

Title Insurance Protects Your Investment

During the closing process, make sure you request an Owner's Policy of Title Insurance in addition to a Loan Policy

By New Mexico Land Title Association

After a months-long search, you finally find your family's dream home—a safe neighborhood and great schools, and a big backyard for the swimming pool you plan to build. You move in and hire a contractor, but a few days into construction the contractor finds an underground utility line running right through the middle of your backyard. You check your title insurance policy, and find out that the title search did not discover the easement. What do you do?

Here's another scenario. After retiring, you decide to downsize and buy a smaller townhome on a golf course. A month after you move in, a man knocks on your door and claims he is the real owner of your home. Upon further investigation, you discover that the sellers weren't the real owners, but people posing as the owners. They searched the public records for a home with out-of-state owners, forged and recorded a fictitious deed, then sold the property to you before the real owners (or you) discovered the scam.

Sound farfetched? Both of these scenarios really happened. To protect your investment from these and other serious problems, make sure you have title insurance.

Title Insurance 101

Title insurance insures that the title to your property is clear, with no known liens or encumbrances, such as unpaid property taxes, recorded liens, or street and sewer easements. If a title defect is discovered after the policy is issued, such as an undiscovered easement or forged deed, your title insurance company will seek to resolve it.

It is worth noting that no matter how far back the title issue goes, a title claim is filed against the property's *current* owner of record. For instance, there might be a missing heir from a previous owner who comes forward after the property was bought and sold several times to different owners. The claim would be filed against the property (and current owner), even though the claim is from the past.

Another important fact that the majority of buyers don't understand is that there are actually two types of title insurance policies—a Loan Policy, which protects the lender, and an Owner's Policy, which protects the homebuyer.

Loan Policy vs. Owner's Policy

The Loan Policy insures the lender for the amount of the mortgage loan. Most lenders require title insurance before they will even issue a loan. A Loan Policy can be an important component in the process and many times enables the Lender to make a loan with reasonable interest rates. If a title defect is later discovered, resulting in a claim, the insurance company will indemnify the lender up to the outstanding balance of the loan.

Purchasing a Loan Policy at the time of purchase or refinance but not an Owner's Policy affords no protection for the homeowner. In the event of a claim, the lender would be indemnified but the homeowner would have to defend themselves against the claim. To protect your investment you should request and Owner's Policy for the current value and under most conditions if the Owner's Policy and Loan Policy is purchased at the same time, the Loan Policy is issued for a very nominal premium.

An Owner's Policy protects your investment for as long as you (or your heirs) have an interest in the property—even a hundred years from now.

One Out of Every Three Transactions Has a Title Issue

What kinds of problems do title professionals look for? They research the complete history of a property by scouring through public records and their own title plants to ensure there are no hidden problems. Title problems can be very complicated and resolution can be difficult, however many times the title professional will resolve the matter, typically without you even knowing about it. Or, if they are unable to resolve the problem, they will notify you before you close.

Title issues occur with surprising frequency—in an estimated one out of every four residential real estate transactions. The job of the title professional is to ensure that you have a timely and trouble-free closing by avoiding the risks associated with title problems.

But, as the above stories illustrate, occasionally there are unforeseen problems with the title after you move in. Fraud and forgery are the most common problems that go undetected in a title search, but there can also be unrecorded easements, mistakes in the public record or title claims by unknown heirs. Owner's title insurance protects you for not just the amount of the claim, but for your legal expenses as well.

Back to the Opening Stories

Let's go back to the real-life stories at the beginning of the article. In the case of the utility easement, because the homeowner had obtained an Owner's Policy, their title insurance company paid to have the underground utility relocated so they could build their swimming pool. For the retired couple who were victims of forgery, their title insurance company negotiated with the out-of-state owners, and reached a settlement so the couple could remain in their home.

Let's face it—you certainly have more than enough to think about during the closing process when purchasing a new home. For peace of mind that comes from knowing your investment is protected, for as long as you own your home, be sure to obtain an Owner's Policy in addition to your Loan Policy.

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About the Author:

New Mexico Land Title Association

1-888-65NMLTA

www.nmlta.org

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