

Opening Statement
Chairman Michael G. Oxley
Financial Services Committee

Subcommittee on Housing and Community Opportunity
Title Insurance: Cost and Competition

April 26, 2006

Thank you, Mr. Chairman, for holding this hearing and for your continued leadership in making it easier for consumers to buy homes. This Subcommittee has led the way with the American Dream Downpayment Act, the Zero Down Payment Act, and other initiatives to make the dream of homeownership a reality for an impressive 69 percent of American families.

Congress can still do more, however, to reduce barriers that limit competition in the real-estate marketplace. Many home-buying services with relatively fixed costs, such as realtor fees, title searches, and lending fees, have skyrocketed along with the value of the homes, even though the amount of work involved has actually been reduced with improved automation and computerization. If a house has doubled in value, does it really cost the realtor twice as much to sell it and the title agent twice as much to do the automated title search? Consumers are paying home-purchase costs that are artificially high because of the lack of competition in real estate services.

I am particularly concerned about the ongoing investigations of title insurance fraud that have already resulted in tens of millions of dollars in settlements. In Colorado, Deputy Insurance Commissioner Toll has unraveled a web of illegal kickback schemes using captive reinsurance and involving title insurance agents, builders, realtors, and other real estate services providers. These schemes have inflated the price for title insurance for thousands of people. Few consumers will hold up their new home purchase over a few thousand dollars in title insurance. But what the consumer doesn't know is that, in many cases, a large percentage of the consumer's title insurance payment gets kicked back to the real estate professional who set up the closing.

Illegal kickbacks are already a violation of RESPA. But the investigations by Colorado, Minnesota, California, and others make it clear that this is an endemic problem. That is why I asked the Government Accountability Office to investigate for Congress how title insurance gets sold in the real estate marketplace. GAO's interim report raises some very troubling questions for Members of this Committee. According to GAO, in several cases title insurers or agents have created fraudulent business arrangements to provide potentially illegal kickbacks to realtors, mortgage brokers, lenders, and attorneys, in return for steering business their way. GAO is finding that instead of focusing on consumers, title agents normally market their business to these real estate providers, creating a potential conflict of interest that benefits the providers at the expense of the consumer.

I believe that most business professionals are beyond reproach and provide consumers with the best services they are able. Some of those individuals are here with us today. Unfortunately, the majority of professionals find themselves undercut by less scrupulous actors who are circumventing RESPA's rules on illegal kickbacks. Given the number of annual home purchases and refinancings, I don't believe that the lack of price competition in real estate services is something we can just enforce our way out of. HUD and State insurance departments simply do not have the resources to monitor every property transaction. This is a structural marketplace problem that at some point Congress will have to address.

I want to thank our witnesses for joining us today to help shed some light on this critical consumer issue. Ms. Toll has been the leader in uncovering title insurance problems and opening the path for others to follow in protecting consumers. GAO and HUD have been very helpful in analyzing the marketplace and initiating a discussion of potential next steps. And the witnesses on our second panel will be enormously helpful in providing us with the industry and consumer group perspective to separate fact from fiction and underscore why a vibrant title insurance marketplace is so important for consumers.

I look forward to working with the panelists, Chairman Ney, Ranking Member Ms. Waters, and other Members of the Committee, as we begin a discussion of the problem and a search for solutions.

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