

company that they want to use. Reducing sham affiliated businesses can also enhance true market competition. Greater regulation, including minimum capitalization requirements, is seen as a way to keep out sham agencies.

Rates: Additional data collection will be required for regulators to get a better handle on underlying costs and ascertain whether rates for title insurance are reasonable. According to the GAO, this is especially important on the agent side, where states are not collecting sufficient information to enable them to know whether agent compensation is appropriate. The report recommends reviewing rates in light of increases in property values. Detractors say the rates are too high because production costs and claims have not kept up with enhanced property values upon which rates are based. Such people will point to the high profitability of the industry since 1992, as mentioned in the report. Even where rates were lowered, as in California, the cost of housing rose enough in recent years to increase the median price of title insurance substantially. The title insurance industry will need the additional data collected to support the rate structure it currently uses.

Risk Premium and agent splits: Another area sure to get attention from state regulators is the subject of premium and agent splits, especially in the context of risk rate states. The GAO asks why agents should receive an 85% split of the premium in a risk rate state when the major expense is the search and exam and there is separate compensation paid to the agent for those tasks. The GAO wonders what justifies a premium split in those states which is as high as the split in an all-inclusive state. Also, how should the extent of the search and the efficiency of the search process affect prices? Does it matter whether the search is done through a database or manually at the courthouse? It seems possible that regulators will try to use this report in an attempt to reduce risk rates and agent splits. The report also recommends that agents be subject to greater oversight by regulators.

Alternatives to the Current Marketplace: Those detractors seeing support in the report for "lender pay" or the Iowa model received little backing. The report was neutral towards these plans, at best. At worst, for the detractors, the report pointed out that Iowa is not cheaper than private title insurance when all costs are considered, and that "lender pay" may not reduce costs either. In fact, the GAO did not recommend either alternative, but rather stuck to its recommendation to better educate consumers and try to deter violations of Section 8.

Recommendations: The GAO recommended that HUD attempt to clarify its regulations and ask Congress for the ability to levy civil penalties, as well. The report also suggested that HUD and state insurance regulators take steps to strengthen their oversight of the title insurance industry, especially through improved cooperation among themselves and with other state regulators to enforce existing laws and bring an end to illegal marketing activities. Consumer education should also be encouraged, so that consumers become empowered to shop for title insurance. Websites comparing the rates of title insurance providers would be helpful in this regard. The GAO believes agent licensing, qualification and education standards should be enhanced, especially as a means of weeding out sham affiliated businesses. Finally, more data should be collected, especially from agents, to make sure prices for title insurance are in line with the costs to produce the policies. Many of these recommendations will be supported by those companies in the industry which wish to compete for business on a level playing field.