



**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**

**2014**



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**Department of  
Regulatory Agencies**

Division of Insurance

Marguerite Salazar  
Commissioner of Insurance

January 6, 2015

Dear Committee Members,

I am pleased to submit the 2014 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 2014. 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,

Marguerite Salazar  
Commissioner of Insurance



# Title Insurance Enforcement Actions, Market Trends, and Consumer Complaints

2014

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## 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 2014:

- 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 growth and continued stabilization;
- There were 29 title agencies that allowed their license to lapse or cancelled their license in Colorado in 2014 and 33 that became newly licensed;
- The Division handled 466 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.



## 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).

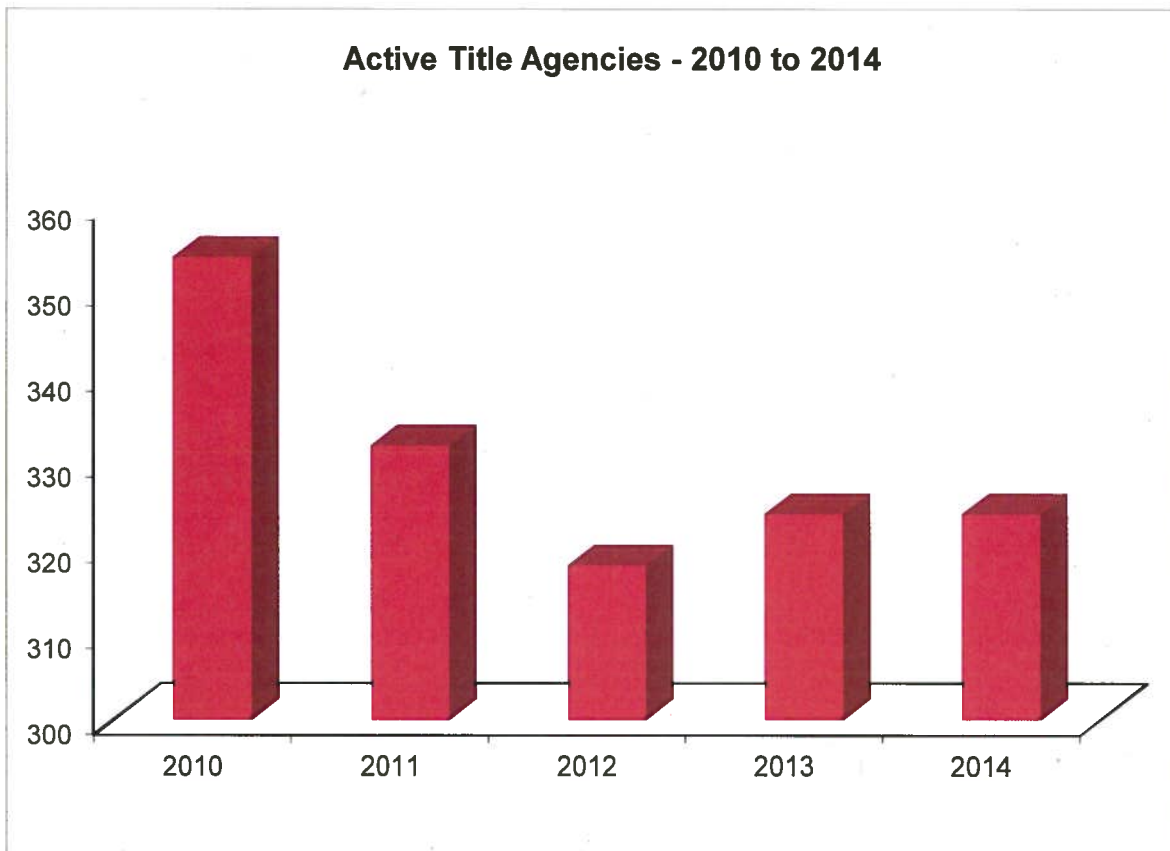
This report is prepared under the above authority and provisions. It provides a statistical report of the enforcement and regulatory actions, market trend tracking, compliance and consumer contacts, and miscellaneous activities of the Division in the regulation of title insurance entities in Colorado.



## Market Trends Associated with Title Insurance

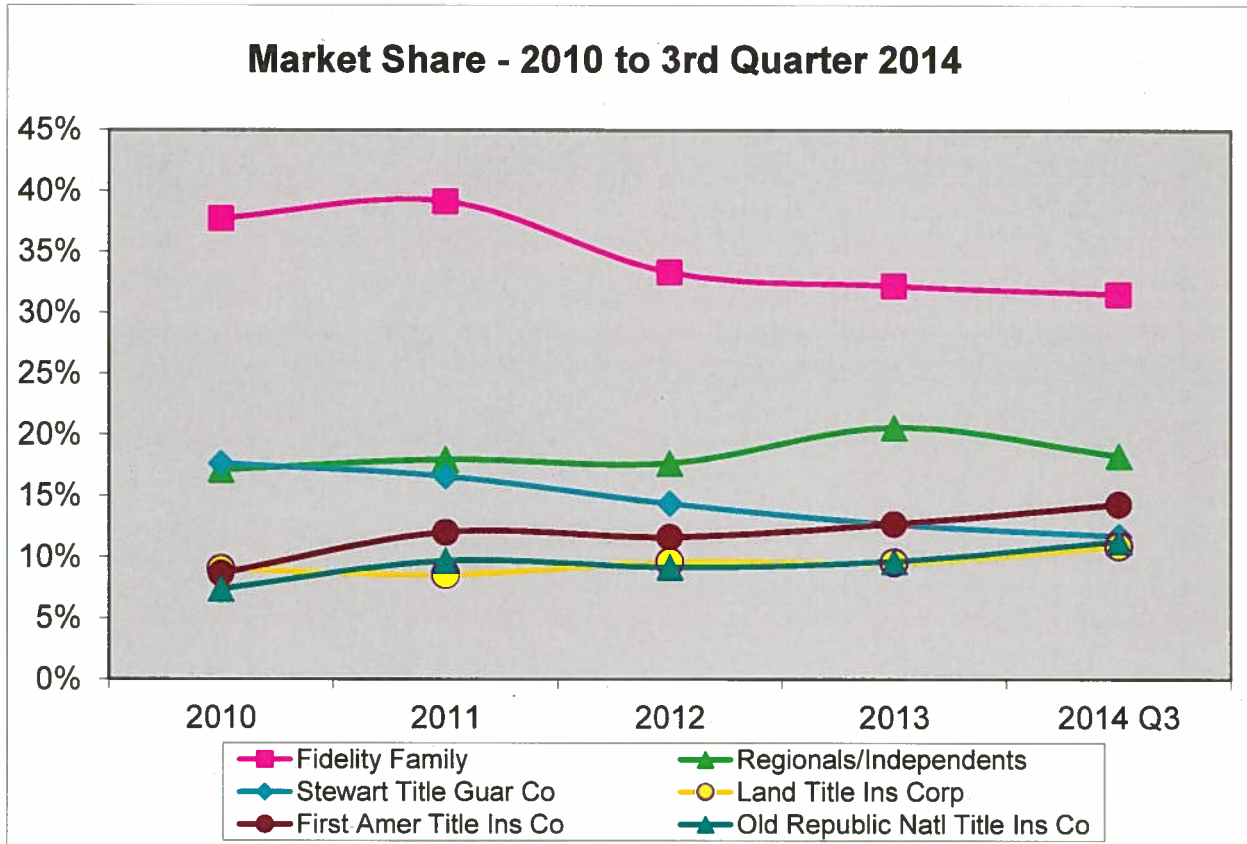
### Market Dynamics

Today, 324 title agencies hold active Colorado insurance producer licenses; in December 2010, there were 354 active title agencies. After a marked decline in active agency licenses from 2010 through 2012, the number increased in 2013 and remained stable in 2014.



## Title Insurance Underwriters

Overall, 2014 data shows continued stabilization and growth in the marketplace. Some of the large underwriters experienced modest or marginal growth in market share while others remained stable.

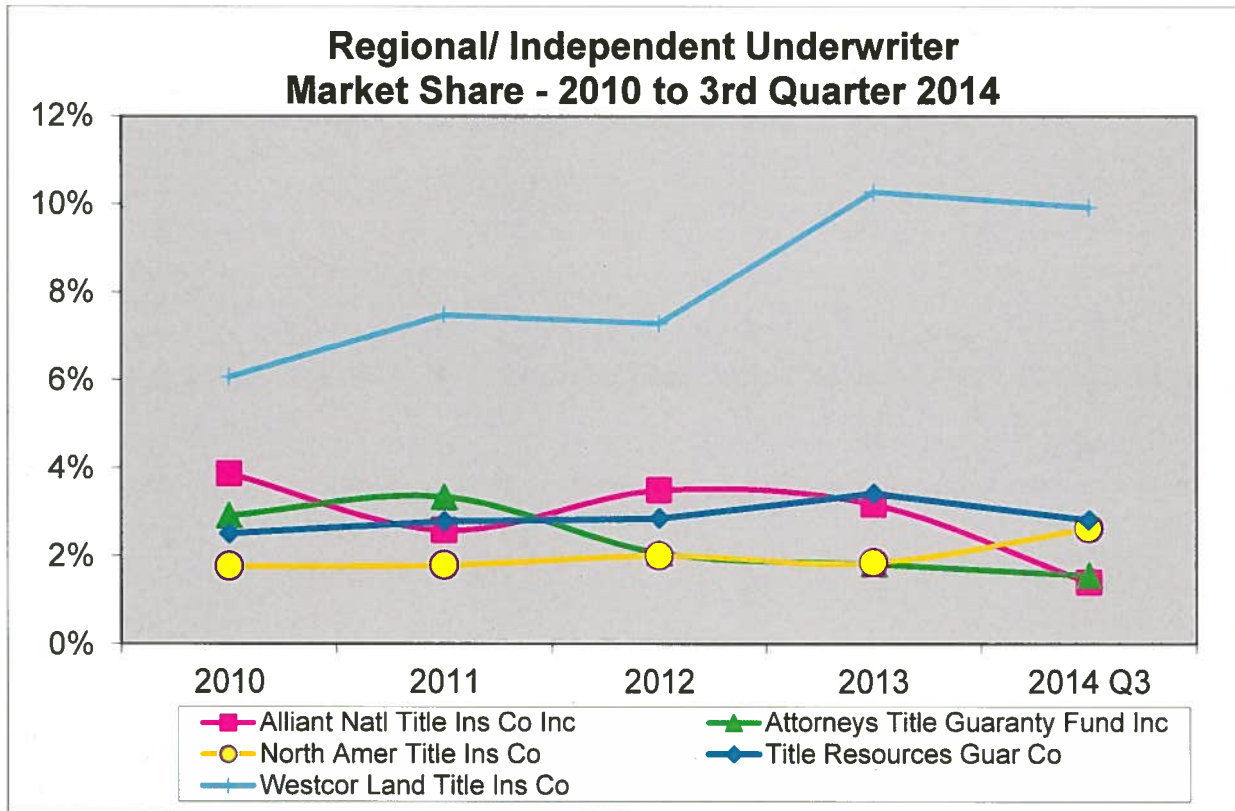


As the graph above shows, Colorado's group of regional/independent underwriters experienced a small decline in market share.



## Regional/Independent Underwriters

With five companies continuing to compete for approximately 18 percent of the market, even small increases or declines in premiums can be volatile for Colorado's regional and independent title underwriters. As seen in the chart below, the market share picture of these smaller companies reflects a changing marketplace, and the competitive environment each year can result in different leaders emerging.



Even with volatility in the smaller market, Colorado's smaller underwriters control approximately 18 percent of the market, making Colorado one of the more competitive title insurance markets in the country.

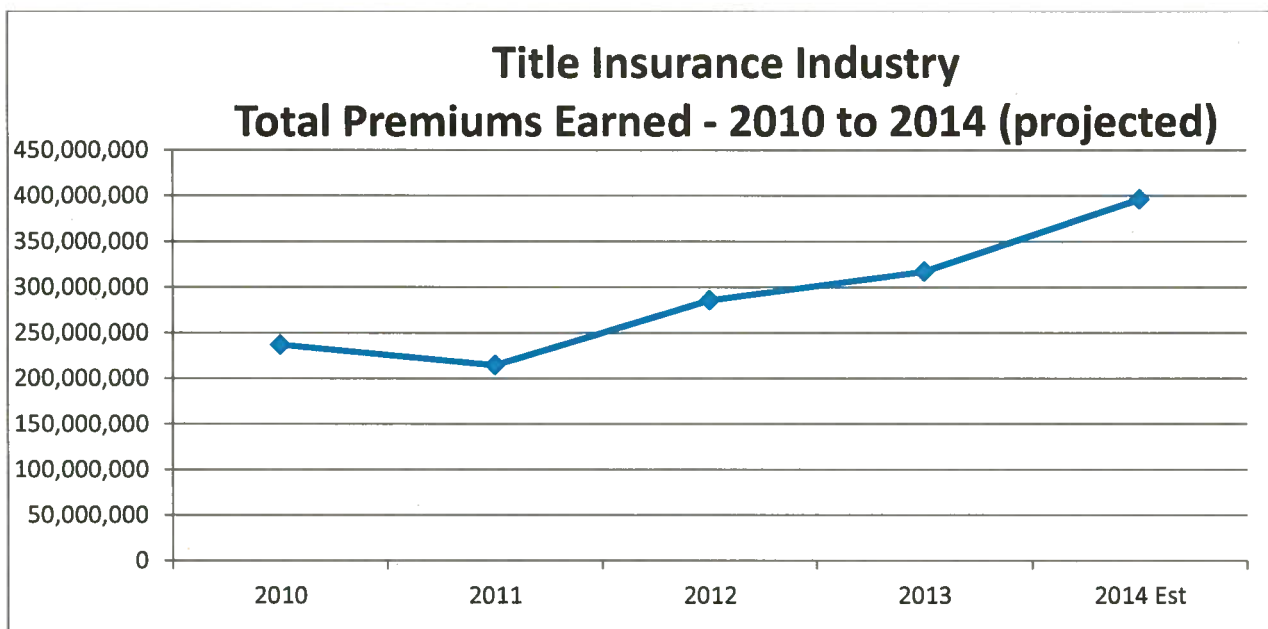




## Title Insurance Losses

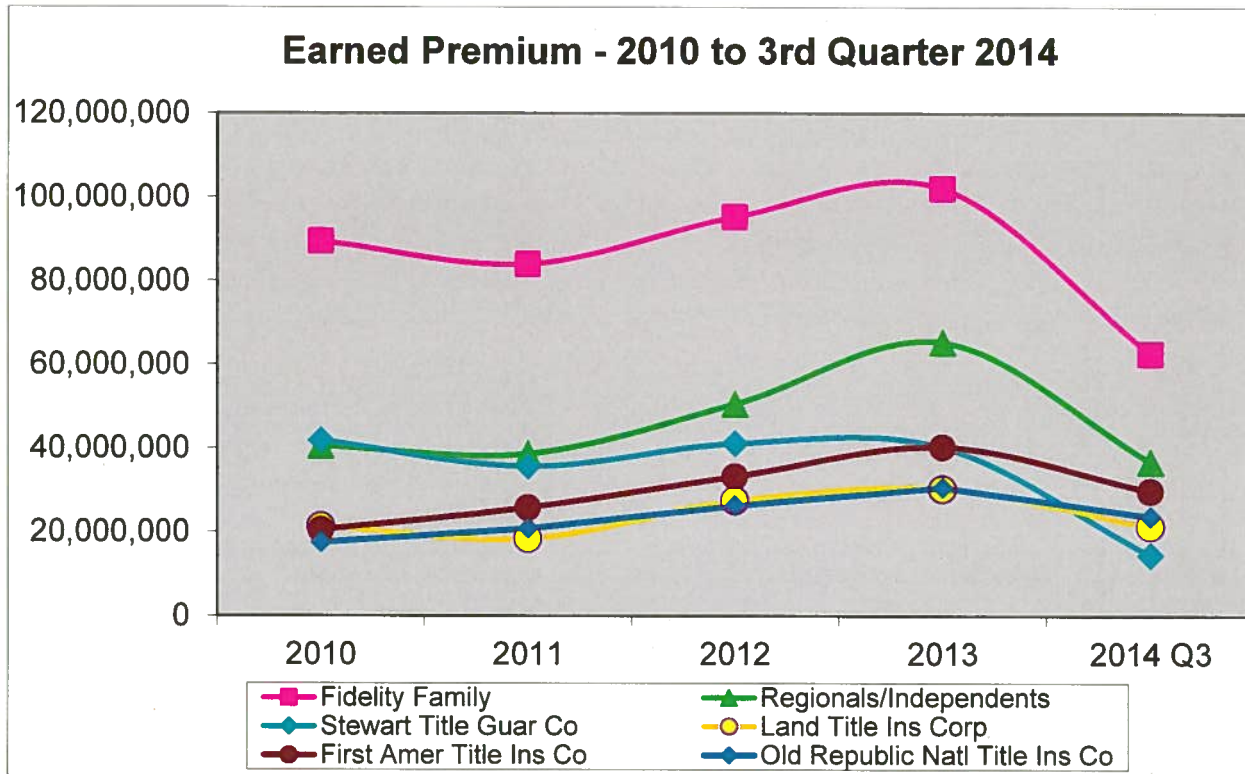
Prior to the housing collapse, title insurance losses were between 3-5%. The American housing market has changed and as a result, title insurance losses have been at historically high levels. With increased premium earnings and growth in the market, losses are returning to a range of three percent or below for the insurers.

From 2010 to 2014, title insurance premiums in Colorado increased 38%, from \$236 million a year to \$396 million. There was an improvement in 2010 to approximately \$237 million and a drop in 2011 to \$214 million. However, 2012 experienced considerable improvement to \$285 million. Additional improvement occurred in 2013 with approximately \$316 million and the first three quarters of 2014, with approximately \$396 million in premium.



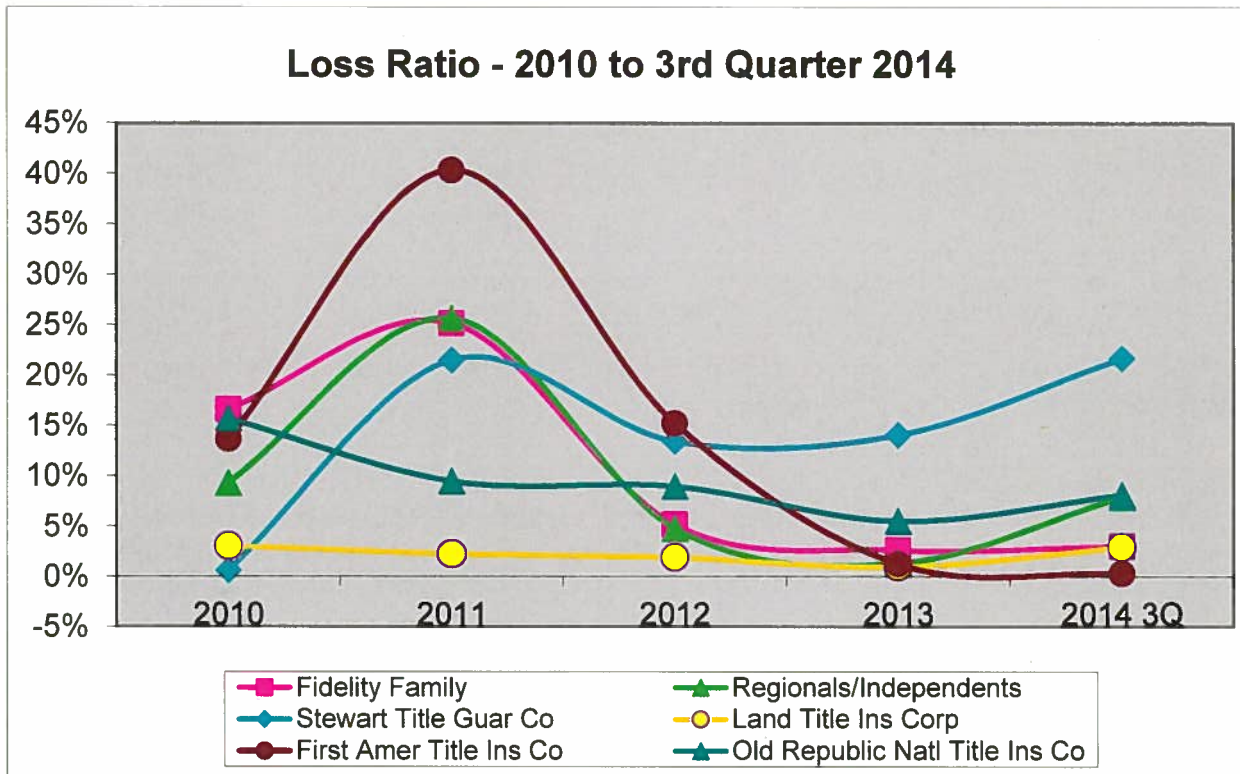
If earnings continue on the same average trend of the first three quarters of 2014, projections show an increase in total industry earnings for the balance of 2014 and 2015. However, 2015 projections may be affected by implemented Consumer Financial Protection Bureau mortgage lending rules and requirements, increased interest rates and new TILA/RESPA Integrated Disclosures form requirements.





A loss ratio reflects the portion of premiums used for the payment of claims. Net premiums take into account not just premiums written by agencies and direct operations, but also 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, therefore the loss ratio information shown below is an estimate based on those numbers.





Colorado's regional/independent and large underwriters experienced significant decreases in loss ratio from 2011 through 2013. However, it appears both the Regional/Independents and Stewart Title Guaranty Company's loss ratio between 2013 and the third quarter of 2014 increased and are not necessarily trending with the other underwriters in the Colorado market during the same period. But the steady decline in title insurance losses overall during the 2011-2013 period continues to demonstrate stabilization and recovery in the market with 2014 indicating continued market constancy. Title insurers in Colorado have strict reporting, reserve, and capitalization requirements and remain supervised and solvent.

## Enforcement Actions

### Investigations Activity

The Investigations section 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 are fines, license revocations and orders to cease and desist the unauthorized transaction of the business of insurance.

Additionally, the Investigations Section investigated matters concerning industry standards of conduct, consumer protections and licensing which comprised the majority of the the Division's opened and closed title investigations in 2014.

The Division opened 14 investigations and closed 17 investigations in 2014, four of those investigations resulted in reportable enforcement actions and five with warning



letters. Through its outreach and compliance efforts, the Division continues to work with the industry to address inquiries or other concerns related to clarification and enforcement of state insurance laws and regulations.

During 2014, the Division began work to reevaluate the industry complaint process and took steps towards improving how industry complaints are received and addressed to ensure it is consistent with balancing consumer protections and competitive market conditions.

The Division continues to conduct outreach and compliance efforts pursuant to its mission, goals and objectives and continues to encourage industry professionals to refer allegations of wrongdoing to the Division for investigation.

## Market Regulation

The Market Regulation Section of the Division researches and tracks the overall title insurance market in Colorado, as well as performs market conduct examinations of title insurance underwriters. The Market Regulation Section has completed two market conduct examinations in 2014 and is in the process of conducting a third examination. Market conduct examinations include a review of company operations and management, producer licensing, sales and marketing, underwriting, rating and claims.

Common examination findings include, but are not limited to:

- Unlicensed Producers
- Charging consumers incorrect rates and fees
- Use of generic exceptions on owner's title insurance commitments and policies
- Failure to provide consumers with required disclosures
- 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](http://DORA.Colorado.gov/insurance). Follow the links for "Enforcement Actions" and then "Market Conduct Examinations."

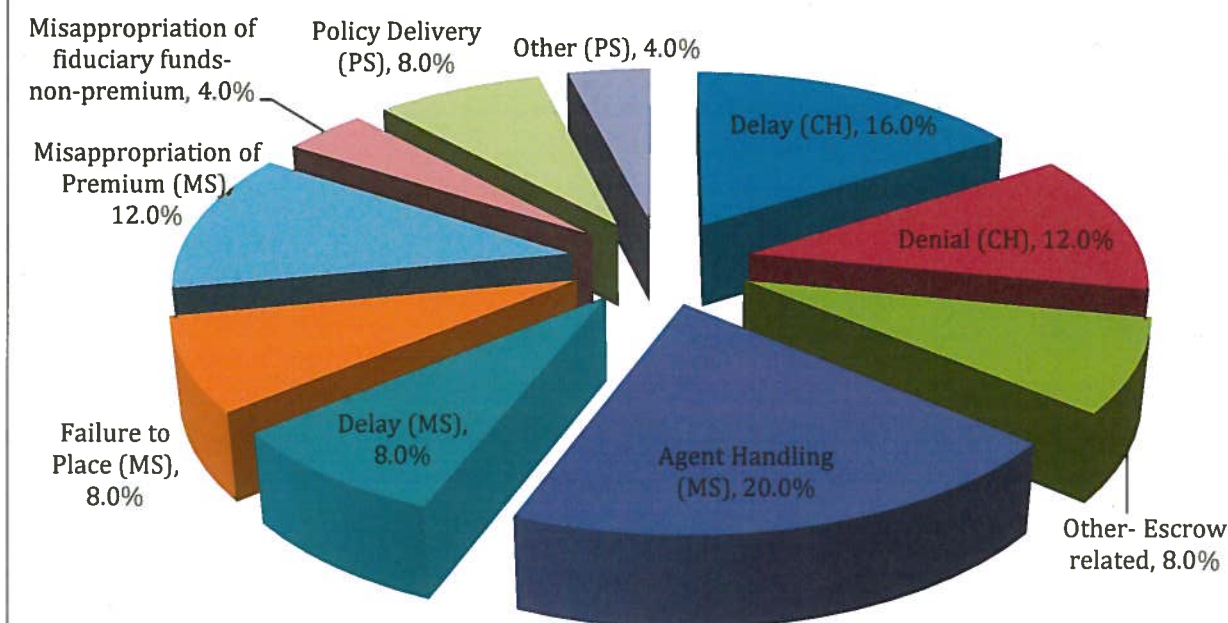
## Consumer Complaints and Compliance Activities

### 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 2014, the Division handled approximately 25 consumer complaints on title insurance. These complaints are categorized into three areas. The first area is claims handling and is broken down into subcategories of denial of claims (3), and delay of claims (4). The second area is marketing and sales and is broken down into subcategories of agent handling (5), delay (2), failure to place (2), other-escrow related (2), misappropriation of premium (3), and misappropriation of fiduciary funds-non-premium (1). The third area is policyholder service and is broken down into subcategories of policy delivery (2) and state specific (1).



## Consumer Complaints (Calendar Year 2014)



### Compliance Activities - Industry Outreach and Education

In 2014, 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 2014, the Division handled 466 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.

### Compliance and Consumer Activities (Other)

The Division continues to modify and improve upon 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 work and 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 continues to monitor 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.

Further, the Division continues to monitor the development and implementation of CFPB's rule regarding TILA/RESPA Integrated Disclosures Rule of the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) which becomes effective August 2015. The Rule establishes a new Loan Estimate form and is designed to provide consumers disclosures and information regarding the costs and risk of their mortgage loan.

The Division also continues to monitor the development and implementation of the National Association of Insurance Commissioners (NAIC) Title Shopping Tool through the Title Consumers Shopping Tools Working Group. This guide assists consumers with understanding the basics of title insurance and offers tips on how to shop and compare title insurance and closing services.

The Division continues its efforts to inform and educate the real estate and title insurance industries, as well as consumers, on the consumer's right to choose their title insurance and closing and settlement service provider.

In 2015, it will be important for the Division to continue its regulatory oversight on the title insurance industry and maintain its working relationship with the industry to ensure consumer protection and further market recovery.

## **Regulation 3-5-1 Title Insurance**

In 2014, the Division put forth a proposal to divide the primary title regulation, Regulation 3-5-1, into separate regulations addressing particular aspects of title insurance. After consulting with industry about this approach, the decision was made to separate Regulation 3-5-1 due to the size of the regulation; to reduce complexity; to provide better understanding and clarity; and, to make it easier to address issues as they arise.

The Division established five industry work groups, including Agent, Entity and Producer Licensing; Consumer Protections; Fiduciary Duties; Rates and Fees; and Standards of Conduct. Industry was requested to submit nominations of subject matter experts to participate in the work groups. Participants were selected by the Division from these recommendations to work with the Division and other stakeholders to develop the separate proposed regulations. The Rates and Fees work group commenced in the fall of 2014. The Division is currently working on a proposed draft regulation for Rates and Fees for promulgation in coming months. The Agent, Entity and Producer Licensing work group will begin meeting in January 2015.



## Miscellaneous Activities

The Division makes every effort to foster and encourage communication, and maintain an open and productive relationship with the title insurance industry.

*Title Advisory Council:* In 2003, the Division formed the Title Insurance Advisory Council (TAC). The mission of the TAC is to examine, discuss and address issues affecting the title insurance industry in Colorado and the promotion of fair competition and regulatory compliance within the Colorado title insurance industry.

*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):* 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 Commissioner attended LTAC's fall meeting to discuss the Division's continued commitment to promote consumer protection and a fair and competitive title insurance marketplace.

*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. Additionally, Division staff monitors and participates in meetings of the Escrow Theft White Paper Subgroup, Title Insurance Financial Reporting Working Group, Title Insurance Guaranty Fund Working Group, Title Insurance Risk-Based Capital Subgroup and the Consumer Shopping Tools Working Group.

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

Consumer protection is our mission.

