



Highlights of [GAO-06-569T](#), a testimony before the Subcommittee on Housing and Community Opportunity, Committee on Financial Services, House of Representatives

Why GAO Did This Study

Title insurance is a required element of almost all real estate purchases and is not an insignificant cost for consumers. However, consumers generally do not have the knowledge needed to “shop around” for title insurance and usually rely on professionals involved in real estate—such as lenders, real estate agents, and attorneys—for advice in selecting a title insurer. Recent state and federal investigations into title insurance sales have identified practices that may have benefited these professionals and title insurance providers at the expense of consumers.

At the request of the House Financial Services Committee, GAO currently has work under way studying the title insurance industry, including pricing, competition, the size of the market, the roles of the various participants in the market, and how the industry is regulated. This testimony discusses the preliminary results of GAO’s work to date and identifies issues for further study. In so doing, this testimony focuses on: (1) the reasonableness of cost structures and agent practices common to the title insurance market that are not typical of other insurance markets; (2) the implications of activities identified in recent state and federal investigations that may have benefited real estate professionals rather than consumers; and (3) the potential need for regulatory changes that would affect the way that title insurance is sold.

www.gao.gov/cgi-bin/getrpt?GAO-06-569T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Orice M. Williams at (202) 512-8678 or williamso@gao.gov.

TITLE INSURANCE

Preliminary Views and Issues for Further Study

What GAO Found

Some cost structures and agent practices that are common to the title insurance market are not typical of other lines of insurance and merit further study. First, the extent to which premium rates reflect underlying costs is not always clear. For example, most states do not consider title search and examination costs—insurers’ largest expense—to be part of the premium, and do not review these costs. Second, while title agents play a key role in the underwriting process, the extent to which state insurance regulators review agents is not clear. Few states collect information on agents, and three states do not license them. Third, the extent to which a competitive environment exists within the title insurance market that benefits consumers is also not clear. Consumers generally lack the knowledge necessary to “shop around” for a title insurer and therefore often rely on the advice of real estate and mortgage professionals. As a result, title agents normally market their business to these professionals, creating a form of competition from which the benefit to consumers is not always clear. Fourth, real estate brokers and lenders are increasingly becoming full or part owners of title agencies, which may benefit consumers by allowing one-stop shopping, but may also create conflicts of interest. Finally, multiple regulators oversee the different entities involved in the title insurance industry, but the extent of involvement and coordination among these entities is not clear.

Recent state and federal investigations have identified potentially illegal activities—mainly involving alleged kickbacks—that also merit further study. The investigations alleged instances of real estate agents, mortgage brokers, and lenders receiving referral fees or other inducements in return for steering business to title insurers or agents, activities that may have violated federal or state anti-kickback laws. Participants allegedly used several methods to convey the inducements, including captive reinsurance agreements, fraudulent business arrangements, and discounted business services. For example, investigators identified several “shell” title agencies created by a title agent and a real estate or mortgage broker that had no physical location or employees and did not perform any title business, allegedly serving only to obscure referral payments. Insurers and industry associations with whom we spoke said that they had begun to address such alleged activities but also said that current regulations needed clarification.

In the past several years, regulators, industry groups, and others have suggested changes to the way title insurance is sold, and further study of these suggestions could be beneficial. For example, the Department of Housing and Urban Development announced in June 2005 that it was considering revisions to the regulations implementing the Real Estate Settlement Procedures Act. In addition, the National Association of Insurance Commissioners is considering changes to model laws for title insurers and title agents. Finally, at least one consumer advocate has suggested that requiring lenders to pay for the title policies from which they benefit might increase competition and ultimately lower consumers’ costs.