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amounts and are disparpro-portionate to market risk;
2. Profitability of title insurance is disproportionately higher than other lines of insurance (e.g., property-casualty losses = 79% of premiums; title = 5%);
3. High profits of title insurance companies further indicate excessive premium charges;
4. The profitability of captive title reinsurance arrangements again demonstrates the excessive profitability of title insurance (the GAO noted HUD’s view that there is “almost never” a bona fide captive reinsurance arrangement for residential policies);
5. States often do not consider actual operating costs and other expenses before approving premium rates;
6. Non-risk premium title agent fees may not be commensurate with the level of additional services provided by agents;
7. Risk premiums vary greatly among the states;
8. Some but not all states regulate non-risk premium agent charges; and
9. In some states, title agents charge fees in addition to state-approved risk premiums designed to be all-inclusive, resulting in agent “double dipping.”
C. As to title insurance sales and marketing:
1. Title agents market mostly to real estate agents and mortgage companies, not to consumers; and
2. Although title agent duties are greater than those typical of other insurance agents, due to improved technologies and other efficiencies, the time required to perform title agent duties is becoming shorter (the implication being agents are paid excessively for little work);
3. The extent of title agent liability for losses varies by state, but is generally very low; and
4. The cost of entry for title agents is very low (i.e., few or low, if any, capitalization, education, and licensing requirements).
D. As to regulatory supervision and enforcement:
1. State insurance regulators have been lax in supervising/auditing title agent activities and finances;
2. State regulators fail to coordinate efforts within their states (e.g., banking and insurance agencies);
3. State insurance regulators are lax in enforcing referral source restrictions in states with such restrictions;
4. State regulators may be reluctant to take enforcement actions due to insufficient resources and concern that acquiescence to such practices to date may have implied their approval of such practices;
5. Such limited state oversight of agents provides greater opportunity for illegal marketing and sales practices;
6. Individual states’ laws can be inconsistent in matters of referral compensation;
7. Despite recent hiring, HUD RESPA staffing is still insufficient;
8. HUD and state-imposed penalties and settlement payments pale in comparison to profits, and are thus insufficient incentive to comply with Section 8 and state anti-referral fee laws;
9. HUD and the states do not coordinate efforts;
10. HUD is not responsive to state government referrals and inquiries;
11. Federal enforcement is limited by the states having primary insurance supervisory authority pursuant to federal law;
12. Neither HUD nor state regulators collect sufficient data to effectively analyze and approve reasonable title premiums and fees;
13. HUD has been unresponsive to state officials seeking RESPA advice; and
14. RESPA Section 8 restrictions are unclear, and meaningful advice from HUD has been rarely provided to those inquiring about how best to comply.
E. As to consumer education:
1. Consumers do not understand how to, or even know that they may, shop for title insurance;
2. Consumers are uneducated about, and therefore not receiving, refinace, first-time home buyer, senior citizen, and other available discounts;
3. HUD (RESPA) booklet contains minimal and insufficient title insurance information;
4. The Booklet and GFE are provided too late to have title insurance educational value to consumers; and
5. HUD recognized this problem as far back as 1998.
Specific Recommendations
The GAO then proffered the following specific recommendations.
To HUD:
1. Expand the HUD (RESPA) information booklet to include more information on title insurance discounts and affiliated businesses; and
2. Give the booklet earlier;
3. Give the booklet in all cases where title insurance may be required, and not just in purchase transactions;
4. Coordinate RESPA enforcement with state regulators;
5. Evaluate costs and benefits of title ABAs; and
6. Clarify RESPA Section 8 regulations.
To state insurance regulators and the National Association of Insurance Commissioners:
1. Revise and make title agent licensing more stringent; and
2. Conduct greater oversight of title agents (e.g., audit their financial records);
3. Make pricing differences better known to the general public; and
4. Increase interagency cooperation.
To Congress:
1. Add civil penalties to RESPA Section 8 to improve HUD’s enforcement abilities; and
2. Re-examine RESPA for other potential amendments.
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GAO Guns For Title Insurers, Agents, And Their Regulators; Affiliated Businesses Come In For Special Criticism

The GAO found that:
A. As to ABAs:
1. ABAs have proliferated: approximately 26% of all title closing costs in 2005 were paid to affiliated businesses, up from 22% in 2003; and
2. ABAs are increasingly complex and too difficult for regulators to pursue and understand;
3. ABAs may reduce competition; and
4. ABAs will surely be subject to heightened scrutiny by regulators and plaintiffs’ lawyers.

There is minimal competition in the industry;
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1. There is an unclear correlation between title insurance risk and cost/premiums;
2. Title agents receive little state regulatory attention; and
3. There is minimal competition in the industry;
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