

Impacts of LandAmerica Bankruptcy

Weakened by the depressed housing market, on November 26, 2008, LandAmerica Financial Group, Inc., formerly one of the largest U.S. title insurers, filed for Chapter 11 bankruptcy protection in the Eastern District of Virginia. The holding company filing was made as a condition to Fidelity National Financial, Inc.'s agreement to acquire LandAmerica's principal title insurance underwriters, Lawyers Title Insurance Corporation and Commonwealth Land Title Insurance Company for a combined \$298 million. According to *Reuters*, Fidelity is the largest title insurer in the U.S.

If all goes as planned, Fidelity's Chicago Title Insurance Company unit will buy Commonwealth and Fidelity National Title Insurance Company will acquire Lawyers Title. Although the sales are subject to certain closing conditions, as well as regulatory and bankruptcy court approvals, the parties hope to close the sale before year-end.

According to a press release by LandAmerica, Lawyers Title and Commonwealth hold a combined statutory surplus of over \$300 million and underwriters' claims reserves are backed by more than \$1.1 billion in cash and investments. So far, we have seen no reports questioning the value of the underwriters' investments. Once the sales close, it appears title policies underwritten by Lawyers Title or Commonwealth will have the additional backing of the respective Fidelity underwriting companies.

As further assurance to LandAmerica customers, Fidelity announced reinsurance agreements with Lawyers Title and Commonwealth. These agreements will remain in place during the transition period prior to the closing of the anticipated sales. They allow Lawyers Title and Commonwealth customers to rely on the financial strength of Fidelity National Title and Chicago Title to reinsure title insurance policies issued, and protect escrow deposits made, during the transition.

Although LandAmerica's collapse may ultimately have no ill effects on its title policy holders, LandAmerica shareholders and several hundred real estate investors may not fare so well. Concurrently with the holding company filing, LandAmerica 1031 Exchange Services, Inc. filed for Chapter 11 bankruptcy protection, an apparent victim of the frozen credit markets. The unit was in the business of facilitating 1031 exchanges, which allow investors to delay capital-gains taxes on property sales, provided a third party holds the proceeds from the sale and other requirements are met. According to the *Wall Street Journal*, the unit had invested much of its customers' proceeds into commingled accounts and these funds were then invested in auction-rate securities, a market that Wall Street firms have stopped supporting.

For further information concerning real estate law, please contact:

Charles Jordan
214.855.3021
cjordan@ccsb.com

Sally Longroy
214.855.3002
slongroy@ccsb.com

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