


# Title and Escrow Claims Guide

2022 Edition

J. Bushnell Nielsen

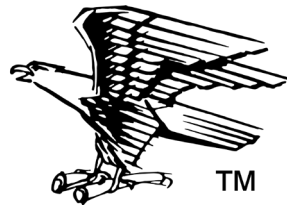
  
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# Title and Escrow Claims Guide

## 2022 Edition

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2016 ALTA Commitment for Title Insurance  
2006 ALTA Commitment to Insure  
2006 ALTA Plain Language Commitment Form  
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2006 ALTA Owner's Policy  
1992 ALTA Owner's Policy  
1987 ALTA Residential Owner's Policy  
2021 ALTA Homeowner's Policy  
2013 ALTA Homeowner's Policy  
2021 ALTA Loan Policy  
1992 ALTA Loan Policy  
2006 ALTA Loan Policy  
ALTA Short Form Residential Loan Policy  
ALTA Residential Limited Coverage Junior Loan Policy  
ALTA United States of America Policy

ALTA 13-06 Leasehold Owner's Endorsement  
ALTA 13.1-06 Leasehold Loan Endorsement  
1990 California Land Title Ass'n Standard Coverage Owner's Policy  
Texas Form T-7 Commitment for Title Insurance  
Texas Form T-1 Owner's Policy 2009 Version  
Texas Form T-1 Owner's Policy 2014 Version  
Texas Form T-1R Owner's Policy--Residential  
Texas Form T-2 Mortgagee Policy  
Texas Form T-13 Mortgagee Policy Binder on Interim Construction Loan  
1987 ALTA Closing Protection Letter  
2008 ALTA Closing Protection Letter  
2008 ALTA Closing Protection Letter—Limitations  
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Case Table

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Bush Nielsen

# Introduction

This treatise is intended as a guide for the resolution of disputes about title insurance policies, real estate escrows and closings, and related issues involving title insurers, title agents, approved attorneys and escrowees. It is intended for claim administrators, retained counsel, insurance underwriters and others who deal with title claims and coverage disputes. The commentary is intended to be practical rather than academic. The goal is to give guidance on commonly-encountered issues, whether or not they have been addressed by the courts. This work is limited in scope. It is not intended as an all-encompassing treatise on the land title industry.

The book is organized to follow the decision-making process used by claims counsel or claim administrators. The first chapter provides decision trees and addresses essential issues about claim handling. Chapter 2 addressed more claim administration issues. Chapters 3 and 4 cover the resolution of covered claims and defense of the insured, which are the two primary means by which claims are resolved. Chapter 5 is on recoupment and subrogation rights. Chapter 6 concerns the title insurance commitment. Chapters 7 through 12 discuss the terms of the title insurance policy. Chapters 13 through 17 discuss non-policy liability (escrows, closing protection letters, title searches and tort liability on insurance policies) and issues concerning title agents and approved attorneys.

The claims practices suggested by this treatise indicate general rules or practices only. Every claim situation is different, and state laws regarding claim settlement practices vary significantly. The approaches suggested in this volume are not appropriate or correct in all cases. In fact, some of the rules and practices described are *not* appropriate in some jurisdictions, as the book explains wherever possible. The book also does not attempt to describe every possible decision or position that might be appropriate in a particular case. Therefore, any use of words such as "should," "must," "shall," "will" or the like, in describing an insurer's duties or options, is strictly for brevity's sake rather than to state a mandate imposed by policy terms, statutes, regulations or the courts.

The views expressed in this book are those of the author, and are not the official views of the American Land Title Association or any of its members. This book also does not represent the uniform custom and practice in the title insurance industry in the administration of claims, or any insurer's internal claim standards or practices. This work is not sanctioned, sponsored or approved by any title insurer.

However, the practices and views expressed herein are not mere opinions developed in a vacuum. I have resolved thousands of claims and title disputes in the past 40 years. I was employed by title insurers for 16 years and received superlative training from my supervisors and peers. The handling of title disputes remains my nearly-exclusive employment as a practicing lawyer, and I continue to receive information and insights from title industry members from all regions of the

United States. This book is intended to impart the wisdom that I have received, in addition to my own analysis of cases, statutes and regulations. I believe it is the combination of practical knowledge with scholarship that has made this book useful since it was first published in 1996.

Finally, the analysis in this book reflects my belief that most cases on this subject can be reconciled to indicate a level of consistency in the interpretation of the policy language. Where there is a split of authority that the courts themselves recognize or which is obvious, the book explains the differing positions. Throughout the book, my goal is to present an honest and objective explanation of the subject and the decisions, and not to suggest what the law should now be or how it should evolve.

J. Bushnell Nielsen