

# ATG<sup>®</sup> Advocacy in Action

Your voice in the legislature.



ATTORNEYS' TITLE GUARANTY FUND, INC.

## Protecting Your Interests in Washington and at Home



Being at the forefront of preserving the lawyer's role in real estate transactions and protecting consumer rights means frequent trips to Washington for ATG President, Peter Birnbaum: 1987 with Senator Tom Rainsback; 1995 at the White House with Richard Hart; and 2012 at the Capitol with then-president of ALTA Frank Pellegrini.

## Leadership in "Fix Your Mortgage" Initiative



During the height of the foreclosure crisis in 2009-2010, ATG and its partners sponsored 14 workshops for at-risk homeowners. At these "Fix Your Mortgage" events, ATG agents, staff, and other volunteers assisted qualified homeowners in applying for loan modifications within the Home Affordable Modification Program.

ATG was founded in 1964 on the basis of preserving the lawyer's role in real estate transactions for the benefit of the client. Since that time, ATG has made it a priority to promote the lawyer's role in real estate transactions and advocate for the interests of lawyers and the clients they serve. No other title underwriter in the Midwest can make that claim.

**Media Relations, Appearances, Participation** Throughout its history, ATG has embarked on media-relations campaigns and other promotional efforts to spread our core message, "Buying or Selling a Home? See a Lawyer First." Here are some examples:

- Published articles that appeared in daily and community newspapers
- Appeared on television news spots and radio call-in shows
- Sponsored the "See a Lawyer First," billboard campaign
- Hosted consumer call-in hotlines

**Legislative Efforts** In addition to these consumer-facing efforts, ATG also has a long track record of fighting for the interests of lawyers and the consumers they serve. ATG's senior staff and board frequently travel to Washington to meet with legislators, lobby, and testify before various committees.

**Telling Our Story** Our website, electronic publications, and event coverage give a snapshot of who we are and what's important to us. As part of our 50th anniversary celebration, we produced a video featuring ATG agents and staff. Snap the QR code, below, to check it out.

**Articles** See inside for a sampling of articles and links that illustrate our efforts. Many are also available on the Advocacy in Action page of our website.



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# This is ATG® Advocacy in Action



## Service group makes a case for attorneys

Home purchasers and sellers are likely to confront a number of complex issues that can be resolved best by an experienced real estate attorney, according to Peter J. Birnbaum, president and chief executive officer of Attorneys' Title Guaranty Fund Inc. "Buying a home is the most significant financial commitment most people will make," he said. "Because so much is at stake, we believe an attorney should be involved in the process from the beginning."

Birnbaum said that participants in the real estate process often include a real estate salesperson or two, a lender, an appraiser, an inspector and a title insurance company, and possibly a builder and contractor. "With so many players who have competing interests, it's critical to engage counsel before you proceed into what will most assuredly be a highly complicated transaction."

— Peter J. Birnbaum, president and chief executive officer of Attorneys' Title Guaranty Fund Inc.

Negotiates the specific terms of the contract. "This is the most critical stage of the negotiating process because once a contract is signed, the prospective buyer is

against the property that are not discovered during the title search. ■ Evaluates financing options. An experienced real estate attorney can assist a consumer in analyzing the relative merits of various types of financing. She can also explain nuances of the various options.

■ Explains tax consequences. "Tax laws are extremely complicated, and the consequences of not understanding those that involve home ownership can be financially devastating," Birnbaum says. In addition to property taxes, home buyers will need information about the income, estate and gift tax consequences of purchasing a residence.

■ Navigates the paper maze. "Closings, which were once a straight forward transaction involving half a dozen documents, have become extraordinarily complex involving the generation and

house on the date specified in the contract. They will also negotiate any disputes that occur. ■ Makes sure everyone plays by the rules. A real estate attorney can circumvent future problems of home ownership by ascertaining that all existing laws have been followed. For example, in the case of new construction, he can ensure that a contractor doesn't place a fence partially on a neighbor's property. For both new and existing constructions, he can determine that the house meets zoning and subdivision ordinances, including the size of lot and drainage requirements.

The attorney can also address local restrictions that might come into play once a consumer moves into a house, such as whether home-based businesses are allowed in that area, or if satellite dishes are allowed.

■ Serves as an advocate at every stage of the transaction. The fees for buyers typically amount to a small percentage of the total purchase price, Birnbaum says. "Nonetheless, on a \$150,000 house, they can be anywhere from \$1500 to \$2,500," he adds. These fees are in addition to other amounts buyers are typically required to pay at closing, such as

## ATTORNEY CAN HELP DEMYSTIFY MORTGAGE LOAN FEES PRESENTED IN LOAN COMPANY'S 'GOOD FAITH ESTIMATE'

Home buyers are often hesitant to ask questions about the many fees involved in purchasing a home, and that is why hiring an experienced attorney is so important, according to Peter J. Birnbaum, president and CEO, Attorneys' Title Guaranty Fund, Inc. (ATG), a company that works to educate the public about the value provided by an attorney experienced in residential real estate.

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higher the points One point is equal to one percent of the loan; for example, one point on a \$100,000 loan is \$1,000. If you

broker, you will pay a fee to the person, based on the selling price of the home. Make sure the broker clarifies the fee arrangements in

paying fees for the credit and appraisal as well as an application fee. Some lenders defer this fee until closing.

**CRAIN'S**  
CHICAGO BUSINESS.

Crain's Chicago Business  
3/22/10  
By: Eddie Baeb

## Birnbaum girds to protect Attorneys' Title turf in foreclosure sales

At every stage of the housing crisis, Peter Birnbaum has been there.

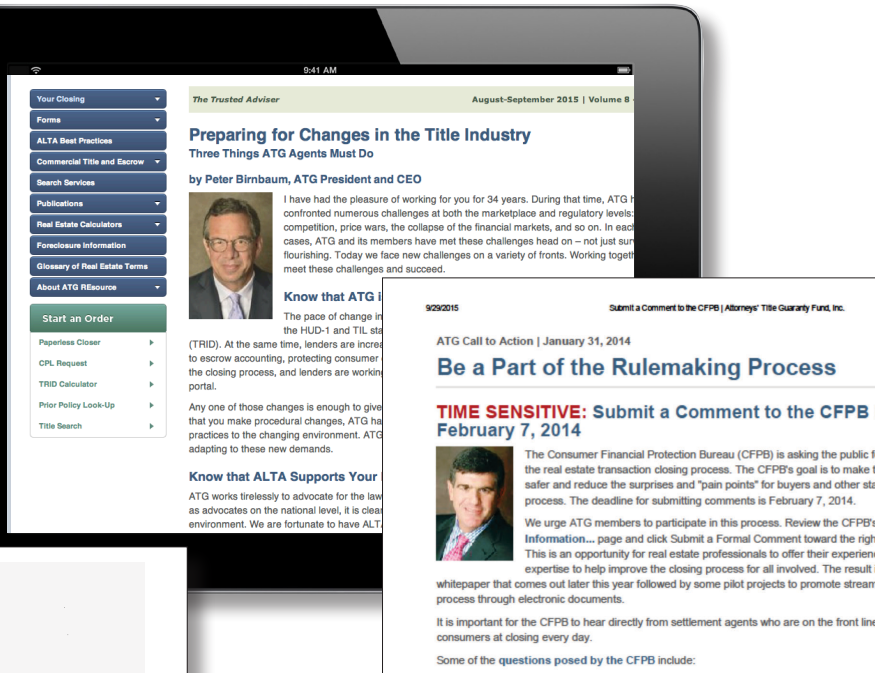
As president of one of Chicago's largest title insurance companies, Attorneys' Title Guaranty Fund Inc., Mr. Birnbaum rode the real estate boom and saw the bust coming early. Now he has plunged into the foreclosure crisis by launching pro bono mortgage-modification counseling events that have attracted thousands of Chicagoans at risk of losing their homes.

For those who can't hang on, there's Mr. Birnbaum's Judicial Sales Corp., an ATG subsidiary that has become a dominant player in the booming business of sheriff's sales.



Peter Birnbaum's Judicial Sales Corp. auctions off up to 200 properties a day, but now some sheriffs and county officials want to take the auctions back. Photo: John R. Boehm

Crain's Chicago Business  
3/22/10  
Page 1 of 3











PC, Codilis & Associates PC, Attorneys' Title Guaranty Fund Inc. (ATG) and the Law Bulletin Publishing Company are working to help the growing number of people facing foreclosure. In the photo (from left to right) are Peter Birnbaum, ATG President and CEO, Hank Shulruff, ATG Vice President and ALTA President, and other representatives of ATG and ALTA.

## Advocacy in Action:

### ATG and ALTA Representatives Meet with Congress on TRID

ATG executives Peter Birnbaum and Hank Shulruff were recently in Washington, D.C., to attend the American Land Title Association (ALTA) 2015 Federal Conference and Lobby Day. They met with members of Congress to discuss the TILA-RESPA Integrated Disclosure (TRID) and ensure that TRID implementation, effective for mortgage applications after August 1, 2015, does not adversely impact real estate transactions.

Among the concerns in the industry is the difficulty in implementing such massive changes to the settlement process. "Implementing TRID requires more than simply updating our systems for two new disclosure forms. It requires a paradigm shift in the way real estate settlements occur in this country," Diane Evans NTP, ALTA President. For more information:

- **Senators Urge CFPB to Institute Grace Period for TRID**
- **Real Estate Industry Unites Asking for Hold-Harmless Period for TRID**
- **TILA-RESPA Integrated Disclosure: Examining the Costs and Benefits of Changes to the Real Estate Settlement Process** for written testimony submitted by ALTA President Diane Evans NTP, and others in the industry who participated in the Congressional hearing before the House Committee on Financial Services, Subcommittee on Housing and Insurance, Thursday, May 14, 2015, on this topic.

Birnbaum and Shulruff also discussed improving the disclosure of title insurance premiums on the new Closing Disclosure Form, which replaces the HUD-1. For more information on the new forms and procedures, see our ATG Trusted Adviser article, **New CFPB Integrated Disclosures: ATG Will Help You Prepare for August Implementation**.

A final topic of discussion included the practices of some real estate brokerages with regard to their captive title agencies. We believe that some of these practices may be violative of the Real Estate Settlement Procedures Act (RESPA) and a business model that represents a growing threat to the integrity of the real estate transaction, competition, and consumer choice. We believe Congress and the Consumer Financial Protection Bureau (CFPB) must act now to prevent these abuses. Read more about it in our April 17, 2015, **Special Bulletin, Realtor-Controlled Business**.

## \$125,000 given to legal aid for foreclosure help

By Maria Kantzavelos  
Law Bulletin staff writer

Four legal aid organizations that have focused much of their work on addressing the needs of a growing number of Cook County homeowners grappling with mortgage foreclosure.

"With the number of new foreclosures continuing to rise, the foreclosure crisis is far from over," Graves said. "These funds will help these four organizations meet the growing demand."

Graves said the organizations expect to use the funds to support programs that assist homeowners with foreclosure.

## Legal

Continued From Page 1

original amount, the interest rate error was corrected and the seller put up money for refund.

"It's like Murphy's Law," said John O'Brien, a real estate attorney in Arlington Heights and president of the Illinois Real Estate Lawyers Association. "If something can go wrong, it will."

Even when something doesn't go wrong, and usually it doesn't, the process of buying or selling a house is extremely complicated. Thousands of dollars are changing hands, dozens of documents must be signed and many local, state and federal laws must be followed.

In Illinois, it is customary, although not required, for home buyers and sellers to hire attorneys to represent them. The cost typically runs \$500 to \$750.

Downstate lawyers tend to

You can expect your attorney to:

- **Negotiate the terms of the contract.** Most contracts are contingent upon an attorney's approval. You'll usually have between three and five days to get one or waive your right to do so.

"This is the most critical stage of the negotiating process because once a contract is signed, the prospective buyer is bound by its terms," said Peter Birnbaum, president and chief executive officer of Attorneys' Title Guaranty Fund Inc. in Champaign and Chicago.

"If something has been overlooked, we are able to modify the agreement or cancel it for them," said O'Brien.

Another common contingency is the home inspection. Your attorney will want to see the results of that inspection to determine whether any changes should be made to the contract.

"If the roof leaks or the foundation is cracked, the attorney will write the appropriate letter stating that these things need to



Illustration by Ingo Fast

"Whenever we've been brought in where there is not an attorney, problems are compounded."

Dick Post, real estate broker

money." **Navigate the paper maze.** A typical home sale can involve as many as 50 different documents. Some are provided

Bar Briefs May 2003

## HUD Proposal Termed "Devastating" to Real Estate Lawyers and Consumers

Reprinted with permission from ISBA Bar News

## Home buying primer

Essential guidelines for the prospective buyer

lawyers and services indi

In response about the proposed rule, Birnbaum said that the proposed rule would help the cost of settling buyers and trying affordability.

In later testimony, Small Business

If you're planning to buy a home this year, you may want to make some resolutions from Attorneys' Title Guaranty Fund Inc., that will help pave the way for a smooth, successful real estate transaction. "It is important for home purchasers to approach this transaction in a thoughtful, professional manner, because, even with low interest rates, buying a home is a huge financial commitment for most people," says Peter J. Birnbaum, president and chief executive officer of ATG.

specific dollar amount from a qualified lender allow you to know exactly what you can afford, it will help speed up the process if you find a house you really want. "Being pre-qualified tells a seller you are serious when you make an offer and he or she may accept your bid over another, even a higher bid, if that person is not as credit-worthy," said Birnbaum.

**Hire a real estate attorney**  
A good real estate attorney should be involved from the beginning to serve as

realtor, be clear on your relationship up front. A listing Realtor represents the seller's property. A cooperating broker is engaged by a potential homebuyer to help shop around for a new house. That broker may or may not be the buyer's fiduciary. If you decide to use a realtor, seek recommendations from friends and family and interview a few before you select one. Look for an agent whose philosophy and style is one you're comfortable with.

## Buying A Home: What You Need to Know

Owning a home is part of the American dream, but along with the dream comes a major financial commitment.

"There are so many complex issues surrounding the home buying process," said Peter J. Birnbaum, president and chief executive officer of Attorneys' Title Guaranty Fund Inc. (ATG). "You don't want to leave anything to chance."

In order to ensure a smooth and successful transaction, ATG offers the following advice:

- **Determine your price.** Before you even begin looking for a home, examine your personal finances. You want to buy a home you can afford, and it should take into consideration your present and future financial obligations.
- **As you examine your financial situation, look for ways to eliminate debt.** Birnbaum said, "It is also advisable to check your credit rating to avoid any surprises during the loan approval process."
- **Create a "wish list"** of what you're looking for in a new home. Are you interested in new construction or an existing home? How much room do you need and what features of a home are most

important to you? Do you have a special neighborhood in mind?

As you develop your wish list, which options are available within your price range?

- **Choose a reputable real estate agent.** Most cases, a broker is the best choice. As a buyer, it is important for you to know the real estate agent's role so you can be protected. The best way to choose an attorney is by writing his or her method of compensation.
- **Select an experienced real estate attorney.** It is best to engage the services of an attorney who can save you many headaches by protecting your investment. "Remember that a good attorney can save you many headaches by protecting your investment," Birnbaum said. "It is also advisable to check your credit rating to avoid any surprises during the loan approval process."
- **Pre-apply for a loan.** If you have a good credit rating, you may be able to secure a lower interest rate.

over the home-buying process. Your attorney can provide a clear

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Your Closing

Forms

ALTA Best Practices

Commercial Title and Escrow

Search Services

Publications

Real Estate Calculators

Foreclosure Information

Glossary of Real Estate Terms

About ATG Resources

Start an Order

Paperless Closing

CPL Request

TRID Calculator

Prior Policy Look-Up

Title Search

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Update from ATG President and CEO

ATG Advocates for You and Your Clients

1) ATG Asks HUD to Address Realtor-Controlled Business Misconduct | The business practices of some real estate brokers continue to be an area of concern to ATG and its members.

While we welcome competition, we see with increasing frequency business practices that are unfair to consumers and that pose a very real threat to the ability of attorneys to represent their clients.

This is particularly true with the continued proliferation of "captive" title companies, those companies owned by real estate brokers, which use the threat of blacklisting lawyers on the condition that the lawyer use the broker's captive title company.

I previously opined on this topic in the December 2009 issue of the *Trusted Adviser* with the article, "ISBA Opinion 10-02: The End of Marginalization is the Pathway to Emancipation" and the April 2010 issue of the *Illinois Bar Journal* article, "ISBA Opinion 10-02 Revisited: Real Estate

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