

Deregulating Title Insurance

Bill Analysis: House Bill 2384

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Rate regulation in almost all markets has been discredited by several decades of deregulation in the United States and Texas. The U.S. Congress notably deregulated airlines and trucking in the 1970s, leading to billions of dollars of savings to consumers.

Within the last two decades, Texas has eliminated rate regulation for the majority of the Texas electric and telecommunications markets. Again, savings for consumers have been tremendous—electric customers can buy electricity today at two-thirds of the price they could at regulated rates in 2001.

On the other hand, we've seen through the Texas Windstorm Insurance Association (TWIA) the problems that can arise when rates are tightly regulated.

Texas is one of only three states that promulgates rates for title insurance. While this has not led to the problems we've seen at TWIA, it has led to high rates for Texas consumers. According to a 2011 LBJ School study, Texas has the highest title insurance rates in the nation, running about \$2,445 for a \$400,000 home. The cost for a similar comprehensive policy in California, Nevada, and Pennsylvania is \$1,469, \$1,502, and \$2,359, respectively.

The other two states besides Texas that promulgate rates, Florida and New Mexico, also have high rates: \$2,075 in Florida and \$2,257 in New Mexico.

The reasons for the generally higher rates in the states that promulgate are easy to discern. With promulgated rates, industry participants have little incentive to cut costs. Price competition is actually illegal under the regulatory scheme in Texas. So there is no back and forth voluntary process between consumers and the industry that sets prices and establishes what costs are efficient. Instead, prices are set by a lengthy and expensive adversarial process where consumers must be represented by proxies, rather than represent themselves.

States with less regulation on average offer much lower rates. The LBJ study shows that the rates in the seven states that don't regulate rates at all average around \$1,200 for a \$400,000 home. The rest of the states that regulate rates through some other mechanism—use and file, file and use, or prior approval—average between \$1,200 and \$1,600 for that same priced home.

The Foundation supports the change in HB 2384 to move Texas away from promulgated rates and toward a file and use system. We also support the provision prohibiting the Texas Department of Insurance from regulating the division of premium between the title insurance companies and title insurance agents and the provision that states that title insurance companies are not required to file the premium rates for reinsurance between title insurance companies. ★