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LAWYERS LINK

UNRAVELING THE MYSTERY OF TITLE INSURANCE

Title insurance has been considered mysterious, probably due to its complex process and the fact that it is often bundled into closing costs, making it seem like a hidden fee. Additionally, the language and jargon used in the industry is confusing, further contributing to its perception as a mysterious expense.

In this article, we'll demystify title insurance and explain why it is crucial in the complex realm of real estate transactions.

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What Is the Purpose of Title Insurance?

Title insurance protects both lenders and homebuyers from financial losses due to defects in the property's title. It safeguards against issues like unpaid property taxes, fraudulent paperwork, or claims from unknown heirs. In essence, it ensures you have clear and valid ownership of your property.

What Types of Policies Are Available?

Title companies routinely issue two types of policies: An "owner's" policy with insures the homebuyer, and a "lender's" policy which ensures that the lender's security in the property (like a mortgage) has priority over claims from other parties. This means that if a title defect or claim arises that could jeopardize the lender's position, the insurance will cover the lender's losses. Lenders typically require title insurance when issuing a loan.

Is Title Insurance Worth the Cost?

Despite common myths that title insurance is a waste of money, title insurance is essential in the real estate purchase process.

Homeowner's title insurance requires a one-time fee that is paid at the closing of a transaction, and the coverage is active as long as the policyholder or their heirs own the property. There are no monthly payments, as there are with other types of insurance. Lender's title insurance also requires a one-time fee, which is paid at closing, and there is not an ongoing premium. The lender's policy typically remains valid for as long as the mortgage is outstanding. Once the mortgage is fully paid off, the policy's coverage ends as the lender's interest in the property ceases.

Title insurance covers the costs of some very expensive title defects. For example, if another party made a competing claim of ownership on your home, you would have to spend countless dollars hiring an attorney and fighting them in court. Your legal expenses in this case would likely amount to several times what you would have paid for a title insurance premium. If you had purchased a title policy on closing day, you would have been covered for those expenses.

If title insurance wasn't worth the cost of a premium, lenders (banks) wouldn't require you to purchase a policy before they issue a loan. Banks and mortgage companies take this step to protect their investment, and as a homeowner, it makes sense for you to do the same.

What Is a Title Search?

A title company conducts a title search during the closing process. They perform a deep and thorough examination of public records and other sources to determine and confirm a property's legal ownership and to find out if there are any claims or liens on the property. With an exhaustive search, any problems with the title can usually be uncovered and resolved before the purchase is completed.

Why Do I Need Title Insurance if the Title Search Comes Back Clear?

There is always a risk that something could have been overlooked. A previous owner may not have disclosed a marriage and a legitimate claim against the property may arise from a legal spouse. An undisclosed heir to the property may surface and want his/her share. Clerical errors could have occurred. Someone could have sold the property fraudulently and forged documents. There can be liens against the property, or other restrictions or

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encumbrances such as unpaid taxes or an unpaid mortgage. A judgment may exist against the seller.

If you didn't have title insurance, you would be responsible for hiring a lawyer and defending your ownership rights in court, something that could cost thousands of dollars. You could lose that battle and lose your ownership rights.

Having a title insurance policy in place can protect you from undiscovered title defects and cover your expenses related to resolving them.

Do You Need Title Insurance for Vacant Land?

Title insurance is designed to protect the ownership of a property, regardless of the kind of real estate that is being purchased. A title search isn't restricted to only a building on a property, as vacant land could be just as vulnerable to fraud, errors, claims, and liens on the title. Additionally, buyers may mistakenly believe that a deed is proof of positive ownership. A deed merely shows the transfer of ownership, it does not eliminate any rights that other individuals or entities have in the property.

Do You Need Title Insurance for Foreclosed Property?

If you are purchasing a foreclosed property, you may think that any title defects would have been discovered and resolved during the foreclosure process. This is not the case at all; in fact, it's even more important to get title insurance for foreclosed properties. The truth is that foreclosures can often be contentious and are much more likely to involve another party making a competing claim of ownership than other properties. The previous owners may be in the process of fighting the foreclosure in court, and if they are successful, they will likely attempt to reclaim their property. That's why you should never go without an owner's title insurance policy, especially on a foreclosed home.

Working With Lawyers Title

When you work with Lawyers Title you get the collective wisdom of a professional team of experts working on your behalf. Every member of your Lawyers Title team has a role in streamlining the closing process to ensure a great customer experience. This collaborative approach is the "magic touch" that keeps our customers coming back time and time again.

This information does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only.

MONTHLY INDUSTRY TERMS

Conventional Mortgage
A mortgage securing a loan made by investors without governmental underwriting, i.e., a loan which is not FHA insured or VA guaranteed.

Mortgage
A conditioned pledge of property to a creditor as security for the payment of a debt.

Private Mortgage Insurance (PMI)
In the event that a buyer does not have a 20% down payment, lenders will allow a smaller down payment—as low as 3% in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance will usually require an initial premium payment and may require an additional monthly fee, depending on the loan's structure.