

Dear Stewart Agents, welcome to this week's mid-week update. We hope that you've dug out from our record snowfall and made the most of your long Presidents Day weekend. This week we will be highlighting some Vermont legislation to watch regarding a proposal to require pre-sale wastewater system inspections and notifying you of a new mortgage registration system emerging in Connecticut. We also provide information about an upcoming seminar on the newly revised title standards in New Hampshire.



Vermont Legislation to Watch – H.142 Pre-Sale Wastewater System Inspections By: Jill Spinelli-Quong, Esq., Vermont State Counsel

[H.142](#) is draft legislation that would require sellers of Vermont real estate to obtain private wastewater system inspections within 2 years from the date of sale. The legislation was drafted by Representative Austin from Colchester and was read for the first time on February 5, 2025. As drafted, sellers would be required to provide a "certificate of inspection" issued by a licensed designer. The designer would certify the functionality of the wastewater system, evaluate the system for compliance with Vermont's wastewater and potable water supply rules, and identify any maintenance or repair needs for the system. The certificate would be recorded in the land records where the property is located. If passed, these new requirements could take effect as soon as this summer. Currently the bill has been referred to the Committee on the Environment for further action.

As drafted, H.142 has raised some understandable concerns among both real estate attorneys and licensed designers. For instance, the volume of licensed designers needed to perform this type of inspection on every Vermont property with a private wastewater system is insufficient to meet the demand were this bill to take effect. Long waits for inspections would result in closing delays, additional costs, and potentially lost rate-locks or contract violations. A rushed effective date would not provide adequate time to educate homeowners, realtors and real estate attorneys about a pre-sale inspection requirement, essentially guaranteeing a bottleneck of uninspected properties and disruptions to real estate conveyancing for some time.

The Vermont Title Standards Committee is following this legislation closely and members are prepared to provide testimony about these and other concerns if it appears this legislation has traction. We encourage you to share your thoughts and concerns about the proposed legislation with members of the House Committee on Environment. A list of Committee Members can be found [here](#).



A New Mortgage Registration System: DART, as Nominee... By Frank Cammarano, Esq., Underwriting Counsel, Connecticut

A new nominee for mortgage lenders has emerged in Connecticut, known as Digital Asset Registration Technologies, or "DART." Its parent company, Figure Technologies, describes DART as a "combined lien and eNote registry service." Like the more ubiquitous Mortgage Electronic Registration Systems, Inc., or "MERS", DART serves as an agent for lenders in mortgage transactions and operates a platform designed to track servicing rights and ownership of mortgages in the United States. Unlike MERS, which operates an electronic registry, DART operates a blockchain-based registry.

The patchwork of real property and land title recording statutes across jurisdictions throughout the United States creates a cumbersome system for mortgage lenders and title insurance agencies to operate within. Every time a financial instrument secured by a mortgage is transferred, various state laws may require that each such transaction be memorialized in the land records of the appropriate jurisdiction by recording an assignment of the mortgage, or similar instrument, to preserve the chain of title. Each such recording triggers an obligation to pay recording fees associated with recording such an instrument in the land records. The high volume of mortgage transfers due to the demand from investors for mortgage-backed securities has resulted in a flood of mortgage assignment recordings across the country. The registration system was created to replace the cumbersome public recording system with a private registry. For example, members of the MERS registry name MERS as the nominal beneficiary or mortgagee of record. MERS is the owner of record (or the owner's nominee) of the security interest arising from mortgages extended by lenders, investors and their loan servicers and recorded in the land records.

Using a system such as MERS or DART enables lenders and investors who are the real parties in interest to transfer mortgages without recording assignments in the local land records and avoid paying recording fees. Assuming a loan is properly paid back on time, a loan needs only two documents to be recorded: the original mortgage or deed of trust naming MERS or DART (more specifically, DART Collateral Manager LLC) as nominee for the lender and a release or reconveyance of the mortgage or deed of trust back to the borrower (thus merging legal and equitable title) despite intermediate transfers tracked by the registry platform between those two points.

In 2013, in response to rising popularity of the private registry system, the Connecticut General Assembly amended C.G.S. §7-34a to impose an increased recording fee for mortgages containing a nominee of a mortgagee to a total of \$159.00 for the first page and \$5.00 for each subsequent page. The Connecticut Town Clerks Association recently circulated a notice to local industry participants that the increased land records recording fee imposed by C.G.S. §7-34a applies to mortgages in which DART is named as nominee for a lender, just the same as mortgages in which MERS is named as nominee.

Given the Town Clerk Association's notice and the treatment of mortgages wherein DART is named as the mortgagee and nominee for the lender, it is critical that sufficient recording fees are collected at closing so that mortgages are not rejected when presented for recording. Should you have any questions regarding recording mortgages where DART is

named as the nominee or documenting an appropriate discharge of record, please do not hesitate to reach out to our Connecticut underwriting team.



Educational Opportunity

Stewart has an upcoming educational opportunity on March 5th. Please join us for a live webinar on **NH Title Examination Standards**, Wednesday, March 5th at 2PM, presented by Michelle Radie-Coffin, Esq. and Rhonda Duddy, Esq. The 2024 updates to the NH Title Examination Standards is the first time since 2019 that the standards have been revised. This informative 60-minute session will highlight some of the more significant changes and additions to the standards and their impact on guidelines relative to insuring titles in New Hampshire.

A Certificate of Attendance to aid in reporting NH CLE credits will be provided upon request. Please note that as of 7/1/2014 the NHMCLE Board no longer pre-approves courses nor course providers for NHMCLE credit. Each attorney is responsible for determining whether a program is eligible for NHMCLE credit, based on the requirements in NH Supreme Court Rule 51.

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