



What the Title Industry and Indiana Jones Have in Common

**DEREK MATTHEWS
FIRST AMERICAN TITLE**



What to Watch Out For



- **Big Changes in Premium Rate Schedules**
- **Closing Disclosure and 3 Day Waiting Periods**
- **Best Practices Coming to Your Office**
- **CPL Fees?**

New Premium Rules in WA



- **2007-2008 GAO and OIC Reports**
 - Biggest cost is search and remediation, not claims
 - Regulators lack data on what search/remediation costs
 - Can't determine if rates are fair

New Premium Rules in WA



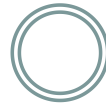
- **2009 OIC draft Rules (finalized May 2014)**
 - Agents and direct offices must report **title related** expenses to a statistical data agent
 - Data agent will compile data to see what it costs to do title business in each area of the state
 - OIC will review premium rates based on cost of doing business
 - New rates must be filed by 3/1/16 for 7/1/16 use
 - Creates a blind auction w/o realistic option to refile

New Premium Rules in WA

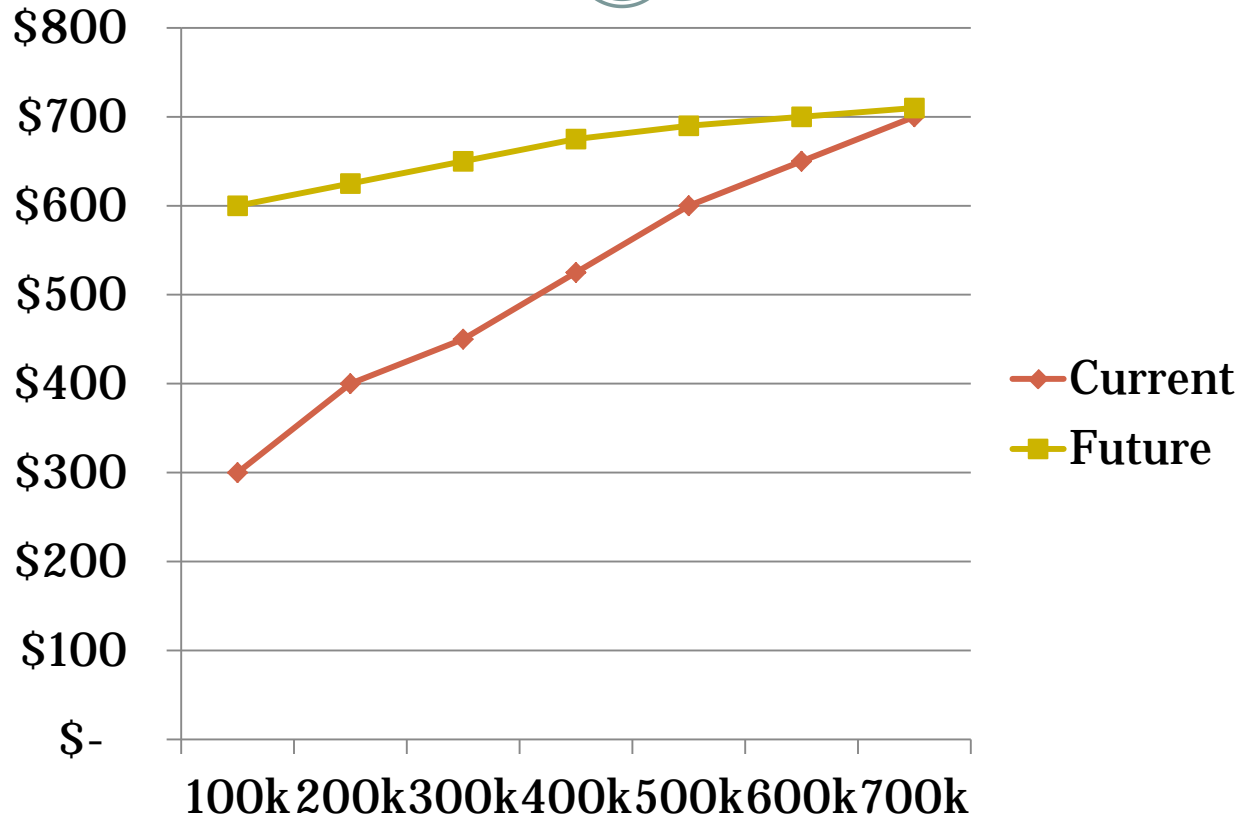


- **Changes in How Rates can be Calculated**
 - Rate Standard: Rates can't be excessive, inadequate or unfairly discriminatory
 - Unfairly discriminatory – OIC's new rules
 - ✦ No negotiation of premium
 - ✦ No bidding
 - ✦ No rates based on assessment of the risk
 - ✦ Discounts will be VERY hard to justify and must apply to all like customers
 - ✦ Higher liability policies can't subsidize lower liability policies

New Premium Rules in WA



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POLICY LIABILITY

Closing Disclosure Rule



- **Quick Summary**

- Dodd-Frank required CFPB to combine and improve disclosures
- HUD-1 and Final TIL replaced by Closing Disclosure
- Transactions where loan application received on or after 8/1/15
- Slightly different forms for different types of transactions
- CD prepared/delivered by either lender or settlement agent
 - ✦ Lender has all the liability for errors in content or in delivery
 - ✦ Penalties against the lender are severe
 - ✦ What will be the process? Will it vary by lender?
- 3-business day waiting period between customer's receipt of CD and "consummation" (borrower being obligated on the loan)

Closing Disclosure Rule



- **Changes Between Draft and Final Rules**
 - Draft rule
 - ✦ New CD and a retrigger of the 3-day requirement for any changes of more than \$100
 - Final Rule
 - ✦ Use the best information available when preparing the CD
 - ✦ New CD and redisclosure requirement only triggered if
 - Change in APR of 1/8% for most loans and 1/4% for loans with irregular payments/periods
 - Prepayment penalty added
 - Change in loan product
 - Negative amortization
 - Interest only
 - Step payment
 - Balloon payment
 - Seasonal payment
 - Still uncertainty over how the CD will get prepared and delivered

ALTA Best Practices



- **Why**

- Lenders have to comply with a very long list of regulations relating to their business practices and protection of their customer's non-public personal information (“NPI”)
- If lenders use a 3rd party vendor to assist them, they have to make sure the 3rd party vendor complies with the same regulations
- Liability for failing to assure their 3rd party vendor's compliance are much higher with the CFPB as their regulator
- To avoid liability, lenders must make sure they work with title and escrow companies that are exceptionally professional and adhere to practices the lenders are expected to adhere to
- ALTA stepped in to avoid each lender setting their own standard

ALTA Best Practices



- **What**
 - Licensing (companies and individuals/ALTA forms)
 - Escrow accounting
 - ✦ 3-way reconciliation at least monthly
 - ✦ Utilize positive pay
 - ✦ Utilize ACH blocks and international wire blocks
 - Information Security (Non-Public Personal Information)
 - ✦ Background checks for employees handling NPI
 - ✦ Secure building
 - ✦ Clean desk
 - ✦ Secure email
 - ✦ Network security
 - Insurance coverage
 - Recording practices and policy delivery
 - Pricing accuracy
 - Customer complaints

Where Are We Now?



- **Companies implementing best practices**
- **Some certification companies popping up**
- **Lender's haven't publicly embraced (yet)**

CPL Fes



- **CPL Fee Legislation**

- Pro: insurers are insuring agent's escrow activity and should be compensated
- Con: creates unfair competition if insurer's owned offices don't have to charge the fee while independent agents do



**Thank
You!**