:** A report prepared by a financial institution or a credit reporting agency (such as Equifax, Experian, or TransUnion, or in the case of a corporation, Dun & Bradstreet) that summarizes a person’s or organization’s credit history and present financial position, including information on any liens in force against the person or organization. This provision and use of these reports are subject to the limitations of federal and state law.

**Escrow:** A transaction in which an impartial third party acts in a fiduciary capacity for the seller, buyer, borrower, or lender in performing the closing for a real estate transaction according to local practice and custom. The escrow holders have fiduciary responsibility for prudent processing, safeguarding and accounting for funds and documents entrusted to them.

**Escrow/Trust Account:** An account to hold funds in trust for parties to a real estate transaction. These funds are held subject to a fiduciary capacity as established by written instructions. Federally Insured Financial Institutions: A financial institution that has its deposits insured by an instrumentality of the federal government, including the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA).

**Licenses:** Title Agent or Producer License or registration, or any other business licensing requirement as required by state law, or a license to practice law, where applicable.

**Settlement:** In some areas called a “closing.” The process of completing a real estate transaction in accordance with written instructions during which deeds, mortgages, leases and other required instruments are executed and/or delivered, an accounting between the parties is made, the funds are disbursed and the appropriate documents are recorded.

**Non-public Personal Information**: Personally identifiable data such as information provided by a customer on a form or application, information about a customer’s transactions, or any other information about a customer which is otherwise unavailable to the general public. NPI includes first name or first initial and last name coupled with any of the following: Social Security Number, driver’s license number, state-issued ID number, credit card number, debit card number, or other financial account numbers.

**Trial Balance:** A list of all open individual escrow ledger record balances at the end of the reconciliation period. Three-Way Reconciliation: A three-way reconciliation is a method for discovering shortages (intentional or otherwise), charges that must be reimbursed or any type of errors or omissions that must be corrected in relation to an escrow trust account. This requires the escrow trial balance, the book balance and the reconciled bank balance to be compared. If all three parts do not agree, the difference shall be investigated and corrected.

**OUR UNDERWRITERS**

**Fidelity National Title Insurance Company**

**First American National Title Insurance Company**

**PROCEDURES AND BEST PRACTICES**

Fidelity Title Agency is compliant with the **7 ALTA BEST PRACTICES.**

**1.** **Best Practice: Establish and maintain current license(s) as required to conduct the business of title insurance and settlement services.**

***Purpose:*** *To guarantee the fulfillment of all licensing requirements for the State of Missouri, and make certain that all renewal dates are met.*

Procedures to meet this best practice:

* FTA is fully compliant with all of our licensing obligations. We are a Missouri corporation. All appropriate licenses have been properly filed and are current.
* A tracking report is maintained by the Human Resources Manager as a monitoring control and periodically reviewed by the Manager to help ensure the appropriate business professionals are licensed and renewed when necessary.
* Licensed individuals, along with their active licenses, have been communicated to each underwriter. The underwriter is notified when a license becomes inactive.
* Licensed individuals maintain the necessary continuing education requirements including any necessary ethics requirements. Documentation is maintained to evidence the requirements have been met.
* The Company maintains and has on file the appropriate American Land Title Association Policy Forms License

**References:** Please refer to the Missouri Department of Insurance for verification of licenses.

* License Link: <https://sbs-mo.naic.org/Lion-Web/jsp/sbsreports/AffLicenseeList.jsp?licenseNo=8005203&agentID=15133160&individualID=0&businessType=C&fullName=%20FIDELITY%20TITLE%20AGENCY%20OF%20SPRINGFIELD%20INC%20&licenseid=5947947&NPN=7177066&homeState=MO&licenseClass=Business%20Entity%20Producer&licenseStatus=Active%20(11/19/2013)&displayDRLP=Y&displayOPOD=N&displayREL=Y>

**2. Best Practice: Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.**

***Purpose:*** *Appropriate and effective escrow controls and staff training help title companies meet client and legal requirements for the safeguarding of client funds. These procedures ensure accuracy and minimize the exposure to loss of client funds. Settlement companies may engage outside contractors to conduct segregation of trust accounting duties*

Procedures to meet this best practice:

• Escrow funds and operating accounts are separately maintained.

* Escrow funds or other funds FTA maintains under a fiduciary duty to another are not commingled with the FTA’s operating account or an employee or manager’s personal account.

• Escrow Trust Accounts are prepared with Trial Balances.

* On at least a monthly basis, Escrow Trust Accounts are prepared with Trial Balances (“Three-Way Reconciliation”), listing all open escrow balances.

• Escrow Trust Accounts are reconciled.

* On at least a daily basis, reconciliation of the receipts and disbursements of the Escrow Trust Account is performed
* On at least a monthly basis, Three-Way Reconciliation is performed reconciling the bank statement, check book and Trial Balances. A trial balance report depicting the balance of a particular customer’s funds can be produced for each escrow/trust account at any time. This report depicts all individual customer file balances that do not have a zero balance. On a monthly basis, the Office Manager reconciles the trial balance report to the bank balance and reconciled book balance, creating a “three way” reconciliation.
* Segregation of duties is in place to ensure the reliability of the reconciliation and reconciliations are conducted by someone other than those with signing authority.
* Results of the reconciliation are reviewed by management and are accessible electronically by the agency’s contracted underwriter(s).

• Escrow Trust Accounts are properly identified.

* Accounts are identified as “escrow” or “trust” accounts. Appropriate identification appears on all account-related documentation including bank statements, bank agreements, disbursement checks and deposit tickets.

• Outstanding file balances are documented.

• Transactions are conducted by authorized employees only.

* Only those employees whose authority has been defined to authorize bank transactions may do so. Appropriate authorization levels are set by FTA and reviewed for updates annually. Former employees are immediately deleted as listed signatories on all bank accounts.

• Unless directed by the beneficial owner, Escrow Trust Accounts are maintained in Federally Insured Financial Institutions.

• Utilize positive pay, if available. FTA accounts are setup to block Automated Clearing House withdraws and international wires. We restrict the number of employees who are authorized to wire funds and require that each wire be verified by one other staff member. The dollar amounts are limited for wires out.

• Checks are completed in the hiring process and regularly conducted for existing employees.

* At least every three years, we obtain Background Checks going back five years for all employees who have access to customer funds.

• Ongoing training is conducted for employees in proper management of escrow funds and escrow accounting.

• Key procedures that FTA employs to meet this best practice include:

* No disbursements are made without the corresponding deposit being made first.
* We follow all written instructions of the customer.
* All employees acknowledge in affidavit form the contents of these procedures.

**3. Best Practice: Adopt and maintain a written privacy and information security program to protect Non-public Personal Information as required by local, state and federal law.**

***Purpose:*** *Federal and state laws (including the Gramm-Leach-Bliley Act) require title companies to develop a written information security program that describes their procedures to protect non-public customer information. The program must be appropriate to the company’s size and complexity, the nature and scope of the company’s activities, and the sensitivity of the customer information the company handles. A company evaluates and adjusts its program in light of relevant circumstances, including changes in the firm’s business or operations, or the results of security testing and monitoring*.

Procedures to meet this best practice:

• Physical security of Non-public Personal Information (NPI).

* Restricts access to Non-public Personal Information to authorized employees who have undergone Background Checks and Credit Reports at hiring.
* Within our offices, employees are instructed to close any paper and electronic files containing NPI when away from their desks. We have secure points of entry to our building(s) and a reception area where no NPI access is available.
* Privacy Policy Disclosure Statements are sent with each Commitment to insure explaining how we handle any NPI collected from them.
* Prohibit or control the use of removable media.
* Use only secure delivery methods when transmitting Non-public Personal Information.

• Network security of Non-public Personal Information.

* Maintain and secure access to company information technology.
* Develop guidelines for the appropriate use of company information technology.
* Ensure secure collection and transmission of Non-public Personal Information.

• Ensure disposal of Non-public Personal Information.

* Any documents containing sensitive or personally identifiable information are collected and stored in a locked secure container until shredded. We employ a mobile shredding service. All documents are cross shredded and pulverized on site. The shredded documents do not leave the truck until they are delivered to the recycle center.

• Establish a disaster management plan.

* Network server is backed up to an off-site redundant server. Our email server is also backed up offsite. Because our servers are redundant, we are able to recover from system failure or data loss in a matter of minutes.

**4. Best Practice: Adopt standard real estate settlement procedures and policies that ensure compliance with Federal and State Consumer Financial Laws as applicable.**

***Purpose:*** *Adopting appropriate policies and conducting ongoing employee training can ensure that a real estate settlement company can meet state, federal and contractual obligations governing the settlement process and provide a safe and compliant settlement. In particular, some procedures to meet this best practice:*

• Recording procedures.

* Submit or ship documents for recording to the county recorder (or equivalent) or the person or entity responsible for recording within two (2) business days of Settlement.
* Use electronic recording where available.
* Track shipments of documents for recording.
* Ensure timely responses to recording rejections.
* Addressing rejected recordings to prevent unnecessary delay.
* Verify that recordation actually occurred and maintain a record of the recording information for the document(s).

• Pricing procedures.

* Utilize rate manuals and online calculators, as appropriate, to ensure correct fees are being charged for title insurance policy premiums.
* Ensure discounted rates are calculated are calculated and charges when appropriate, including refinance or reissue rates.
* Quality check files after Settlement to ensure consumers were charged the company’s established rates.
* Provide timely refunds to consumers when an overpayment is detected.

**5. Best Practice: Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.**

***Purpose:*** *Appropriate procedures for the production, delivery and remittance of title insurance policies ensures title companies meet their legal and contractual obligations. In particular, some procedures to meet this best practice:*

• Title policy production and delivery.

* Title insurance policies are issued and delivered to customers in a timely manner to meet statutory, regulatory or contractual obligations.
* Issue and deliver policies within forty-five days of Settlement if terms and conditions of title insurance commitment have been satisfied.

• Premium reporting and remittance.

* Title insurance policies are reported and premiums are remitted to the underwriter in a timely manner to meet statutory, regulatory or contractual obligations.
* Report policies to underwriter by the last day of the month following the month in which the insured transaction was settled.
* Remit premiums to underwriter by the last day of the month following the month in which the insured transaction was settled.

**6. Best Practice: Maintain appropriate professional liability insurance and fidelity coverage.**

***Purpose:*** *FTA maintains professional liability insurance and errors and omissions insurance and complies with the requirements as provided by state law or title insurance underwriting agreements.*

* The Company carries professional liability insurance for errors and omissions in accordance with The Company’s contractual obligations in the amount of at least $1,000,000.00 issued by ACORD CORPORTATION, a company acceptable to our title insurance underwriter. A copy of most current policy is available upon request.
* When requested by the customer or required by state regulation, the Company will issue an insurer’s Closing Protection Letter (CPL) in connection with the settlement funds and issuance of a title insurance policy. This CPL will be issued via the insurer’s automated Closing Protection Letter system.

**7. Best Practice: Adopt and maintain procedures for resolving consumer complaints.**

***Purpose:*** *A process for receiving and addressing consumer complaints is important to ensure that any instances of poor service or non-compliance do not go undiscovered. In particular, some procedures to meet this best practice:*

* All complaints are addressed by the Manager with the customer within 24 hours.
* The complaint is logged into the Complaint Log.
* The complaint log is modified to include the course of action and /or resolution.