

WHY TEXAS NEEDS COMPETITION IN THE TITLE INSURANCE MARKET

This commentary, written by Bill Peacock and Bill Hammond, originally appeared in the [Austin American-Statesman](#) on March 7, 2016.

As the first games of baseball's spring training get underway, they are a reminder of how fans love the competition of sports. Competition brings out the best in our favorite teams and often has us sitting on the edge of our seats awaiting the outcome.

In our daily lives, however, we generally prefer stability. We get uncomfortable with uncertainty. Thus, we often happily accept regulations that limit competition and promise stability.

The problem with government limits on competition is that they usually don't deliver what's promised and leave us wishing for something better — and more stable. Such is the case with the Texas title insurance market.

Texas has the most heavily regulated title insurance market in the country. Unlike most other states, the government sets a fixed rate for a fixed title insurance policy, preventing competition for consumer's 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. It also ensures that Texans must pay for things they don't want — and what they do get is often of inferior quality.

Why does Texas, a worldwide beacon of economic freedom and prosperity, have a title insurance market one might expect in Cuba?

A brief examination of Texas law shows why the high prices, poor quality and lack of competition in the title insurance market shouldn't be a surprise. Title 11 of the Texas Insurance Code states in part: "The purpose of this title is to completely regulate the business of title insurance on real property."

But even in a completely regulated market, competition never goes away; it just surfaces in other, less reputable ways. A 2007 report from the United States Government Accountability Office highlights this challenge when it notes the “allegedly illegal activities by a number of those involved in the marketing of title insurance.” The GAO found that because “normal competitive forces may not be working properly,” the situation raises “questions about the prices consumers are paying.”

Texans should be asking these questions as well. One of the primary ways that Texas government “completely regulates” title insurance is by fixing prices. The Texas Department of Insurance sets — or promulgates — the price of title insurance policies. The cost of this arrangement to consumers is highlighted in a 2011 study by the University of Texas LBJ School of Public Affairs that found that “when a state promulgates rates, the cost of title insurance will on average be significantly higher than the title prices where states use other regulation styles.”

According to the LBJ study, Texas has the highest title insurance rates for a \$200,000 home among states that require comprehensive coverage. Commercial title insurance rates in Texas are also often significantly more expensive than in other states. Combined, these could negatively impact homeownership and the relocation and expansion of businesses in Texas.

How do we solve this problem?

The GAO suggests that price competition would benefit consumers and recommends that regulators should “improve consumers’ ability to comparison shop for title insurance.”

A recent poll found Texans agree with this recommendation. Ninety-one percent of Texans said that since they can shop around for automobile and home insurance, they should be able to shop around for the best deals on title insurance.

The simplest reform to introduce competition into title insurance is adopting the same file-and-use system that governs automobile and homeowners insurance. It would result in more choices for consumers and lower prices; it also would help reduce the high price of commercial title insurance, and, therefore, lower the cost of doing business in Texas, resulting in a stronger economy and more jobs.

More competition would also bring more stability and certainty to the title insurance market. Consumers would be assured that the title insurance policies they purchase would be of higher quality, tailored to their needs and reasonably priced.

After examining all the facts, it turns out what is really uncomfortable in markets is when competition goes away. Competition brings out the best in companies as they scramble to attract customers — and profit.

Texas should return competition and the benefits that come with it to the Texas title insurance market.

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