

## **“An Analysis of Florida's Title Insurance Market”**

Published: Florida Office of Insurance Regulation (7/06) (excerpts)(emphasis supplied)

Along with the premium, consumers also pay related charges such as title search, settlement fees, and document preparation. The total cost of title insurance in Florida averaged about 14 percent of total settlement costs.

Title insurance is generally a small but required component of a much more substantial transaction. Although the homeowner actually pays the insurance premium, most title insurers consider the real estate attorney, the real estate broker, or the mortgage lender as the real customer. The homeowner is involved in a process that is both infrequent and unfamiliar. As Hofflander and Shulman (1977) discuss, the real estate closing agent has some control over the placement of services for closing-related services such as title insurance. As a result, **the closing agent may have near-monopoly power and may have an incentive to engage in abusive behavior.** Title insurers have been perceived as catering to these institutional participants and not to consumers. Add to this the fact that title insurance is required by the lender but paid for by the borrower and **an environment is created where consumer confidence in the title insurance industry can be quickly eroded.**

**One concern with this type arrangement is the creation of reverse competition. Since the consumer has little knowledge of title insurance, title insurance companies and agents direct their energy towards the recommenders (home builders, lenders, brokers, etc.) and ignore the consumer. This creates an incentive to give kickbacks, referral fees, and other types of payments to recommenders to secure their business. This could have the effect of driving up the cost to the consumer.**

The average total cost of title insurance (premium and related services charges) was \$2,048 and averaged about fourteen percent of total settlement costs.

Title insurance related service charges include such items as settlement fees, title search, title examination, and document preparation. Other than the title insurance premium and related endorsements, costs that most often appeared on the settlement statement included settlement fee, abstract/title search, title examination, and shipping/handling fee.

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Overall, the average total title costs were 1.05% of the contract price for the sample.

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**Although consumers are free to shop around for title insurance, many consumers defer such decisions to realtors, home builders, lenders or mortgage brokers, and title insurance companies have sometimes used illegal tactics in marketing to those decision-makers. Thus, the fundamental problem with title insurance is that the person who pays for title insurance is not the same as the person who buys it, leading to a condition of "reverse competition" that benefits decision makers to the detriment of consumers.**