

AMERICAN
LAND TITLE
ASSOCIATION



Statement for the Record

U.S. House of Representatives
Committee on Financial Services

*Subcommittee on Financial Institutions
and Consumer Credit*

Hearing entitled
“How Prospective and Current Homeowners Will Be
Harmed by the CFPB’s Qualified Mortgage Rule”

January 14, 2014

Introduction

The American Land Title Association (ALTA) appreciates the Subcommittee for holding this important hearing entitled, “How Prospective and Current Homeowners Will be Harmed by the CFPB’s Qualified Mortgage Rule.” ALTA’s 4,700 members across the country support a robust and safe housing finance market.

Legislation before Congress would amend the Dodd-Frank Act’s definition of a Qualified Mortgage (QM). Specifically, among other provisions, H.R. 3211, the Mortgage Choice Act, would remove fees paid to title companies owned by the lender from counting as compensation paid to the lender under the 3% cap on points and fees under the QM regulation. Under the Dodd-Frank Act, fees paid to a title company owned by the lender, called an affiliated title agency, are considered fees paid to the lender and are included in the 3% cap.

ALTA membership includes companies that are independent from the lender and companies that are affiliated with the lender. Since ALTA’s members operate on both sides of the issue, ALTA is not advocating for or against the bill. However, ALTA will continue to serve as a resource to our members, regardless of their position on the bill, and to Congress.

In the past, certain groups opposed to H.R. 3211 have made a number of misstatements regarding title insurance. Regardless of your position on the legislation, ALTA wants to ensure you receive accurate information about title insurance. These statements about title insurance are misleading:

“Almost the entirety of a title insurance premium goes to commissions, not insurance coverage”

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.

“Title insurance is overpriced”

Fact: Title insurance, including pricing, is stiffly regulated by state Insurance Commissioners. By statute title insurance prices can be neither excessive, inadequate nor unfairly discriminatory. 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 the consumer owns their home, title insurance is among the best values of costs associated with a real estate closing.

“The price for this product is agreed upon between the lender and the title insurance company,”

Fact: The price for title insurance is set by state regulation or by local markets. These rates are based on an extensive set of actuarial data including, expenses experienced by title agents and insurers operating in that region, claims experience, and revenues. State laws are very clear that title insurance rates can be neither excessive, inadequate or unfairly discriminatory.

“Consumers cannot shop for this product,”

Fact: Consumers can shop for title insurance and consumers 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, the industry created www.homeclosing101.org, which is designed to help consumers navigate the homebuying process including identifying local title and settlement companies with whom they can shop.

“Title insurance prices are vastly inflated,”

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.

“States don’t adequately regulate the market”

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.

“There is minimal evaluation as to the appropriateness of fee increases.”

Fact: State insurance departments require considerable information to approve title insurance premium rates. In fact, some states conduct public hearings to determine the appropriateness of rates. Title insurance premium rates are based on these considerations:

1. the cost of searching public records;
2. the cost of examining the status of title to the consumer’s home;
3. the cost to resolve issues or clear defects to title;
4. the payment of claims;
5. depending on the state, the cost of closing; and,
6. the allowance for a reasonable profit.

Here are a few items to consider when comparing title insurance to other types of insurance such as casualty:

Casualty Insurance	vs.	Title Insurance
Risk Assumption	vs.	Risk Elimination
Recurring Premium	vs.	One-Time Premium
Dollars go to Claims	vs.	Dollars to go Operations
Prospective	vs.	Retrospective
Finite Coverage Period	vs.	Potentially Unlimited Coverage Period

When examining similar lines of insurance, it is important to note that according to A.M. Best, for the past ten years, title insurance average yearly expenses make up 91.8% of premiums compared to only 26.9% of property & casualty insurance premiums. Additionally, for the past ten years, title insurance saw an average yearly loss of 6.3% compared to 74.8% with property & casualty insurance.

Conclusion

As you consider various perspectives about how prospective and current homeowners will be harmed by the CFPB’s Qualified Mortgage rule, we hope that these facts will help you and your staff better understand title insurance. Regardless of your position on H.R. 3211, if you have questions about title insurance, how the industry is structured or how it is regulated, please use ALTA as a resource.