

# Executives Say Firms Could Do More to Avoid Assignee Liability

BY BRIAN COLLINS

WASHINGTON—Mortgage investors and securitizers could do a much better job of protecting themselves from assignee liability and the Federal Housing Administration is making a big mistake in pushing for risk-based pricing.

Those were just some of the observations that four industry experts shared with National Mortgage News in a discussion of current industry trends and issues.

These experts are top executives at QuestSoft Corp., Mavent Inc., MRG Document Technologies Inc. and Netupdate that provide services to mortgage lenders and servicers.

Louis Pizante pointed out that federal and state laws already have assignee liability provisions that affect securitizers. And Congress is looking to pass tougher laws to hold the Wall Street conduits responsible for the loans they securitize.

But investors are not demanding the data they need to conduct a thorough analysis of the loans they purchase, according to the Mavent chief executive. And many sellers are not very forthcoming with these data either, he added. Mavent is based in Irvine, Calif.

To tell whether a loan exceeds "high cost" thresholds in federal and state anti-predatory laws, "you need to know what fees were charged, who were they paid by and who where they paid to," he said. "That information is not delivered in a standard secondary market transaction."

However, there are vendors that have programs to capture and analyze these loan data if "the investors demand it."

Representations and warranties are a cheaper substitute for the actual data, Mavent executive said. But the recent subprime meltdown shows that reps and warrants aren't worth much once the seller's capital is depleted. Mr. Pizante previously worked in structured finance at Greenwich Capital Markets.

MRG Document Technologies group chairman Terry King pointed out that state regulators are getting tougher and he has seen some lenders get pinched for selling high-cost mortgages without the proper disclosures. The enforcement actions included "significant penalties," Mr. King said.

He warned that state-chartered lenders should be prepared for longer and more thorough exams as state regulators try to outshine their federal counterparts when it comes to consumer protection. "I think the states are very interested in showing they are best able to protect their constituents," Mr. King said.

QuestSoft president Leonard Ryan noted that depository institutions currently have the wind at their backs. But in the mortgage banking realm, the big divide in terms of growth is FHA approval.

Lenders who had the foresight to get FHA approval last year or remained committed to FHA lending during the subprime boom are "seeing their businesses grow," Mr. Ryan said. "Those are the one's talking about expanding into new states. Other lenders are scampering to get FHA approval," he added.

It takes a "conscious decision" to do FHA loans, he noted, because the hoops you have to jump through and requirements and processes are different than conventional lending. "The reality is — if you want a

piece of the market — you go through that." QuestSoft is based in Laguna Hills, Calif.

Despite FHA's rising star, many lenders are concerned about the Department of Housing and Urban Development's push to implement a FHA risk-based premium system by Jan. 2.

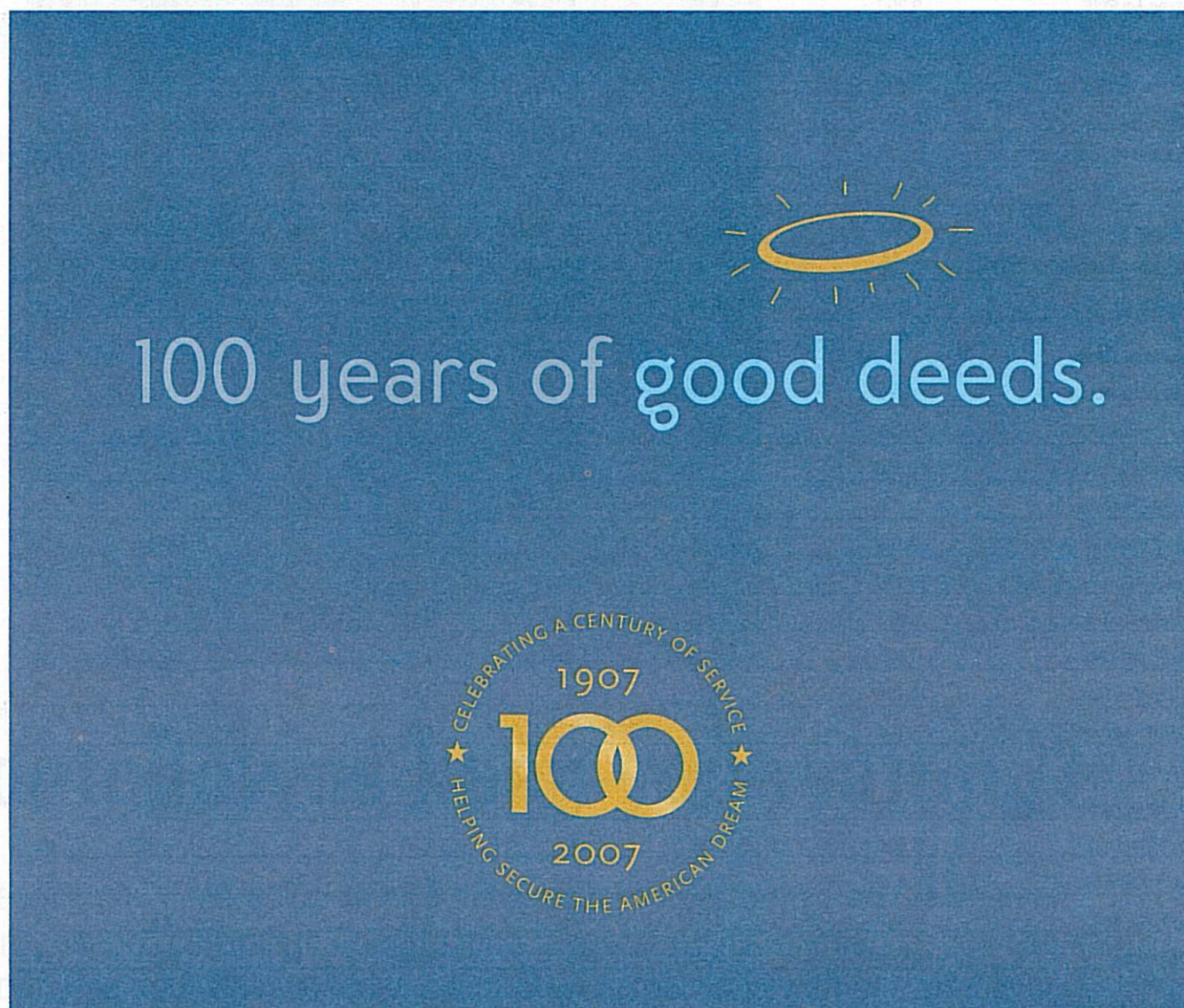
"This the worst time" to move to a complicated risk-based pricing system that would "make it much more difficult

for borrowers to get a FHA loan," Lance Richmond said. The mortgage consultant for Bellevue, Wash.-based Netupdate pointed out the new premiums would be based on the downpayment, the credit score and the source of the downpayment, which will not be easy to implement.

"Vendors just can't respond that quickly to a major change like this," Mr. Richmond said. "We need to get the word to HUD

that this isn't the time to do it." The public comment period on the risk-based premium proposal ends Oct. 22.

Mr. Richmond is a member of the Mortgage Bankers Association's compliance and legal issues committee. Mr. King expects Congress will pass FHA legislation. But he doesn't expect many of the other subprime mortgage bills that lawmakers are proposing will make it to the president's desk.



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