



New York State Land Title Association, Inc.

Tradition, Excellence, Knowledge and Vision

**Title Insurance:  
Protecting Your Piece of the Planet**

November 13, 2006

Mr. Charles Duhigg  
The New York Times  
229 West 43<sup>rd</sup> Street  
New York, New York 10036

Thomas P. Tafuri  
PRESIDENT

Michael P. Miglino  
PRESIDENT-ELECT

Re: New York State Insurance Department Hearings November 3,  
2006

Lawrence B. Lipschitz  
TREASURER

Dear Mr. Duhigg,

Jacqueline P. Murphy  
CHAIR, TITLE INSURANCE SECTION

I am writing on behalf of the New York State Land Title Association, Inc. and its 400 members of title insurers and their agents. We have read your article published November 4, 2006, entitled New York Urged to Tighten Regulations on Title Insurance. It appears that you or a representative were at the New York State Insurance Department's Public Hearings held on November 3, 2006, when Hannah K. Flamenbaum, Assistant New York Attorney General urged, regulation of the title insurance industry. I would hope that you or your representative were present for the testimony of the 16 other speakers that followed and rebutted Ms. Flamenbaum's allegations. I question why you failed to provide your readers a balanced report of the subsequent testimony. It appears, from the text of your article that you were not present for the balance of the testimony or you did not wish to report to your readers an unbiased, balanced summary of the hearing held on November 3, 2006.

Barry C. Balonek  
VICE CHAIR, TITLE INSURANCE SECTION

Vincent J. Monte  
CHAIR, ABSTRACTERS AND  
TITLE INSURANCE AGENTS SECTION

Nancy C. Farrell  
VICE CHAIR, ABSTRACTERS AND  
TITLE INSURANCE AGENTS SECTION

Jonathan A. Richards  
IMMEDIATE PAST PRESIDENT

Please allow us to address two points that you reported Ms. Flamenbaum asserted:

Sharon Sabol  
EXECUTIVE VICE PRESIDENT

- (1) "3 cents of the average dollar paid for title insurance is ever returned to the policy holders in claims" and
- (2) "Insurance agents are supposed to represent the home buyer's interest".

Two Rector Street, Suite 901  
New York, NY 10006-1819

web site [www.NYSLTA.org](http://www.NYSLTA.org)  
e-mail [info@NYSLTA.org](mailto:info@NYSLTA.org)

phone 212 964-3701  
fax 212 964-7185

**With regards to the claims aspect of title insurance – title insurance, is not like other types of insurance, e.g., life, health, fire, liability, casualty or automobile. It does not insure against future risks of loss based on actuarial calculation of the possibility of a future loss occurring. Rather, the distinguishing and very valuable component of title insurance is the risk elimination aspect of our product.**

**Title insurance is a contract of indemnity and that indemnifies its insured against loss. The title insurer protects its insured against loss from defects existing prior to the issuance of the policy. This requires that the title insurer or its agent perform painstaking research of many complicated legal documents in the public records then it must also make a “legal” analysis of that research on questions of ownership and the rights or claims the property may be subject to all before it can issue a policy. To do this insurers and agents employ lawyers and highly trained paralegal personnel.**

**If the ratio of claims to premiums is low, that’s exactly what the title industry strives for and what our customers (purchasers and lenders) expect. An insured may not know if they are going to suffer a property loss in the future but they certainly don’t want a title loss from the past. While our claims experience is low, the figure Ms. Flamenbaum states is not accurate. Claims losses are running well in excess of that number and are exceeding double that number. Why claims have increased is another topic, but one can just look at identity theft and fraud as a new and growing category of loss for title insurers on top of records errors. In addition, the insurer defends its insured in court if necessary against adverse claims. All this for the one time premium and for as long as the insured has an interest in the property.**

**With regards to the issue of who the title insurance agent should represent – the answer is simple, the title insurance agent just like all insurance agents represents the insurer whose policies it sells. This is the expectation of both the Company and the agent when they entered into their relationship. In New York, almost all home buyers are represented by attorneys and it is the attorney who most frequently orders the title insurance policy for the purchaser as part of the attorney’s representation of the client.**

**I hope your readers will be permitted to understand the nature of title insurance industry from hearing all sides the issues, not from a narrow/misinterpreted view.**

**Very truly yours,**



**Thomas P. Tafuri  
NYSLTA President**

New York Times

# Business

Business All NYT

Search

## New York Urged to Tighten Regulations on Title Insurance

By CHARLES DUHIGG  
 Published: November 4, 2006

An assistant New York attorney general urged the state to step up regulation of the title insurance industry yesterday, arguing that insurance agents were receiving what amount to illegal kickbacks and that New York home buyers were overpaying.

The attorney, Hannah K. Flamenbaum told insurance executives, agents and state regulators at a New York Insurance Department hearing that New Yorkers pay some of the nation's highest title insurance rates, but that insurance companies and agents provide little in return.

In many cases, only 3 cents of the average dollar paid for title insurance is ever returned to policy holders in claims, Ms. Flamenbaum said, while an estimated 75 cents are kept by agents who serve as intermediaries between home buyers and underwriters.

"Insurance agents are supposed to represent the home buyer's interests," Ms. Flamenbaum said. "But when insurance companies let them keep 75 percent of the premium, they are essentially paying agents a referral fee that is in violation of New York's anti-kickback law."

Insurance commissioners said they would not change title insurance rates as a result of yesterday's hearing.

"We have no doubt there are bad agents, but we cannot be too broad in characterizing an important, vital industry that has many honorable and reputable agents," Howard Mills, the New York insurance superintendent, said in a statement. "The acts of some should not be a reflection on the industry as a whole."

Title insurance, which assures that a property is free from liens, debts and claims by other owners, is usually required for home buyers to get a mortgage. Title insurers collected premiums worth an estimated \$1.2 billion last year in New York state, where the premium on a \$250,000 home would cost about \$1,800.

Earlier this year, the New York attorney general, [Eliot Spitzer](#), said a two-year investigation of the nation's largest title insurance companies had revealed illegal payments to agents, favored customers and real estate developers.

[More Articles in Business »](#)



Internet Explorer cannot display this webpage.

Most likely causes:

nytimes.com/theater

What must-see shows are opening soon?

What must-see shows are opening soon?

Also in Theater:

- Dylan McDermott in Eve Ensler's "The Treatment"
- "The Coast of Utopia" trilogy's star-studded cast
- What else can you expect from the new season?

### MOST POPULAR

E-MAILED BLOGGED SEARCHED

1. [Editorial: The Difference Two Years Made](#)
  2. [Guatemala System Is Scrutinized as Americans Rush In to Adopt](#)
  3. [In the Holy Caves of India](#)
  4. [Thomas L. Friedman: Insulting Our Troops, and Our Intelligence](#)
  5. [The Package May Say Healthy, but This Grocer Beggars to Differ](#)
  6. [Cyber-Neologoliferation](#)
  7. [A Dream Not Denied: Students on the Spectrum](#)
  8. [Germs Never Sleep](#)
  9. [Frank Rich: Throw the Truthiness Bums Out](#)
  10. [Music: A Pianist Harmonizes With Wolves](#)
- [Go to Complete List »](#)

[Fidelity National Financial](#) of Florida, and the [First American Corporation](#) of California each paid a \$2 million fine and agreed to a temporary 15 percent reduction on policies for homes worth \$1 million or less. The two companies, along with the [LandAmerica Financial Group](#) of Virginia, paid \$37.8 million in 2005 to settle kickback claims raised by California regulators.

[More Articles in Business »](#)

[Need to know more? 50% off home delivery of The Times.](#)



Internet Explorer cannot display the webpage

Most likely causes:

- You are not connected to the Internet.
- The website is encountering problems.
- There might be a typing error in the address.

What you can try:

#### Related Articles

- [Fire Patrol Is Ordered To Shut Down Next Month](#) (September 18, 2006)
- [Fraud Inquiry Into Insurer of Capsized Boat](#) (February 24, 2006)
- [Plan to Overhaul Workers' Compensation Puts Focus on Cap Issues](#) (December 19, 2005)
- [New York Sues A.I.G. and 2 Ex-Executives](#) (May 27, 2005)

#### Related Searches

[New York State](#)  
[Insurance](#)  
[Attorneys General](#)  
[Law and Legislation](#)