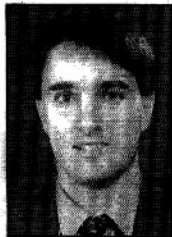


Let the free market rule

I've gone through two experiences buying homes in New Mexico. Neither time did I give even a minute's thought to title insurance.

Most people don't. It's a tiny amount when compared to the price of a home. And in New Mexico, a strange law has the state government setting rates for title insurance, instead of allowing the free market to do its job. The result: significantly more expensive title insurance which protects an owner from other claims to his title.



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Title insurance is an admittedly rather dry subject. But leave it to Santa Fe-based Think New Mexico to take it on. This is group that exhaustively studies one issue a year and makes recommendations for improvements. It's been around only eight years, but it was the driving force behind full-day kindergarten, the elimination of the sales tax on food and reforms to the state lottery that require more money to go toward college scholarships.

According to Think New Mexico, just three states allow the government to set rates for title insurance, and all three are in the top five for the price for title insurance. Seems like the consumer is getting a raw deal.

Legislators who like to spend their valuable time with such weighty issues as the official state question ought to read Think New Mexico's report and take action this next legislative session; don't wait another year.

Think New Mexico reports that the cost of a title insurance policy for a \$200,000 mortgage is nearly a quarter of the median monthly income for a New Mexico family.

North Carolina ranks 39th for per capita income and New Mexico comes in at 44th, yet homebuyers here pay 81 percent more than their counterparts in North Carolina for title insurance on a \$200,000 mortgage.

Does this mean that New Mexico title insurance companies suffer a higher loss ratio than North Carolina? Hardly. North Carolina has a 8.5 percent loss ratio, while New Mexico's is 5.1 percent, according to Think New Mexico. Nebraska is the highest in the nation with 12.3 percent, yet New Mexicans pay a whopping 36 percent more for title insurance than Cornhuskers.

Because of a 1985 law, an obscure superintendent of insurance has replaced the free market in setting market rates. In fact, the state law actually prohibits competition among title insurance companies. Meanwhile, our pocketbooks suffer.

One of the arguments for state control is that if the title insurance firms competed in the free market, some would go bankrupt. But Think New Mexico correctly points out that such a system keeps the price of title insurance high enough so the least efficient company stays in business. That shouldn't be the role of government.

Currently, the law requires people to get title insurance in the county in which they reside. Think New Mexico proposes allowing them to get insurance anywhere in New Mexico.

If competition were allowed, prices could drop by nearly a third in New Mexico, Think New Mexico reports. That could save New Mexico homebuyers at least \$40 million a year. That's a big chunk of change.

But Think New Mexico insists that ending the monopoly pricing scheme is just the first step. Even with the free market, there is a flaw when it comes to title insurance. Most homebuyers, myself definitely included, know little about it. We sign so many things when closing on a home purchase that it's hard to give any real attention to title insurance.

Indeed, title insurance companies view their real clients as real estate agents, bankers, mortgage brokers and homebuilders, which are known to title insurers as "producers." After all, we consumers will likely follow producers' recommendations. That's why title insurance companies have been known to pick up the tab for producers' office parties, open houses and ski trips, according to Think New Mexico. Both federal and state law have tried to eliminate these perks. In fact, referral fees are strictly prohibited.

But Think New Mexico states that title insurance companies nationwide have found loopholes. Think New Mexico's solution is to convince lenders, rather than homebuyers, to purchase title insurance policies. After all, it is the lender's investment that is being protected by the policy. The lenders take part in thousands of transactions and are much more sophisticated about title insurance. If they're buying the policies, that would further decrease title insurance costs.

In 1971, Sen. William Proxmire, D-Wis., pushed legislation that would have required lenders to purchase the policies. But it was killed by the title

insurance industry — a powerful political force.

New Mexico has another ridiculous law when it comes to title insurance. In the late 1990s, our Legislature passed a law that bars homebuyers from suing title insurers for failing to perform a reasonable search of public records for title problems. That's the very service title insurance firms are paid to do.

Title insurers have argued that the law prevents homebuyers from "double dipping" by getting a payout under the insurance policy and then also recovering damages, according to Think New Mexico. But actual experience with the law has shown that homebuyers haven't been able to get a "first dip" in certain instances, the report states.

Legislators have tried to repeal the law, but the title insurance industry has blocked their attempts. Again, it's a powerful lobby.

One thing I like about Think New Mexico is that it does effective comparisons with other states. That's essential. Often, the powerful folks will make assertions here that are clearly contradicted elsewhere. There really is no good reason why we pay more for title insurance here.

When people were screaming about their heating bills in 2006, Las Vegas Mayor Henry Sanchez told voters that our natural gas rates were at the whim of the national market, and he blamed a distant out-of-state company that owns much of the pipeline feeding Las Vegas — a perfect bogeyman in a re-election campaign.

But when comparisons were done with other towns, the city administration's arguments crumbled. It turns out that we were paying much higher rates, and much of the blame rested with the city government itself.

If the comparisons weren't done, the mayor may be getting ready to dust off his old speeches about that evil company just in time for his re-election.

The same goes for title insurance. Think New Mexico's diligent research will blunt many assertions to the contrary when it promotes its proposed reforms. I urge our local legislative delegation — Reps. Richard Vigil and Thomas Garcia and Sens. Pete Campos and Phil Griego — to take the lead on bringing price competition to title insurance.

Yes, they would be taking on a powerful lobby. But we're sending them to Santa Fe to represent the people.

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