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Highlights

Highlights of GAO-07-401, a report to the Ranking Member, Committee on Financial Services, House of Representatives

TITLE INSURANCE

Actions Needed to Improve Oversight of the Title Industry and Better Protect Consumers

Why GAO Did This Study

In a previous report and testimony, GAO identified issues related to title insurance markets, including questions about the extent to which premium rates reflect underlying costs, oversight of title agent practices, and the implications of recent state and federal investigations. This report addresses those issues by examining (1) the characteristics of title insurance markets across states, (2) factors influencing competition and prices within those markets, and (3) the current regulatory environment and planned regulatory changes. To conduct this review, GAO analyzed available industry data and studies, and interviewed industry and regulatory officials in a sample of six states selected on the basis of differences in size, industry practices, regulatory environments, and number of investigations.

What GAO Recommends

GAO recommends that HUD and state insurance regulators take actions to improve consumers' ability to comparison shop for title insurance and strengthen the regulation and oversight of the title insurance market, including the collection of data on title agents' operations. Further, Congress may want to consider, as part of its oversight of HUD, exploring the need for modifications to RESPA, including increasing HUD's enforcement authority. HUD generally agreed with these recommendations, and NAIC agreed they should be explored.

www.gao.gov/cgi-bin/getrpt?GAO-07-401.

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 williams@gao.gov.

What GAO Found

The U.S. title insurance market is highly concentrated at the insurer level, but market characteristics varied across states. In 2005, for example, five insurers accounted for 92 percent of the national market, with most states dominated by two or three large insurers. Variations across states included the way title agents conducted their searches as well as the number of affiliated business arrangements (ABA) in which real estate agents, brokers, and others have a stake in a title agency. Finally, premiums varied across states due to cost and market variations that can also make understanding and overseeing title insurance markets a challenge on the national level.

Certain factors raise questions about the extent of competition and the reasonableness of prices that consumers pay for title insurance. Consumers find it difficult to comparison shop for title insurance because it is an unfamiliar and small part of a larger transaction that most consumers do not want to disrupt or delay for comparatively small potential savings. In addition, because consumers generally do not pick their title agent or insurer, title agents do not market to them but to the real estate and mortgage professionals who generally make the decision. This can create conflicts of interest if those making the referrals have a financial interest in the agent. These and other factors put consumers in a potentially vulnerable situation where, to a great extent, they have little or no influence over the price of title insurance but have little choice but to purchase it. Furthermore, recent investigations by the Department of Housing and Urban Development (HUD) and state insurance regulators have identified instances of alleged illegal activities within the title industry that appeared to take advantage of consumers' vulnerability by compensating realtors, builders, and others for consumer referrals. Combined, these factors raise questions about whether consumers are overpaying for title insurance.

Given consumers' weak position in the title insurance market, regulatory efforts to ensure reasonable prices and deter illegal marketing activities are critical. However, state regulators have not collected the type of data, primarily on title agents' costs and operations, needed to analyze premium prices and underlying costs. In addition, the efforts of HUD and state insurance regulators to identify inappropriate marketing and sales activities under the Real Estate Settlement Procedures Act (RESPA), have faced obstacles, including constrained resources, HUD's lack of statutory civil money penalty authority, some state regulators' minimal oversight of title agents, and the increasing number of complicated ABAs. Finally, given the variety of professionals involved in a real estate transaction, a lack of coordination among different regulators within states, and between HUD and the states, could potentially hinder enforcement efforts against compensation for consumer referrals. Because of the involvement of both federal and state regulators, including multiple regulators at the state level, effective regulatory improvements will be a challenge and will require a coordinated effort among all involved.