

March 27, 2015

Chester A. McPherson
Acting Commissioner
D.C. Department of Insurance, Securities and Banking
810 First Street, NE
Suite 701
Washington, DC 20002

Dear Acting Commissioner McPherson:

As you know, the American Land Title Association (ALTA) has worked closely with the DC Land Title Association (DCLTA) and DC Department of Insurance, Securities and Banking (DISB) to facilitate DISB's review of title insurance rates in the District. We appreciate the efforts of your staff as we work together to help DISB make sure that title insurance rates are not excessive, inadequate or unfairly discriminatory for District consumers.

ALTA and DCLTA members continue to have serious concerns about the scope and methodology of the title insurance rate review. In addition, we are concerned that DISB's contractor for this title insurance rate review, who has additional contractual obligations to serve as a consumer advocate, and will have difficulty in objectively considering potential harm to the DC real estate market, title producers and insurers in the District. We request a meeting with you to consider our concerns and discuss possible changes to the current course of action that DISB can take to ensure its review of title insurance rates achieves the intended goals. It is in all of our interests that DISB's rate review concludes with certainty in the results but also in the process undertaken to arrive at those results.

In November 2014, title insurers received DISB's "Revised Follow-Up Questions to Title Insurers Based Upon Initial Responses." In January 2015, a very limited number of title producers received a draft "Examination Warrant and the draft Request for Information" questions. Both sets of documents resulted in numerous questions from members of ALTA and DCLTA regarding the appropriateness and purpose of many of the questions set forth in the documents. These questions, in the industry's opinion, remain unanswered.

Further, ALTA and DCLTA believe the scope of the proposed examination is overbroad and proposes to collect information about title insurance rates outside of the District. Rate reviews and comparisons across jurisdictional lines do not consider other states' laws, administrative guidance, underwriting practices, expenses, claims rates, and recording protocol. These factors may skew the results and draw conclusions that do not accurately reflect the District's title insurance market. In addition, requests for this type of information may be beyond the scope of DISB's authority.

ALTA members continue to have strong concerns about the objectivity of DISB's third party examiner, Birny Birnbaum. As the Executive Director of the consumer advocacy group Center for Economic Justice, and funded consumer representative at NAIC meetings, Mr. Birnbaum is paid to be a stakeholder in the insurance industry generally and has actively represented consumer interests in title insurance issues. These additional contractual obligations to serve as a consumer advocate create a real or perceived conflict

of interest. This creates uncertainty about the rate review's compliance with D.C. Code 31-1405(a) and whether the examiner's findings may be challenged.

We appreciate the efforts that DISB has made to facilitate the rate review and concurrent market conduct examination, including efforts to assure confidentiality of the information collected. However, ALTA and DCLTA members continue to have concerns with the scope of the examination and that the real or perceived conflicts of interest have not yet been adequately addressed by DISB. In addition, we have no clear sense of the total cost of the rate review and concurrent market conduct examination, and which parties will have to pay these costs. These concerns could be addressed by appropriately focusing the scope of the review and considering alternative contract examiners.

Finally, we believe it is important for DISB to know, with specificity, the unique risk characteristics that make insuring title to land in the District more challenging than other jurisdictions as well as the steps our members take to protect policyholders against these risks. DCLTA has been preparing a presentation to DISB to outline these unique risks for policyholders in the District. In addition to delivering this presentation to Mr. Barlow, we would like to invite you to attend the presentation. As this is the District's first endeavor to regulate title insurance, we feel that it is important to foster the development of institutional knowledge within DISB regarding the unique risks that making insuring title to land in the District more challenging than in other jurisdictions. A presentation only to DISB's contractor would create a knowledge gap at DISB that would have to be bridged again in future rate reviews.

ALTA and DCLTA appreciate your consideration of these concerns and would welcome an opportunity to meet with you to continue to discuss how we can continue to work together to facilitate DISB's need to ensure that title insurance rates are not excessive, inadequate or unfairly discriminatory for District consumers.

Sincerely,

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