DIFS Consumer Counselor

Insurance Consumer Information Sheet

Title Insurance

For many people, the purchase of a home or other real estate property is the largest monetary investment they will make in their lifetime. People will often purchase homeowners insurance in order to protect this investment, however, title insurance can be just as crucial. Title insurance financially protects you and your lender from any unknown claims or defects in the title of the property you are buying.

What is a title and what does it do?

"Title" means the collective ownership of rights for a piece of property and includes all previous transfers of ownership and liens on the property. A title is not the same thing as a "deed." A deed is the legal document that transfers title from one person to another.

A title documents your legal ownership or interest in real property, meaning you have the right to use that land and attached structures. It may be a full or partial interest in the property. For example, you may retain ownership of a piece of real property, but you may transfer certain rights, such as mineral rights, to someone else. Unlike transferring title to an automobile, title transfers involving real property are more complex because land usage may change over time.

What is title insurance?

Title insurance is an insurance policy that covers *past* title problems that come up *after* you buy or refinance a home and that are unknown at the time of purchase. A title insurance policy does not cover ownership issues that arise after you have purchased a home or other real estate property.

There are two types of title insurance:

Both the owner's policy and the lender's policy protect the named insureds against past losses that can occur after a real estate settlement.

1. **Owner's Policy:** An owner's policy protects a buyer's ownership interest in real estate if a past title or ownership issue comes up after the purchase.

2. **Lender's Policy:** A lender's policy protects the lender in the event a past title or ownership problem arises after the real estate transaction. If you are borrowing money from a financial institution for the real estate purchase, the lending institution will probably require you to buy a lender's policy to protect its interest as well.

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What is a title search?

A title search is a routine part of a property transaction and the cost to conduct a title search is typically included in the price of title insurance. Before issuing a policy, the title agent or company conducts a detailed review of historical public records to see if there are any title concerns with the property you are looking to buy. These records include, but are not limited to, court judgments, deeds, mortgages, wills, divorce decrees, tax records, and maps.

What are title defects?

Title defects, often referred to as unknown claims or encumbrances, can result in substantial financial losses, up to and including loss of ownership of the property. If you have a title insurance policy, the insurance company will defend your title in court and pay any settlement amount you owe to clear the title, as long as the defect is a covered item. Following are examples of title defects:

- liens on a property;
- lost, forged, or incorrectly filed deeds;
- property access issues;
- mortgage or property taxes not paid by a prior owner; or
- an unknown or missing heir making claim to the property.

How does title insurance work?

When you purchase title insurance, the agent or company will search public records to document the chain of ownership of a property. If any liens or defects are found, the title company will either cure them before issuing a title policy, or exclude them from coverage.

Once the company believes that the property title is clean, they will issue you and your lender title insurance policies. These insurance policies protect you and your lender financially from any unknown claims or defects existing at the time of purchase.

Where do I buy title insurance?

Title insurance can be purchased through a licensed title insurance agency or directly from a title insurance underwriter authorized to do business in Michigan.

What is a title insurance commitment?

A title insurance commitment is a document that is prepared after the title search that lists the known existing defects. It is used at the real estate closing to insure a specific property if certain conditions are met. Generally, defects that cannot be cured are excluded from coverage. It is prudent to review the commitment thoroughly, with a title insurance professional or attorney, before you finalize your real estate transaction.

How much will the policy cost?

A title insurance policy is issued for the current value of the property. The owner’s policy is typically valued according to the purchase price for the property. The lender’s policy is determined by the amount of the loan. There is no benefit to over-insuring, and under insuring may result in insufficient coverage. There may be discounts if you buy an owner’s and lender’s policy from the same insurer (simultaneous issue rate) or if you buy a policy from an insurer that has previously insured your property (reissue rate). Refinancing rates may be available as well.

Who pays for the policy?

Either the seller or the buyer can purchase the owner’s policy; however, there is likely a local customary practice in your area. Ask your real estate agent for clarification. Also, *the person that pays for the insurance has the right to choose the title insurance provider.*

The lender will typically require the borrower to purchase a lender’s policy for the benefit of the lender as a condition of the loan. The lender may request or insist on a specific provider according to its needs. Premium for a

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title insurance policy is made with a one-time payment at the time of closing.

What about closing or "settlement" services?

Many title insurance agencies also act in the capacity of a settlement services agent. As such, they will prepare and/or collect the necessary documents required to finalize the real estate transfer and execute the loan. They will set a closing with both the sellers and the buyers.

It is common, but not required, that the title agency providing the insurance will also conduct the closing. Closing agents charge fees for the settlement services they provide. It's important that you ask about their fees if you are shopping for both a title and closing agent.

There may be additional coverages available to you, for an additional charge, which are not part of the title insurance, but are offered by some insurance companies that will protect you in the case of theft or misappropriation of money associated with the settlement services. It is appropriate to inquire about a "closing protection letter".

When does my policy end?

An owner's policy will cover you as long as you own interest in the property. It may also cover anyone who inherits the property from you. A lender's policy ends when you pay off your mortgage.

Although it is not necessary to purchase a new owner's policy when you refinance a home, most lenders require a new policy based on the new transaction amount. Likewise, defects in title might have arisen between the original purchase and the refinance. The new policy would also cover defects not detected when the previous policy was issued.

How do I file a title insurance claim?

Your insurance policy will include instructions and requirements for submitting a title insurance claim. If you need assistance, contact your agent, the company, or DIFS with questions regarding claims.

Tips when buying title insurance:

- Deal with only licensed title insurance professionals.
- If shopping for a title and settlement provider, compare premiums, discounts, settlement fees and services.
- Be sure the property being acquired and/or mortgaged is correctly described in all statements.
- Be sure to check the effective date of the policy so that it goes into effect the day you become the legal owner of the property.
- Never pay the premium in cash or bring cash to a closing. A personal check, money order, or cashier's check are better options.
- Ask about being insured for the "gap." The gap is the period between the effective date on the commitment when the transaction is closed and when the documents (deed and mortgage) are recorded at the Register of Deeds.

Where do I complain if I believe the agent or the company is not treating me fairly or handling my escrow in the proper manner?

If you believe the agent or the company is not following standard business practices, you can report the activity to the DIFS at its toll-free number: 1-877-999-6442.

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