

Title Insurance is Not “Just Another Fee”

During the closing process, ask about an expanded policy to cover post-policy risks

By Michael A. Holden

Title insurance is little understood by most consumers. In fact, a recent survey by the American Land Title Association revealed that most home buyers think of title insurance as “just another fee” they have to pay to buy a home. They don’t really know what it does, or how it protects them.

A major reason for this is that buying a home has become a rather complex process. There are so many details to take care of that most people rely on the person handling the sale to take care of them—typically their real estate agent. They trust their agent to know the process and do what is required, including ordering services like the appraisal, home inspection, and title work. Since the buyer isn’t directly involved, they may not be knowledgeable about what many of these services entail.

What is Title Insurance?

An Owner’s Policy of title insurance assures that the home you are buying is free of issues that could cloud the title. Prior to issuing the insurance policy and before you close, title professionals conduct an exhaustive search to check for liens, encumbrances, easements, and other problems that could affect the status of the title. If a problem is discovered, title professionals typically take care of it, or notify you so that you can make an informed decision. If a title defect covered under the policy isn’t discovered until after you close, the insurance kicks in to cover your losses.

What are some typical problems that might cloud a title? There may be a lien on the property for unpaid property taxes by the previous owner, or a mechanic’s lien by a subcontractor who performed work on the property and was never paid. Other examples include a prior unpaid mortgage, or covenants and restrictions on the use of the property.

Sometimes there are problems that go undetected during the title search, such as fraud or forgery, a mistake in the public record, or an unknown heir claiming ownership. If this occurs, you would file a claim with your title insurance company.

The truth is, claims are rare in the title insurance business because of the due diligence that is performed before the policy is issued. Most of the premium dollar goes to pay for the upfront costs of performing the title search, and clearing up title issues before you close.

Expanded Coverage

Now that we've covered what traditional owner's title insurance covers, let's discuss what an *expanded* policy covers, and why you may want to purchase this coverage.

An expanded title insurance policy covers many title defects not covered under a traditional policy, including issues that did not exist at the time you purchased your property. Expanded coverage typically covers things like access to the property, zoning violations, post-policy easement issues, encroachment removal, and building permit violations.

An example would be if someone used a portion of your land as an easement to their property, and you wanted to build something that would block their access. They file a claim asserting their rights based on their continued use over time. A judge then orders a cease and desist order on construction until the matter can be heard in court (which could take months or years). Because this occurred long after you purchased title insurance, a traditional Owner's Policy wouldn't cover it. But with an expanded policy, the title insurance company would negotiate with the parties involved to reach a settlement, or, pay your legal expenses to defend your claim in court. If you were to lose your case, the title insurance company would compensate you for your losses.

Another benefit of expanded coverage is that it insures you even after you no longer hold title to your property. This means that if you are sued for certain issues after you relinquish the title through a sale, the expanded coverage policy continues to protect you. And many underwriters increase the coverage amount each year as a hedge against inflation.

Real Life Examples

In one state, a homeowner took an extended trip overseas. Upon her return, she discovered that new neighbors had moved in next door and were building a fence that was headed for the middle of her driveway. A survey was done, which revealed that building a fence on the neighbor's property line would block access to her garage and the rear portion of her property. Fortunately, the homeowner had purchased an expanded coverage policy.

The title company immediately hired an attorney to represent the homeowner. After having the fence removed, the attorney filed for a variance with the county to get a county-established set-back line redrawn, and obtained an easement for the homeowner to use her driveway.

Another example was when a homeowner discovered that the previous owner had not obtained the proper permits for some home improvement work. Because the new homeowner had purchased an expanded coverage policy, the title insurance company paid \$18,000 to bring the work up to local building code standards.

Understand Your Coverage

Title insurance is more than “just another fee”—it provides real protection should something happen to threaten the title to your home. Talk to your title representative to find out what is and isn’t covered in your title insurance policy, and whether an expanded policy is right for you. **(Expanded coverage is only available in 41 states, so check to see if it's offered where you live.)**

For peace of mind, make sure you fully understand your coverage before you close.

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