

NM think tank in favor of deregulating title insurance

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SANTA FE — Costs of title insurance in New Mexico could drop by 30 percent, potentially saving home buyers \$40 million a year, if the state's price-regulated title insurance system was scrapped, according to a new report.

Think New Mexico, an independent think tank based in Santa Fe, calls for an overhaul of the current system in which the state determines the cost of title insurance and sets a uniform price that all title insurance companies must charge.

"When airlines and long distance phone services were deregulated, prices fell 37 percent and 73 percent, respectively. It's time to put money back in the pockets of home buyers by letting the market determine the price of title insurance," Fred Nathan, executive director of the group, said in a statement Tuesday.

New Mexico is among three states — Texas and Florida are the others — in which the government sets the price for title insurance.

The report said New Mexico ranked eighth highest in the nation for the cost of title insurance, measured as a share of median monthly income.

The group outlined several proposals for overhauling the title insurance system and is pushing to have the measures considered by lawmakers during the 2008 Legislature.

For that to happen, however, Gov. Bill Richardson would have to put the title insurance reform package on the agenda of the session. During 30-day sessions, lawmakers can consider only budget and tax proposals and those issues allowed by the governor.

The report also calls for the repeal of a provision in state law that provides title insurers with immunity from some damage lawsuits by home buyers.

It also suggested that lenders — rather than home buyers — should be responsible for obtaining title insurance because they would be able to negotiate better prices in the marketplace. The

costs would then be passed along to the property buyer.

The industry's trade association, the New Mexico Land Title Association, disagreed with the report's recommendations.

"Title insurance regulation works very well in New Mexico," said Edward Roibal, executive director of the association.

He said regulators have lowered title insurance rates in recent years while most other costs of a home purchase, such as land appraisals, have not dropped.

He said the insurers' current immunity from negligence liability prevents home buyers from "double dipping" — receiving money from a claim on their insurance policy and then filing a lawsuit to recover damages.

The report contends that policies have so many exclusions that it's difficult to get a payout for some losses.

Typically, people buying a home must pay for title insurance when obtaining a mortgage or refinancing a home. The insurance is to provide a guarantee against losses in case of a problem with the ownership records of the property. The price is tied to the value of the home.

According to the report, it would cost \$1,248 for title insurance for the purchase of a \$300,000 home in New Mexico. Last year, the title insurance industry collected \$133 million in premiums in the state.

Nationally, the report said, a much smaller share of the money the title insurance industry collects in premiums is paid out as claims than with other forms of insurance, such as property and casualty.

"The battle over title insurance reform ultimately pits an idea whose time has come against a very powerful special interest with lots of money, lobbyists and political connections," the report said.

Several lawsuits have been filed since last year that challenge portions of New Mexico's title insurance law and regulations because they allegedly provide for price fixing and violate anti-monopoly provisions in the state constitution.