

July, 2002

## **Illusory Benefits of the Radian Lien Protection (RLP) Policy**

### **Claimed Homeowner Refinancing Savings**

Radian Claim – With average title premiums claimed to be \$800.00 per loan, RLP premiums of \$465 and an estimated 8.6 million in refinancing transactions, consumers would save \$2.8 billion.

Fact – Even assuming all 8.6 million loans used title insurance, one study shows that the average rate for title insurance on a \$125,000 mortgage is \$460.23, less than the cost of the RLP (See Michael D. Larson, "Closing Costs Compared", Bankrate.com, June 21, 2001, Appendix 1)

And regulators are finding the same thing. (see Letter to Radian dated June 7, 2002 from State of Connecticut, Department of Insurance, "These amounts do not support Radian's claims of dramatic savings for consumers. It appears the cost for Connecticut consumers would increase under Radian's program, not decrease.") Appendix 2)

### **Claimed Savings on Home Equity Loans**

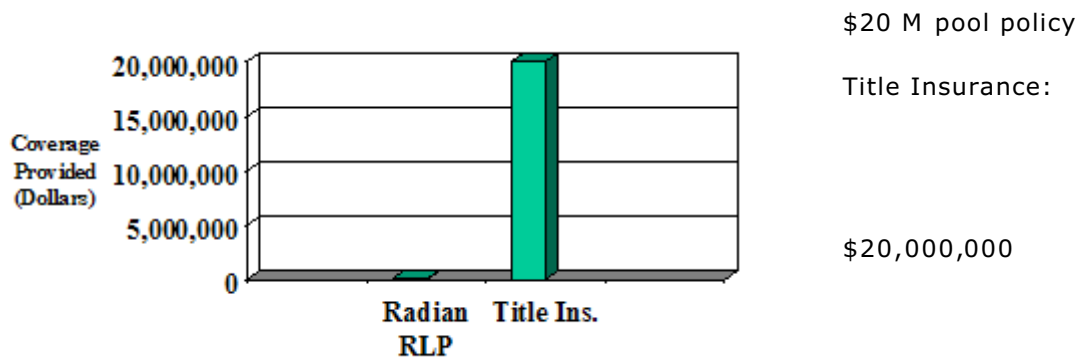
Radian Claim – With average title premiums claimed to be \$400.00 per loan, RLP premiums of \$240 and an estimated 5.6 million home equity loans, consumers would save \$896 million.

Fact – Here, the assumption that all home equity loans used title insurance is itself faulty. Some lenders long ago in lieu of the standard full title insurance policy substituted title insurance and/or search products such as abbreviated guarantees, property reports and other low cost products offered by title insurers and their agents (generally at a cost of \$100 to \$150). These products have been developed to respond to customer needs and are in accordance with the current regulatory requirements.

### **Coverage Provided**

Radian Claim - Radian Lien Protection covers "a wide range of losses."

Fact – The RLP covers only a fraction of the pool of loans. Coverage for "undisclosed liens" is limited to .50% of the pool amount. That means a pool having \$20 million in loans would have total available coverage limits of only \$ 100,000! Title Insurance coverage, which includes "undisclosed lien" insurance, would extend to the full \$20,000,000 pool amount.



The RLP provides:

- **No** insurance concerning vesting of title.
- **No** insurance for the validity or enforceability of the mortgage.
- **No** insurance for other defects in or encumbrances on the title.
- **No** insurance for any assignment of mortgage.
- **No** duty to defend.
- **No** correcting of title errors

**Each of these matters is covered by title insurance.**

## Is the RLP “title insurance”?

Radian Claim - Radian’s product is not title insurance and the title industry’s actions are motivated by their own economic well-being.

“We are convinced that providing lenders with a policy containing the exact same type of coverage as the ones we and our industry have been providing for decades, but with a more generous limit for one category of losses, cannot possibly be improper. Furthermore, contrary to some assertions, no state has issued a cease and desist order or taken any similar action against this policy.”

Howard S. Yaruss, General Counsel, Radian

Fact –

Because of the specialized nature of both title insurance and mortgage guaranty insurance, as well as a desire to preserve the safety and soundness of these lines, a number of states have longstanding statutes (often referred to as “monoline statutes”) prohibiting a company from transacting business in any other line of insurance. Several state insurance departments have looked at the RLP and found them to be title insurance and disapproved the RLP:

1. Connecticut 1 - “This policy form contains coverage for an ‘Undisclosed Lien’. Per Chapter 700a of the Connecticut Insurance Laws title insurance this

coverage is title insurance and therefore may only be written by monoline title insurers. ...

The company is in violation of Chapter 700a of the Insurance Laws.”

Disapproved filing - 1/30/02

2. Connecticut 2 – “For the following reasons and those previously provided, we find the companies’ programs constitute doing the business of title insurance and therefore are not permitted under Connecticut law.”

Response to Requested Review of Previously Disapproved filing - 6/7/02

3. Texas - “This policy form contains coverage for an ‘Undisclosed Lien’ which is appropriately the purpose of Title Insurance and should not be included in Mortgage Guaranty Insurance. ...

As the captioned filing comes under Article 21.50 Sec. 1A(I) of the Insurance Code, your company should also cancel any mortgage pool insurance policies that may have been issued using Form RAF187801.”

Disapproved filing - 10/1/01

4. Florida - “The filing referenced above appears to contain Title Insurance and thus is returned in a disapproved Status.”

Disapproved filing - 9/14/01

5. New Mexico - “These policy forms contain insurance coverage for undisclosed liens. Pursuant to New Mexico law, such coverage is title insurance that may only be written by licensed monoline title insurers... Staff, therefor, requests that Radian and American immediately withdraw these filings and cancel any policies that may have been issued using these forms...”

Disapproved filing -4/25/02

What is Radian’s Response? Ignore the ruling.

“When asked about the regulatory environment surrounding RLP, Yaruss said, ‘We never stopped offering it on Texas and Florida homes.’ Radian reportedly offers RLP on homes in all 50 states. ‘We offer the product to lenders in only a certain number of states, but it covers the lenders’ portfolio of loans wherever they may be - in all 50 states or they could be abroad if they meet our underwriting criteria,’ he said.”

4/1/02 The Legal Description

We are not aware of ANY state that has specifically approved the Radian RLP product.

Radian Claim - “This is a mortgage insurance product that is a title insurance alternative. ... We have worked this through, and it has been approved in, of all states California, which, as everyone out there knows, is perhaps the toughest state in terms of insurance regulatory authority in the country. And so, with California having approved it - and many other states have approved it also - but with California approving it, we think we’re on very, very solid ground legally,

regulatorally,(sic) and so we'll meet whatever legal challenge is mounted, but honestly, we're not concerned by it."

Frank Filipps, Chairman and CEO of Radian Group

Fact - On June 20, 2002, the California Department of Insurance issued a Cease and Desist Order, ordering Radian to cease selling the RLP since, the RLP contains title insurance coverage and Radian is not licensed to transact title insurance in California.

## **Interests of States**

Virtually every state has statutes and regulations governing the business of insurance, including title insurance. Deference should be given to these enactments since states have legitimate interests in protecting their citizens on a local level:

Real estate laws differ between the various states.

Many states believe that a search and examination of title prior to the closing of a real estate transaction is an important part of a real estate transaction.

The title industry also genuinely believes that the use of the RLP and the related failure to maintain or correct the public record (Radian does not perform a search of title prior to issuance of the RLP) would seriously undermine the integrity of public land records. By contrast, **the title industry spends approximately \$4.2 billion, or 47% of its revenues, searching, examining, correcting and maintaining public land records.** Eliminating the private maintenance of the public land records by the title industry would likely lead to onerous transfer taxes like those imposed in other developed countries (e.g. Canada, 7%; France, 15%)

## **Who we are**

The American Land Title Association (founded 1907) membership is comprised of 2,000 title insurance companies, their agents, independent abstractors and attorneys who search, examine and insure land titles to protect owners and mortgage lenders against losses from defects in titles, employing more than 100,000 individuals and operating in every county in the United States.