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MEDIA STATEMENT

INSURANCE COMMISSIONER JOHN GARAMENDI'S STATEMENT CONCERNING MONDAY'S HEARING INTO ILLEGAL KICKBACKS IN THE TITLE INSURANCE INDUSTRY

Insurance Commissioner John Garamendi held an investigatory hearing Monday into illegal kickbacks allegedly taking place in the title insurance industry. Since early January the Commissioner has conducted an investigation to unearth details about the creation and use of "captive reinsurance companies." These "captives" were created by lenders, builders and developers to receive a portion of the premiums paid to title insurers, ostensibly to absorb some of the risk involved. In return, the lenders, builders and developers allegedly referred business to the title insurer.

This is an illegal practice in both California and federal law. It also has great potential to drive up costs unnecessarily for consumers. The Commissioner has vowed to stop any illegal rebating activity in the state and ensure that future pricing reflects the true risk involved in title insurance.

LOS ANGELES – "My hearing today has generated important information that will assist my investigators as they work to uncover the truth behind illegal kickbacks in the title insurance industry. Consumers in California pay more for homes than nearly every other state in the nation. They cannot afford to also unknowingly pay unnecessary, additional title insurance costs that only serve to line the pockets of greedy executives.

Before this hearing began there was already ample evidence to suggest that using captive reinsurers for title insurance has cost California consumers millions of dollars. The state of Colorado recently reached a settlement with First American Title over the practice, requiring it to repay consumers $24 million in extra charges. Many of those consumers live or own homes in California.

First American has cooperated in my investigation, providing documents and insight as to how this practice operates, how it began, and how extensive it is. I have subpoenaed information from those who were less cooperative and compelled them to appear before me at the hearing. By whatever means necessary I intend to get to the bottom of this scandal and ensure that the title insurance industry operates both legally and fairly for California consumers.

"Title insurance rebating, at its essence, is a form of commercial bribery and a breach of trust. It has the potential to inflate transaction costs and thereby prevent many of us from realizing the American dream – owning a home. "Last year 781,000 homes were bought and sold in California. About as many more were refinanced. In each one of these transactions, the consumer was required to pay for title insurance. That insurance

did not come cheap.

“The average premium on a title policy is over $1,400. And since it is a requirement, it effectively functions as a tax. Like any tax, it has the potential to stifle the market and drive out consumers. Studies show that for every additional $1,000 in the cost of a home, another 21,000 Californians are priced out of the housing market.

“I have, since taking office in 2003, worked vigorously to enforce the laws governing title insurance. I have issued millions of dollars in fines and taken significant enforcement action to stop rebate schemes, most notably:

- In 2001 and again in 2002, I prosecuted Old Republic Title Company to stop illegal rebating.
- I fined Southland Title in 2002 and again in 2004 for illegal rebating.
- In 2003, I restricted South Coast Title Corporation's license and fined it to stop illegal rebating in the form of direct cash payments to realtors, and in the form of bribes camouflaged as payments for office supplies, gifts, parties, and vacation trips.
- I prosecuted Commonwealth Land Title Company in 2004 to stop similar illegal rebating.
- I have an enforcement action pending against Stewart Title Company to end illegal rebating.
- I also have a pending action against Investors Title Company for illegal rebating that will go to trial in July.

“The arrangements with captive reinsurers that we are investigating today are, at best, troubling. “These are unquestionably payments to the lender, builder or realtor, and they are explicitly linked to the firm referring business to the title company. While the companies call the payments “reinsurance premium,” the fact is that title insurance only rarely involves any reinsurance. The so-called reinsurer is raking in nearly half of the premium in this line of insurance, an amount scarcely justified when assuming liability that typically is well below 10% of the premium.

“Upon concluding this hearing I will take whatever steps I deem appropriate to ensure that consumers pay a fair price for title insurance. If we determine that a refund of excess charges is due, we will work to ensure that it is paid. As I said earlier, I will take whatever appropriate action necessary to stop illegal practices and provide a fair market for California consumers.”

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