

LAWYERS LINK



WHAT SELLERS NEED TO KNOW ABOUT TITLE INSURANCE

When a homeowner is getting ready to list their house for sale, they are usually focused on the property's physical condition or pricing strategies. An essential component of a real estate transaction that is often disregarded is title insurance. While

often misunderstood, title insurance plays an indispensable role in ensuring the security of ownership and protecting against unforeseen challenges that could arise during or after a real estate transaction.

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What Is Title Insurance?

Title insurance is a form of indemnity insurance that protects property owners and lenders against financial loss due to defects in a property's title. Unlike other types of insurance that protect against future events, title insurance is unique in that it exclusively focuses on past occurrences related to the property's ownership history.

There Are Two Main Types of Title Insurance:

Owner's Title Insurance: This type of policy protects the buyer. The buyer's financial interests are covered if a claim is made against the property's title after the transaction is complete (e.g., someone comes forward claiming ownership or a lien).

Lender's Title Insurance: This policy protects the lender who financed the buyer's purchase. It ensures the lender's investment is safe if issues arise with the property's title. Unlike owner's title insurance, this policy only covers the lender, not the buyer.

What Are Title Defects?

Title defects affect the transfer of property ownership and can even make the title to the property unmarketable or uninsurable, resulting in unexpected financial losses.

Common Title Defects Include:

- Errors in Public Records
- Unknown or Unsettled Liens
- Missing or Unidentified Heirs
- Document Forgeries
- Unknown Easements
- Judgements



What Does a Clear Title Mean?

A clear title in real estate means the owner has undisputed legal ownership of a property, free from any title defects that could challenge their ownership or complicate a sale.

Why Does Title Insurance Matter for Sellers?

Title insurance matters for sellers because it provides a clear title to the buyer, protects against future legal claims, expedites the closing process, and makes the property they are selling more appealing to potential buyers.

How Can a Seller Confirm Their Property Title Is Free of Title Defects?

A proactive way for a seller to confirm their property title is free of title defects is to order a preliminary title report from a title company.

What Is a Preliminary Title Report?

A preliminary title report is a document issued by a title company that details a property's current ownership. It provides an early snapshot of the property's legal standing, allowing the seller to identify and resolve any title defects before the sale.

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What Responsibilities Does the Seller Have That Are Related to Title Insurance?

Provide the Buyer With a Clear, Marketable Title

The seller must have the legal right to sell the property and be able to transfer ownership without any existing claims or liens.

Address and Resolve Any Title Defects

With the assistance of a title company, the seller must resolve any title defects before a sale can proceed. Unresolved title defects can delay or terminate a real estate transaction.

Cooperate With the Title Company

The seller needs to provide any necessary documentation or assistance to the title company or their attorney to clear up title defects.

Pay for Title Insurance (Sometimes)

While the buyer often pays for their own owner's title policy, the seller sometimes pays for it as a concession, or it can be negotiated into the sales agreement.

Selling a house with title insurance is a crucial step in protecting yourself from potential legal issues related to property ownership. By providing clear title and understanding your responsibilities as a seller, you can ensure a smooth and successful transaction.

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



MONTHLY INDUSTRY TERMS

Fee Simple Deed

The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power disposition.

Impact Fee

An impact fee is a fee that is imposed by a local government within the United States on a new or proposed development project to pay for all or a portion of the costs of providing public services to the new development.

Joint Tenancy

An equal undivided ownership of property by two or more persons. Upon death of any owner, the survivors take the decedent's interest in the property.

