Panel examines title insurance business; schemes said to be driving up prices

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WASHINGTON(AP) **--** Title insurance costs people $17 billion each year, an expensive and often confusing home-buying requirement. The business came under congressional scrutiny Wednesday over allegations of kickbacks and other abuses.

Premiums can account for as much as one-third of the closing costs in purchasing a home. The more expensive the property, the higher the premium. The average title policy in California, for example, runs about $1,400.

Given the growth and importance of the housing market, lawmakers are concerned about the cost of title insurance and competition in the industry,

Kickback schemes “have inflated the price of title insurance for thousands of people” said Rep. Michael Oxley, chairman of the House Financial Services Committee, at a subcommittee hearing.

When financing a home mortgage, lenders require title insurance to protect homeowners and lenders against potential ownership claims to the property or liens. The insurance is sold mainly through title insurance agents. Most people do not shop around and simply use the title insurance agent recommended by the mortgage lender, real estate agent or lawyer.

Title insurance companies often are fully or partly owned by real estate lenders and brokers. Such an arrangement, regulators say, can create conflicts of interest.

A report by congressional auditors cites recent federal and state inquiries that have identified “potentially illegal’ activities — mainly involving alleged kickbacks.

These investigations have uncovered instances of real estate agents, mortgage lenders and brokers receiving referral fees in return for steering business to title insurance companies or agents, in apparent violation of federal and state laws.

Investigators have found “shell” title agencies created by title agents and mortgage brokers that have no physical location or employees and did not perform any title insurance business. They allegedly existed only to conceal referral payments.

Last year, the Housing and Urban Development Department settled 10 investigations of real estate and title insurance agencies in Georgia, Michigan, Oklahoma and Tennessee. The agencies paid a total $1.5 million to resolve the cases.

About a dozen states have been conducting investigations. Regulators in Arizona, California, Colorado, Michigan and New York recently have taken enforcement actions against alleged kickback schemes.

Last July, three of California's largest title insurers -- LandAmerica Financial Corp., First American Title Insurance Co. and Fidelity National Financial Inc. -- agreed to halt what officials called a kickback scheme that cost home-buyers $25.4 million. Those insurers also agreed to pay more than $38 million in refunds and fines. In February 2005, Colorado officials signed a $24 million settlement with First American in a similar case.

Rande Yeager, representing the title insurance industry as president of the American Land Title Association, said there is "intense competition" in the business.

"Indeed, it is because of this intense competition that some companies have engaged in kickback and referral-fee arrangements in order to increase or maintain their market shares," Yeager said.

Consumers have "for too long been burdened with excessive title insurance charges," Robert Hunter, director of insurance for Consumer Federation of America, said at the hearing.

One solution would mean changing the system to require that lenders pay for title insurance, said Hunter, a former Texas insurance commissioner.