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Congressman calls for title-insurance investigation

Michael Oxley of Ohio follows state regulators and class-action lawyers in going after title insurers.

By **Stephen Gandel**, MONEY Magazine staff writer

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Money

NEW YORK (MONEY) - Congressman Michael Oxley says something stinks in the title-insurance industry. The chairman of the Financial Services Committee is calling for an investigation into the companies that sell insurance to insure the legal transfer of ownership from sellers to buyers.



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In a letter sent to the Government Accountability Office, Oxley said title insurance has become an increased burden on many home buyers and owners refinancing their mortgages. He also wrote that he and other members of the Financial Services Committee are "concerned about recent investigations by state regulators revealing that title companies have made payments for referrals to developers, mortgage lenders and real estate agents in violation of the Real Estate Settlement Procedures Act."

The Government Accountability Office is a nonpartisan investigative arm of the Congress. Ohio congressman Oxley, a Republican, co-authored the Sarbanes-Oxley Act, which increased the public oversight of corporate accounting and was passed in 2002 in the wake of a series of financial scandals.

At its best, title insurance serves an important function. Say you buy a home and 10 years later someone turns up with a legitimate claim that they never sold the property. Title insurance protects you against that, and other undiscovered liens or claims, easements, and flawed deeds.

While lenders require title insurance, the companies that provide that service have increasingly come under attack by regulators, class-action lawyers and others. Recently articles in MONEY Magazine and on CNNMoney.com have revealed anti-competitive behavior and excessive fees in the title business as well as other areas of the real estate industry.

Legally, borrowers are free to buy from any title insurer they choose. But, practically, the insurer is likely to be chosen by the real-estate agent, mortgage broker or lender -- and those parties are marketed to heavily by title insurers.

To be sure many of the industry's marketing efforts are legal. The insurers pay for marketing costs, they provide free market analysis, and provide mailing lists and other services.

Others, however, are illegal: kickbacks, free vacations, free use of office space and equipment, and so forth.

Earlier this month, four title insurers agreed to refund \$27.5 million in fees to Michigan home buyers. The refund came as part of a settlement of a 2000 class-action suit that claimed the title companies systematically overcharged as many as 60,000 homeowners over a seven-year period. A number of states have open investigations into practices in title industry.

Economist Birny Birnbaum of the Center of Economic Justice in Texas, who recently completed a report of the title industry for the California Department of Insurance, says unhealthy affiliated business relationships between title insurers and lenders or realtors inflate the price of title insurance, which typically costs around \$1,000. He says most home buyers pay double what they should.

In a statement to CNNMoney.com, James R. Maher, ALTA's Executive Vice President said, "We have met with the GAO and are cooperating with them fully. Because of the complexity of our business, and the fact that rules and regulations vary by state, there has been a lot of confusion in the marketplace leading to misinformation and misunderstanding. We see this as an opportunity to help clear up the confusion." ■

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