NAIC
National Association of Insurance Commissioners

NAIC Actuarial and Statistical Services Department

State of the Title Insurance Industry 2008

Background

This report provides a basic synopsis of the title insurance industry. The report looks at the growth and concentration of the overall market as well as aggregate losses, expenses and regional data. All data was accessed via NAIC databases.

Title insurance offers coverage for losses if a title is not free and clear of defects, such as a lien, that were unknown when the title was issued. The title insurance industry saw great growth in the early 2000s as real estate markets skyrocketed. This report identifies recent changes in the industry due to the slowdown in the housing market.

Title insurance is different from most other insurance lines due to the unusual expense costs. While most other lines of business have relatively high losses, the losses in the title industry are quite low. As shown in the report, loss ratios tend to be in the single digits for the title industry. However, expenses paid for searches and fees paid to agents are many times higher than expenses in other lines of business. This unusual framework has led many state regulators to investigate the title industry in greater depth and bring action when the title insurers have been found to have made illegal kickbacks. Title insurance also differs from other insurance lines in that consumers typically do not shop for the product but instead rely heavily on real estate and title agents to secure the coverage.

The U.S. General Accounting Office (GAO) issued a report in April 2007 describing certain unusual and troublesome aspects of title insurance, including a lack of price transparency and conflicts of interests among sellers. The GAO called for regulators to seek to improve consumers' ability to shop for title insurance based on price and improve oversight of title agents by deterring inappropriate practices in the marketing and sales of title insurance.

Premium

Premium changes in the title insurance industry seem to replicate movements in the overall real estate market. Title insurance increased in direct written premium by 109% from 1998 to 2003 but decreased by 37% from 2003 to 2008. The greatest increases in premium growth were in the years from 2000 to 2003 while the last five years have seen slow or negative growth. As seen in **Figure 1**, the recent decrease in title insurance premium correlates with downturns in the overall housing market. **Figure 2** shows overall direct written premium segmented into direct operations, affiliated agencies and nonaffiliated agencies while **Figure 3** shows the annual percentage change in premium.

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Figure 1

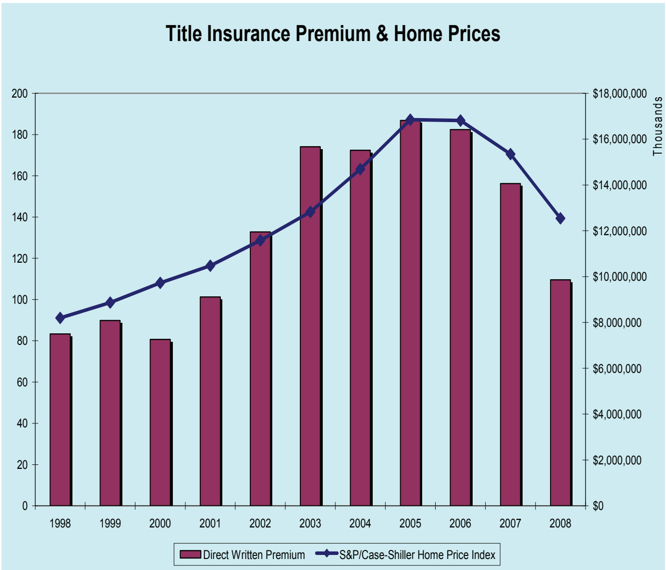


Figure 3

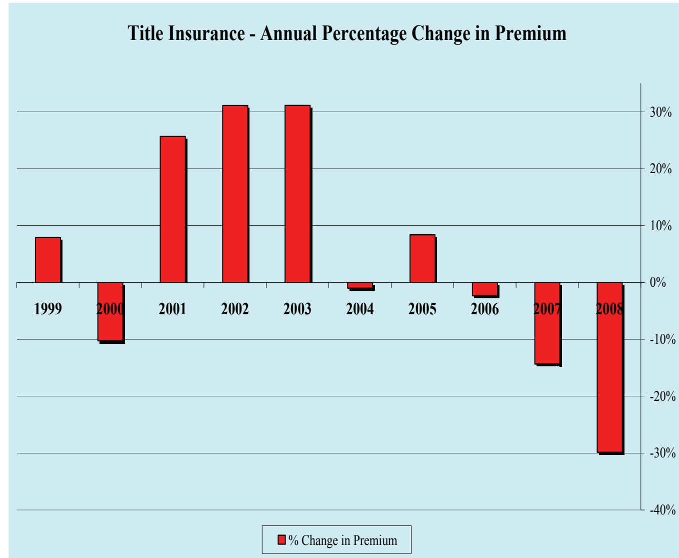
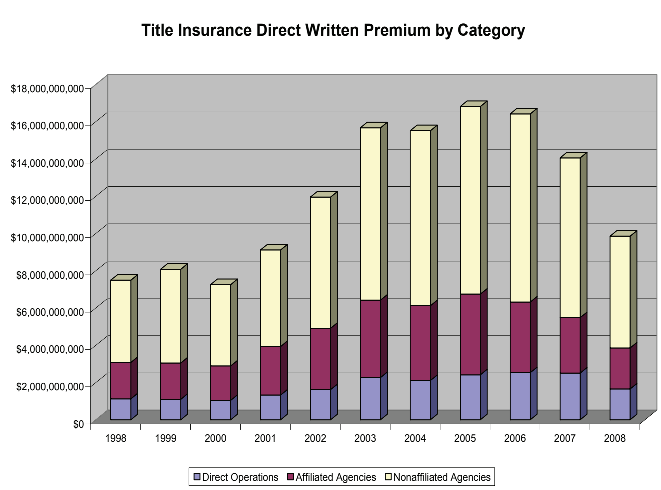


Figure 2



Market Concentration

A unique aspect of the title insurance industry is that there are relatively few writers, leading to a highly concentrated market. Because many writers fall within the same insurance group, it is necessary to look at group premium. When examining market concentrations, **Table 1** shows that the top 4 groups had 92% of the national market in 2008 up from 87% in 2007 (Note: the third largest group in 2007, Land America, had 19.74% of the market in 2007 but was merged into Fidelity National in 2008). Because a small number of groups control a very large share of the market, there may be concerns over the competitiveness of the market.

Table 1

Four Largest Title Insurers (National Premium)

Group Code	Company Name	2008 Direct Premiums	2008 Market Share	2007 Direct Premiums	2007 Market Share
670	Fidelity National	$4,498,244,117	46.12%	$6,187,585,690	26.82%
70	First American	$2,729,415,568	27.98%	$4,068,444,178	29.25%
340	Stewart Title	$1,175,235,311	12.05%	$1,572,985,570	11.31%
150	Old Republic	$567,979,422	5.82%	$778,938,846	5.6%

Most state markets tend to be even more concentrated than the national market. **Table 2** shows the five states with the greatest volume of title insurance premium. The four largest title insurer groups in each state had a market share between 87% and 97%. The top four writers in each state typically control well over 90% of the market while the single largest title insurer in each state had a market share in 2008 of between 23.5% and 66%. **Figure 6** on page 5 shows the market share of the largest insurer in each state.

Table 2

	Market Share of Top 4 Groups
California	92.7%
Texas	93.1%
Florida	87.5%
New York	97.6%
Pennsylvania	95.9%

An additional tool that measures competitiveness is the Herfindahl-Hirschman Index (HHI). This index is able to measure the extent to which a small number of firms might control a large share of the market. A marketplace that is highly concentrated is seen as less competitive. Typically, an HHI below 1,000 indicates an unconcentrated index, an HHI between 1,000 and 1,800 indicates moderate concentration and an HHI above 1,800 indicates high concentration. As seen in **Table 3**, the HHI for the national title insurance industry is 3,096, showing a highly concentrated market. The HHI for states shows that the title insurance industry in states tends to me an even more highly concentrated market than that nationally.

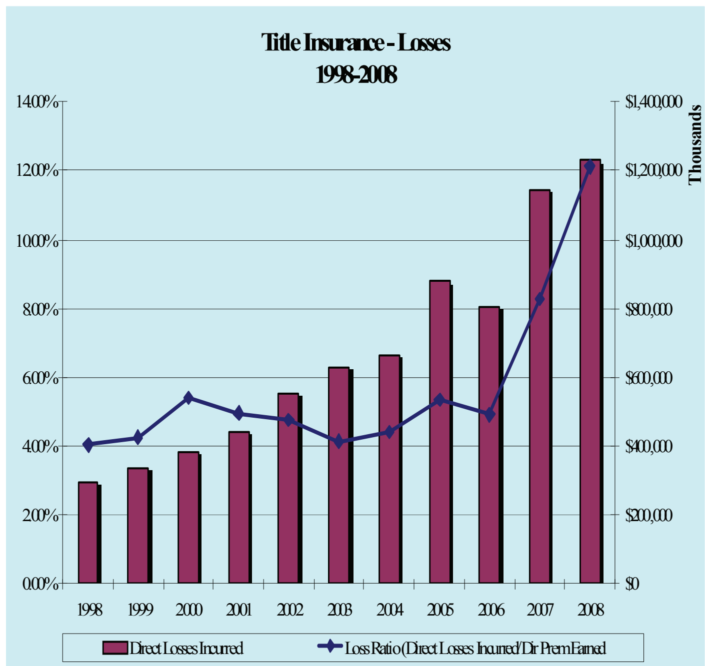
Table 3

	HHI
National	3,096
California	3,429
Texas	3,184
Florida	2,398
New York	3,541
Pennsylvania	3,853

Losses

Losses for title insurers are much lower than for most other lines of insurance. Property/casualty lines of business typically experience pure loss ratios well above 10%, approaching 70% or higher at times. Title insurers historically have loss ratios in the 5% to 10% range. **Figure 4** shows that following a fairly consistent loss ratio of between 4% and 6% in the past ten years, the industry experienced a 9.2% loss ratio in 2007 and 12.1% loss ratio in 2008. The recent increase in loss ratio resulted from large increases in losses in conjunction with large decreases in premium.

Figure 4



Loss ratios vary a great deal depending on the state. In looking at the five states with the largest volume of title insurance premium, loss ratios ranged from 4% to 18% (See **Table 4**).

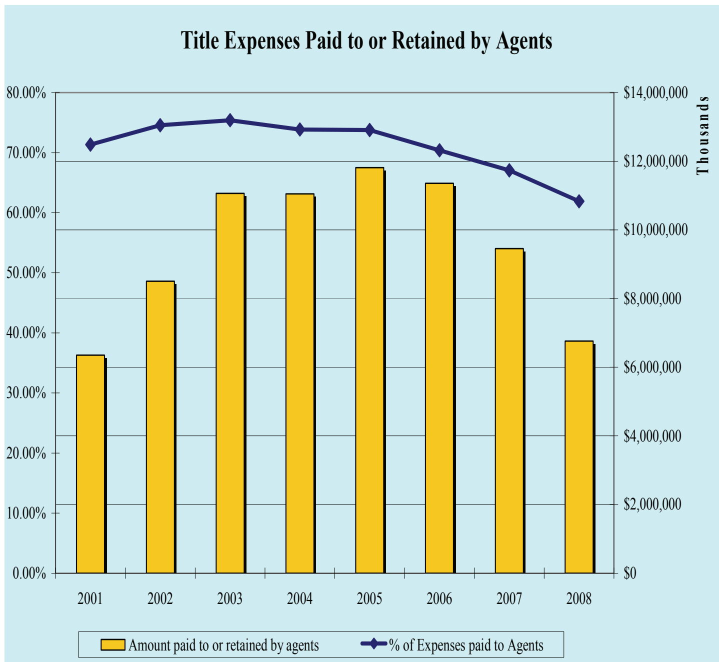
Table 4

2008	Dir. Prem. Earned	Dir. Losses Incurred	Dir. Pure Loss Ratio
California	$1,450,157,380	$249,220,127	17.18%
Texas	$1,246,702,583	$52,037,069	4.17%
Florida	$956,872,946	$178,293,419	18.60%
New York	$755,249,900	$59,729,354	7.91%
Pennsylvania	$410,711,953	$30,054,904	7.31%

Expenses

Although title insurers experience low losses compared to other insurance lines, they have very large expense costs. A fair amount of expenses consist of expenses paid to agents selling the title insurance. Unusually high expenses may be of concern to regulators examining illegal kickbacks or similar schemes. As seen in **Figure 5**, expenses paid to agents have fallen as a percentage of overall expenses in recent years.

Figure 5



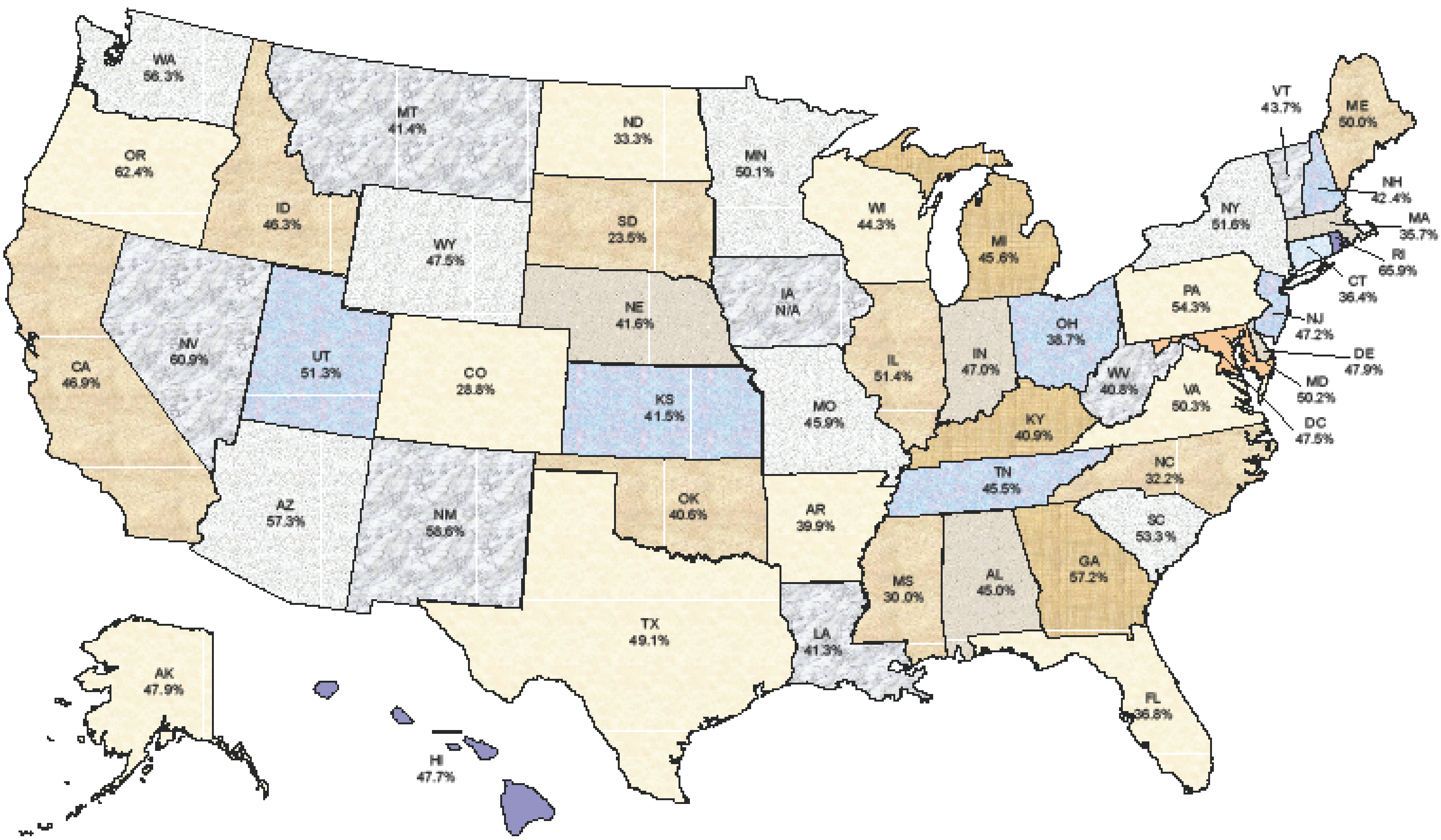
This amount does not address the often-criticized high commissions of independent agents because it is offset by the much lower commission levels for the portion of the business being written directly. In addition, current financial data does not show kickbacks to real estate interests because they come from the agent and not the underwriter.

True title insurance expenses are hard to gauge since much of the costs incurred by the agent are not reported with any level of detail at this time. The level of data collected for reporting and regulatory purposes has been found to be insufficient and inconsistent across states. Market variances and lack of reporting have made unified collection of data difficult. This is especially true at the title agent level, where a significant amount of the income and costs for items like title search and examination fees, commission income, and premium and fees retained occur, but are not reported in any detail to the title insurer.

Figure 6

Title Insurance Market Concentrations

2008 Market Share of Largest Title Insurers



Note: This report is meant to provide a snapshot of the current market. If the reader would like to obtain additional data or publications, they can be obtained via NAIC Publications at 816.783.8300, **prodserv@naic.org** or **http://www.naic.org/store_home.htm**.