



Demotech, Inc.

June 1, 2010

NAIC Title Statistical Plan Working Group
c/o Ms. Paula Sisneros
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

Dear Ms. Sisneros,

I am taking this opportunity to provide my thoughts and comments to the Title Statistical Plan Working Group. It is my opinion that minor modifications to the current agent statistical plan draft will enhance the ability of the statistical plan that would ultimately be promulgated to promote consumer shopping for title agents without delaying real estate closings, modernize the regulation of title insurance, evaluate the current effectiveness of monoline title insurance laws while simultaneously assisting regulatory bodies combat fraudulent and unfair real estate settlement activities.

I am an interested party possessing approximately twenty years of progressively responsible experience in the Title insurance industry and more than forty years of experience and expertise in the Property and Casualty industry. I am independent of all title agencies. Although I have attended some of the Working Group's teleconferences and meetings, my activity in the area of title statistical reporting has not been compensated by any entity. These suggestions are mine.

Two major factors underlying my rationale for proposing modifications to the Title Statistical Plan Working Group are as follows:

1. The coverage provided by a Title insurance policy is retrospective in nature. Risk of loss related to the marketability of the title to real property exists when the title to real property is transferred. Accordingly, all exposure to loss must be identified (unallocated loss adjustment expense or adjusting and other expense) and mitigated (allocated loss adjustment expense or defense and cost containment) prior to the transfer of the title.

Currently, whether financial data is collected from Title agents or Title underwriters, collected in a statistical plan or an annual or quarterly statement, the time, despite the effort and expense expended prior to policy issuance consisting of loss adjustment activities, the information requested by regulators is related solely to claims that were not addressed prior to policy issuance. An accurate and responsive Title insurance statistical plan should collect information related to what was "identified, fixed or found" prior to policy issuance so that complete information is available to all interested third parties. Many of these incidents are reported in Schedule B – Part 1 or Schedule B – part 2 of a title insurance policy.

2. Due to the retrospective nature of Title insurance coverage, a Title insurance policy is more analogous to a closed P&C claim file than to a P&C insurance policy, which is prospective. That is, when a P&C incident is reported, determined to be covered and the damage must be identified, corrected and properly addressed, a claim file is established.

When the matter is closed, the claim file is closed. However, if the insured has additional problems associated with the matter underlying the closed file, the insurance company will reopen the claim and address the matter. Although new incidents are not covered by that claim file, the previous incident is covered.



This process is analogous to the issuance of a Title insurance policy. That is, prior to policy issuance and the transfer of Title to real property, the Title insurance agent should have identified, fixed and found all covered incidents related to the marketability of the title to that specific real property. Once the insurer's analysis process is completed, the Title insurance policy is issued. In the unlikely event that the Title insurance professional has not addressed a covered incident that existed at the time the policy was issued (when the claim file was closed), the Title insurance policy responds.

The fundamental difference between Title and P&C coverage characteristics can create financial and statistical reporting anomalies. Currently, financial and statistical reporting utilize loss adjustment expense definitions designed solely for the characteristics of prospective P&C coverage.

The material component of Title loss adjustment expense that is expended prior to policy issuance must be accounted for and properly allocated to the L&LAE ratio in order to compare Title and P&C L&LAE ratios. Adjusted financial and statistical reporting procedures should allocate loss containment activities from the expense ratio of a Title insurance underwriter or the retention paid to Title insurance agents to the L&LAE ratio of Title underwriters. Currently, neither financial nor statistical reporting associated with the Title insurance L&LAE ratio provides an accurate estimation of the expenses associated with investigation, litigation management and cost containment.

Given that a P&C L&LAE ratio reflects each element, the reported result for Title underwriters understates L&LAE ratios, overstates operating expense ratios and hinders analysis of the appropriateness of Title insurance rates. Although the allocation will not change the Title insurance industry's combined ratio, the current disconnect between expense and loss ratio will be addressed. My recommendation to the Title Statistical Plan Working Group is to begin this process by amending its current draft to include the information highlighted with yellow shading.

Due to predominant familiarity with P&C insurance's financial and statistical reporting, a head-to-head comparison of Title versus P&C loss and loss adjustment expense (L&LAE) ratios is inevitable. However, when doing so, current financial and statistical reporting requirements do not properly reflect statutory characteristics unique to the Title insurance coverage document. The lack of information understates Title insurance L&LAE ratios while simultaneously failing to collect information that demonstrates the value proposition of Title insurance. This omission can begin to be addressed through the efforts of the Title Statistical Plan Working Group.

In an effort to validate my hypothesis, I worked with Title insurance professionals to compile a sample of policies that were issued in several states. The preliminary results indicated that the loss and loss adjustment expense ratio of Title insurance would be in the range of 65% to 75%, when estimated LAE expenses were allocated from agent retention to the loss and LAE ratio.

In addition, I discovered that the average number of items identified, fixed and found prior to policy issuance ranges from 10 to 15 incidents per policy. Equally important to regulators, the number of incidents per policy that are addressed, fixed or found seem to vary by state.

Until such time as the coverage timeframe and cost containment activities associated with Title insurance coverage are reflected in financial and statistical reporting requirements, P&C versus Title industry comparisons will continue to generate misperceptions and misunderstanding. Given that the Title insurance industry, by statute, must examine and address exposure to loss prior to policy issuance, consumers, insureds and regulators would benefit from information that includes Title insurance incidents identified, found and fixed prior to policy issuance in addition to information on reported claims.



Every professional sport collects statistics to measure the relative effectiveness of its participants. The statistics collected must address offensive and defensive categories because defensive players do not serve in the same capacity as offensive players and vice versa. Similarly, applying a singular statistical or financial reporting requirement to P&C professionals, who reduce expense levels so as to have more premium to pay claims during the prospective policy term (offense), to Title insurers, who increase loss adjustment activities so as to minimize claims reported subsequent to policy issuance (defense), creates a situation where regulators, consumers and interested third parties do not have access to statistical or financial information that is representative of the fundamental underlying coverage documents.

A Title insurance agent statistical plan that includes information on incidents 'identified, fixed or found' as well as policies issued will be a major step forward for regulators, consumers and those interested in gathering representative financial and statistical information while simultaneously enhancing the ability of regulators to identify fraudulent and unfair real estate settlement activities.

I thank you for your time. Please feel free to contact me to clarify this communication.

Sincerely,

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President

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Title Insurance Agent Statistical Report

Line	General Information	
1	Calendar year reporting	
2	State reporting for	
3	Name	
4	Federal tax ID/SSN	
5	Address	
5(a)		
5(b)		
5(c)		
6	Contact person	
7	Contact phone	
8	Contact e-mail	

Agency Type		
9	Independent	
10	Affiliated (w/ underwriter)	
11	Underwriter direct	
12	Is reporting agent an Affiliated Business Arrangement (ownership shared with real estate brokerage, mortgage company, etc.)? (Y)es/(N)o	
13	State of domicile/residence	
14	Number of states conducting business in	
15	Percentage of business for this state	
16	Date commenced business	
17	License number (for this state)	
18	No. of employees (total)	
19	Licensed employees	
20	Unlicensed employees	
21	(Please provide a list of all employees as a separate attachment. Include employee name, license number (if applicable), and job title.)	

Risk Assumption		
22	No. opened orders	
23	No. cancelled orders	
24	No. policies issued	
25	Total closings conducted	
26	No. courtesy closings/closings for 3rd parties	
27	Total full searches conducted	
28	No. full searches conducted for 3rd parties	
29	No. full searches purchased through 3rd party	
30	Total O&Es (property reports) produced	
31	No. O&Es produced for other companies	
32	No. O&Es produced through 3rd party	

Risk Identification including Mitigation		
33	Schedule B - Part 1 Items Identified	
34	Schedule B - Part 2 Items Identified	
35	Items Identified Not on Schedule B - Part 1 or Part 2	
36	Total Items Identified (33)+(34)+(35)	
37	Premium written	
38	Premium remitted to underwriter	
39	Closing/escrow income	
40	Title examination income	
41	Abstract/search income	
42	Investment income	
43	All other income	
44	Total income	\$0.00

Expenses		
45	Salaries/wages (W-2)	
46	Contract labor (1099)	
47	Ownership shares or dividends	
48	Payroll taxes	
49	Benefits	
50	Rent, utilities, and repair	
51	Title plant maintenance/subscription expenses	
52	Abstract/search expenditures	
53	Computer/software	
54	Business insurance	
55	Business legal	
56	Accounting	
57	Licenses, taxes, and fees	
58	Marketing/sales	
59	Travel and lodging	
60	Education	
61	Bank charges	
62	Charge offs	
63	Miscellaneous expense	