

## Myth vs Fact on title insurance for 3/25 markup

(Since ALTA has member companies that have affiliated relationships and others that do not have affiliations, **ALTA is not advocating for or against the Mortgage Choice Act (HR 685)**. At the same time, it is also appropriate that ALTA ensures that Congress has facts about title insurance.)

### **They said:**

*"Settlement costs – exclusive of inflation – continue to rise." (Rep. Ellison floor statement 9/16/14)*  
*A "fact sheet" from the Center for Responsible Lending (CRL) misleadingly indicated that borrowers pay "inflated title insurance costs." (CRL "fact sheet" released March 18, 2015.)*

**Fact:** According to an analysis of publicly available title insurance premium data from 2003 to 2013, the cost of title insurance has actually decreased 6.20% since 2003. This data is aggregated from analysis of premiums written as reported on Schedule P Part 1 of the NAIC Annual Financial Statements against the amount of insurance written.

Past debate on the Mortgage Choice Act has produced a number of inaccurate statements about title insurance. Many of these arguments are made without citing data or evidence. These statements about title insurance are misleading:

### **They said:**

*"Some say that as much as half or more of a title insurance premium goes to the referral agent." (Rep. Ellison floor statement 9/16/14)*  
*"title insurance [has] hidden commissions and inflated costs" (Rep. Ellison floor statement 9/16/14)*  
*"I have concern about a market where people assert that half or more the cost of the product is a referral fee unlinked to the product itself." (Rep. Ellison floor statement 9/16/14)*  
*In other words, almost the entirety of a title insurance premium goes to commissions, not insurance coverage. (Americans for Financial Reform email to Congress 10/17/13)*

**Fact:** According to the national rating agency A.M. Best, expenses incurred as part of the title-search process typically make up 85 percent or more of the title premium, reflecting the loss-prevention nature of title insurance. Most of the title insurance premium goes to prevent a consumer from losing their home through a challenge to their title. In other words, title agents do work to protect consumers against claims caused by something that happened in the past, so they underwrite each individual consumer's homeownership based on legal documents unique to the title of each home. This type of underwriting work means that, over the long term, title insurers pay fewer claims than other insurers, but their operating expenses to underwrite the policy are much higher.

**They said:** *"CFPB wisely chose to require title insurance charges from affiliated title agents be within the points and fees cap." (Rep. Ellison floor statement 9/16/14)*

**Fact:** Section 1412 of the Dodd-Frank Act, found at 15 U.S. Code § 1639c(b), directed CFPB to require title insurance charges from affiliated title agents be within the points and fees cap

**They said:**

*"Title insurance is the most expensive of the closing cost fees" (Rep. Ellison floor statement 9/16/14)*

*"Title insurance prices are grossly inflated" (Americans for Financial Reform email to Congress 10/17/13)*

**Fact:** According to a 2007 Government Accountability Office (GAO) report on the title insurance industry, title insurance comprised 4 percent of all closing costs. This was the same percent of closing costs spent on property and casualty insurance associated with a home purchase (including a home warranty). The real estate commission, lender fees and government taxes & fees accounted for 89 percent of all closing costs.

The cost for title insurance is a one-time fee, as opposed to other lines of insurance that charge a monthly, quarterly or annual premium. When you consider the size of the asset protected by title insurance and amortize the payment for as long as a consumer owns their home, title insurance is among the best values of costs associated with a real estate closing.

**They said:**

*"[Consumers do] not comparison shop" (Rep. Ellison floor statement 9/16/14)*

**Fact:** Consumers can shop for title insurance and have the right to shop for title insurance. This consumer right is protected by federal statute in the Real Estate Settlement Procedures Act (RESPA). The title insurance industry supports and encourages consumer choice. To help consumers shop, in 2007, the industry created [www.homeclosing101.org](http://www.homeclosing101.org), which is designed to help consumers navigate the homebuying process. The website, and many other websites today, help consumers identify local title and settlement companies with whom they can shop. There are even rate calculators that help consumers shop based on price.

**They said:**

*"These fees are poorly understood by homebuyers" (Rep. Ellison floor statement 9/16/14)*

**Fact:**

1. Consumers have many tools at their fingertips to understand the costs of owning a home.
2. CFPB wrote rules to protect people buying homes. Starting on August 1, consumers will receive new CFPB disclosures to help them better understand fees associated with buying a home.
3. The CFPB's "Owning a Home" page on its website says, "We're here to help you with your home buying process. Just starting out? Learn what to expect and how to get a great deal. About to close? A checklist makes it less stressful."
4. In 2007, the industry created [www.homeclosing101.org](http://www.homeclosing101.org), which is designed to help consumers navigate the homebuying process.

**They said:**

*"They're already way out of sync with what title insurance costs in this day of automated titles."*

*(9/16/14 testimony of CRL before the Senate Banking Committee)*

*"The title search can be done through a Google search."*

**Fact:** Unlike other forms of insurance, title insurance conducts extensive research identify such as a previous owner's delinquent taxes, undisclosed liens (i.e., unpaid contractors or utility bills), legal judgments (like back-owed child support) or issues arising from forgery or fraud.

This specialized review of land records for any problems with the home's title and chain of ownership before you purchase it. This research protects a homeowner's financial investment by ensuring that ownership of the property they are buying is free and clear from any debts or other legal issues.

**They said:**

"States don't adequately regulate the market" (Americans for Financial Reform email to Congress 10/17/13)

**Fact:** State departments of insurance regulate title insurance and coordinate through the National Association of Insurance Commissioners' (NAIC) Title Insurance Task Force. This national system of state-based regulation of title insurance includes oversight of title insurance including: company licensing, producer licensing, product regulation, financial regulation, market regulation, and consumer services. Title insurance is also governed by the Real Estate Settlement Procedures Act (RESPA) and regulated by the Consumer Financial Protection Bureau (CFPB) under the Dodd-Frank Act.