



COLORADO

**Department of
Regulatory Agencies**

Division of Insurance

Annual Report of the Commissioner of Insurance

To

The Colorado General Assembly

On

Title Insurance

Enforcement Actions, Market Trends, and Consumer Complaints

2022



COLORADO

**Department of
Regulatory Agencies**

Division of Insurance

Michael Conway
Commissioner of Insurance

January 13, 2023

Dear Committee Members,

I am pleased to submit the 2022 Annual Report of the Commissioner of Insurance on Title Insurance pursuant to § 10-3-207(1)(f)(IV), C.R.S. This year's report provides data on the number of enforcement actions taken and market trends associated with title insurance for calendar year 2022. Also included, where appropriate, are comparisons of prior years.

Our mission is consumer protection. We appreciate the opportunity to report how we respond to consumers' needs and on the activities of our title industry regulatory team. If you have any questions, please contact me at the Division.

Sincerely,

Michael Conway
Commissioner of Insurance



Title Insurance Enforcement Actions, Market Trends and Consumer Complaints

2022

Table of Contents

| | |
|---|----|
| Executive Summary..... | 3 |
| Introduction and Statutory Authority | 4 |
| Market Trends Associated with Title Insurance | 5 |
| Enforcement Actions | 10 |
| Consumer Complaints and Compliance | 12 |
| Compliance and Consumer Activities (Other) | 13 |



Executive Summary

This report to the Colorado General Assembly fulfills the requirements of § 10-3-207(1)(f)(IV), C.R.S., for an annual statistical report of the number of enforcement actions taken, market trends associated with title insurance and real estate transactions in the Colorado title insurance industry.

In 2022:

- Division staff participated in industry meetings in an effort to educate the title industry and general real estate marketplace on rules and requirements;
- The title insurance market in Colorado experienced stabilization;
- There were 27 title agencies that allowed their licenses to lapse or cancelled their licenses in Colorado during 2022. 421 title insurance agencies currently hold insurance producer licenses;
- The Division resolved 62 title-related contacts from both consumers and title industry professionals. Contacts included answering questions, researching specific statutes or regulations, and handling complaints that did not necessarily result in posted enforcement actions; and
- The Title Insurance Commission (TIC) conducted four quarterly meetings during 2022 and discussed a variety of important title insurance topics.



Introduction and Statutory Authority

Consumer Protection is the mission of the Colorado Department of Regulatory Agencies and the Division of Insurance.

Section 10-3-207(1)(f)(IV), C.R.S. states:

Commencing January 1, 2009, the division shall provide annual reports to the joint budget committee, the senate business, labor, and technology committee, and the house business affairs and labor committee, or any such successor committees, and shall post on the division's web site a statistical report of the number of enforcement actions taken, market trends associated with title insurance and real estate transactions and consumer complaints supported by the fee in subparagraph (I) of this paragraph (f).

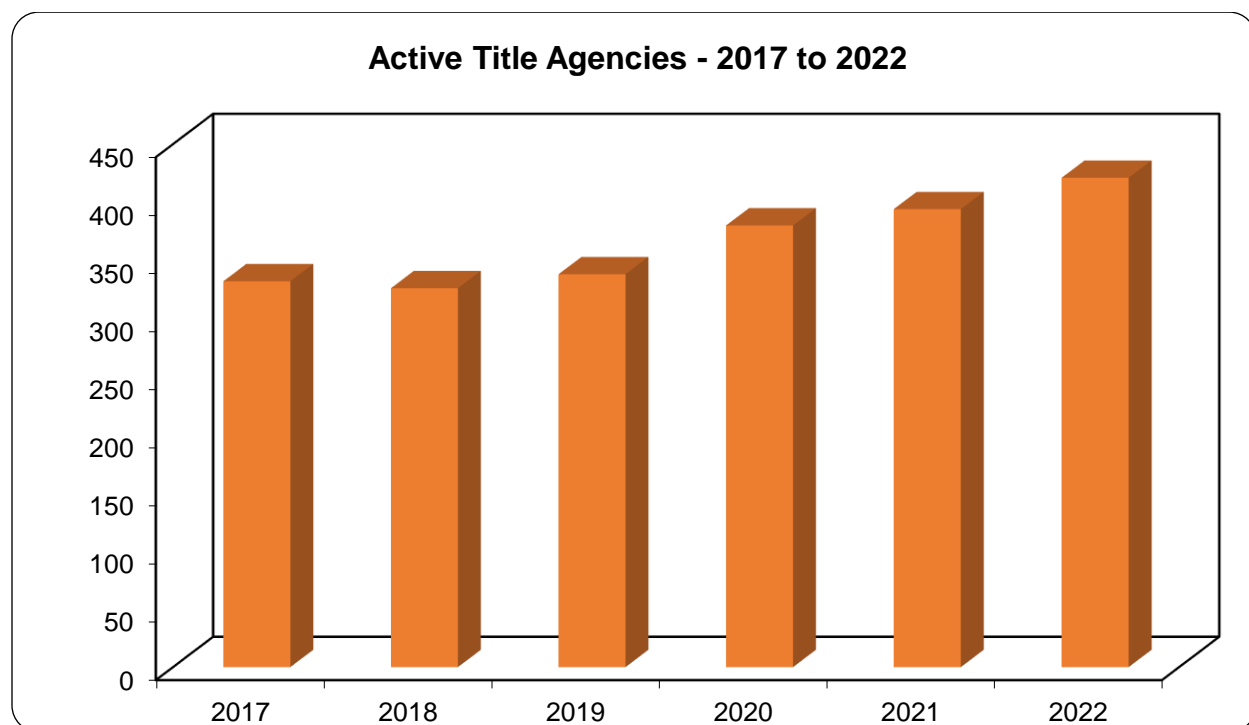
This report is prepared under the above authority and provisions. It provides a statistical report of the enforcement and regulatory actions, market trend tracking, compliance and consumer contacts, and miscellaneous activities of the Division in the regulation of title insurance entities in Colorado.



Market Trends Associated with Title Insurance

Market Dynamics

Today, 421 title insurance agencies hold active Colorado insurance producer licenses; in 2017, there were 332 active title agencies. The data shows steady growth supported by a stabilized market during the last five years. The number of licensed title agencies remained steady with 326 in 2018. There was a slight increase in 2019 with 338 licensed agencies and an increase in 2020 with 380 licensed agencies. In 2021 there were 394 licensed title agencies and 27 agencies became newly-licensed in 2022.

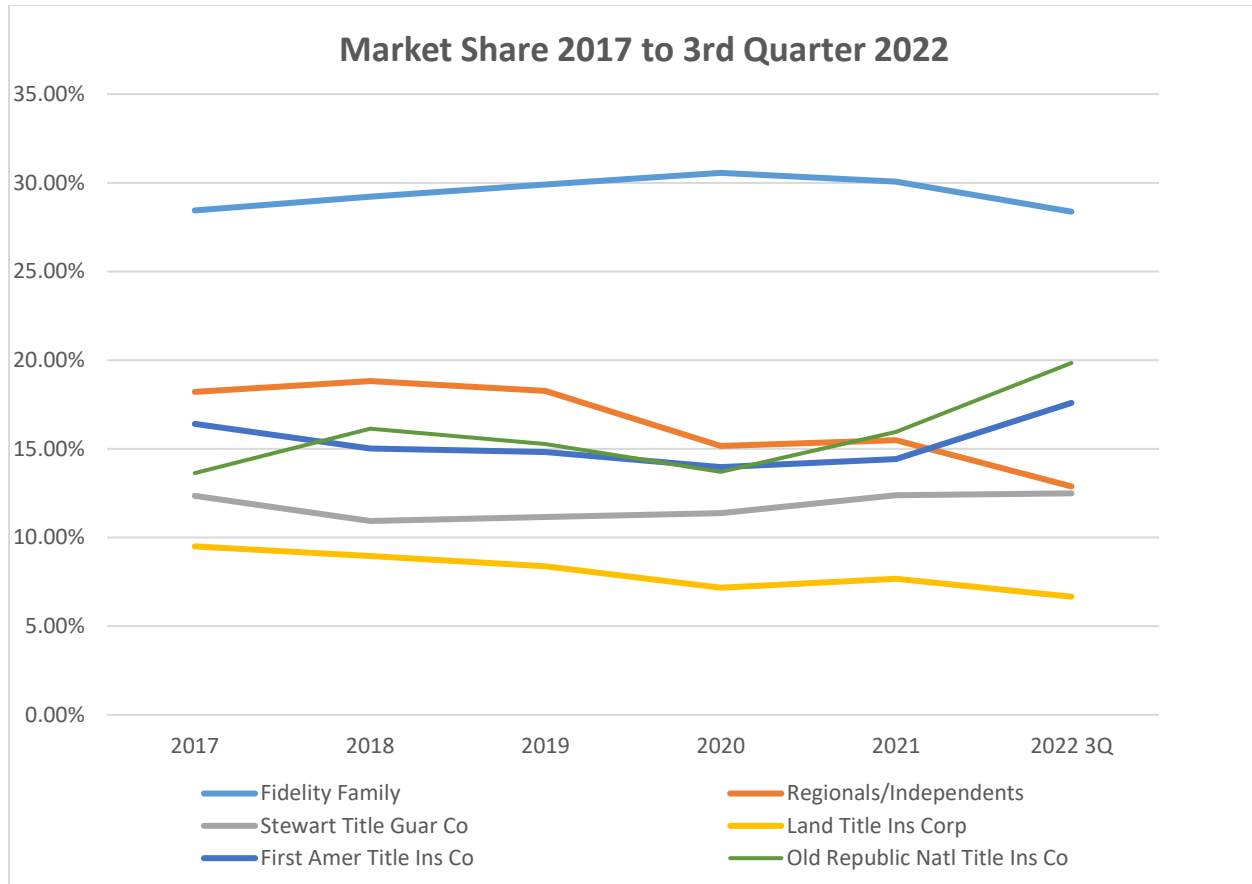


In addition to regulating title insurance entities, the Division of Insurance regulates the activities of individual title insurance producers. 3,090 individuals currently hold active title insurance producer licenses in Colorado.

Title Insurance Underwriters

Overall, 2022 data shows the marketplace remained steady. Some large underwriters experienced modest or marginal growth in market share while others remained stable.





As the graph above shows, Colorado's group of regional/independent underwriters market share dipped approximately 3% from the previous year. The title industry's approximate market share analysis from 2017 to third quarter 2022 includes the following:

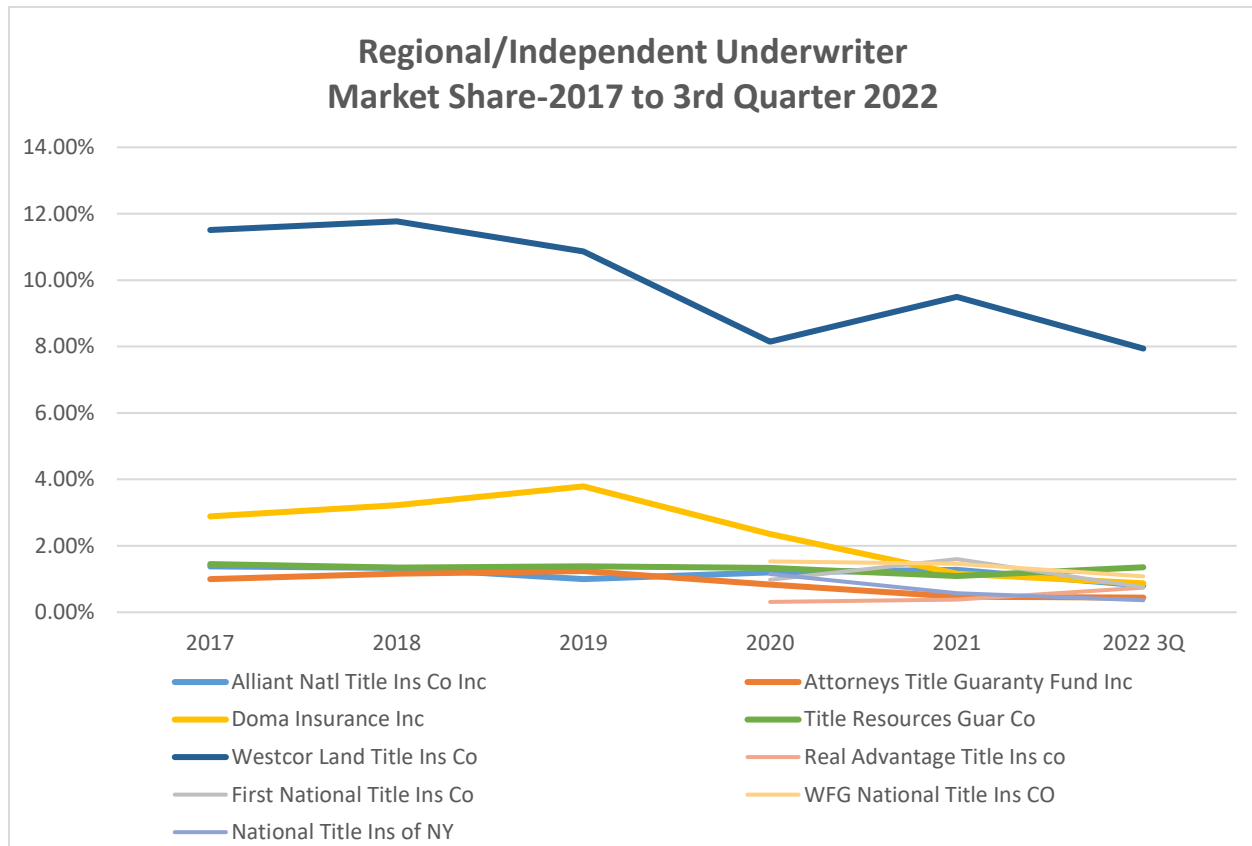
| Market Share | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 3Q |
|--|--------|--------|--------|--------|--------|---------|
| Fidelity Family | 28.44% | 29.21% | 30.09% | 30.56% | 30.07% | 28.37% |
| Regionals/Independents | 18.82% | 18.82% | 18.32% | 15.16% | 17.51% | 14.31% |
| First American Title Insurance Company | 16.41% | 15.02% | 14.82% | 13.97% | 14.43% | 17.59% |
| Old Republic National Title Ins Co | 13.63% | 16.13% | 15.37% | 13.70% | 15.96% | 19.84% |
| Stewart Title Guaranty Company | 12.34% | 10.93% | 11.00% | 11.37% | 12.39% | 12.49% |
| Land Title Insurance Corporation | 9.50% | 8.96% | 8.39% | 7.17% | 7.67% | 6.66% |

Regional/Independent Underwriters

With nine companies continuing to compete for approximately 14% percent of the market, even small increases or declines in premiums can create volatility for Colorado's regional and independent title underwriters. As seen in the chart below,



the market share picture of these regional companies reflects a changing marketplace, and the competitive environment each year can result in different leaders emerging.



Even with volatility in the market, Colorado's regional underwriters continue to control approximately 14.31 percent of the market, making Colorado one of the more competitive title insurance markets in the country. The regional/independent underwriter's approximate market share analysis from 2017 to third quarter 2022 includes the following:

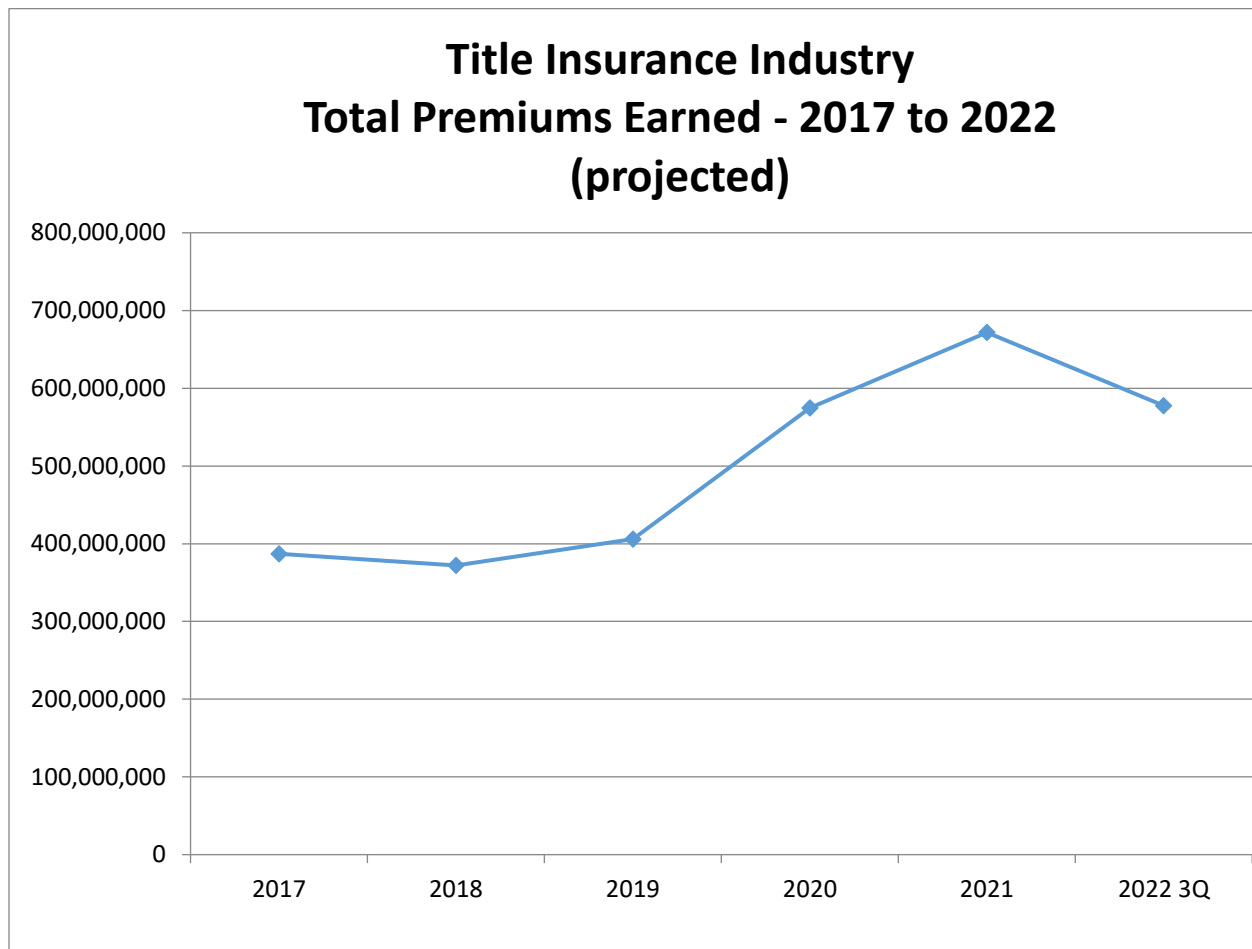
| Regionals/Independents | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 3Q |
|--|--------|--------|--------|-------|-------|---------|
| Alliant National Title Insurance Company | 1.38% | 1.33% | 1.00% | 1.20% | 1.28% | 0.80% |
| Attorneys Title Guaranty Fund | 1.00% | 1.16% | 1.24% | 0.83% | 0.47% | 0.44% |
| Doma Title Insurance Inc. (formerly known as North American Title Insurance Company) | 2.98% | 3.22% | 3.79% | 2.36% | 1.16% | 0.87% |
| Title Resources Guaranty Company | 1.45% | 1.34% | 1.38% | 1.33% | 1.09% | 1.35% |
| Westcor Land Title Insurance Company | 11.51% | 11.77% | 10.86% | 8.15% | 9.50% | 7.94% |
| Real Advantage Title Insurance Company | | | | 0.31% | 0.38% | 0.74% |
| National Title Insurance of New York | | | | 1.15% | 0.57% | 0.36% |
| WFG National Title Insurance | | | | 1.53% | 1.46% | 1.08% |
| First National Title Insurance Company | | | | 0.98% | 1.60% | 0.75% |

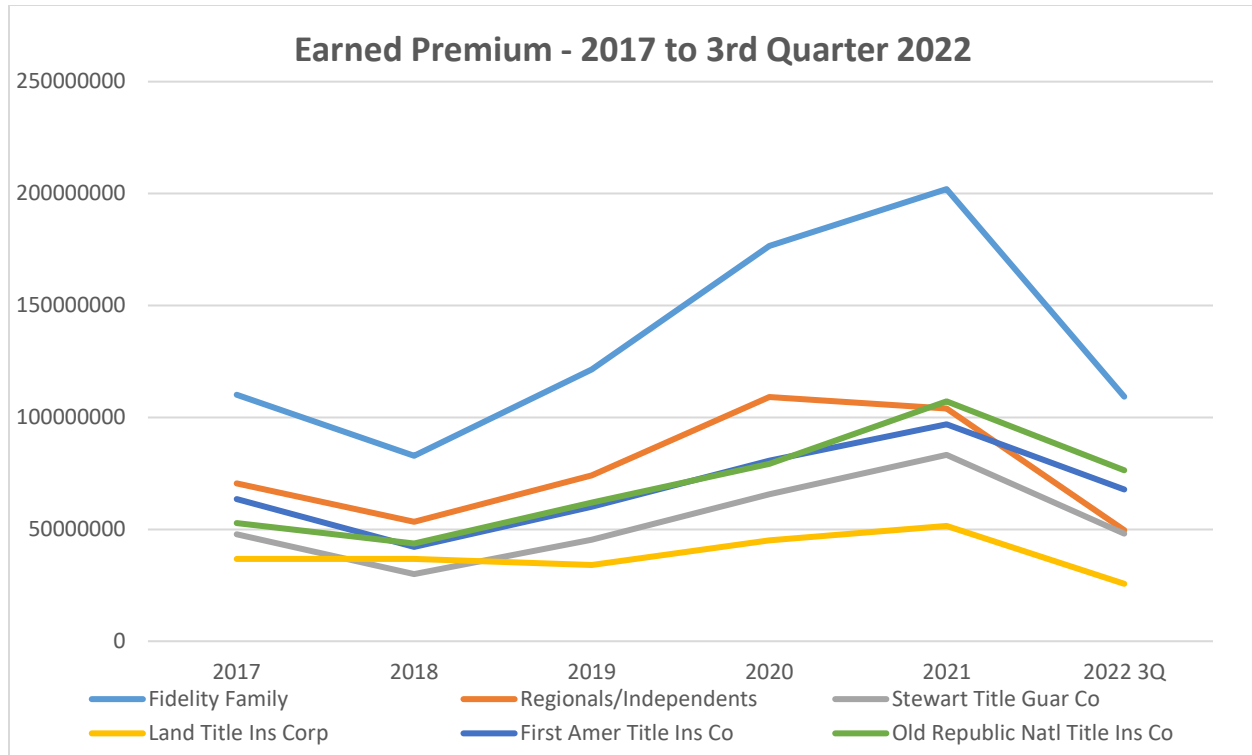


Title Insurance Losses

The title insurance industry experienced high losses as a result of the housing collapse. As the economy recovered, premium earnings and market growth increased, and losses returned to their historic range of three to five percent.

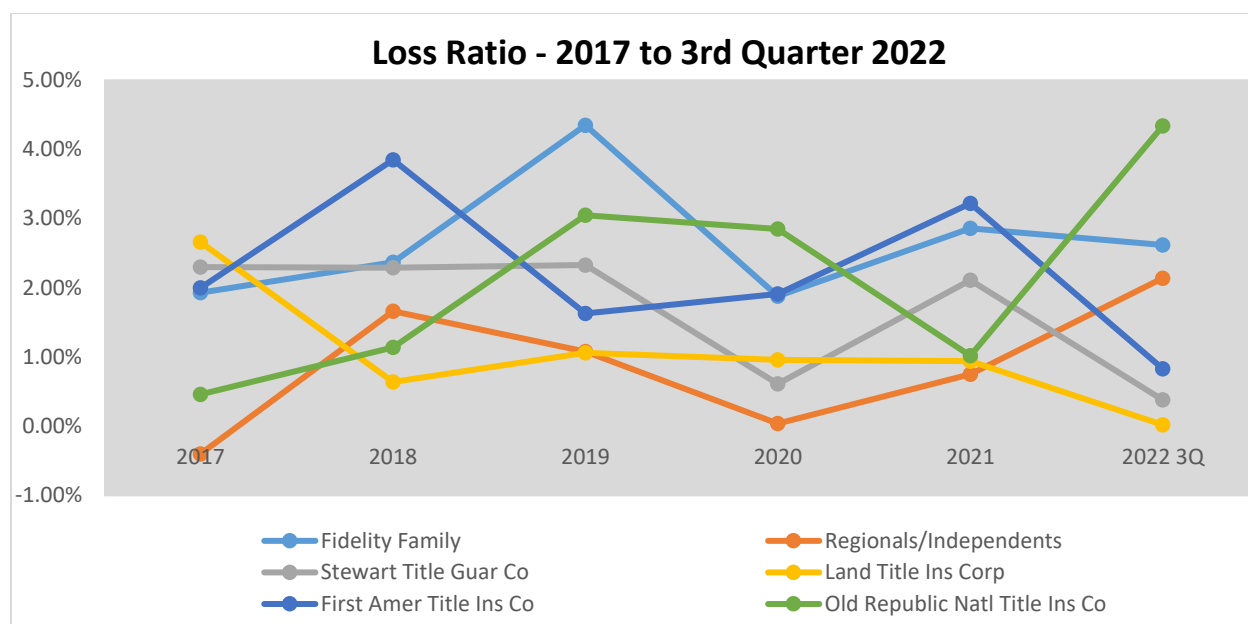
With the recovery of the real estate market in Colorado, title insurance premiums significantly increased from \$387 million in 2017 to \$671 million through 2021. As a result of a cooling real estate market during 2022, the first three quarters of the year reflect a downturn in market growth with approximately \$385 million in total premiums and approximately \$192 million projected premiums representing the balance of 2022.





A loss ratio reflects the portion of premiums used for the payment of claims. In addition to premiums written by agencies and direct operations, net premiums also include amounts ceded or recovered from reinsurance agreements. Because of the differences in national and state reporting requirements, only gross premiums are available on the state level and therefore the loss ratio information shown on the following page is an estimate based on those numbers.





Although some of Colorado's regional/independent and large underwriters experienced decreases in loss ratio during the past five years, the overall steady decline in title insurance losses since the housing collapse continues to demonstrate a stable market. It can be extrapolated that this market constancy will continue into 2023. Title insurers in Colorado have strict reporting, reserve, and capitalization requirements and remain supervised and solvent.

Enforcement Actions

Enforcement Activity

The Producer Enforcement unit of the Division conducts investigations and initiates enforcement actions against regulated entities and licensed insurance producers who violate Colorado insurance statutes and regulations. The most common types of enforcement actions can result in the assessment of fines, license revocations, civil restitution, and stopping unauthorized insurance business.

The Producer Enforcement unit investigated matters concerning industry standards of conduct, consumer protections, and fiduciary duties which comprised the majority of the Division's opened and closed title investigations in 2022.

The Division closed two investigations with no action. The investigations revealed no evidence of violations of Colorado insurance laws or regulations. Through its outreach and compliance efforts, the Division continues to work with industry to address inquiries or other concerns related to the clarification and enforcement of state insurance laws and regulations.

The Division maintains its commitment to conduct industry outreach and compliance efforts pursuant to its mission, goals and objectives and continues to encourage title



industry professionals to refer allegations of wrongdoing to the Division for investigation.

The Division collaborates with the title industry and other stake holders and is committed to taking the necessary steps to ensure that its goals and objectives are consistent with balancing consumer protections and competitive market conditions.

Enforcement actions can be reviewed via the Division's website at: DOI.Colorado.Gov. Under the "For Consumers" heading, click the link for "Consumer Protection" and select "Disciplinary Actions".

Market Regulation

The Market Regulation Section of the Division researches and tracks the overall title insurance market in Colorado and performs market conduct examinations of title insurance underwriters. Market conduct examination review company operations and management, producer licensing, sales and marketing, underwriting, rating, and claims.

The Market Regulation Section initiated an exam in 2022 that is ongoing as of December 31, 2022. This is the only current exam in process and at this time another exam is not being called.

Common examination findings include, but are not limited to:

- Unlicensed producers;
- Charging consumers incorrect rates and fees;
- Use of generic exceptions on an owner's title insurance commitments and policies;
- Improper documentation of files; and
- Failure to timely remit premiums.

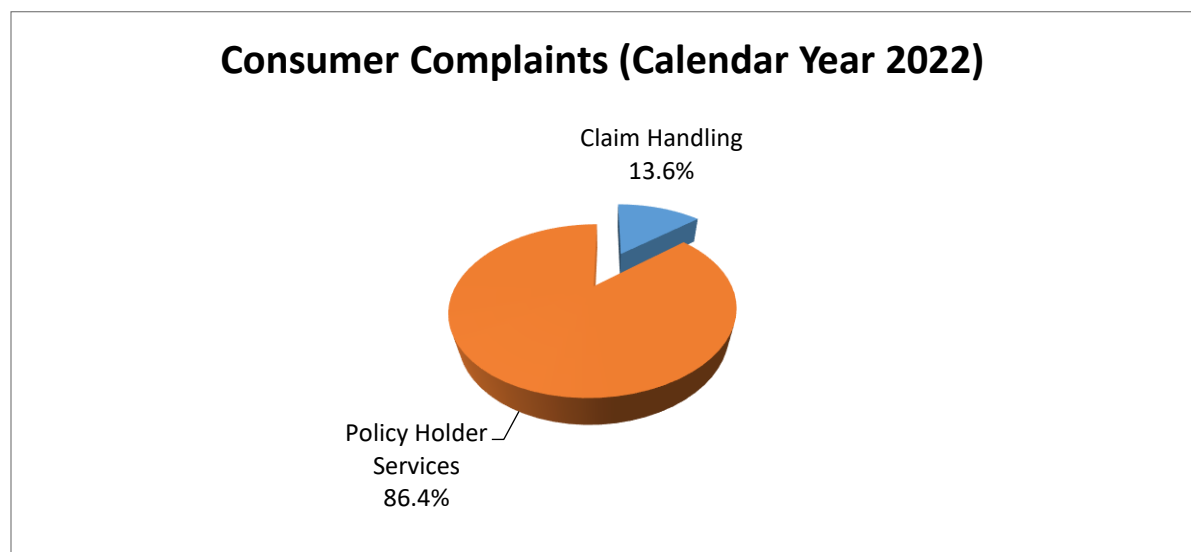
Market conduct examination reports and final agency orders can be reviewed via the Division's website at: DORA.Colorado.gov/insurance. Under the "Regulatory Information" heading, click the link for "Regulatory Actions" and select "Market Conduct Examinations."



Consumer Complaints and Compliance Activities

Consumer Complaints

Title insurance is a unique line of insurance. As a result, the issues raised in title insurance complaints are not easily categorized into the coding scheme used by the Division for all other lines of insurance.



In 2022, the Division handled approximately 22 consumer complaints on title insurance. The complaints include a variety of title insurance related topics including, but not limited to, real estate closing and escrow fees and charges, delay or denial of title insurance claims, and compromised consumer and business emails (email scams). These complaints are categorized into the following two areas.

The first area is Claims Handling and includes approximately 3 consumer complaints and is broken down into the following subcategories:

- subrogation (1)
- delay of claim (2)

The second area is Policy Holder Services and includes approximately 19 consumer complaints and is broken down into the following subcategories:

- delays/no response (5)
- state specific (13)
- premium refund (1)

The “State Specific” code is used when a complaint reason does not fit in any of the other categories. Escrow and closing related complaints often fall under the “State Specific” code.



Compliance Activities - Industry Outreach and Education

In 2022, the Division focused on identifying potential problems in the title insurance industry and addressing them directly. Generally, a compliance contact is a contact with a title insurance company, agency, producer or consumer outside of an investigation or consumer complaint, in which some question of rules or issues in the industry are discussed or resolved. In 2022, the Division handled 62 compliance contacts.

The Insurance Commissioner and Division staff also made several presentations to industry representatives and trade associations regarding current issues in Colorado related to title insurance, as well as general educational presentations on the laws and regulations that affect the Colorado title insurance industry.

Division staff regularly attended and participated in the monthly Interprofessional Committee of Lawyers and Realtors and the Colorado Inter-Industry meetings.

Compliance and Consumer Activities (Other)

The Division continues to improve its website to ensure accurate information is provided in a format that allows consumers and the general public access to the information and data in a more efficient manner.

Additionally, the Division continues to improve its technology and the processes that enable consumers and industry alike to submit inquiries, requests, complaints and concerns regarding specific industry related matters. Improvement efforts have also been dedicated to providing information on the Division's website that would assist consumers as they shop and compare title insurance premium rates and fees.

The Division monitors the federal Consumer Financial Protection Bureau (CFPB) and Financial Crimes Enforcement Network (FinCen) initiatives and efforts to improve consumer protections. These include new mortgage disclosures, intended to provide consumers unambiguous and concise information regarding the terms and conditions of their mortgage and real estate transactions, and reporting requirements for suspicious activities involving title and escrow companies.

In 2022, the Division renewed its commitment to preserve a working relationship with the title industry and continues its regulatory oversight to ensure consumer protection and a fair competitive business environment.

Title Insurance Commission

The Title Insurance Commission (TIC) is an advisory body to the Commissioner of Insurance concerning matters of title insurance. The TIC is tasked with proposing, advising and recommending rules, bulletins and position statements and establishing additional consumer protections, all of which are subject to the approval of the Commissioner.

The TIC conducted four quarterly meetings throughout 2022. They discussed a variety of important title insurance topics including, but not limited to, closing protection



letters, unauthorized insurance business, attorney opinion letters, affiliated business arrangements and servicing relationships and fraud trends in the title insurance industry. The TIC did not recommend any specific consumer protections this year.

TIC meeting agendas, minutes and all correspondence between the Division and the TIC are posted on the Division of Insurance web page at DORA.Colorado.gov/insurance.

Miscellaneous Activities

Below are some ways in which the Division communicates with the title insurance industry, including fostering an open and productive relationship.

Interprofessional Committee of Lawyers and Realtors: Originally formed by the Real Estate section of the Colorado Bar Association, the Interprofessional Committee of Lawyers and Realtors (the ICLR) meets on a monthly basis to discuss issues facing the Colorado real estate industry in general. The ICLR includes representatives from the Colorado Association of Realtors (CAR), the Land Title Association of Colorado (LTAC), the Real Estate Commission, the Colorado Bar Association (CBA), the Colorado Division of Real Estate, the Colorado Division of Insurance, the Colorado Mortgage Lenders Association and the Colorado Coalition of Appraisers.

Land Title Association of Colorado (LTAC) is a trade organization for the title insurance industry in Colorado. It provides education to the industry and consumers, and works closely with legislators and regulators regarding issues facing the industry. The Division meets with LTAC on a recurring basis throughout the year.

National Association of Insurance Commissioners (NAIC): The Division is a member of the NAIC Title Insurance Task Force and the Title Insurance Market Conduct and Mortgage Fraud Working Group.

DORA is dedicated to preserving the integrity of the marketplace and committed to promoting a fair and competitive business environment in Colorado.

Consumer protection is our mission.

