Draft Pending Adoption

Draft: 4/24/25

Title Insurance (C) Working Group
April 21, 2025

The Title Insurance (C) Working Group met virtually April 21, 2025. The following Working Group members participated: Chuck Myers, Chair (LA); Connie Van Slyke, Vice Chair (NE); Alex Reno (AK); Erick Wright (AL); Tom Zuppan (AZ); Angela King (DC); Jeff Joseph (FL); Jerry Bump (HI); Shannon Hohl (ID); Jim Easton (IN); Julie Holmes (KS); Maryam David (MD); Matt Boyle (MN); Laura Baca (NM); Angela Hatchell (NC); David Barney (OH); Erin Wainner (OK); Michael McKenney (PA); Patrick Smock (RI); Tom Baldwin (SC); Jaimee George (UT); Angela Crooker (VA) and Karen Ducharme and Aaron Ferenc (VT).

1. Discuss the 2025 Work Plan

Myers stated the Working Group's 2025 Work Plan items under the Working Group's Charge A—monitoring current issues—include: today's presentation from October Research; hearing an update on industry developments discussed at the National Settlement Services Summit (NS3); staying informed to support the American Academy of Actuaries' (Academy) title-related research; and hearing presentations on the title insurance and housing market outlooks. As part of Charge B—identifying fraudulent real estate settlement practices—we have a proposed presentation from CertifID on the trends driving recent Financial Crimes Enforcement Network (FinCEN) and Federal Bureau of Investigations' Internet Crime Complaint Center (FBI IC3) warnings about rising wire fraud and deepfake impersonations. As part of Charge C—consulting with the Consumer Financial Protection Bureau (CFPB) and other relevant agencies—we will hear today from the American Land Title Association (ALTA) on these agencies' activities under the second Trump Administration. As part of Charge D, it's proposed we update the *Title Insurance Consumer Shopping Tool Template* to include information on title-like alternatives and any federal regulatory changes. We updated the *Survey of State Laws Regarding Title Data and Title Matters report* last year. As part of Charge F—evaluating alternative title products—we propose developing a model bulletin, using related bulletins from Tennessee and Virginia as references.

2. Heard a Presentation on October Research and the Benefits of Insurance Regulators Participating in the NS3 conference

Erica Meyer (October Research) said October Research has been serving the real estate transaction industry for 25 years, focusing on educating and empowering professionals to strengthen their businesses and uphold the integrity and security of homeownership. As an independent media company, October Research delivers trusted, unbiased market intelligence, industry news, regulatory updates, and expert opinions to over 150,000 professionals in real estate, title, financial, and settlement services. Their independence allows them to foster collaboration across all stakeholders in the real estate transaction process.

Their publications include:

- The Title Report – Market intelligence for the title insurance industry; often referred to as the "Wall Street Journal" of the industry.
- The Legal Description – Legislative and legal analysis for title and settlement professionals.
- RESPA News – Focuses on compliance and enforcement issues.
- Dodd Frank Update – Covers federal regulations and CFPB guidance.
- Valuation Review – Dedicated to real estate appraisal and valuation education.

Additional engagement channels include:

- Live events, including the upcoming National Settlement Services Summit (NS3) in Pittsburgh this June.

- Webinars on regulatory trends and business guidance.
- Keys to Real Estate podcast, offering in-depth discussions on complex industry topics.

Mary Schuster (October Research) highlighted the company's broad network of industry professionals and regulators, which supports its mission to foster collaboration and promote a fair, competitive marketplace. She emphasized the *Voice of the Title Agent* report as a key resource—an annual survey offering frontline insights into market pressures, operational challenges, and economic trends. The report helps inform policy, guide examinations, and surface emerging industry issues. October Research supports the industry with ongoing education through content, webinars, podcasts, and events. She noted the NS3 as a key forum for open dialogue between regulators and industry leaders. Collaboration and expert networks are essential to turning good ideas into a lasting impact.

Erica Meyer invited attendees to NS3, highlighting three key opportunities for title insurance regulators:

1. State Regulator Panel – A panel featuring regulators from four states sharing current developments. Past participants include representatives from Pennsylvania, Virginia, Louisiana (including Chair Chuck Myers), and Arizona.
2. Meet Your Regulator – A new informal session allowing industry professionals to engage directly with regulators for open discussion about current challenges and opportunities.
3. Closed-Door Roundtable – A private session bringing together title agents, underwriters, regulators, and software developers for candid conversations focused on building industry-wide solutions.

NS3 will be held June 16–18 in Pittsburgh, PA. Erica encouraged attendees to reach out if interested in participating on panels, joining discussions, or simply connecting with professionals from their states.

Myers shared his positive experience as a past participant in the NS3 regulatory panel. He encouraged colleagues to consider attending NS3, noting its value as a neutral forum where regulators, industry professionals, and agents can engage in meaningful dialogue on key issues facing the real estate and title insurance sectors.

3. Heard a Presentation on the Latest Activity from the Federal Level, Including Developments Related to Title Insurance Alternatives and Other Issues that Could Impact the Title Industry

Steve Gottheim (ALTA) said it is important to understand how federal policies are directly affecting the title industry—particularly in terms of product demand and cost. These issues are relevant for state regulators, especially given the growing pressure from federal counterparts. Fraud, including deed fraud, is a major concern. ALTA plans to release new research on the financial impact of fraud later this year.

Chris Morton (ALTA) stated the Title Acceptance Pilot, initiated by the Federal Housing Finance Agency (FHFA), launched in November 2023. The pilot stems from the Biden Administration's Equitable Housing Finance Plans and allows certain refinance loans to be sold to the Federal National Mortgage Association (Fannie Mae) without traditional title insurance. The pilot is set to run for 18 months, through May 2026. It allows lenders to use automated title risk assessments based on public records. If deemed low-risk, lenders can pay Fannie Mae a small fee instead of obtaining title insurance. The pilot does not require upfront corrective work for potential title defects.

Morton stated concerns have been raised by policymakers and industry stakeholders that include U.S. senators and representatives from both parties, the National Council of Insurance Legislators (NCOIL), the American Legislative Exchange Council (ALEC), and fourteen state attorneys general. The first area of concern is the risk exposure from automated searches relying solely on public records, which may overlook critical issues such as fraud and forgery. ALTA research shows that 30% of title claims over the past decade involved risks not found in public records. The second area of concern is the lack of regulatory process. Critics argue the FHFA did not follow its usual rulemaking process, bypassing public comment and stakeholder input. The third area of concern is that the pilot is seen by some as a federal encroachment on state-based insurance regulation.

He said supporters of the pilot claim it will lower costs for borrowers. However, ALTA data indicates fraud and forgery accounts for 40% of claims in refinance transactions. The average fraud claim is approximately $230 thousand. The $750 thousand collected in fees from 15 thousand loans could be depleted by just four fraud-related claims. Furthermore, many title claims surface years after origination, suggesting the 18-month pilot may not reveal the full scope of future liabilities.

Gottheim stated another federal initiative of concern is allowing attorney opinion letters (AOLs) in lieu of title insurance on select loans. He stated there was a recent legislative move in Idaho concerning the state-based regulation of insurance and a Tennessee insurance department bulletin discussing AOLs and their potential classification as insurance. He stated Fannie Mae and Freddie Mac's housing finance plans are expected to have increased loan volumes over the next few years (e.g., 2 thousand loans this year, 4 thousand next year). These programs were discussed in the context of federal concerns and the regulation of AOL products. Additionally, gap coverage provided by AOLs sometimes provide coverage for risks not within the control of the closing party, like a document being recorded after closing. This is a key indicator that some of these products may be crossing into the realm of insurance. Although these alternative products are marketed as cheaper than title insurance, they often end up being more expensive and provide less comprehensive coverage. For instance, in North Dakota, a title insurance policy was shown to be significantly cheaper than United Wholesale Mortgage's alternative product.

Gottheim stated a new rule from the Financial Crimes Enforcement Network (FinCEN) requires settlement agents to report certain residential real estate transactions starting December 2025. The rule applies to transactions involving all-cash purchases or purchases by legal entities, which will now require additional data collection. He said gathering and reporting the required data will incur $400 million to $600 million annually. This could result in higher operational costs for settlement agents and title insurers. States like Hawaii may see a higher percentage of transactions requiring reporting due to the higher number of cash transactions. Gottheim stated that while the federal government is trying to reduce title insurance costs, these regulations may paradoxically increase costs for the industry, potentially leading to higher expenses for consumers.

McKenny noted that if automated title reviews show low risk and lenders pay a fee to cover defects, the setup resembles a title insurance policy—though with less coverage. He added that most state laws require a title report review when issuing such policies. Gottheim acknowledged the concern, stating that state laws typically define insurance as a payment to cover risks caused by others, not internal risks. He asked regulators to examine whether certain title products resemble insurance policies, especially in terms of risk coverage.

Myers asked about the direction the new FHFA director, William Pulte, may take. Morton noted that ALTA has had some interaction with the new director, who is actively working to understand current priorities. They anticipate a positive and productive relationship moving forward.

Myers said he would like to explore the possibility of inviting Director Pulte to a future meeting. He also encouraged attendees to continue sending in questions and ideas for future discussions to himself or NAIC staff.

Having no further business, the Title Insurance (C) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2025/TITLE/4-TitleWG.docx

Title Insurance Research Update

NAIC Title Insurance (C) Working Group

September 11, 2025

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About the Academy

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Standards:
Setting qualification, practice, and professionalism standards

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Goals of the Research

- Examine the patterns and trends in Title Insurance Expenses prior to the issuance of policies.
- Examine the patterns both across companies and over time.
- Identify areas, if possible, where the industry might find ways to reduce costs (for example, by appropriate uses of new technologies) without reducing the quality of their service.

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Two Phases

Phase 1: Relying on Annual Statement data for direct operations, and agents' data from three states, identify potential areas where reductions in expenses seem likely.

Phase 2: Relying on additional data and conversations with industry participants and stakeholders, examine potential reductions in more detail.

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PHASE 1: General Strategy

Examine variation in levels (efficiency) and composition (business model) of expenses in 2023 and over time:

EFFICIENCY

a) Expenses per policy
b) Expenses per $1,000 dollar of insured amount

BUSINESS MODEL

a) Personnel as a share of total expenses
b) Surveys, examinations, and abstracts as a share of total expenses

PHASE 1: General Strategy (continued)

Once differences are observed, examine possible sources for differences:

a) Size of average insured amounts
b) Commercial v. residential policies
c) Size of company
d) Market conditions
e) Original financings v. refinancings
f) Geography, by state
g) Urban v. rural

Where unexplained differences exist, examine more closely any potential efficiency improvements and savings to consumers from best practices.

Introduction to the Current Analysis

- Aim: Examine the market as a whole, don’t focus on individual companies.
- Examining change over time in Expenses per Policy Issued, and changes over time in some of the factors which might help us understand those observed changes.
- The expenses we examined are Total Expenses Paid (not including losses and loss adjustment expenses), found in Schedule T, line 27.
- The expenses (and other factors) examined are only for Direct Operations, they do not include operations through affiliated nor non-affiliated agents.
- Study period: 2012 – 2023 (we are in the process of adding 2024 data).

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Introduction to the Current Analysis (continued)

All dollar values have been inflation-adjusted to January 1, 2024, using the CPI-U housing in US city average.

Our analysis focuses on:

- The four largest groups (Fidelity, First American, Old Republic and Stewart), and
- Nine smaller companies, which have:
    - Reported relevant data for at least 9 of the 12 study years, and
    - When they report, are in the upper 75% in written premiums from Direct Operations.

Examining Efficiency Over Time

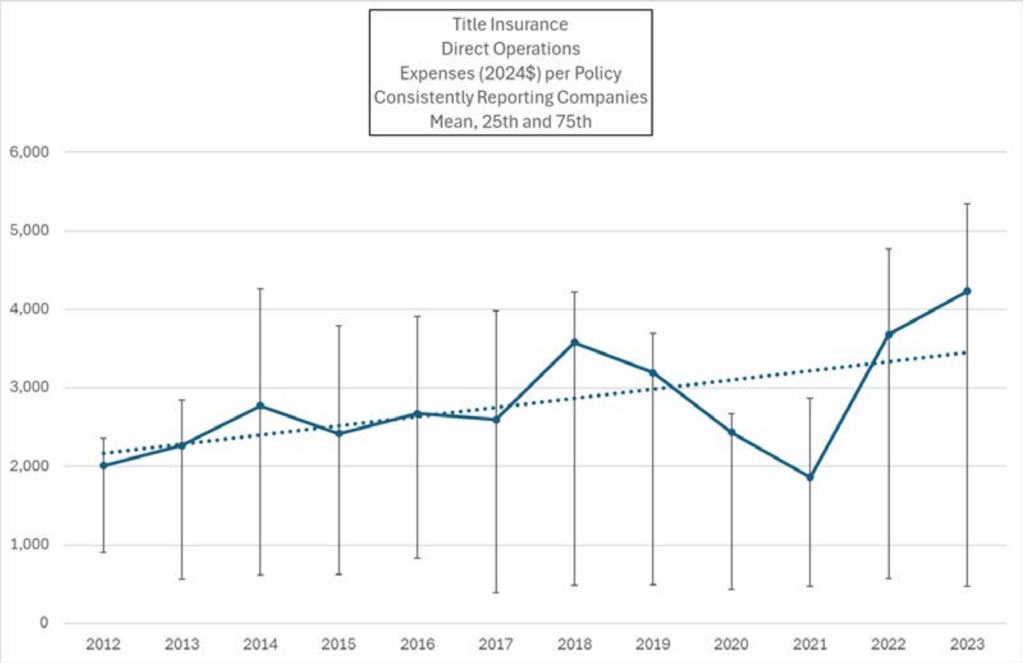
- Expenses per Policy
- Expenses per Insured Amount

Decreases suggest greater efficiency, if distribution of policy characteristics remains the same.

Expenses per Policy, Direct Operations (All Companies)

Mean, 25th and 75th Percentiles

- Between 2012 and 2023, Inflation-adjusted Expenses per Policy for Direct Operations increase by about 3.5% per year.
- Increases are not continuous; there are periods of decline.
- In 2023, the range from the 25th to the 75th percentile went from less than $1,000 (2024$) to more than $5,000.



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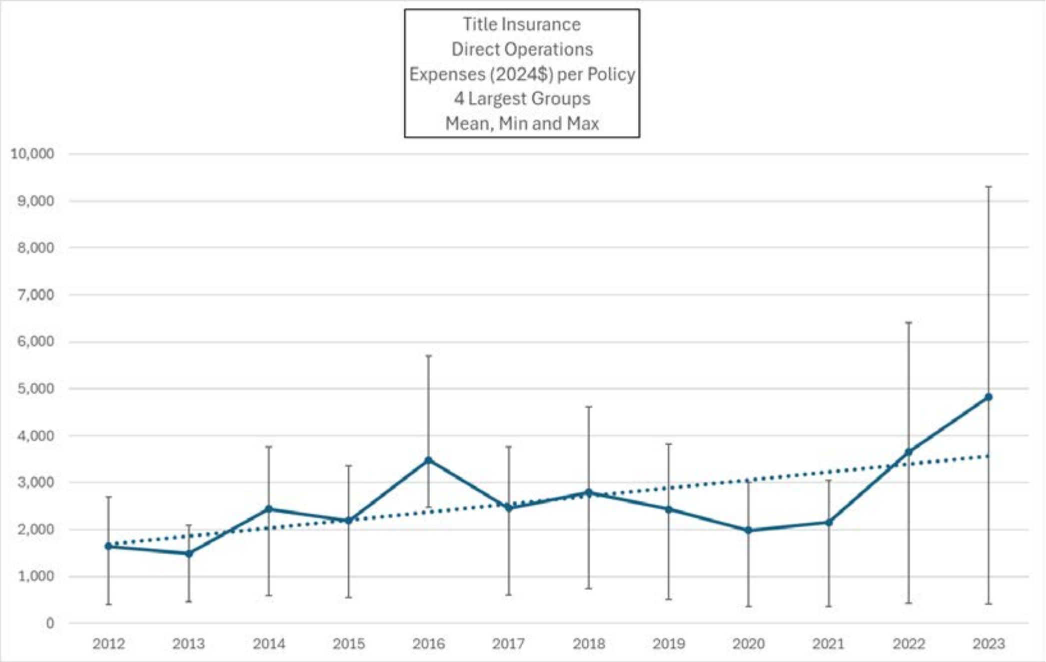
Expenses per Policy, Direct Operations (4 Largest Groups)
Mean, Minimum and Maximum

- Focusing on the direct operations of the 4 largest groups, Expenses per Policy increase about 6.5% per year in inflation-adjusted dollars.
- In 2023, the groups ranged from about $400 per policy to over $9,000 (2024$).



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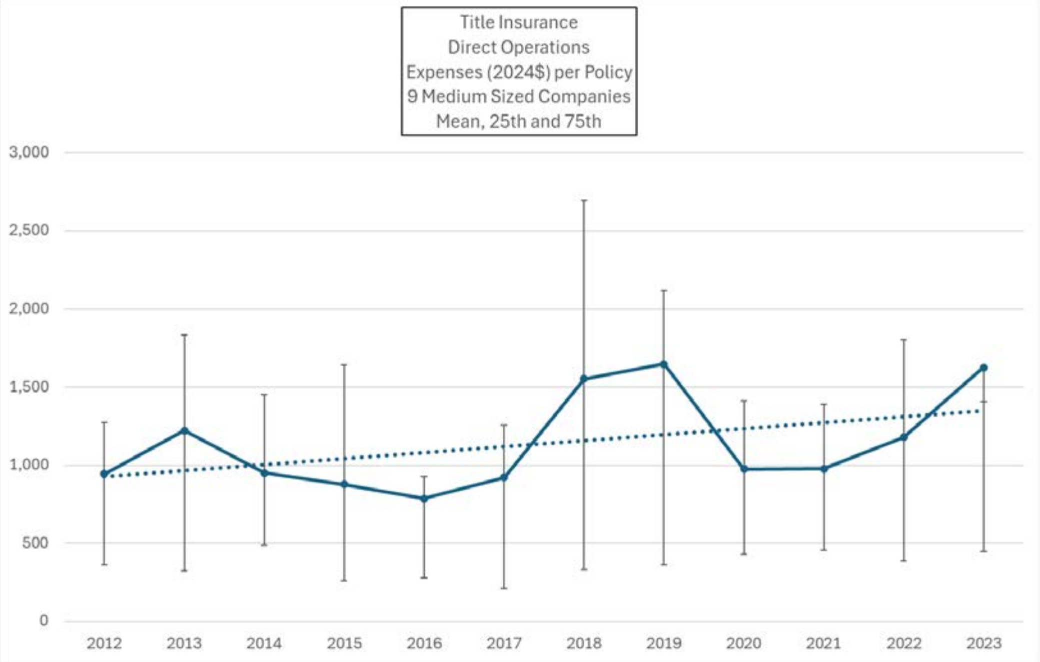
Expenses per Policy, Direct Operations (9 Medium-sized Companies)

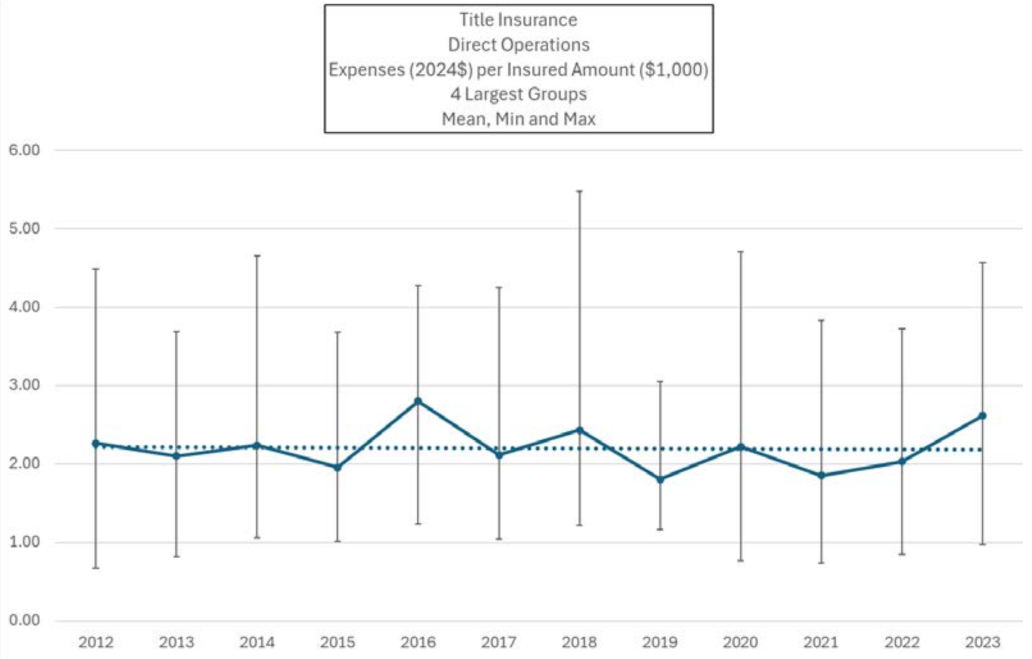
Mean, 25th and 75th Percentiles

- Focusing on the direct operations of 9 medium-sized companies, Expenses per Policy increase about 3.5% per year in inflation-adjusted dollars.
- In 2023, the companies ranged from less than $500 per policy to more than $1,500 (2024$) between the 25th and 75th percentiles.



Expenses per $1,000 of Insured Amount (4 Largest Groups)

- Expenses per $1,000 of Insured Amounts decrease by 0.13% per year in inflation-adjusted dollars for the 4 largest groups.
- In 2023, the range for the largest groups was from just under $1 to a little more than $4.5.



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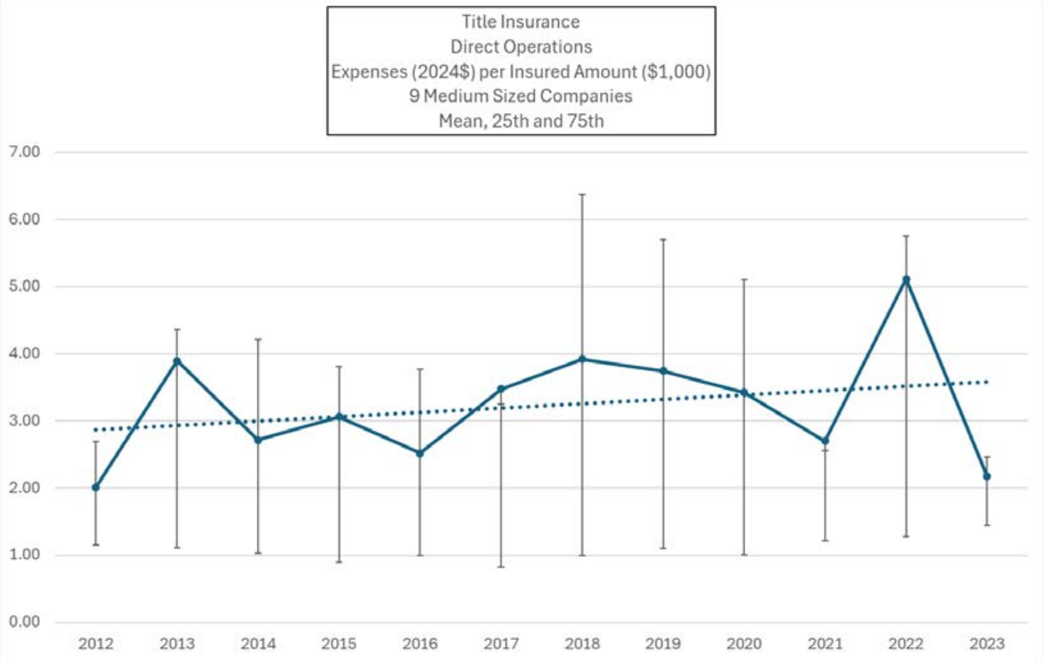
Expenses per $1,000 of Insured Amount (9 Medium-sized Companies)

- Expenses per $1,000 of Insured Amounts increase by more than 2% per year in inflation-adjusted dollars for 9 medium sized companies.
- In 2023, the range for the medium sized companies was from just under $1.50 to a little less than $2.50 between the 25th and 75th percentiles.



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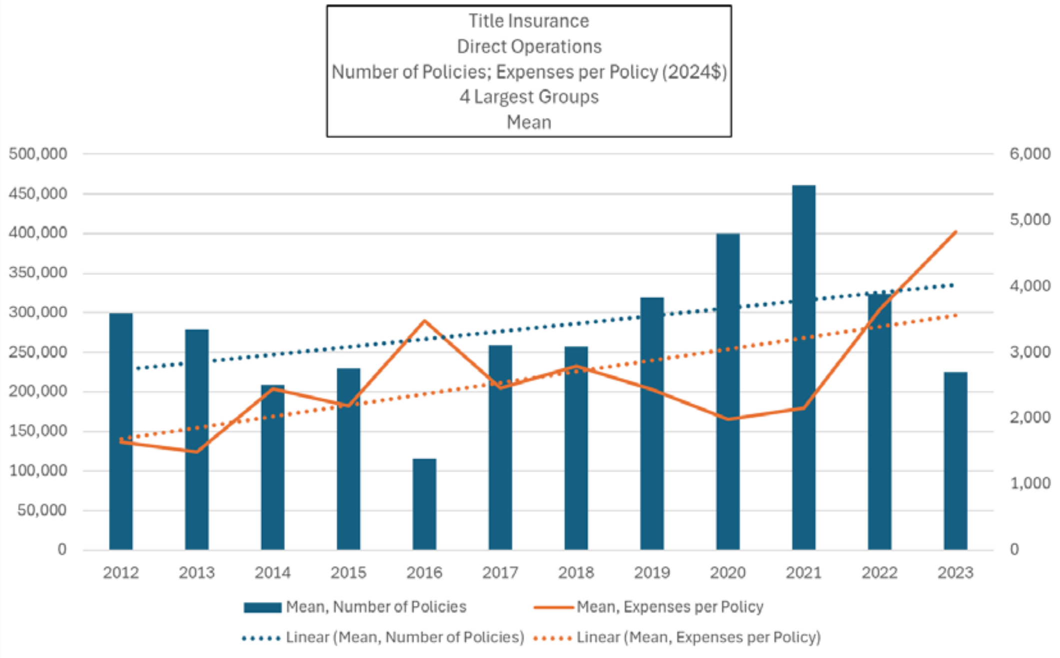
Other Factors

Let's consider some factors potentially leading to the increase in expenses per policy and decreases in insured amounts per dollar of expenses.

1. Perhaps the number of policies are decreasing, leading to higher expenses per policy, as some expenses are fixed.
2. Perhaps insured amounts per policy are increasing, leading to more complexity and, as a result, more expenses.
3. Perhaps the proportion of residential policies is declining, with more complex commercial policies taking their place.
4. Perhaps the proportion of residential insured amounts is declining, with commercial insured amounts increasing.

Number of Policies, Expenses per Policy (4 Largest Groups)

- For the largest groups, the trends in both Expenses per Policy and the Number of Policies are increasing.
- Increasing numbers of policies are unlikely to increase the expenses per policy.
- However, the sharp increase in the Number of Policies in 2020-2021 is consistent with the sharp drop in the Expenses per Policy in those years.



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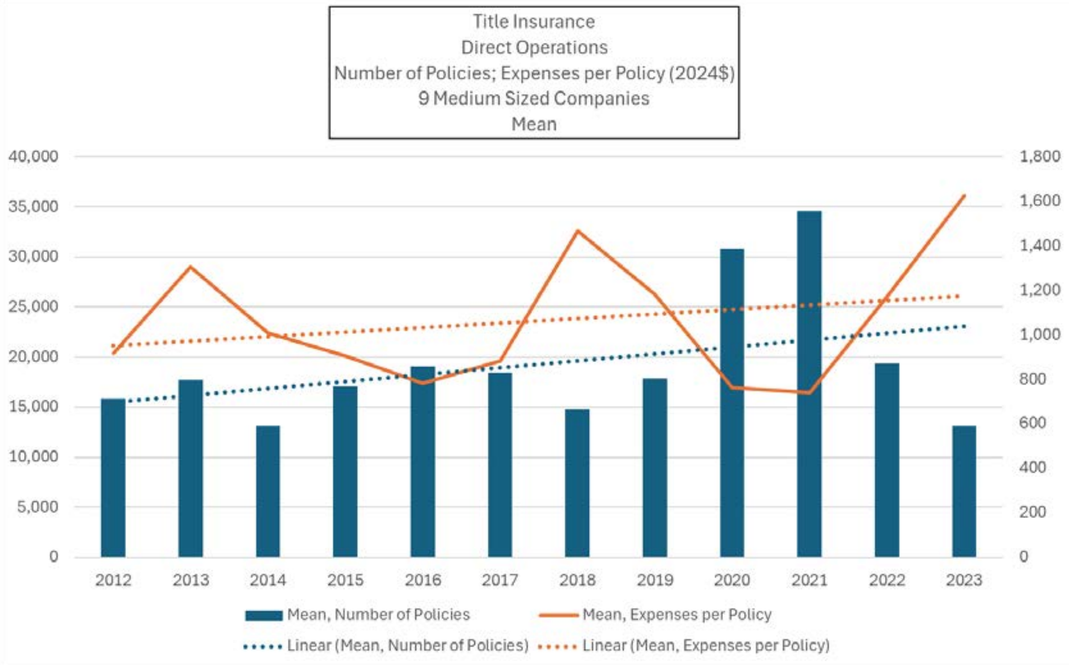
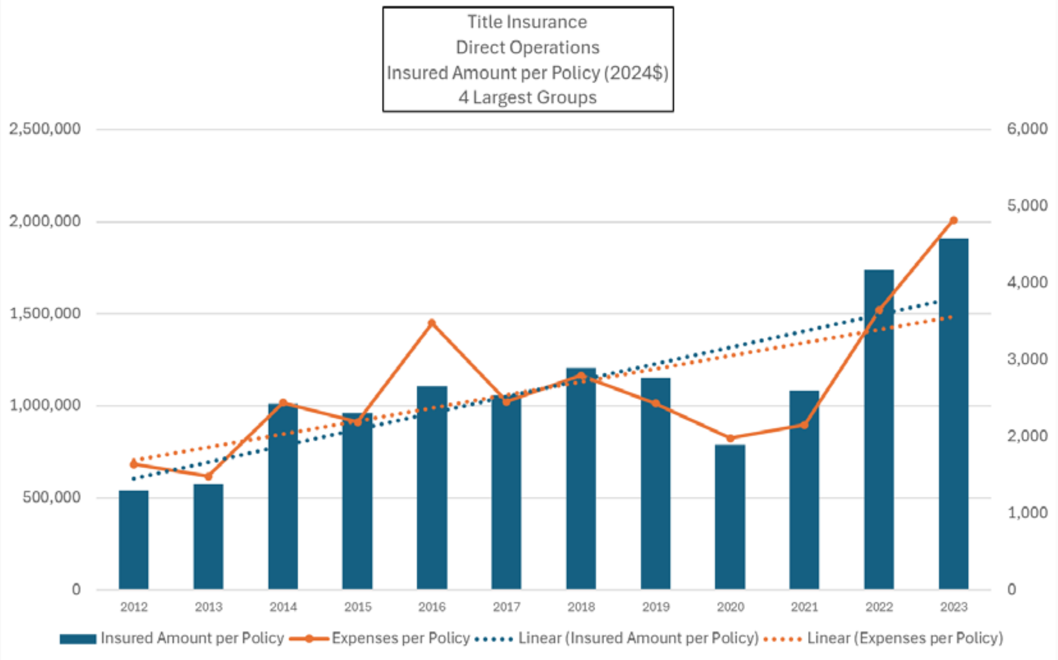


Insured Amounts per Policy (4 Largest Groups)

Insured amounts per policy are increasing for the 4 largest groups. If this is associated with increasing complexity, this could help account for increases in expenses per policy.



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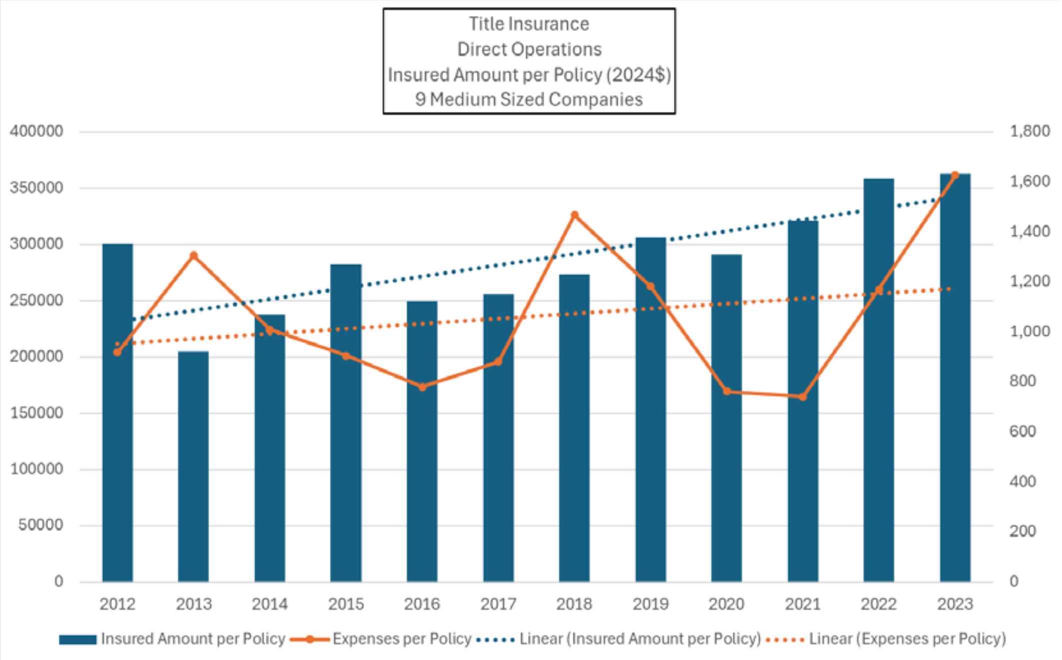
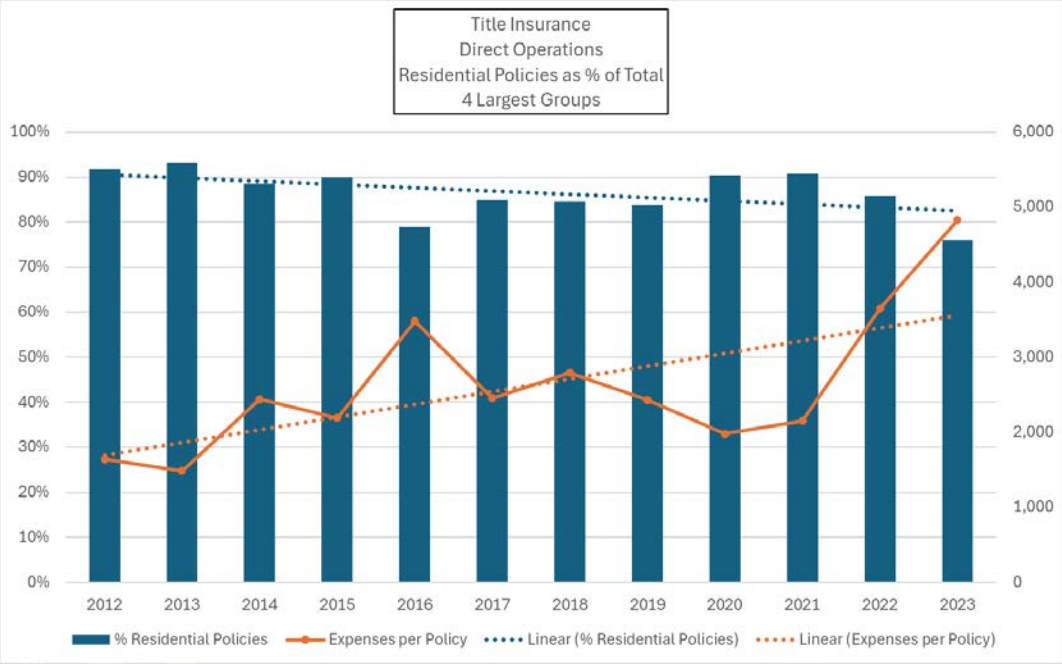
Insured Amounts per policy (9 Medium-sized Companies)

- For 9 medium sized companies, Insured Amount per Policy is also increasing.
- For both large and medium sized companies, increased complexity associated with larger average policies may help account for increases in expenses per policy.



Residential Policies as % of Total (4 Largest Groups)

The decline in the residential percentage of policies for the 4 largest groups, and the increase in the percentage of commercial policies, suggests the increased complexity of commercial policies might help account for increasing expenses per policy.



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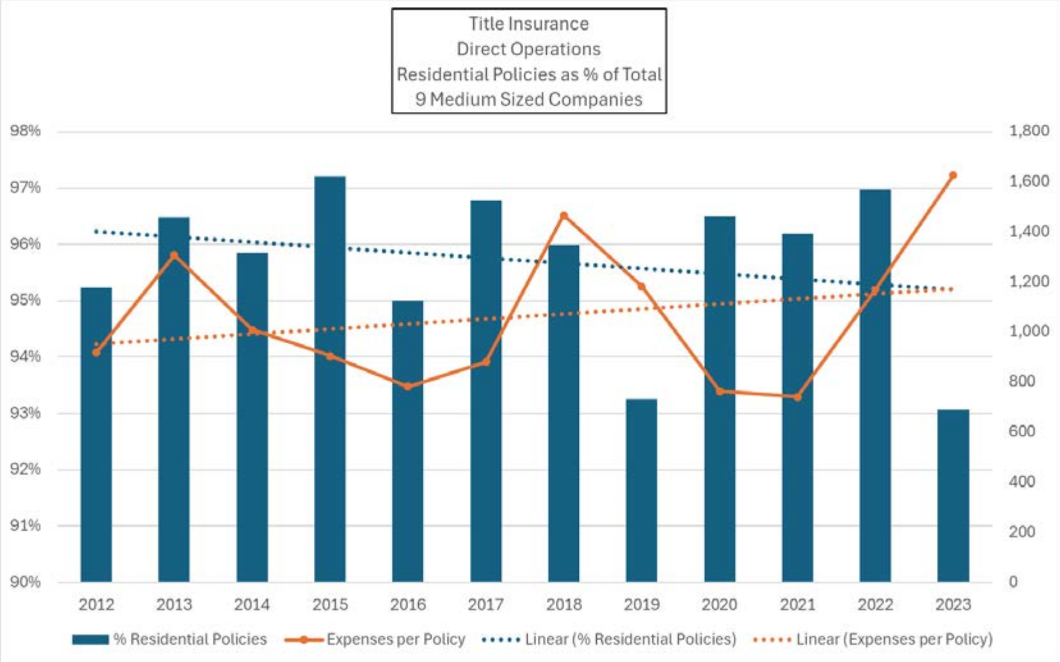
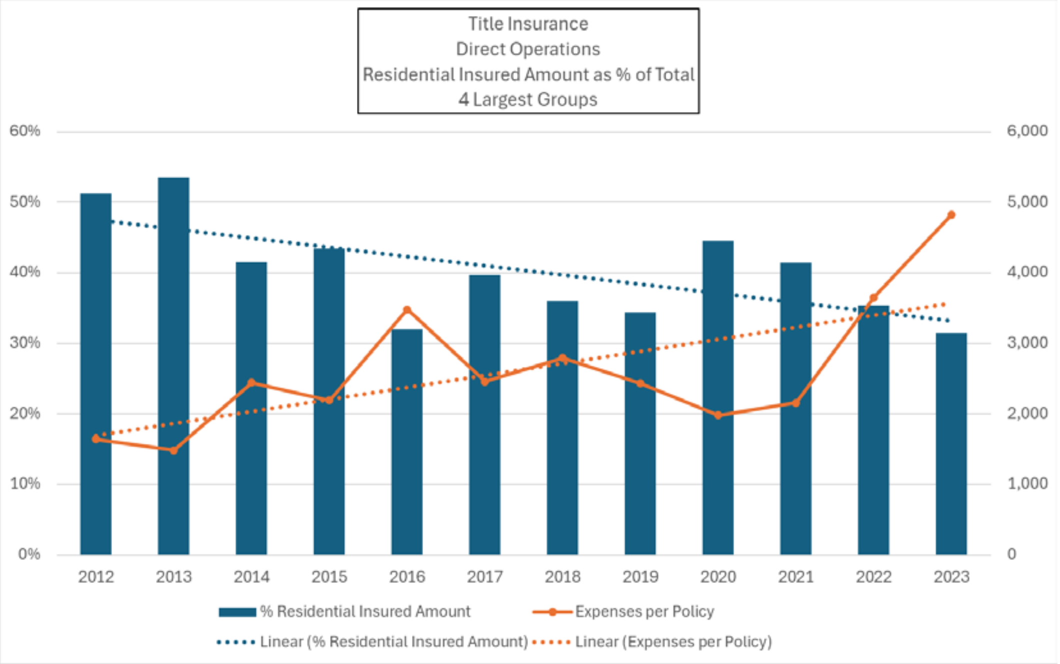
Residential Policies as % of Total (9 Medium-sized Companies)

- For medium sized companies, the proportion of residential policies is also declining, although less than for the largest groups.
- This suggests that increased complexity due to an increasingly commercial portfolio may be playing less of a role in increasing expenses for these companies.



Residential Insured Amount as % of Total (4 Largest Groups)

The steep decline in the percentage of residential insured amounts for the 4 largest groups, and the associated increase in commercial insured amounts, suggests the potential importance of this change in helping to explain increases in expenses per policy.



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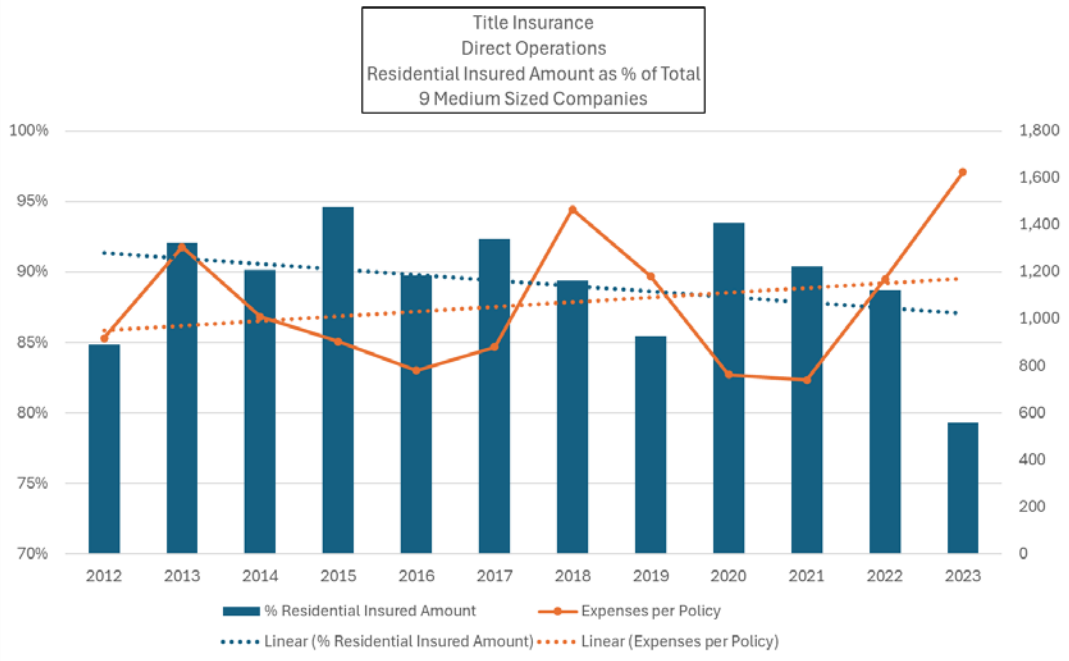
Residential Insured Amount as % of Total (9 Medium-sized Companies)

The much more modest declines in residential insured amounts for medium sized companies suggests this is less of a factor for the medium sized companies compared to the largest groups.



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What Have We Seen So Far

- Expenses per policy are increasing for both the largest groups and medium-sized companies.
- The number of policies are trending upwards. While not accounting for the increase in expenses per policy, sharp increases in 2020-2021 are consistent with sharp drops in Expenses per Policy in those years.
- Insured amounts per policy are increasing for both the largest groups and medium-sized companies.
- For the 4 largest groups, the increasing percentages of policies and commercial insured amounts may account for increased insured amounts per policy and suggest increased complexity leading to higher expenses.
- For the medium-sized companies, commercial business does not seem to have grown enough to account for the increase in insured amounts per policy.

Next Steps

- Add 2024 data
- Examine the impact of different costs in different states
- Focus on distinct business models: those companies which spend relatively more on personnel and relatively less on external sources for production services purchased outside (e.g., Searches, Examinations and Abstracts) distinguished from those with the opposite pattern.
- Supplement patterns over time, with correlations of annual company metrics; consider multiple regression to take into account effects of several factors at once.

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Thank you

Questions?

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