

TITLE TIP

From the Central Alabama Title Center, LLC

April 14, 2014

Title Insurance Vital to Protecting Home Buyers

Today more than ever, consumers are reminded that in order to have peace of mind, they should purchase an owner's title insurance policy whenever they buy a home. This is especially true when buying a property that has been foreclosed. Anyone who purchased an owner's title insurance policy when they acquired a foreclosed property will be protected if ownership issues arise due to a lender's foreclosure documentation practices. An owner's policy provides assurance that your title company will stand behind you if a covered title problem arises after you buy your home.

The bottom line is that your title company will be there to pay valid claims and cover the costs of defending an attack on your title. Title insurance compensates and provides legal representation to real estate owners and lenders against any financial loss that might arise because of undiscovered liens, encumbrances or defects in the title to the property. These defects can result in total losses, where a defective foreclosure or forgery means legal title is not actually conveyed, or they can result in partial losses where a neighbor's garage or fence encroaches on the insured property.

There are two basic types of title insurance policies. A lender's policy, usually based on the dollar amount of the loan, protects only the lender's interests in the property should a problem with the title arise. Similarly, an owner's policy, usually based on the home's total purchase price, protects only the homebuyer's interests in the property should a problem with the title arise. An owner's policy will provide protection against ownership challenges, errors or omissions in deeds, mistakes in examining records, missed liens, forgery and undisclosed heirs, among other things.

Unlike most other types of insurance, you pay a one-time premium at the time of your home purchase for coverage that continues as long as you or your heirs own the property. Depending on where you live, the cost of an owner's policy is marginal when a lender's policy is also being issued. This "simultaneous issue" discount means you do not pay full premium for owner's and lender's policies. You may even split settlement costs with the seller for the lender or owner's policy. Depending on the state, rates are set by the state's Department of Insurance or by the companies themselves. Consumers should ask their local title company how rates are determined and what services are included in the rate for where they live.

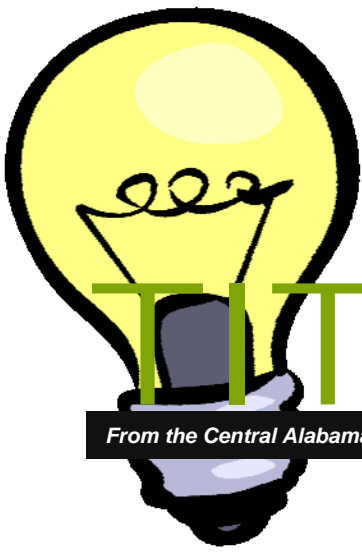
An example of how an owner's policy protects homeowners recently occurred in Texas. A homebuilder was charged with defrauding first-time homebuyers by selling houses that were encumbered by undisclosed liens. When the builder subsequently failed to pay the debt, the creditors who were owed money started foreclosure proceedings and filed lawsuits against the home buyers. The developer sold the properties without home buyers realizing that their new houses were subject to undisclosed liens because they did not purchase title insurance. An owner's policy would have paid to settle the dispute and covered any associated legal fees.

In all transactions, a search of public land records affecting the property is conducted to make sure a homeowner has clear title to their property. The title agent will scrutinize prior deeds or mortgages, divorce decrees, court judgments, delinquent taxes and child and spousal support payments, vesting, covenants, conditions and restrictions, general encumbrances, and utility or other kinds of easements. A history of ownership of the property is created, called an abstract, and steps may be taken to cure title issues that are discovered. This may include correcting recording and indexing errors in the public record, correcting misspelled names or incorrect legal descriptions. According to the American Land Title Association, the title insurance industry cures defects in public records in more than 35 percent of all transactions.

Some examples of documents that can present unexpected title issues include:

- Deeds, wills and trusts that contain improper wording or incorrect names;
- Outstanding mortgages and judgments, or a lien against the property because the seller has not paid his taxes;
- Easements that allow construction of a road or utility line;
- Pending legal action against the property that could affect a purchaser; or Incorrect notary acknowledgements.

For peace of mind when purchasing a new home the owner should always purchase an Owner's Title Policy.



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Some examples of issues which can present title claims under your policy include:

- A forged signature on the deed, which would mean no transfer of ownership to you;
- An unknown heir of a previous owner who is claiming ownership of the property;
- Instruments executed under an expired or a fabricated power of attorney; or
- Mistakes in the public records.

The majority of the one-time title insurance premium covers the cost to discover, identify and repair issues caused by events that occurred in the past. Because of these preventive measures, title insurance is fundamentally different from all other forms of insurance, which charge annual premiums to provide insurance protection for future events. The curative work performed by title agents minimizes the fear, disruption and distress that title claims have on homeowners.

One way to compare title insurance to other lines of insurance is to imagine if a homeowner's insurance agent came into a home and inspected all of the wiring at no additional cost to the owner. The agent then repaired any and all faulty or frayed wiring at no cost and guaranteed that none of the wiring that was repaired or any wiring that the agent could not see, would cause a fire. Finally, the agent charged a one-time fee for the inspection, repairs and guarantee that would be in effect as long as you or your heirs owned the property. The title industry finds the faulty wiring, fixes the faulty wiring and charges a one-time premium to guarantee its work, based on the value of the property.

When property changes hands in the United States, it is through a private contract that is recorded in the public record. No matter the type of purchase, but especially a foreclosure, it is important that all documentation is in order. Commitment to accuracy and quality assurance is the foundation of title insurance. This commitment ensures fewer problems for homeowners and provides assurance that they won't lose their investment.

Consumers have a choice when shopping for a provider of their title insurance related services. When selecting a title insurance provider, consumers should always consider the company's local expertise, service standards, market conduct and commitment to the local community. Consumers should also consider and compare all of the associated costs. Some rates may or may not include other services provided by the title company such as conducting the closing, preparing and notarizing documents and other services. When comparing one rate to another, be sure to get detailed information on what is included in that rate, so you are comparing equally. Asking questions can help the next time you buy or refinance a home. When refinancing with your existing lender, ask for a copy of your original lender's title insurance policy. When purchasing a home, ask your real estate agent or the home seller for a copy of any existing owner's title insurance policy written on the property. When placing a title order, provide your settlement agent or lawyer with a complete, legible copy of any prior title policies. Finally, ask your settlement agent or lawyer if any discounted title insurance rates are available based on your situation. Title insurance and related services are regulated at the state level, so keep in mind that the process can vary from state to state and even from county to county. Be sure to ask how it's done in your area so you know what to expect.

The American Land Title Association, our industry's trade association, helps educate consumers about title insurance so that they can better understand their choices and make informed decisions. Homebuyers, regulators and legislators are encouraged to check out their website, www.homeclosing101.org, to learn more about title insurance and the closing process.