



The Texas Title Insurance Monopoly

HB 4239 and SB 2203

by Bill Peacock, *Vice President of Research, Director of Center for Economic Freedom*

Texas has the most heavily regulated title insurance market in the country. Unlike all but one other state, the government sets a fixed rate for fixed title insurance policies, preventing competition for consumers' business. By requiring the purchase of comprehensive, one-size-fits-all title insurance policies at a fixed rate, Texas increases costs for both consumers and businesses. In fact, the current system imposes a monopoly price that in essence functions as a title insurance tax on all homeowners, businesses, and other purchasers of real estate.

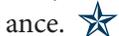
Key Points

- Texas had the 12th highest price for title insurance among the 50 states for a policy on the average priced home (\$260,064) sold in Texas in 2016.
- The Texas "title insurance tax" on Texas homeowners in 2016 was between \$111.1 million and \$186.5 million, averaging \$342 to \$574 per home sale.
- Texas has the most restrictive regulation of title rates and forms (policies) in the nation. It allows no opportunity for insurers to innovate with their products or to lower rates in order to compete for consumers' business.
- Much of the revenue from title insurance policies is wastefully spent to the benefit of the industry; on average, only 13 percent of the cost of a title policy on a \$260,064 home is spent benefiting consumers by reducing risk or paying claims.
- There is no accuracy to claims by the Texas title insurance industry that Texas consumers benefit from higher prices because their titles are safer than in other states.
- The Texas Legislature should increase competition in the title insurance market by moving to a file-and-use system that would empower Texas consumers to shop for the best price on title insurance, reduce prices for consumers by as much as \$186 million a year, and boost economic growth and job creation in Texas.

Key Questions to Ask about Title Insurance Regulation

- If the current system of complete regulation is so good for Texans, why does the law allow title insurance companies to charge a completely unregulated escrow fee that averages as much as \$400 to \$500 per policy?
- Current Texas title insurance rates, set by the Texas Department of Insurance, were set with an expected loss ratio of about five percent. Since the loss ratio in Texas is closer to two percent, what is the insurance industry doing with the excess three percent it is charging consumers?
- Texas Department of Insurance data from 2014 shows that title insurance companies spend, on average, less than \$200 on title searches—around the national average. If the title insurance companies are not spending the revenue from their above average premiums on making titles safer in Texas than in other states, what are they spending it on? Or are they pocketing it as profit?

HB 4239 is a good first step toward introducing competition into the title insurance market by introducing the flex band concept. SB 2203 should be amended to include the flex band as well. The ultimate goal for title insurance regulation, however, should be to allow companies to set their own rates so consumers are allowed to shop for better prices for title insurance.



About the Author



Bill Peacock is the vice president of research and director of the Texas Public Policy Foundation's Center for Economic Freedom. He has been with the Foundation since February 2005. Bill has extensive experience in Texas government and policy on a variety of issues including, economic and regulatory policy, natural resources, public finance, and public education. His work has focused on identifying and reducing the harmful effects of regulations on the economy, businesses, and consumers.

Prior to joining the Foundation, Bill served as the Deputy Commissioner for Coastal Resources for Commissioner Jerry Patterson at the Texas General Land Office. Before he worked at the GLO, he was a legislative and media consultant, working with groups like Citizens for a Sound Economy and Putting Children First. Bill also served as the Deputy Assistant Commissioner for Intergovernmental Affairs for Commissioner Rick Perry at the Texas Department of Agriculture, as a legislative aide to Rep. John Culberson in the Texas House of Representatives, and as an analyst for the Texas Senate Committee on Education.

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