



Texas Low Income Housing
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**Testimony of Robert Doggett, attorney
before the Texas Senate Intergovernmental Relations
Committee on the committee interim charge
“title insurance and nontraditional home sales.”**

March 27, 2008

One behalf of the Texas Low Income Housing Information Service¹ thank you for inviting me to testify on this interim charge.

In traditional home purchases Texas families obtain financing from a third party lender. Before a third party is willing to loan funds for the purchase, lenders wish to confirm and obtain guarantees that the purchaser is obtaining good title to the property, free from over burdensome easements, liens and other encumbrances. Third parties are not merely interested in determining title issues at closing, but naturally desire to have a party with sufficient resources to have a continuing obligation to defend the title transfer and guarantee the purchase price given in case the representations of title turn out to be false. In short, lenders require a title insurance policy before making a loan because they want to be able to look to the value of the property to pay the outstanding debt should the borrower default. If the borrower does not have good title, then the lender does not have collateral for the loan. (Of course the property needs to be worth what they loaned.) Although some reasonably question the current title ownership scheme in Texas which requires an insurance policy to provide the market security and certainty, title insurance policies are the norm in Texas and will likely continue to be used in the future. Title insurance is regulated extensively including the price paid for the policy. The lower the price of the home, the cheaper the policy. We are not here today to question the current title insurance scheme or cost.

We are here today to provide the committee with information about the problems that occur when property is sold by nontraditional means - when the seller finances the transaction. These are most commonly done where the buyer is low income. A seller who loans the money to the buyer to purchase the property does not have the same incentive to make sure that a buyer obtains good title to the property. Sellers are only interested in making sure the buyer pays them back monthly. If there is a defect in title or an unknown lien or easement, the seller is in no worse position than before. Thus, most if not all seller-financed transactions

¹ The mission of the Texas Low Income Housing Information Service (TxLIHIS) is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood.

TxLIHIS was founded in 1988 by public and private housing providers, low-income people and other community leaders who subscribe to the national goal of decent, affordable housing for all Americans and who believe there must be an organized, concerted effort to achieve that goal in Texas. TxLIHIS is Texas' foremost supporter of housing for the poor and for neighborhood preservation, and is one Texas' primary source of research on low-income housing.

do not involve a title insurance policy. This leaves buyers susceptible to title problems later when they try to sell their home, and some face foreclosure from some lien holder completely unknown to the borrower. Without title insurance, buyers are kept in the dark and exposed to losing their homes. There are thousands of sales like this leaving thousands of Texas families at risk of losing everything.

We would like the Texas Legislature to consider taking steps to ensure more Texas families who are engaged with nontraditional home sales to actually obtain good title, rather than face foreclosure and eviction through no fault of their own. The best way to ensure good title is through the current system in place to protect lien holders and that is through title insurance.

Although a title insurance policy may add to the price of a seller-financed home, it is vital to ensure these families keep the one asset they have paid for, and made improvements and paid taxes for many years. Families who purchase using traditional means are already protected with a policy the lender required them to buy, but seller-financed transactions are not. While some sellers know there are defects in title, oftentimes sellers are unaware there are title defects until a title company is involved. The cost to undo a defective transaction, and the litigation that ultimately occurs is often unproductive, expensive, time consuming and does little to address the harm caused. Title insurance on the front end prevents this from occurring.

Therefore, we support a provision that would require title insurance policies in seller financed transactions. We have been discussing this issue with the Texas Land Title Association (TLTA) for years and rather than go forward last session with legislation, we agreed to discuss it with them over this interim. We have presented the problem to TLTA's legislative committee and we believe they are interested in working with us to address the problem. We believe we can address their concerns and arrive at an improved system for all.

Thank you again for the opportunity to provide this testimony.