

VOICE OF THE TITLE AGENT

special report



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**THE TITLE
REPORT**

ABOUT US

The Title Report is a production of October Research, LLC specializing in business news and analysis for the settlement services industry and is published 24 times a year.

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Volume 20, Number 11
ISSN: 1937-3899 (print) 1397-3902 (online)

EDITOR'S NOTE



An unequaled look inside the mind of the title agent

Dear Readers,

We are constantly gauging the opinions of title agents across the country, but there's nothing quite like the comprehensive measure provided annually by our Voice of the Title Agent.

This year is no different.

Much has happened since last year's survey. The Consumer Financial Protection Bureau is firmly in control of Republicans under Director **Kathy Kraninger** (title agents have varying opinions on whether that is good or bad); and the massive proposed acquisition of Stewart by Fidelity has hit at least one roadblock.

More of you have become accustomed to TRID, even as the industry lobbies for further revision. There also is a heightened awareness of wire fraud as new technologies race toward solutions.

As in past years, there was no shortage of opinions from title agents on these important issues and the business economy.

"[We had a] drop in refinance transactions and overall inventory shortages in our area," one title agent told us. "We had four new title companies open in our market in 2018 that took a small piece from each of us."

"[We] have to spend more time and money regarding privacy, hacking and on regulations," another agent pointed out.

Most of you remain positive as the real estate process transforms right before everyone's eyes.

"We anticipate more new business coming directly from the consumer," one respondent said. "More and more borrowers are taking a more proactive role in the selection of their service providers."

Some of you even had marching orders for *The Title Report*.

Keep providing "continued information about fraud and solutions to help avoid it," an agent urged.

We will. And with the help of partners such as Adeptive Software, who sponsored this report, we are able to bring all of that information to you.

So thank you to Adeptive and all the title agents who took time to share their voice and make this report possible.

Mark Lowery
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Title agents saw business improve in 2018

Nationally, the U.S. unemployment rate neared historic lows and the economy continued to percolate throughout 2018, provoking the Federal Reserve to increase interest rates several times to slow inflation.

Those factors pushed median home prices to new records in many areas of the country and prompted many small-business owners to increase wages to get qualified workers, which many identified as their most-pressing problem. Those economic conditions also generally benefitted title agents and the title industry, as indicated by the 2019 Voice of the Title Agent survey.

Nearly 65 percent of respondents told us that their business improved either a little or a lot last year.

“Our business top line revenue grew ,” one respondent said. “This was an 8.4 percent increase in sales in an area where volume dropped by 2 percent. We believe that the growth was due to an aggressive marketing campaign that centered around safety and security of the transaction and fighting cyberfraud.”

Another agent credited the economy.

“First half of year was better than last four months, rate change had some effect,” that agent said. “But overall economy is better.”

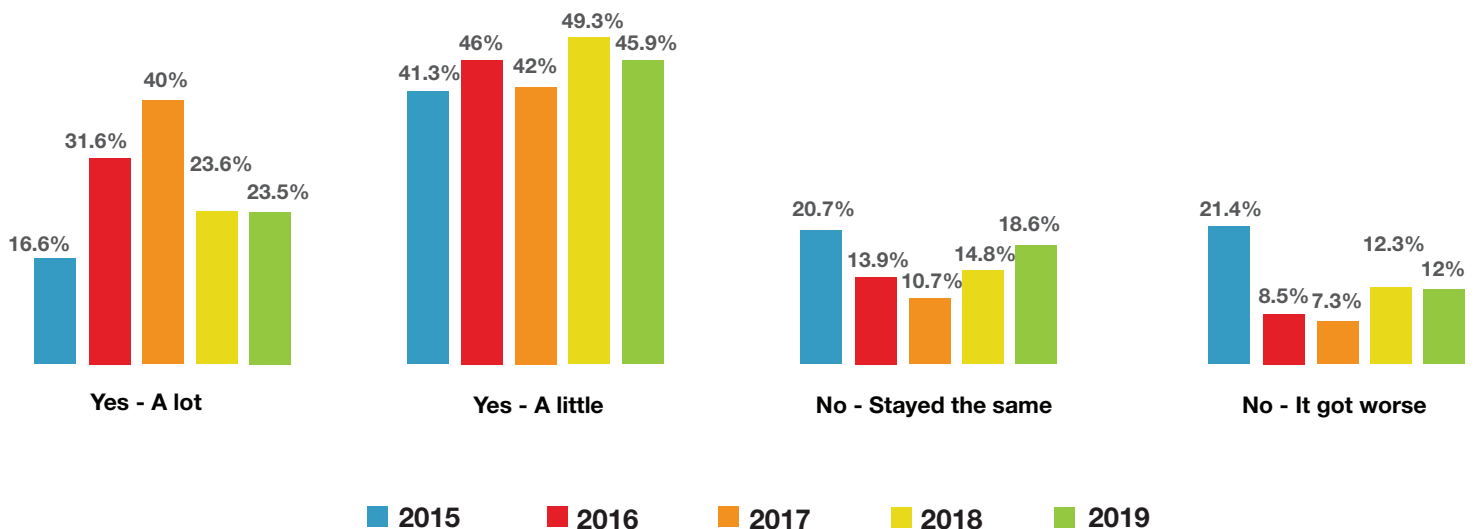
At least one respondent said his agency’s business improved because it sought business opportunities in new areas. “Meaning new products that existing clients asked us to create,” the respondent said.

Nearly 20 percent of survey respondents said their business didn’t improve or worsen during 2018, but stayed the same.

One respondent attributed the status quo to the expanded Geographic Targeting Orders (GTO) from the Financial Crimes Enforcement Network, which in 2018 issued a new GTO that took effect May 21, 2018, requiring U.S. title insurance companies to report beneficial ownership information on legal entities, including shell companies, used to purchase certain luxury residential real estate in designated geographic areas. The government credits the GTOs with significantly reducing money laundering through property purchases.

“We are located in Doral, Fla., and we do believe the current

Did your business improve last year from the year before?



political climate is turning away some of those foreign investors from Central and South America,” one respondent said.

A small percentage of those surveyed (12 percent) said their business got worse during 2018. Of those, some pointed to the industry-wide decline in refinances, the same rising prices that benefitted many in the industry, and inventory shortages.

“[We had] a drop in refinance transactions and overall inventory shortages in our area,” a respondent said. “We had four new title companies open in our market in 2018 that took a small piece from each of us.”

Another took aim at fluctuating prices.

“Sellers finally recognizing that the market was not going to recover price-wise — and what they paid for stuff in 2004–2008 was not even close to what they were going to be able to sell it for,” the agent commented. “Still, selling for less and then being unable to buy better keeps the market slow.”

Looking ahead to 2019, a majority of respondents are anticipating growth, although only a small portion see “substantial” growth on the horizon.

Almost a third of respondents expect 2019 business to be flat.

They mention several factors, including rising interest rates, a continued drop in refinances, competition and the political environment.

“With rising interest rates consumers will probably purchase fewer homes,” one agent predicted.

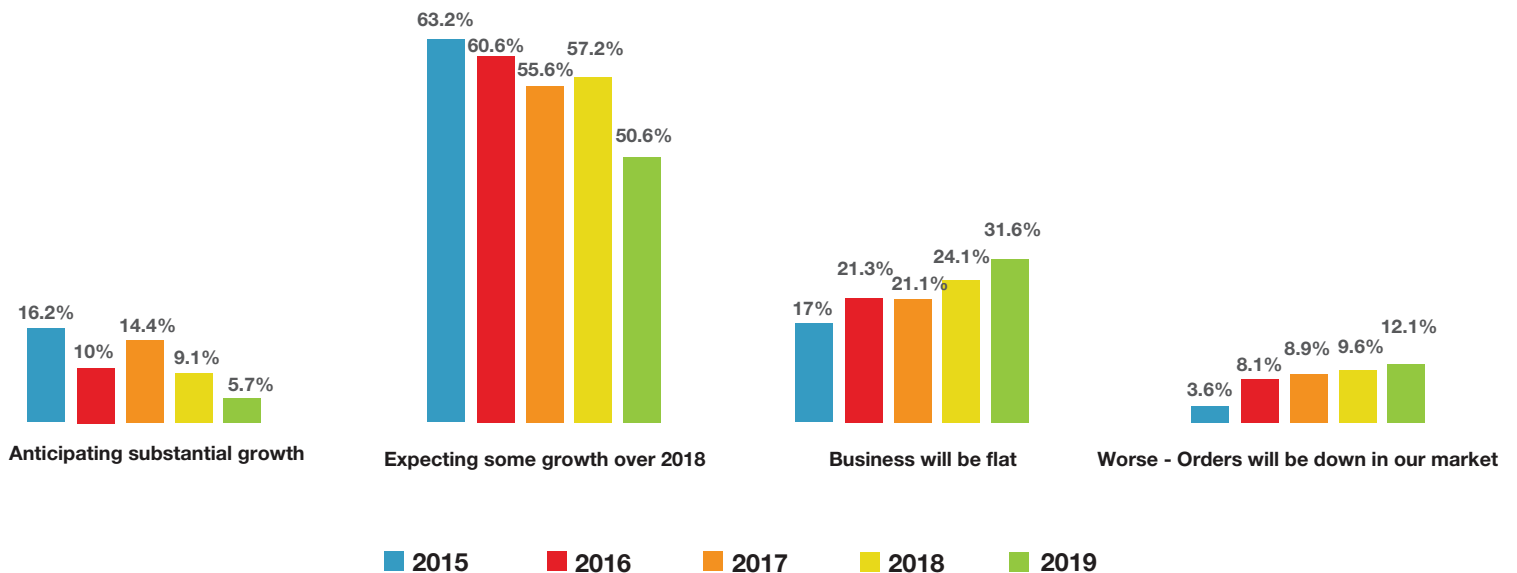
Other respondent said business, thus far, is “slower than in 2018”; another forecasted a 10 percent decrease in 2019.

In general, most of the title agents surveyed seem upbeat about the future.

“We are not giving up without a fight,” one agent guaranteed. “Going back to basics and refreshing our sales/marketing.”

“We believe that the growth was due to an aggressive marketing campaign that centered around safety and security of the transaction and fighting cyberfraud.”

How do you feel about your business this year?



Business opportunities and concerns

Title agents in the optimistic camp for business growth in 2019 believe renewed sales marketing approaches, cost reductions, the adoption of new technology and pursuing new business niches will drive this year's growth.

Renewed sales marketing approach also was the top reason given for anticipated growth in the 2018 survey. However, the percentage of title agents pegging their hopes to this approach declined significantly. Technology adoption also remained high as a reason for expected growth, but geographic expansion fell off the radar of most respondents.

"We are expecting some growth over 2018," an agent said.

"We have hired a marketing and sales executive who is focusing on marketing, sales and closings. We have projected a 10 percent growth rate."

"[We] anticipate more new business coming directly from the consumer," another respondent said. "More and more borrowers are taking a more proactive role in the selection of their service providers."

Others point to small builders returning to the market in

2019, a continued robust economy, and more folks looking to become homeowners.

"There are more millennials ready to purchase; influx of buyers from the Northeast; and there is an increase in foreign nationals from last year," an agent responded.

Another agent cited "new construction finally catching up with demand for entry level housing."

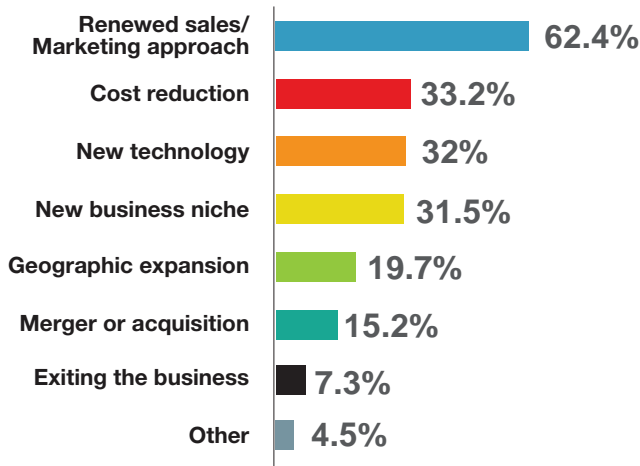
There are several things that concern title agents. That list is headed by the economy, cyber threats and operating costs.

In last year's survey, the economy, cyber threats and compliance issues were the top concerns listed. The percentage of respondents listing compliance issues as a top concern dropped dramatically (from 27 percent in 2018 to 16.4 percent in 2019).

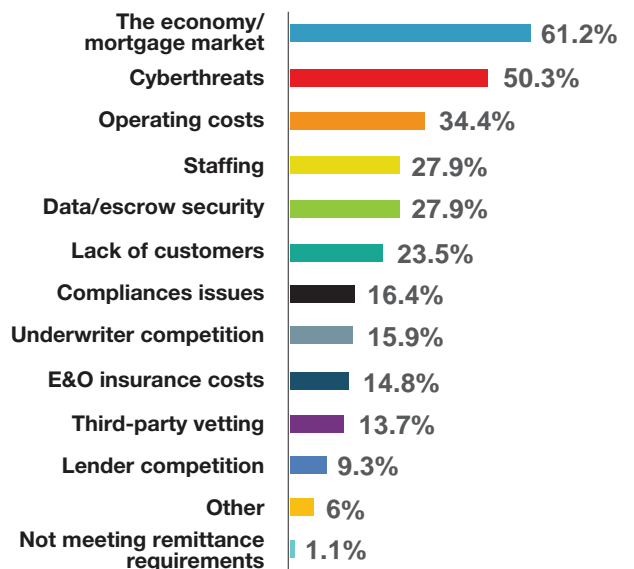
Although one respondent commented that the increase of Realtor-owned title companies had led to "largest increase of RESPA violations since the beginning of the CFPB."

"The disruption of eClosings," one agent noted as a concern.

What is your best opportunity in the next 12 months?



What concerns you most in the next 12 months?



“While I have been a significant part of the push to make eNotary legal in Tennessee, I am unable to predict how this will affect my industry and specifically my business.”

Ironically, while many in the business seem to appreciate the lack of enforcement actions emanating from the Consumer Financial Protection Bureau since former Director **Richard Cordray**’s departure, at least one agent identified the “lack of governmental enforcement” as a concern.

Of the independent agents we surveyed, nearly half said they had not explored affiliated relationships as a growth strategy, compared with nearly a third who said they have.

Last year, more than 9 out of 10 agents told us they had not joined an agency network or partnered with other agencies. That fiercely independent streak remains apparent.

“Not interested,” one respondent said. “Independent is best.”

“Not interested in any controlled business associations or affiliated business associations,” another agent added.

This year’s respondents were slightly less likely to have explored a marketing service agreement (see chart on page 8) than last year’s (67 percent compared with 66 percent).

However, a larger percentage of respondents said their agencies were marketing directly to consumers (see chart on page 8).

“We use ALTA material, social media, homebuyer classes, participate with others that are holding classes,” an agent explained.

Still others have employed television commercials, networking service organizations, and even church bulletins.

“We advertise heavily along with our other affiliates, and participate as much as possible with our local Board of Realtors,” an agent said.

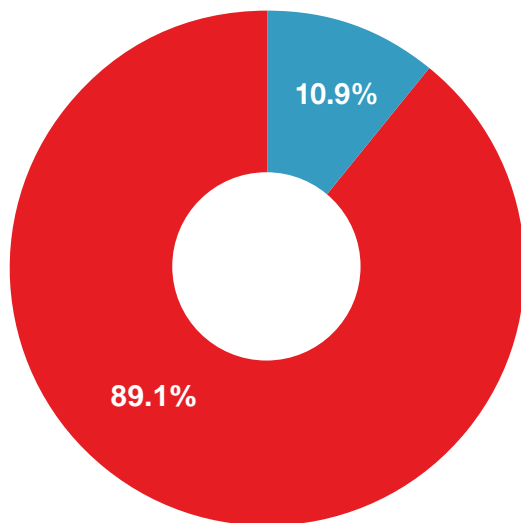
Another agent noted his agency reached out directly to consumers by “providing educational seminars with other industry partners.”

Some remain skeptical about this approach.

“[It’s a] waste of time to market to consumers and too expensive,” one agent said.

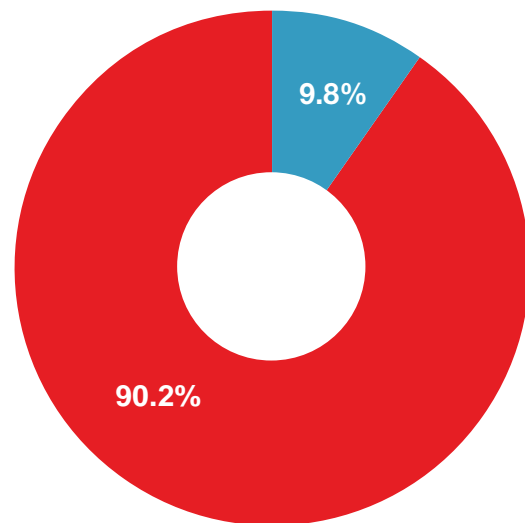
“Most business is already controlled by Realtors, lenders.”

Have you merged, acquired or sold a business in the past 12 months?



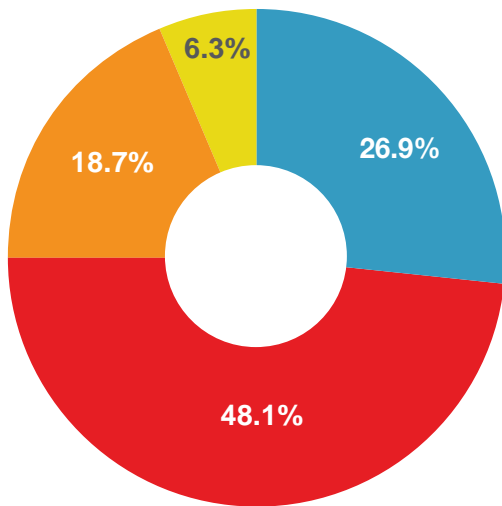
■ Yes ■ No

Have you joined an agency network or partnered with other agencies?



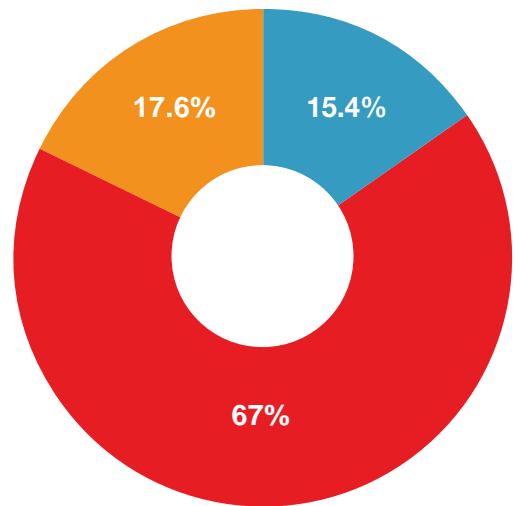
■ Yes ■ No

If independent, have you considered exploring any affiliated relationships?



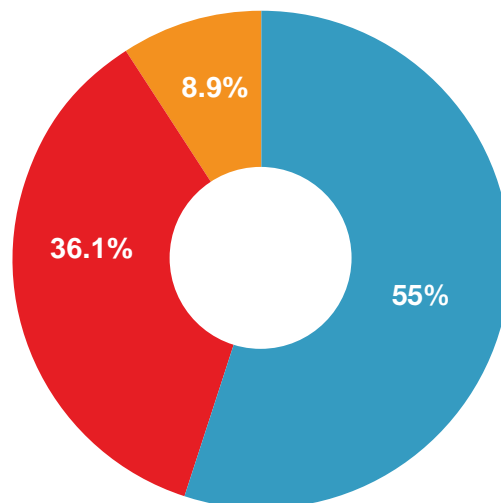
■ Yes ■ No
■ Depends on how the industry evolves over the next few years ■ Other

Have you considered exploring a marketing services agreement?



■ Yes ■ No
■ Depends on how the industry evolves over the next few years

Do you market to consumers?



■ Yes ■ No ■ Not yet, but soon

Certifications, standards and vetting

As previously mentioned, the percentage of title agents concerned about compliance has significantly declined. Not that they are not concerned with being compliant — rather most feel they've taken adequate steps in the past several years.

Even so, more than half of this year's survey respondents reported experiencing new forms of vetting during the last year from lenders, third-party vendors and underwriters.

Sometimes, the additional requirements duplicate previous requests.

"[They're asking for] everything that my underwriter has already required and vetted me for," an agent said. "Very annoying and time-consuming."

"They are asking for a lot of internal business information that they are not entitled to, and they are charging unreasonable fees, which we will not pay," one agent complained. "More third-party services are getting increasingly aggressive with this, so we are having to push back because it is getting out of hand. Title companies did not create the financial crisis that prompted all the regulations lenders now face, and like before, lenders are trying to pawn off their responsibilities onto title

companies for their inappropriate behavior."

Another agent indicated that the increased vetting can come from state regulators.

"The states are increasing their requirements for licensure," the agent said. "It's hard to keep up with what is needed and all of the audits, etc."

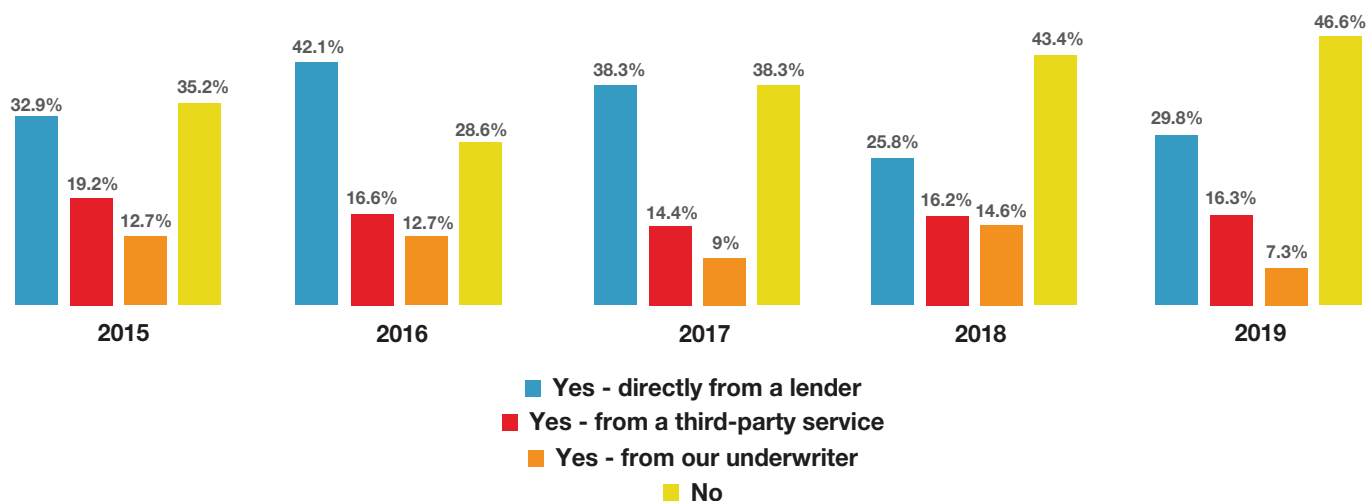
Nearly 47 percent of respondents said they did not experience further vetting requirements last year.

"We are third-party certified. We have experienced a decrease in requests from lenders regarding our efforts to maintain Best Practices and certification," an agent said. "We have determined that it is worth it to do anyway, and we are continuing to improve our efforts toward Best Practices and we are in the constant process of being third-party certified."

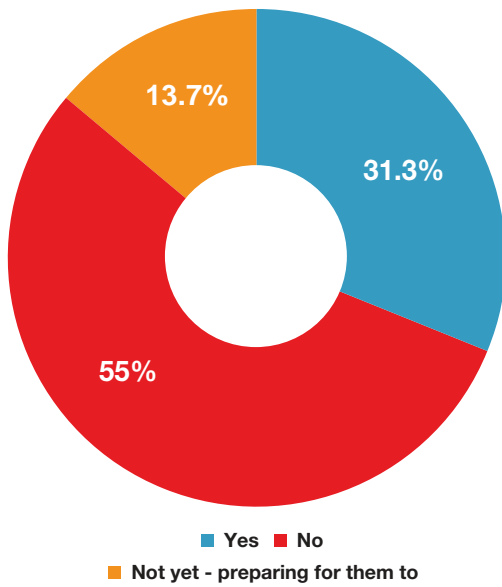
Another agent stressed the tedious nature of some of the vetting.

"We meet all the criteria, but each vetter has its own form and needs its own list of documents," the agent pointed out.

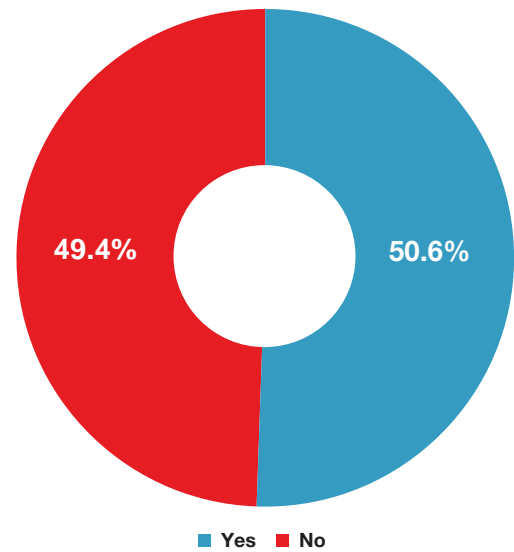
Have you experienced any new form of agent "vetting" in the last year?



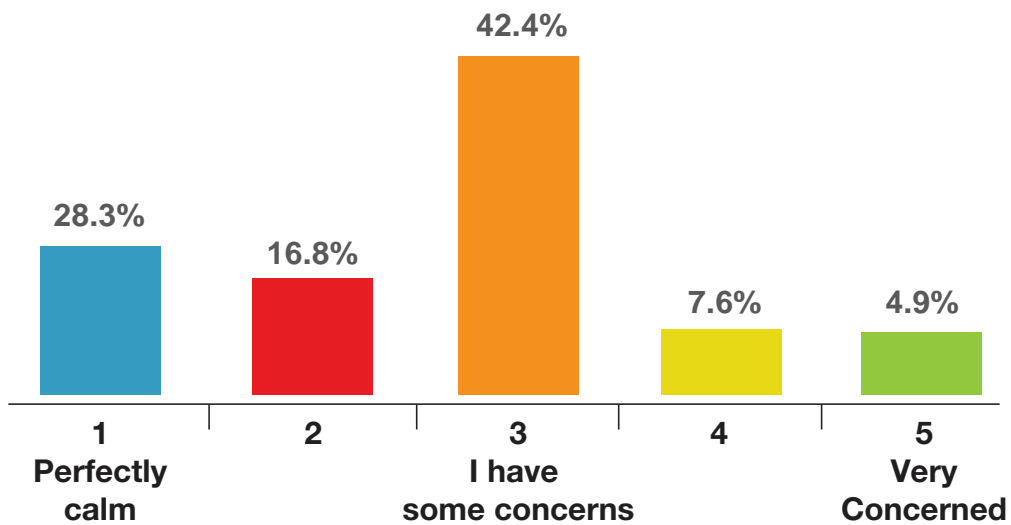
Have your lender contracts or instructions changed in the last year?



Have you implemented SSAE 16 or SOC standards or do you intend to within the next year?



On a scale of 1-5, how nervous are you about agent vetting and lender oversight of third-party service providers?



“This is time-consuming to complete. It would be nice if the vetting forms were more standardized.”

“The lenders are interested in oversight, controls and monitoring of advertising/marketing practices,” one agent noted. “Also new requirements that have dedicated outside compliance counsel and want to know who the outside compliance counsel is before they sign on with you.”

Nearly 55 percent of respondents said their lender contracts had not changed during the past year; slightly more than 31 percent of respondents said they had.

The contracts are “more particular, especially in regards to protection of NPI – not unusual, but they are finally figuring out what we know, not what we should know,” an agent said.

Another agent added, “[there is] constant watch on the instructions and more responsibility is being placed on the closing agent.”

The current level of scrutiny does not seem to have prompted more title agencies to implement SSAE 16 or SOC standards, as 50 percent of respondents said they’d implemented them or planned to do so this year, compared with 54 percent one year ago.

Less than 5 percent of respondents said they were “very concerned” about agent vetting and lender oversight of third-party service providers.

“I believe it is best to continue to conduct business as if I will be vetted tomorrow,” an agent said. “So I am perfectly calm.”

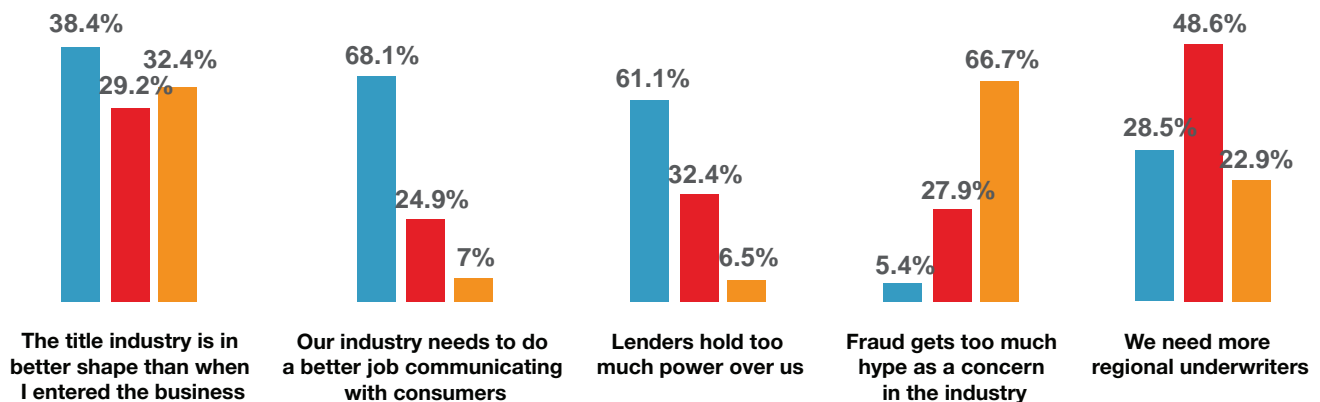
“I am not worried about not having the information they need, but I am worried about the time it takes to comply with their requests,” another agent added.

At least one agent adopted a cynical approach. “These third-party service providers are just taking advantage of the regulatory environment to make money,” the agent said. “The information they claim to need does nothing to protect the end consumer in anyway. It’s useless and expensive abuse of the system.”

“We have experienced a decrease in requests from lenders regarding our efforts to maintain Best Practices and certification. We have determined that it is worth it to do anyway.”

Rate your level of agreement/disagreement with the following statements:

■ Agree
■ Neutral
■ Disagree



CFPB

The revolving leadership door at the Consumer Financial Protection Bureau (CFPB) — **Leandra English**'s departure after an unsuccessful legal battle, acting director **Mick Mulvaney**'s temporary oversight and **Kathy Kraninger**'s confirmation — finally has stopped.

What has emerged seems to be to the liking of many of the title agents we surveyed. Nearly six out of 10 respondents said they think the changes at the CFPB will impact their business. Much of their comments indicated they view the change as positive. Slightly more than 40 percent of respondents did not believe changes at the bureau would impact their businesses significantly.

“Hopefully, they will look at and change the rules on how our fees are disclosed to the consumers,” one agent said.

Another agent said, “I remain optimistic that our industry will succeed in getting the new director to see the problem with title premium disclosure and fix it.”

Others pointed out the less-aggressive stance the bureau has taken since inaugural director **Richard Cordray**'s departure and since Republicans in the U.S. Senate assumed control of the bureau.

“[The] CFPB is not popular with the current administration

and has had little enforcement,” one agent said.

Under Cordray, many in the industry believed the bureau sometimes overstepped its statutory authority and used a big stick to humiliate and shame companies. In addition to little action emanating from the bureau since Cordray's departure, Kraninger has said she will concentrate on prevention efforts.

Not all title agents think that is a good approach.

“There will essentially be no RESPA enforcement in this administration,” one agent speculated.

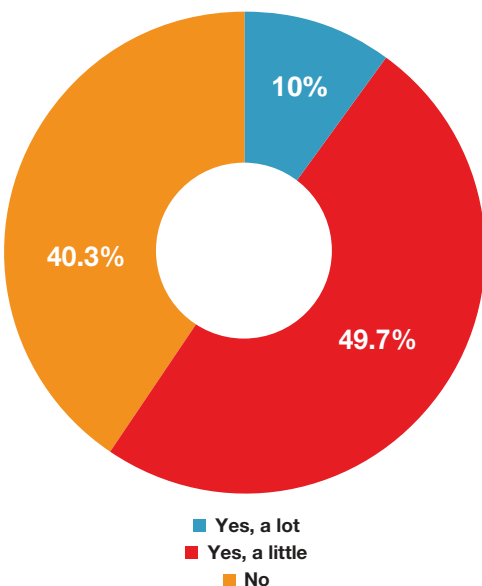
“Relaxation of requirements may not be good for consumers,” another agent added.

At least one respondent feared less enforcement actions from the CFPB would lead “to more unethical and illegal activities in my market places.”

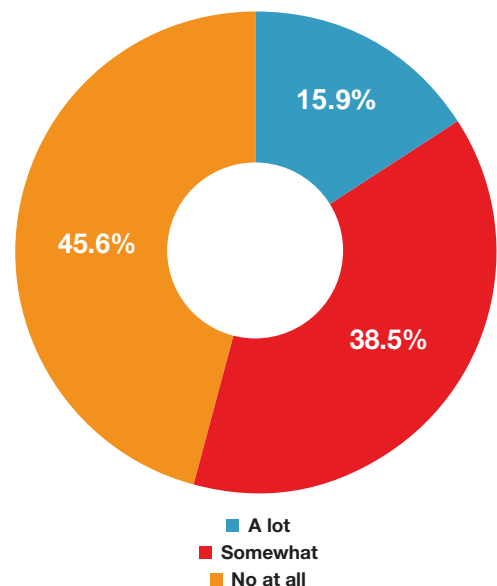
Another agent hinted at the need for consistency from the CFPB.

“If the director changes every few years and courts haven't tested some of the rules, title agents will continue to adjust major parts of their business when a new director's opinion enters,” that agent noted.

Do you think CFPB leadership changes will impact your business?



How will state efforts to eliminate inducements affect business?



Security

Even as Blockchain and other technology that would make real estate transactions less susceptible to fraud rapidly approach, title agents are no more convinced that enough is being done to prevent fraud and ensure date/escrow security.

Slightly more than four out of 10 respondents in this year's survey said not enough was being done to prevent fraud, which is essentially the same percentage as one year ago.

"We do not have enough [money] at the table to stop it, much less ensure security," one agent lamented. "And the more technology we employ, the worse the situation becomes. Because of the new complexity, you can no longer just turn on the PC and work."

"Our industry needs to continue to lobby hard in Washington to force the banking industry and their regulators to the table to find solutions to the wire fraud issues," one agent suggested.

Some agents pointed the finger at Realtors and lenders who are perceived to not have taken as many steps to prevent fraud as those in the title industry have.

"On the title and escrow side, I believe [we have]. Realtors need to step it up and use secure email and get away from personal email, as this is causing a lot of the cyberfraud," an agent said.

"Lenders can and should be the last line of defense and they refuse to take any accountability or responsibility for ensuring funds get to the right person," another agent said.

Others believe little will change until the government takes the issue away from corporations.

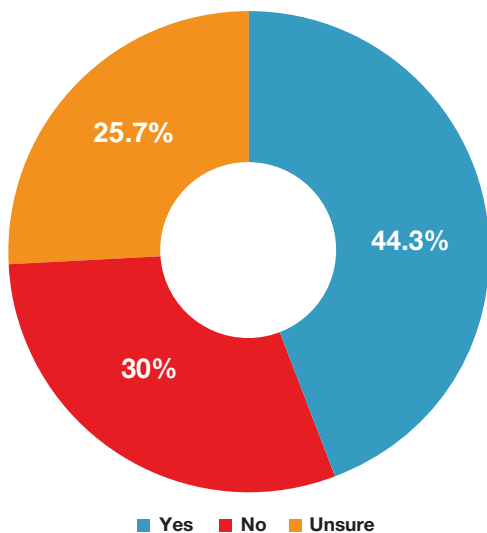
"I think more close partnerships with local and federal law enforcement would be very beneficial. Having a direct line to law enforcement increases the success of freezing funds before the bad guys get them, and it can expedite getting funds returned," an agent said. "Title companies can also be great 'eyes and ears' for law enforcement so they can get real time updates in methods, new and old, used by the bad guys."

"[The] government needs to punish the fraudsters more severely," another agent pointed out. "We pay a lot of money to secure our data and accounts."

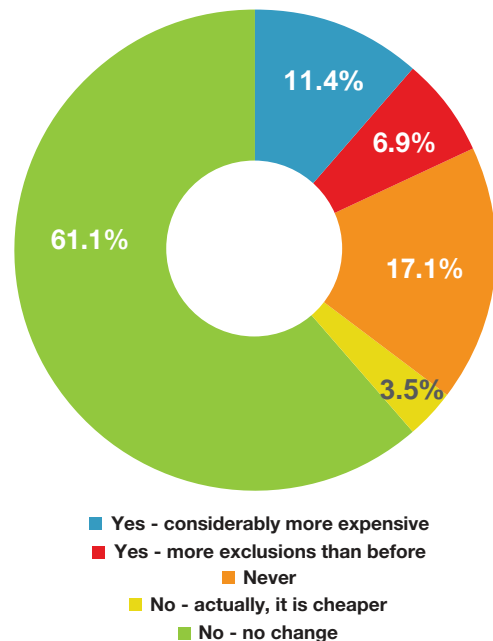
Despite the increasing threat of cyberfraud, nearly six out of 10 agents we surveyed did not see any change in their E&O policy in the past year.

"[We are] having to obtain several different types of coverages to cover what E&O does not cover," one agent told us. "One underwriter requires their surety bond in addition to anything else."

Is enough being done to prevent fraud and ensure data/escrow security?



Has your E&O insurance policy changed in the last 12 months?



Technology

Ready or not, eClosings haven't taken square aim at the real estate industry, title agents and agencies throughout the nation in particular.

Some title agents loathe this inevitable change in the closing process (one survey respondent called it the "worst" idea ever) but the majority seem to be preparing for the change, even if begrudgingly.

Nearly three-quarters of our respondents said they were either already conducting eClosings, pretty close to performing them, or would be doing them in the next year.

Twenty-six percent of respondents told us they were not even close to conducting eClosings, but that's a significantly lower percentage than the 60 percent who last year said they weren't close to conducting eClosings.

"Currently [we are doing] hybrid eClosings, but once the lenders and state is ready, we are in a position to handle a full eClosing," an agent advised.

Some note that eClosings are not likely to become

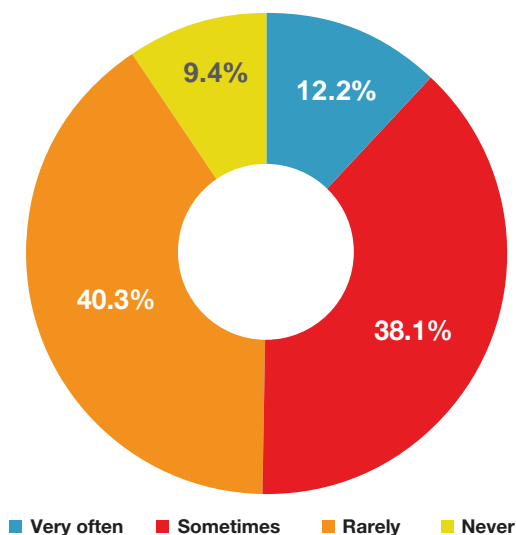
commonplace until more states establish legislative guidelines.

"I am as ready as I can be," an agent said. "I am holding the Secretary of State's draft regulations that, if passed, will become effective July 1, 2019."

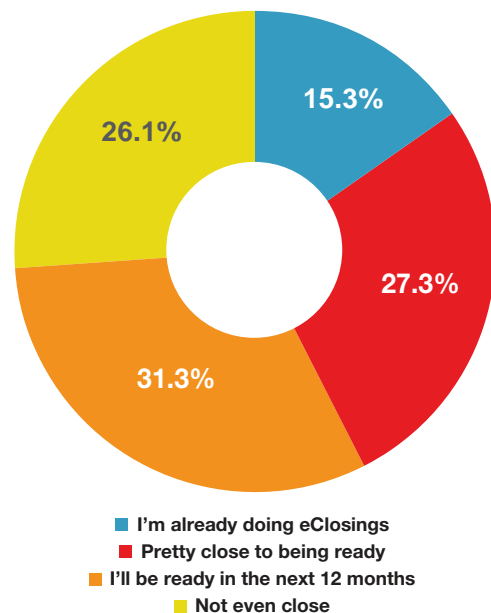
"We will be ready if it comes to fruition, but we aren't investing money in the technology until we know for sure it's going to take off," an agent added.

"Currently [we are doing] hybrid eClosings, but once the lenders and state is ready, we are in a position to handle a full eClosing."

How often are you pressured by customers to insure over certain items you normally would not?

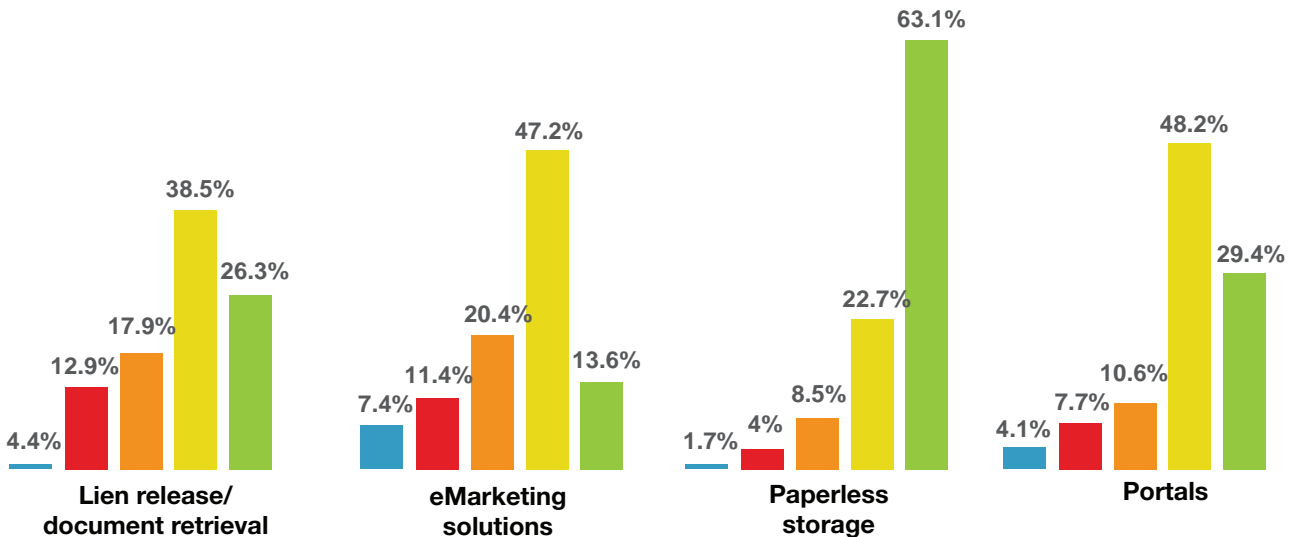
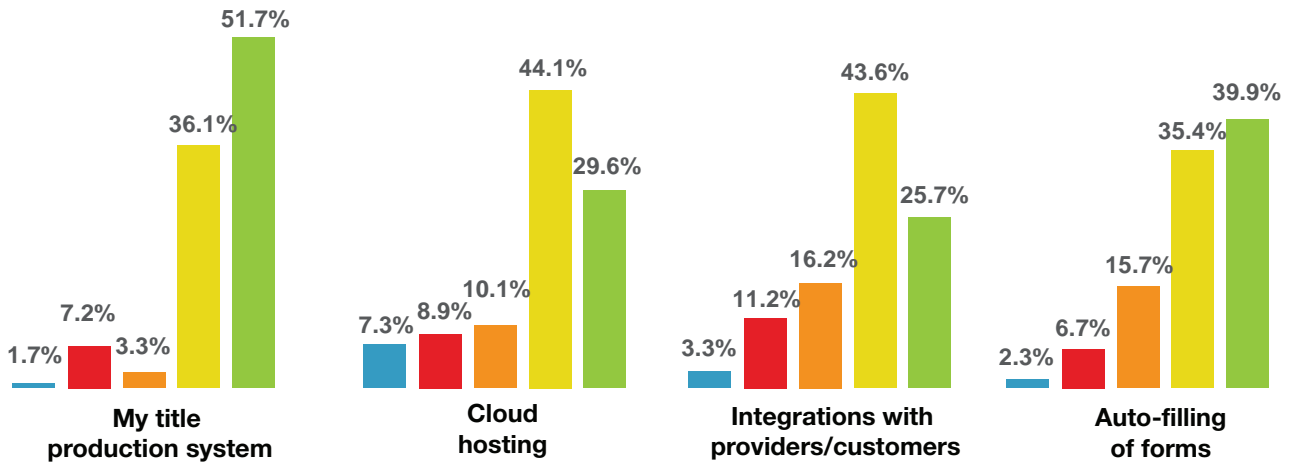
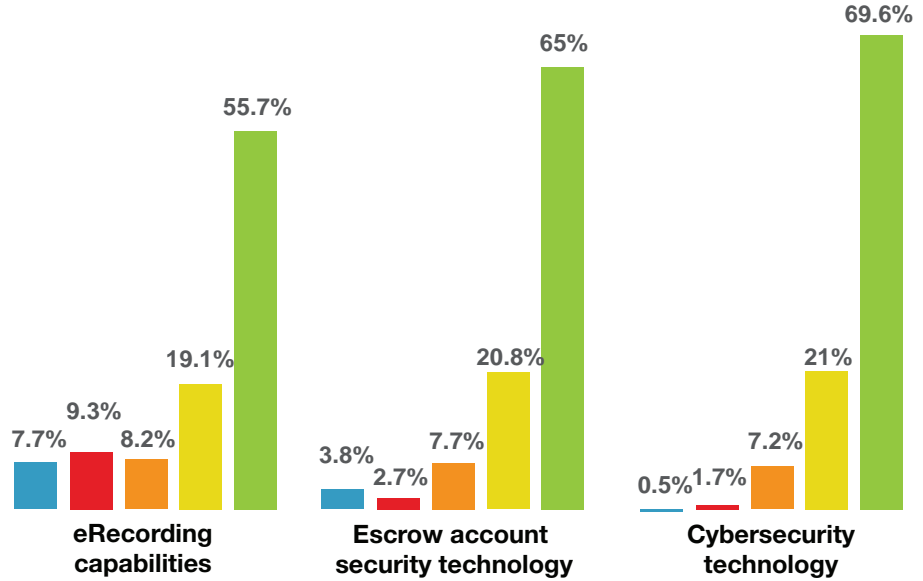


How prepared are you to handle eClosings?



Rate your attitude about these title technology attributes/solutions.

- Don't have it
- Don't need it
- Would like to have this
- Neutral
- Can't live without this!



A few title agents questioned the need for the change, with one noting “we have not had a single request for an eClosing.”

Others vow to stubbornly cling to the old process until competitors and millennial homebuyers force their hand.

“I refuse to do eClosings,” an agent proclaimed. “Don’t trust them and never will.”

Of our respondents, nearly 20 percent said they were doing more eClosings than one year ago; nearly three-fourths said they were doing the same amount of eClosings as a year ago.

Ironically, while the title industry does not have a reputation as being technology forward, a majority of agents we surveyed admitted dependence on the latest technology (see chart on page 15).

Indeed, more than six out of 10 said they couldn’t live without cybersecurity technology, escrow account security technology or paperless storage. More than half of this year’s respondents said eRecording capability is a must-have.

“Wire fraud prevention solutions like CertifID fill the gap between E&O and cyberinsurance policies,” one agent commented.

“Document and lender portals are tough to keep up with as they are all different, but we have adapted and work through them,” an agent noted.

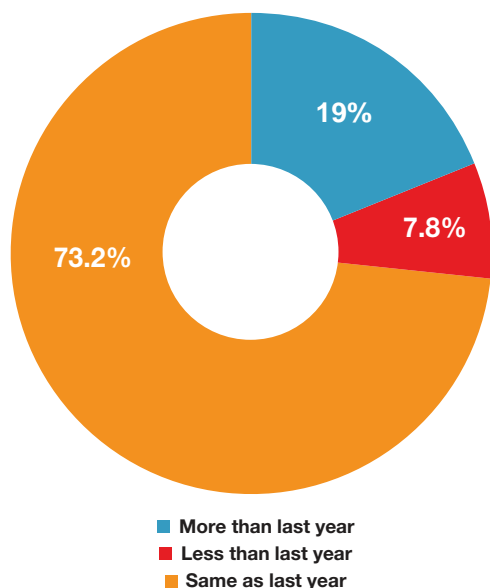
Others are excited about the promise of Blockchain.

“Blockchain is coming on fast and we need to get onboard ASAP,” an agent warned.

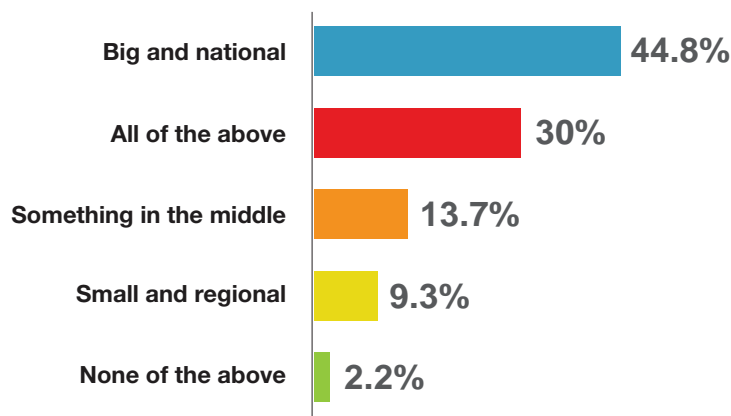
Another added, “[I’m] curious on how Blockchain will impact” the industry.

“Document and lender portals are tough to keep up with as they are all different, but we have adapted and work through them.”

How often do you conduct eClosings?



What type of underwriter do you prefer to work with?



Underwriters

The Big Four underwriters account for about 85 percent of the title insurance market. That’s apparently just fine with most title agents, as more than 40 percent of our survey respondents stated a preference for big and national underwriters.

“I prefer an underwriter that is large enough to be a known name, but not too large where our opinion doesn’t get heard,” an agent explained.

Another agent looks “for good splits and underwriting that is accessible and prompt in their response. [Underwriters] also need to audit us during the slow time of the year.”

Nearly one-third of survey respondents had no preference concerning the size of the underwriter.

“I like to retain a good relationship with a large national and a small regional,” an agent said. “I have found the outlook on business and underwriting guidelines differ between them which is good for my operation.”

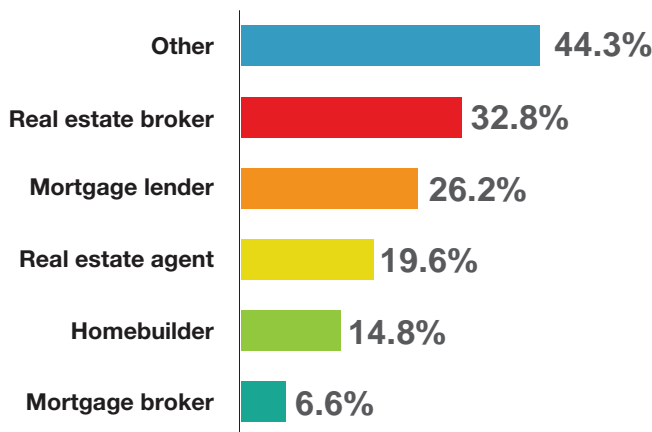
“We have seven underwriters and use each of them for various transaction/liability types,” another agent noted.

Nearly 10 percent of respondents stated a preference for working with small and regional underwriters.

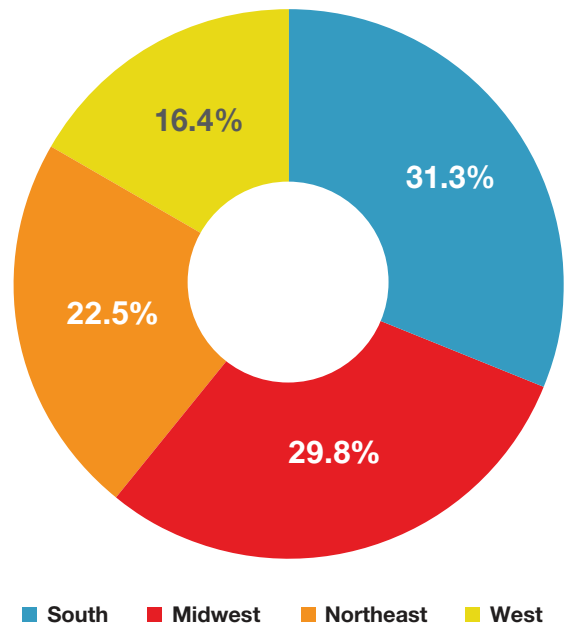
“Big underwriters are direct competition,” an agent warned. “I have one, but once their directs get into a deal, I get cut-out of the equation.”

“I like to retain a good relationship with a large national and a small regional. I have found the outlook on business and underwriting guidelines differ between them which is good for my operation.”

If affiliated, with what type of companies?



Where are you located?



Demographics

As in past years, the overwhelming majority of this year’s survey respondents (seven out of 10) were independent agents. The remaining one-third were nearly equally split between direct and affiliated agents.

Of the affiliated agents, slightly more than 30 percent were connected with real estate brokerages and about one-quarter with mortgage lenders (see graph on page 17).

The largest segments of those weighing in through our survey do business in the South, followed by the Midwest, Northeast and the West.

Most of you work for title agencies that have established roots in your communities, with more than one half of your employers having been in the business for more than two decades and slightly less than one-third with 11 to 20 years of industry experience.

More than six out of 10 respondents work at relatively small companies with between one and five locations.

With such a myriad of voices, it’s not surprising we received

a wide range of opinions on what the toughest jobs in the industry are. Residential loan closers remained the top choice for the fourth consecutive year, followed again by sales, but one agent said the top answer was CEO.

“The future of the title industry is not as clear as it has been in the past 15 years,” that agent said. “The technological disruption will require an adaptable vision and an adaptable staff.”

Others looked further down the food chain.

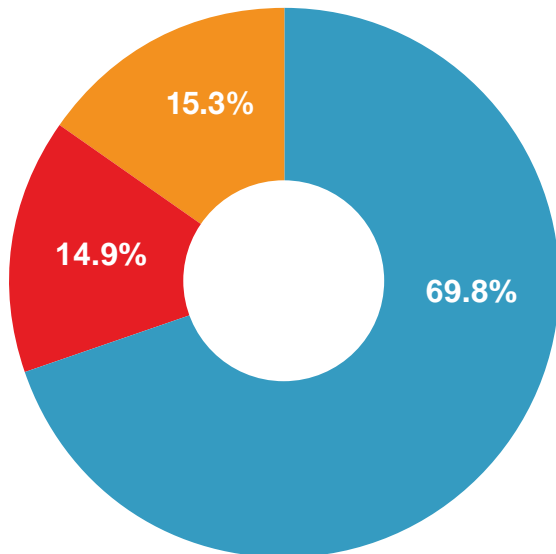
“Processing a transaction in the TRID world,” the agent suggested.

Still, at least one agent said colleagues who deal directly with the public have it the toughest.

“Dealing with those who don’t understand the title business/ industry [is the toughest],” the agent said.

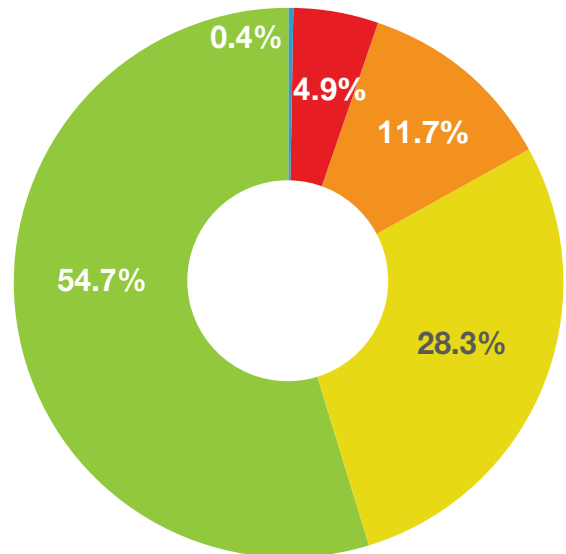
What kinds of things are title agents looking forward to learning about next year? There are a variety of issues which

How would you describe your title agency?



■ Independent ■ Direct ■ Affiliated

How many years has your company been in business?



■ 1 ■ 2 to 5 ■ 6 to 10 ■ 11 to 20 ■ 20+

appear to have their attention, but wire fraud, new technology and compliance around affiliated operations were among the major themes cited.

The more agents are hearing about Blockchain, in particular, the more they are curious to know about a future with technology more heavily involved in the real estate transaction and their operations.

“I would like to see more ‘real’ information about Blockchain, cybercurrency and its impact on our industry. I know it is happening and coming, but still has a long way to go,” one agent said.

Another is hoping to find “clear and concise discussions of Blockchain and the projected impact it might have on title agents.”

Others are looking to the future to determine where the next generation of title agents and owners will come. Some agents mentioned staffing and job training as areas they hope to focus on because of the aging of the industry.

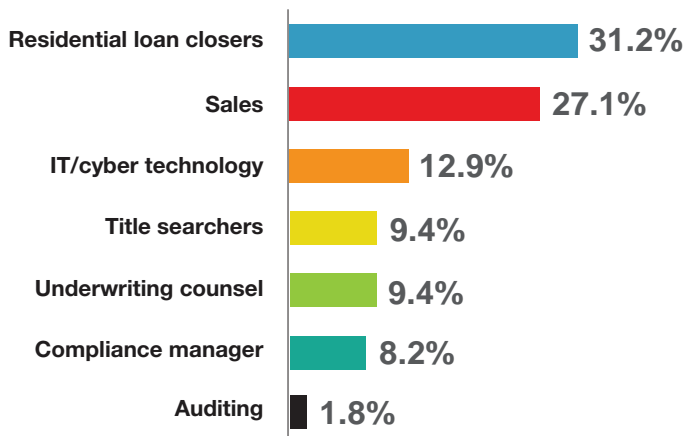
“The industry’s ownership is dominated by soon-to-retire owners who don’t have an exit strategy,” one agent explained.

In the end, though, it remains fraud and security concerns that appear to have agents’ minds most of all. Whether they are looking into regulations surrounding security, or solutions to help keep their information and customers safe, title agents in 2019 are working to stay ahead of cybercriminals.

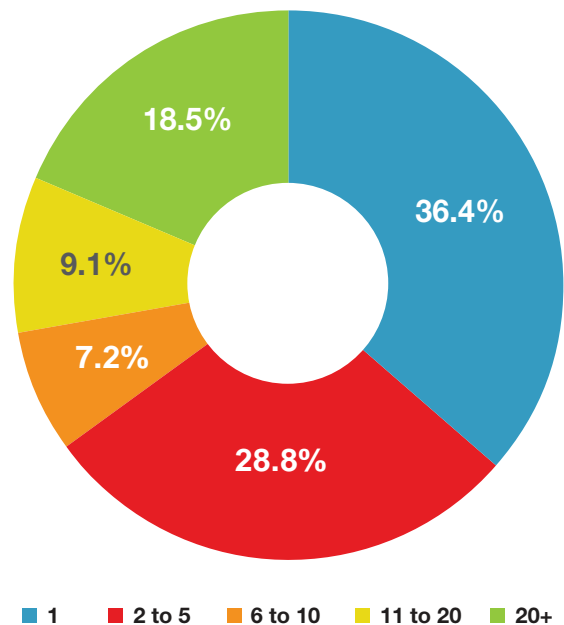
As one agent put it, it is about finding “continued information about fraud and solutions to help avoid it.”



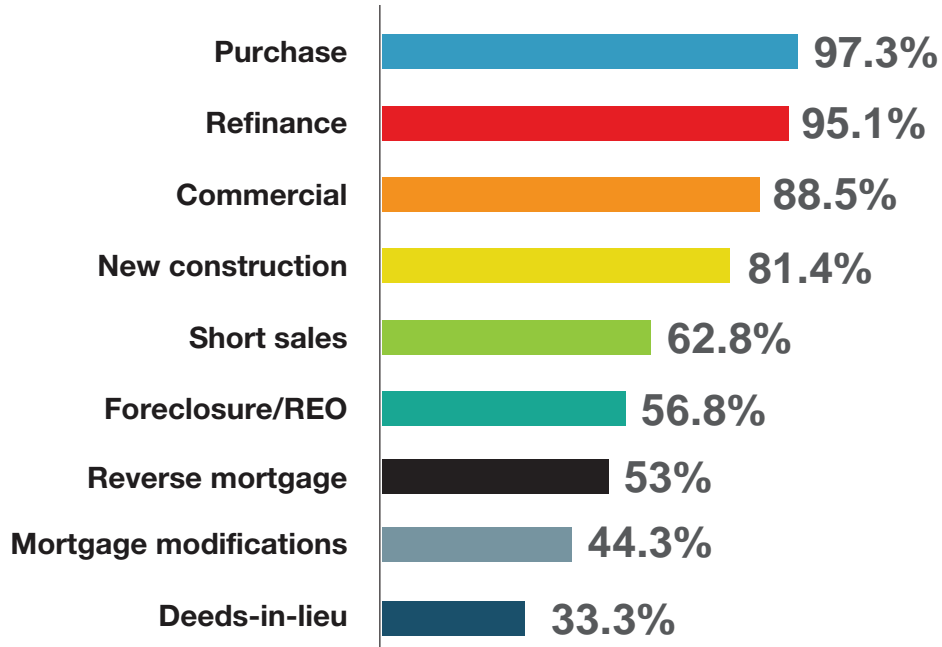
What is the hardest job in the title business?



How many offices does your title company operate?



Which types of deals does your company handle?



Thank you to all those who participated in the survey and everyone who read this special report. For information year-round on the pressing topics in the title industry, be sure to subscribe to The Title Report.

If you have input or suggestions on areas we should cover, contact editor **Mark Lowery** at mlowery@octoberresearch.com.



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