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Analysis of Claims and Claims-Related Losses in the Land Title Insurance Industry

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Overview

The American Land Title Association (ALTA) commissioned an independent analysis of the historical cause of claims and associated costs experienced on residential properties by the land title insurance industry ("Industry"). Milliman, Inc. (Milliman) was engaged to collect the data and perform the analysis. The analysis focused on the ten-year period ending December 31, 2022.

According to Industry financials provided to the National Association of Insurance Commissioners (NAIC) for year-end 2022, the land title insurance industry paid $4.4 billion[1] in claims-related losses and loss expenses[2] for claims first reported between 2013 and 2022. Also, Industry financials show that the Industry has recorded "Incurred Losses" of $5.0 billion[3] for claims first reported during these years. "Incurred Losses" includes the amount paid out for claims plus any amounts held in reserve by the Industry for future claims and changes in the expected cost of reported claims. The Incurred Loss amount reflects the Industry's estimate of the cost to settle all title insurance claims reported during this ten-year period.

The Industry recorded 203,181[4] claims for policies written during 2013-2022. Given the nature of title insurance claims and how they can emerge over the lifetime of property ownership, there were 249,500[5] additional claims also reported during this period from policy years prior to 2013.

Industry Claims Prevention – A Unique Approach

Title insurance differs notably from other lines of insurance (e.g., auto, home, life) because most of the events that lead to a claim take place ***before*** a policy is issued. As a result, most of the title professional's efforts are focused on reducing or eliminating the likelihood of claims during the initial underwriting process rather than on loss adjustment after a claim is filed. The insurer or title agent will concentrate on discovering potential issues or defects in a property title that could lead to a loss for a homeowner or lender and correcting or resolving them before the policy is issued. This work is called "Curative" work or "Loss Elimination". The significant work expended in these curative efforts results in most of the title insurance premium being spent on underwriting expense (including curative) and a smaller portion being spent on claims. This approach is unique to title insurance due to the retrospective nature of the product and its exposure to claims.

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[1] ALTA, 2022 Title Industry Annual Statement, Schedule P, Part 3A

[2] For the remainder of this paper, the term "claims-related losses and loss expenses loss" will be referred to as "claim costs".

[3] ALTA, 2022 Title Industry Annual Statement, Schedule P, Part 3

[4] ALTA, 2022 Title Industry Annual Statement, Schedule P, Part 4A

[5] ALTA, 2022 Title Industry Annual Statement, Schedule P, Part 5A

As a percentage of the premiums collected during the ten-year period of 2013-2022, title insurers spent 95%[6] on average for expenses related to loss elimination and other operating costs. Due to the curative efforts of the Industry, claims costs average over 4%[6] of the collected premium during that time period. In contrast, property/casualty ("P&C") insurance (e.g., auto, homeowners) is prospective (i.e., covering events that occur after policies become effective) and insurers are unable to eliminate losses in a similar way to title insurers. For homeowners insurance as an example, average expenses as a percentage of collected premium are lower (27%[7] for 2013-2022) and claim costs are higher (70%[7]). The combined claims and expense ratios, however, are comparable between the two industries.

Despite the curative efforts, title insurance claims in total are quite significant, and the Industry reported payments of $596[8] million during 2022 alone related to insurance claims. This is due in large part to issues that cannot be discovered and resolved before a title insurance policy is issued (e.g., fraud, forgery, undisclosed heirs, errors in the public record). Also, despite the loss elimination process, disputes or issues may still arise after the policy is issued.

Industry Approach to Claims Adjustment

The title insurance claims process involves several steps to assess and resolve claims related to property ownership rights. When covered homeowners or lenders identify a potential title issue, they contact their title insurance company and submit a claim.

As with other types of insurance, the title insurer assigns an adjuster or examiner to investigate the claim thoroughly. This investigation typically involves a review of relevant documents, such as the title insurance policy, deeds, surveys, and any legal notices or documentation related to the issue. The adjuster may also conduct research, consult with legal experts, and communicate with the parties involved to gather additional information. Throughout the process, the adjuster communicates with the policyholder to provide updates and guidance, to resolve the title insurance claim as smoothly and efficiently as possible.

Based on the gathered information, the adjuster determines the validity of the claim and the appropriate course of action. If the claim is approved, the insurance company may compensate the policyholder directly for their loss. In many cases, the insurance company may also take steps to act on behalf of the policyholder by working with attorneys and covering legal fees to clear the title or resolve the issue.

Data Overview

For this analysis, Milliman collected 127,228[9] claims associated with policies issued during the period beginning January 1, 2013, and ending December 31, 2022. The participating Industry underwriters represent approximately seventy percent (70%[10]) of the Industry's annual premium volume in 2022.

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[6] NAIC U.S Property & Casualty and Title Insurance Industries – 2022 Full Year Results.

[7] S&P Global IQ, PC Insurance Expense Exhibit for Homeowners line of business

[8] ALTA Title Industry 2022 Annual Statement, Part 2A

[9] Data compiled by Milliman based on information from ALTA members

[10] ALTA 2022 Market Share: Family - Company Summary

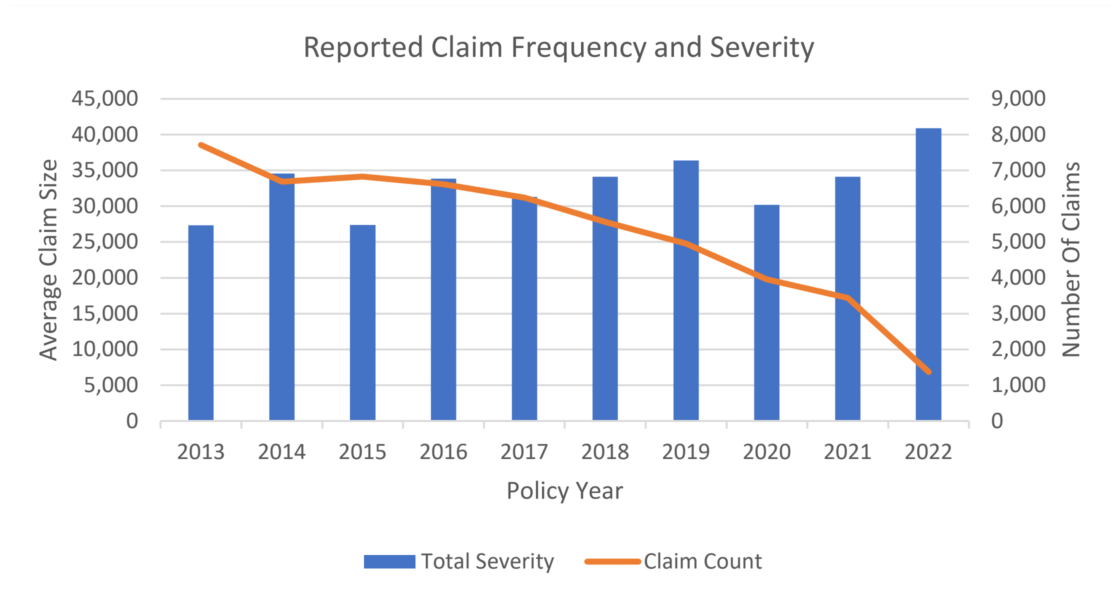
Figure 1 summarizes two key features of insurance claim experience: claim frequency and claim severity.

“Claim frequency” is represented by the orange line on the graph and refers to the number of claims per year.

"Claim severity" is represented by the blue bars and refers to the average cost per reported claim. This includes any direct loss covered by the insurance policy plus the expenses associated with the investigation of claims and defense of policyholder interests.

The data is organized by “policy year”, so claims are grouped based on the year when the underlying insurance policy was written, regardless of when the loss was identified and when the claim was reported.

Figure 1. Reported Claim Frequency and Severity by Policy Year



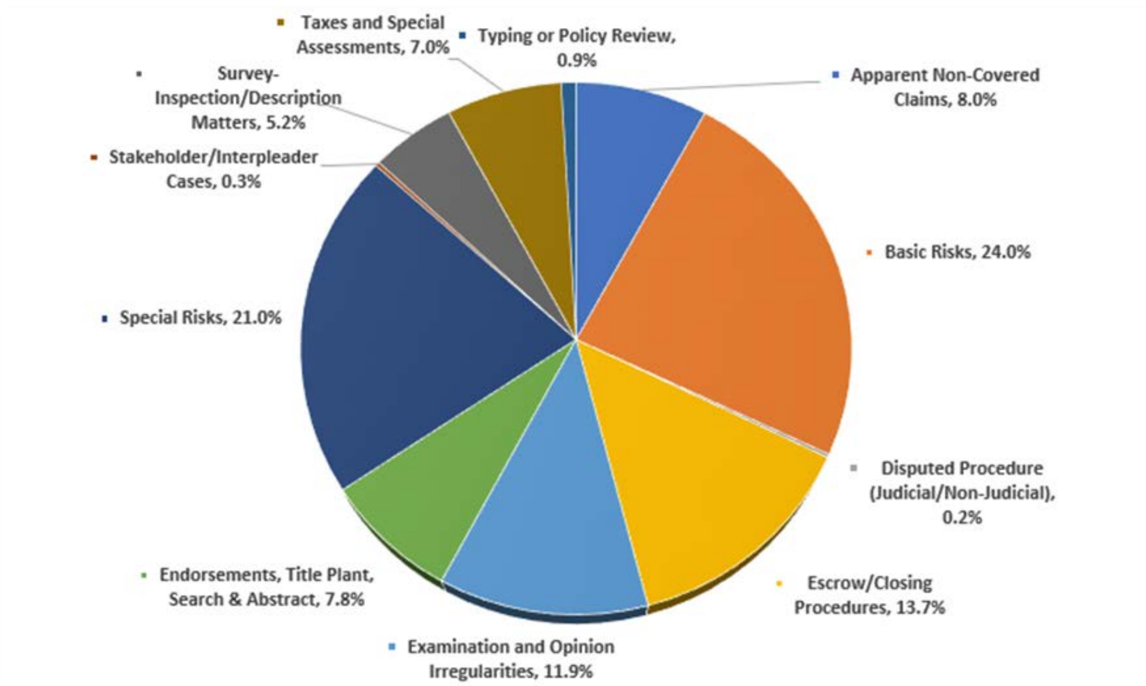
As the data is organized by policy year and title insurance claims can be reported over many years, there are fewer claims shown in Figure 1 for the recent years compared to the older. Over time, the orange line will flatten out as more new claims are reported for recent years. Also, Figure 1 includes only the subset of claims that have loss payments or claim expense, so the number of claims in this graph would grow as recently reported claims are closed and loss payments are made. The blue bars that represent average claim costs may also change over time as new claims are reported and average incurred losses increase or decrease as claims are resolved.

The types of claims represented in the analyzed sample[11] are reflected in Figure 2, on the following page, and include the following categories used by the Industry to categorize claims:

[11] Data compiled by Milliman based on information from ALTA members

- **Basic Risks – 24.0%**. Basic Risks including Fraud, Forgery, Competency, Capacity, Authority of parties, Undisclosed heirs, Marital rights, and Assumed risks (e.g., Access, Zoning, Building permit violations).
- **Special Risks – 21.0%.** Special Risks include Mechanics' Liens, Subordination of prior interests, Affidavit or indemnity relied upon and Underwritten risks (e.g., mortgages, judgments, and liens other than mechanics' liens).
- **Escrow/Closing Procedures – 13.7%.** Escrow/Closing Procedures include Insufficient or improper instructions, Instructions not followed, Improper payment or failure to make payment, Closing Protection Letters and Failure to complete post-closing responsibilities.
- **Examination and Opinion Irregularities – 11.9%.** Examination and Opinion Irregularities including Unforeseen risks, Irregular omissions, and Failure to follow established procedures and policies.
- **Apparent Non-Covered Claims – 8.0%.** Apparent Non-Covered Claims including Claims outside insuring provisions, Claims within preprinted exclusion or exception, and Claims within special exception.
- **Endorsements, Title Plant, Search & Abstract – 7.8%.** Endorsements, Title Plant, Search & Abstract including Take-off of public records, Posting, Searching irregularity, and Abstracting irregularity.
- **Taxes and Special Assessments – 7.0%**
- **Survey-Inspection/Description Matters – 5.2%.** Survey-Inspection/Description Matters including Incorrect survey or inspection and Incorrect description used or furnished.
- **Typing or Policy Review – 0.9%**
- **Stakeholder/Interpleader Cases – 0.3%**
- **Disputed Procedure (Judicial/Non-Judicial) – 0.2%.** Disputed Procedure (Judicial/Non-Judicial) including Foreclosure and Government forfeiture.

Figure 2. Distribution of Reported Claims by Claim Type



Key Observations & Findings

1) Claims-Related Losses Analyzed in this Study will Continue to Grow Due to the Long Tail on Title Policy Claims

While the Industry incurred $2.8 billion[12] in claims-related losses during the analysis period, Milliman analyzed a subset of those claim records provided by participating underwriters which totaled $1.7 billion[13] and represents 60% of known claims for the Industry for policy years 2013-2022.

This amount, however, does not represent all Incurred Losses and, therefore, does **not** include an estimate for:

a) claims that have not yet been reported for these policy years, or
b) future increases/decreases of the estimated claim costs following investigation and analysis of known claims that were not closed as of December 31, 2022.

Reported losses for title insurance claims, in aggregate, tend to increase the longer they remain open. Based on a review of Industry statistics, the reported losses and claims expense for policy years 2013-2022 could increase by approximately 80%[14] between December 31, 2022 and the future date when all claims have been settled and paid.

Industry research also shows that title insurance losses are reported slowly after policies are written. As shown in Figure 3, for the Industry in aggregate, it generally takes 4 years for 50% of ultimate losses to be reported for policies written during a given year.

Figure 3. Title Industry Loss Reporting Pattern

Age (Months)	12	24	36	48	60	72	84	96	108	120	132	144	156	168	180
Percent of Ultimate Reported at Age	10.9%	30.7%	46.3%	56.6%	64.9%	71.2%	76.8%	81.0%	84.5%	87.3%	89.5%	91.3%	92.8%	94.0%	95.0%

Source: Milliman analysis of Industry Annual Statement Schedule P

2) More than 20% of Paid Claim Costs Resulted from Fraud and Forgery

Two of the top three causes of loss measured by paid claim costs are Fraud and Forgery. The third leading cause of loss is related to mortgages, judgments, and liens other than mechanics' liens.

Fraud and Forgery claims represent 21%[15] of the total dollars spent by title insurers on claims expense and losses.

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[12] ALTA, 2022 Title Industry Annual Statement, Schedule P, Part 2A + Part 2B
[13] Data compiled by Milliman based on information from ALTA members
[14] Milliman study of title industry loss development patterns using data evaluated as of December 31, 2022
[15] Data compiled by Milliman based on information from ALTA members

3) *The Average Claim Cost for Fraud and Forgery is Over 5 Times That of Other Types of Claims*

Excluding Fraud and Forgery claims, the average reported claim cost (loss payments and claim expense) is more than $26,000 for all owner's policies and loan policies combined. Fraud and Forgery claims average over $143,000, an amount that is more than five times the size for all other claims.

Figures 4 and 5 reflect a comparison of the average reported claim cost for all policy types for solely Fraud and Forgery claims versus all other claims combined.

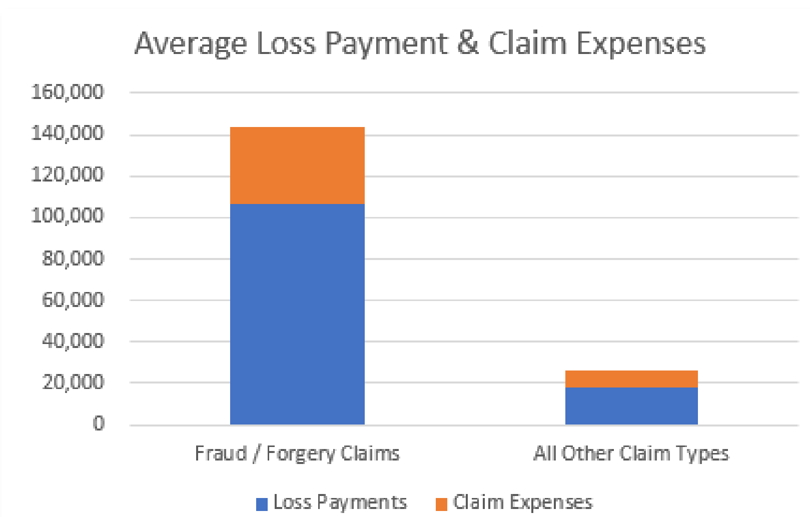
Figure 4. Claim Severity – Fraud and Forgery versus Other Causes of Loss[15]

	Fraud/Forgery Claims	Other Claims
Average Loss Payments	$ 106,932	$ 17,934
Average Claim Expense	$ 36,586	$ 8,394
Average Total Claim Costs:	$ 143,518	$ 26,328

As shown above, title insurers have incurred losses (excluding claim expense) for Fraud and Forgery claims that average almost $107,000 per claim. This is more than five times the average amount of loss for claims for other categories (just under $18,000).

The average amount spent defending Fraud and Forgery claims (over $36,000 per claim) is more than four times the amount spent defending other claims (over $8,000 per claim).

Figure 5. Average Claim Costs – Fraud and Forgery versus All Other Claims[16]



For claims on Owner's policies only, the average cost of Fraud and Forgery claims is more than $100,000, while the average claim cost for all other claims is more than $27,000.

[16] Data compiled by Milliman based on information from ALTA members

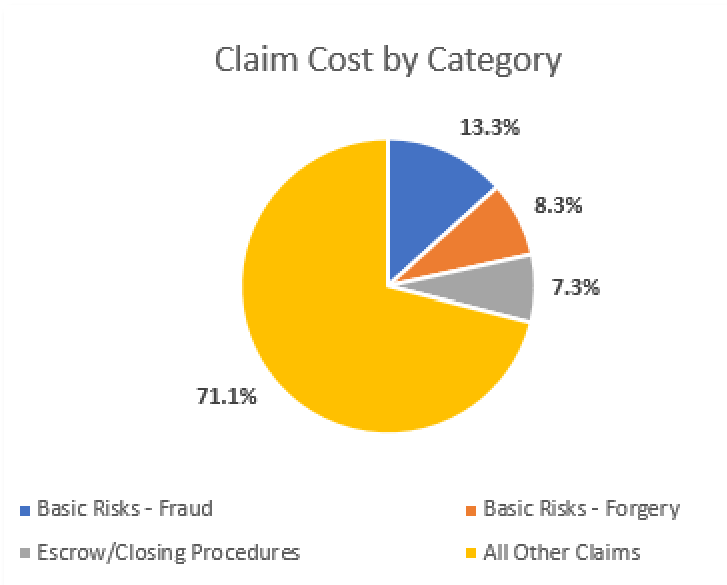
For claims on Loan policies only, the average cost of Fraud and Forgery claims is more than $194,000, while the average claim cost for all other claims is more than $23,000.

While Fraud and Forgery claims are the most *expensive* to address in terms of losses and expenses, the most *frequent* type of claims are related to mortgages, judgments, and liens other than mechanics' liens. These claims cost, on average, $26,000 to resolve, including $5,000 to defend.

4) Nearly 30% of Losses and Claims Expenses Arise from Issues That Could Not Be Found in a Public Records Search

As shown in Figure 6, below, 29% of all losses and expenses relate to issues that cannot be identified through a search of public records. Those issues include fraud, forgery, and escrow/closing procedures.

Figure 6. Breakdown of Incurred Claim Cost by Cause of Loss[17]



5) Current Threats from Cybercrime Contribute to Claims Frequency[17]

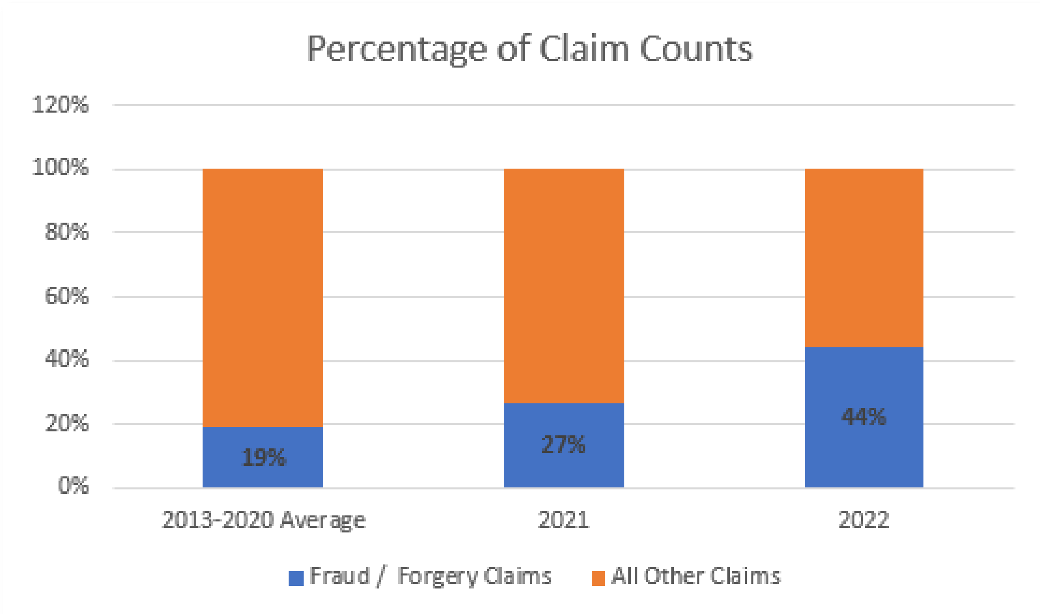
Current threats from cybercrime exacerbate concerns about risks that cannot be identified in a search of public records. Policy years 2021 and 2022 reflect an increase in the portion of claim counts that are attributable to Fraud and Forgery. This is consistent with an increase in the number of claims involving impersonation and social engineering schemes like phishing.

a. Within Basic Risks, Fraud and Forgery represent 44% of the total number of reported claims for 2022 and 27% for 2021, compared to an average of 19% for 2013-2020.
b. The analysis finds that this does not seem to be related to geography; this appears to be consistent across states. Even high-volume states such as CA, FL, NY, and TX

[17] Data compiled by Milliman based on information from ALTA members

reflect similar increases in the number of Fraud and Forgery claims from 2013-2020 when compared to 2021 and 2022.

Figure 7. Breakdown of Reported Claims by Cause of Loss Within Category of Basic Risks



Conclusion

Similar to other lines of insurance, title insurance protects policyholders and interested third parties from loss generated by risks that policyholders are unable to control on their own. Unlike property/casualty lines of business such as auto and homeowners insurance, which provide protection against events that will occur in the future, the exposure to title insurance losses due to "title defects" stems from events that occurred in the past. As a result, significant efforts are made to cure any defects prior to the transfer of property ownership rights. This results in a much higher portion of title insurance premium being spent on curative work to eliminate potential causes of loss, and conversely a much smaller portion of premium being spent on insured losses, compared to P&C insurance. Considered together, however, the claim and expense costs are comparable as a percentage of premium between the industries.

The largest losses in title insurance relate to Fraud and Forgery activities, which cannot be easily identified through a simple search of public records. Without protection provided by title insurance, these losses could be catastrophic to homeowners. Increasing occurrences of cybercrime in recent years have increased the exposure faced by prospective property buyers to these types of loss. But regardless of the cause and size of loss, title insurers are present to support property owners and lenders from threats to the process of transfer of ownership of real estate.

Limitations

Data

In performing this analysis, Milliman relied on data and other information provided by ALTA members. Milliman did not audit or verify this data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may not be suitable for the intended purpose.

Milliman performed a limited review of the data used directly for the analysis for reasonableness and consistency and did not find material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of the analysis.

In performing this evaluation, Milliman assumed that the ALTA member participants: (a) used their best efforts to supply accurate and complete data and (b) did not knowingly provide any inaccurate data.

Distribution

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