

Control the Closing, Control the Title Insurance

From the beginning of time, title insurance underwriters have done their best to ignore closings. They know they're happening. They take part in them in their owned offices. But they do their best to pretend they don't exist.

Rarely, very rarely, can a title company in the U.S. ignore closings altogether, but some have tried.

Take Chicago Title in Chicago in the late Sixties for example. Yes, that was 40 years ago but history is important. Chicago Title was the only title company in a city of three million, with a 100% market share. Lawyers Title had opened an office there a few years earlier but had suffered a \$1 million claim and quickly left town.

With no competition Chicago Title made the rules. One of its rules was "Title companies don't do closings. Chicago Title doesn't do closings. Lenders, do your own closings and tell us when you want your policy."

The city's banks and S&Ls repeatedly tried to get Chicago to change its mind and failed. Mortgage companies (a new animal in those years) came to town and pleaded with Chicago Title to handle their closings. They were refused.

Only when one of Chicago Title's young executives was loaned to a new office in New Jersey did anything change. He came back to Chicago dizzy with the razzle-dazzle of competition in South Jersey and pleaded with his superiors to start handling residential closings. They're a money-maker, he said.

He failed. The company was adamant. So this young executive left Chicago Title and set up shop a block away as Intercounty Title, an agency that welcomed residential closings. They didn't do them well but they did them. Within ten years Intercounty had overtaken Chicago Title in Cook County order-count-based title insurance market share. That's right, the nation's then-largest title insurer was overtaken in its home city by a startup.

Needless to say, Chicago Title soon set up a residential closing department.

Why do title insurers dislike closings? The main reason is liability. The wide open responsibility implicit in handling closings is at the root of their discomfort. Anything that goes wrong, they argue, will be hung on them, the deep-pocketed player at the table.

There's another reason. The city-to-city disparity in the roles and responsibilities of closing and escrow officers makes the major insurers extremely uneasy. Round-table system versus escrow system is just one of those disparities. There are dozens more. Every city in the nation has its own local customs and rules, often with the force of law. Getting one's arms around them all is like herding cats.

These are exactly the reasons this *Condell Private Letter* urges our major title insurers to get involved in closings and take charge of them. Closings are the great untapped frontier of the title insurance business. They should be considered products. They can be designed and packaged and marketed as products with strong standard features. They might even, heaven forbid, take the form of "insurance" products. Think about it. A title industry that possesses its own proprietary closing/settlement 'products' can take charge and make the entire realm of closings its own. It can rid itself of closing protection letters. It can design an escrow banking system its offices and agents can use. It can collect HUD-1 information in a national database of immense value.

Might something like this require title companies to sit down together and talk? Yes, it might. Might some consider such talk to be anti-trust or collusive behavior? Yes, some might think that. But what if the results are totally open and available to all title insurers without limitation? What if they are of enormous benefit to consumers and to commerce in general with no downside whatever? What if nothing that comes out of these talks in any way limits competition or sets prices? What about it then? ♣

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