

Direct to Borrowers: Title Insurance for Sale Online

Jack Guttentag 10.11.08

In the midst of the worst financial crisis since the 1930s, one that originated in the home mortgage market, it is nice to be able to report some good news. EnTitle Direct Insurance is now selling title insurance directly to borrowers online, with premiums that it claims undercut existing insurers by about 35 percent.

EDI also offers borrowers a free way to avoid what to many is the worst part of the mortgage experience – “pile-of-paper shock.” That’s the shock that results when borrowers receive a stack of documents at closing, most of which they have not seen before, and which they are expected to sign while the other participants tap their fingers impatiently. EDI provides a Web-based tool it calls Control Panel to allow borrowers to control the flow of documents and information from start to closing.

I was a paid consultant to EDI in 2007 but not since, and I have no financial interest in the company.

Title insurance premiums have always been substantially higher than those that would exist in a well-functioning competitive market, largely because this insurance is marketed to referral agents rather than to the borrowers who paid the premiums. The cost of marketing to referral agents is high.

On home purchases, the real estate agent is usually the referral agent, while on refinances, it is usually the lender.

Referral agents usually are more interested in feathering their own nests than in negotiating lower prices for consumers. While direct payment of referral fees is illegal, there are many indirect ways to pay that are legal, including making the referral agent a part owner of the title agency. EDI will also have marketing costs, but it is betting that using the Internet will cut those substantially.

Title insurance is regulated by the states, and all but a few require that premium charges be posted with the state. In some states, individual insurers post their premiums, while in others it may be done by an individual company or by a group of cooperating insurers. In

Texas, New Mexico and Florida, premiums are set for all companies by the state.

EDI plans to offer insurance in 33 states by the end of this year, and in most of the remaining states next year. It may find a way to discount prices in Florida but will not be able to do so in Texas and New Mexico until those states change their laws. Iowa is also out of bounds because a state agency there offers title insurance at very low premiums.

The Control Panel is available free to all borrowers, whether they buy policies from EDI or not. It's on the company's Web site, <http://www.entitledirect.com>. The core is an online folder that contains all information relevant to the transaction and that is updated as the loan moves toward closing. EDI assigns a closing specialist to each borrower to monitor the process, and will alert the borrower to any tasks that need to be completed before the closing. EDI provides a list of common tasks, and borrowers can add their own.

The company also provides sample documents for early review, which will be replaced by the actual forms as they become available. One of these is the new HUD-1 closing document proposed by the Department of Housing and Urban Development, which is shown side by side with the good-faith estimate of settlement costs that is provided to the borrower within three days of submitting a loan application. Through continuous updating of the HUD-1, borrowers will see any differences in the original estimates of settlement costs as they occur, as opposed to being blindsided by them at closing.

To my knowledge, the Control Panel is the first such tool. Whether it works depends in good part on whether the third parties involved in the process participate – real estate agents, loan providers and perhaps lawyers. Borrowers will give them access to their folders, but whether the third parties use the tool as the principal mode of communication with borrowers and whether they download documents to the folder in timely fashion and keep them up to date remains to be seen.

My surmise is that the degree of third-party participation will depend very much on how borrowers approach these people. If borrowers raise the issue of the Control Panel after selecting their real estate agent and loan provider, many will be reluctant to change their routine. They don't have to comply because they already have the customer. To ensure their participation, I would make it a written condition of doing business with them.

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