

Title Insurance Rate Premiums in New York: Immune to Rate Disruption?

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Similar to the law in most other states, title insurance rates in New York are regulated by, and all title insurers must be licensed by, the Department of Financial Services. Title insurers are permitted to file their own rates and rules independently with the state, but since 1993, the standard practice in New York has been for underwriters to join together to propose uniform rates. Underwriters formed the Title Insurance Rate Service Association (TIRSA) as a licensed membership organization for the purpose of proposing annual rates and rules on behalf of its member organizations. TIRSA members include all of the nation's largest underwriters, and since the founding of TIRSA in 1993, it has been very rare for any underwriter to independently seek state rate and rule approval outside of TIRSA.

A start-up title insurance company founded in New York recently announced that the New York State Department of Financial Services has approved its new, lower title insurance rates for real estate transactions of \$15M or more, including acquisitions, loans and refinances. As a result of the approval, at least one title insurance company in New York will be offering a premium that is 25% less than other New York title insurers. This is not the first attempt by a small title insurer to offer discounted rates in New York.

If more title insurance companies are able to successfully build enough market share via state-approved rate reduction and sustained business development growth, it is plausible that uniform rate-setting could give way to more competitive bidding in the long-term. So far, however, only some small title insurers without the strength, reserves and financial backing of the larger insurers have been willing to reduce rates. These smaller insurers may have an uphill battle to convince property owners and their lenders to accept their coverage, especially on larger, commercial transactions. It is unlikely that the largest insurers will be reducing their rates any time soon. Before obtaining title insurance through an insurer at a discounted premium, lenders and borrowers should also consider whether insurance companies are compensating for their reduced premiums by increasing other costs.

Members of our Real Estate and Finance Groups regularly handle commercial real estate financing and sales transactions in the Northeast and throughout the country. If you have any questions regarding this alert or the group's practice, please contact Steven Ostrow in New York (ostrows@whiteandwilliams.com; 212.714.3068); Steven Coury in New York (courys@whiteandwilliams.com; 212.631.4412), or Patrick Haggerty in Philadelphia (haggertyp@whiteandwilliams.com; 215.864.6811).

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