



**2013**

**National Real Estate  
Settlement Preference Survey  
Executive Summary**

## I. Background and Objectives

The National Association of Independent Land Title Agents (NAILTA) created a Settlement Preference Survey in 2013 with the assistance of title insurance agents, real estate attorneys, regional title insurance underwriters and other interested stakeholders in order to evaluate the preferences of American real estate consumers at the closing table. It is the shared experience of those who helped to formulate the survey that consumers lack important information concerning the objectives and agendas of the settlement service providers who often times do not disclose that they receive financial incentives for their referral of business. It was hypothesized that, assuming a consumer was informed of the existence of an incentivized referral relationship and the potential conflict of interest that is inherent in such a structure, they would not prefer such a settlement option and be more apt to shop elsewhere for the same services.

In 2008 and 2010, Harris Interactive was commissioned by the National Association of Realtors (NAR) to conduct similar research among recent and future home buyers to evaluate experiences, familiarity, usage and preferences regarding one-stop shopping. This data is often used by proponents of controlled business arrangements (CBAs) to substantiate a myth that real estate consumers both understand the value of CBAs and benefit from their use, even though the Harris Study found that more than 70% of respondents were unaware of what a CBA or one-stop shop is<sup>1</sup> and less than 25% prefer to use a CBA or one-stop shop for their real estate settlement.<sup>2</sup>

The Settlement Preference Survey (SPS) was designed to be everything the Harris Interactive studies were not -- quick, efficient and unbiased. The SPS consists of five simple questions on a one page survey. The survey does not identify what organization or entity is requesting the survey, thereby allowing consumers to approach the survey without answering the questions to assist or harm the producer. The survey is given, in written form, at the time of closing while the consumer is most apt to respond in an unbiased manner concerning their closing experience. The survey questions were specifically designed to not suggest possible biases or outcomes.

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<sup>1</sup><http://www.realtor.org/wps/wcm/connect/26edd6804a7ad6f3a68abf72b4e3ecdd/NAR+Survey+2008.pdf?MOD=AJPERES&CACHEID=26edd6804a7ad6f3a68abf72b4e3ecdd>

<sup>2</sup> [http://www.realtor.org/diversified\\_re\\_firms/20080501\\_one\\_stop\\_shopping](http://www.realtor.org/diversified_re_firms/20080501_one_stop_shopping) at p. 8.

The objectives of the SPS were the following:

- Discover whether American consumers understand that they have legally protected rights to “shop” for and independently select title insurance service providers.
- Clarify whether American consumers believe it is important that their title insurance service provider remain neutral in determining and disclosing matters that may affect their land title.
- Help American consumers understand that referral sources are generally prohibited from being licensed as title insurance agents and from soliciting title insurance business.
- Discover the preferences that real estate consumers have in light of the fact that some real estate settlement service providers hold incentivized financial interests in the referral of business.

## II. Methodology

- Audience: United States residents, 18 years or older who purchased or refinanced a residential property in a period between April 1, 2013 to September 1, 2013.
- Method: One page, five question written form survey given at the time of settlement.
- Field dates: April 1, 2013 through September 1, 2013.
- Sample size:  $n = 947$
- Survey Duration:  $< 2$  minutes
- Margin of Error:  $\pm 2.3\%$

### III. Executive Summary

- **American real estate settlement consumers are aware that they have a legally protected right to “shop” for the title insurance agency that performs title services and closes their loan.**
  - 82% of respondents said they “did know” that they have a legally protected right to “shop” for title insurance services.
  - Only 18% of respondents did not know of their legally protected right to “shop” for title insurance services.
- **American real estate settlement consumers prefer a neutral third party in the performance of title insurance-related functions.**
  - 93% of respondents said it was important that their title agent be a neutral third party in determining and disclosing what matters may affect their land title, including adverse liens or other interests that may restrict their use and enjoyment of their property.
  - 6% of respondents said it was not important to have neutrality.
  - Less than 1% did not respond.
- **A majority of American real estate settlement consumers did not know that banks, real estate firms, mortgage companies and homebuilders cannot be licensed as title insurance agents or solicit title insurance business.**
  - 55% of respondents said they “did not know” that state laws generally prohibited referral sources from being agents of title companies or from soliciting their title insurance business.
  - 45% of respondents said they “did know” that state laws generally prohibited referral sources from being agents of title companies or from soliciting their title insurance business.

- **By a nearly “2-to-1” margin, American real estate settlement consumers do not believe a title insurance agency can remain objective in the handling of a title insurance transaction if it is partially owned by a bank, real estate firm, mortgage company or homebuilder.**
  - Over 62% of respondents said that title insurance agencies could not remain objective, as it pertains to title insurance matters, if they shared ownership with a referral source.
  - 36% of respondents said that title insurance agencies could be objective, as it pertains to title insurance matters, if they shared ownership with a referral source.
  - Roughly 1% of respondents did not respond to the question.
  
- **American real estate settlement consumers do not prefer title insurance agents that share ownership with real estate firms, mortgage companies, or banks.**
  - Less than 2% of respondents prefer a title insurance agent that shares ownership with a referral source.
  - 59% of respondents prefer a title insurance agent that *does not* share ownership with a referral source.
  - 39% of respondents expressed no preference.

#### IV. Conclusions:

- **American real estate settlement consumers know their consumer rights, but they do not choose their settlement service provider.**
  - American real estate settlement consumers are aware of their rights to “shop” and choose title insurance but are still being steered by referral sources to title insurance service providers who are not being referred on the basis of quality of service, but on the inherent incentives they provide to the referring party for the referral.
  - Because of the lack of communication between title insurance agent and consumer, the whims of the real estate agent, mortgage broker, homebuilder and bank play a much larger role in the determination of what settlement business a title insurance agent receives.

- **Neutrality in the performance of title insurance services is a big deal.**
  - Borrowers are mostly unaware of the relationship between the different settlement service providers and many of these assumptions are aided, whether rightly or wrongly, by the same referral sources that are trusted by the consumers to use their professional judgment, not their wallets, to determine the best title insurance agent.
  - Title insurance agents lack meaningful access to American real estate consumers concerning the merits and differences of their services. These inequities are enhanced by the referral sources and their advocates who promote CBAs and market consolidation as a further means to separate consumers from title insurance agents.
  - When it comes to the essential function of title insurance – determining and disclosing matters that may affect a consumer’s land title – American real estate settlement consumers demand that the title insurance provider be neutral to the product and unaffiliated with the lender, realtor, mortgage company or homebuilder.
  - No other surveyed question brought as dramatic a statistical disparity between responses as the neutrality question. Over 93% of respondents said neutrality matters.
  
- **Referral sources cannot be licensed as title insurance agents?**
  - The advent of “one-stop” shops has created the false impression that banks, real estate firms, mortgage companies, and homebuilders – despite being prohibited from obtaining a title insurance license or from soliciting title insurance – can actually hold such licenses and solicit such business.
  - The Model Insurance Act adopted by an overwhelming majority of state legislatures since 1967 actually prohibits banks, real estate firms, mortgage companies and even homebuilders from being licensed as title insurance agents or from simply soliciting title insurance business.
  - American real estate settlement consumers lack an understanding of the physical and legal barriers to access that keep title insurance a monoline form of insurance.

- **American real estate settlement consumers do not equate affiliated service providers with professional objectivity.**
  - Consumers seem to understand the most glaring underlying harm presented by affiliated business arrangements, namely, that those entities suffer from an inherent and inexorable conflict of interest.
  
- **One percent of American real estate consumers prefer title insurance agencies that are partially owned by a bank, real estate firm, mortgage company or homebuilder.**
  - When the question of preference is given to an American real estate consumer and the fact of ownership is known, American real estate consumers prefer to keep settlement service providers separate.
  - Over 98% of respondents to the NAILTA SPS either said they preferred a title insurance agency not partially owned by a referral source or expressed no preference.
  - There is a negative consumer perception to using a settlement service provider that is directly or indirectly controlled by another actor in the real estate settlement process.