



OFFICE OF THE STATE AUDITOR



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CONSUMER PROTECTIONS FOR TITLE INSURANCE NEED STRENGTHENING

DENVER—the Office of the State Auditor (OSA) has released a performance audit of title insurance at the Division of Insurance (Division) and found that the review process of title insurance rates is not designed to determine whether rates are excessive, inadequate, and unfairly discriminatory. Furthermore, the Division does not make the information that it does possess readily available, which keeps most consumers who purchase title insurance infrequently, in the dark on what it covers, what it should cost, and what product options are available.

Title insurance protects lenders and owners against defects in a property title and is typically purchased during a real estate transaction or when refinancing a mortgage. Statute prohibits insurance rates from being excessive, inadequate, or unfairly discriminatory and generally charges the Division with supervising the business of insurance. Title insurers are required by statute to file with the Division any new or amended rates and give their justification for those rates. Title insurance is regulated in Colorado through a method of regulation known generally as “file and use,” meaning that insurers file their rates with the Division, but the Division does not pre-approve rates before insurers offer them in the market.

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When auditors reviewed 15 filings submitted by companies in Calendar Year 2017, of which the Division closed 11 as filed, these 11 filings introduced or changed 29 unique rates. However, auditors found that the Division did not ensure that it had received needed expense, loss, and profit information in order to determine whether these new rates met standards. Additionally, the Division had no framework in place to determine constituted “profit” and what the threshold for “unreasonably high” might be and was therefore inconsistent in its determinations.

Additionally, the Division could not provide annual conflict-of-interest forms for seven of eight employees involved in title insurance regulation in Calendar Years 2015 through 2017 and lacked adequate policies and procedures for identifying, assessing, and mitigating potential conflicts of interest.

The audit makes 4 recommendations.

The full report is available @ www.colorado.gov/auditor.

Under the direction of the state auditor, the OSA is the state’s nonpartisan, independent external auditor with broad authority to audit state agencies, departments, institutions of higher education, and the Judicial and Legislative Branches. The OSA’s professional staff serve the people of Colorado by addressing relevant public issues through high-quality, objective audits and reviews that promote accountability and positive change in government. Performance audits address whether programs operate in compliance with laws and regulations and in a manner that accomplishes intended program goals. Financial audits include annual audits of the state’s basic financial statements and federal grants on a statewide level. IT audits review procedures and technology to ensure the confidentiality, integrity and availability of the state’s critical computer systems and taxpayer data. The OSA also tracks about 4,000 Colorado local governments for compliance with the Local Government Audit Law.