

Title Insurance

Why should I get an owner's policy?

"...After all, the lender has a policy. I must be covered."

This is a question frequently heard by real estate professionals. The idea that an owner is protected by a loan policy is one of the biggest misconceptions about title insurance. The owner is entitled to valuable title protection with an owner's policy.

Owners are not protected by loan policies.

- The loan policy does not insure an owner and does not protect the owner's interests.
- The loan policy insures only the lender. It insures the lender's security interest in the property and that the lien of the insured mortgage is enforceable.
- Lender's coverage is limited to the amount of the indebtedness. When the loan is paid off, the loan policy is no longer in force.
- An owner cannot make a claim under a loan policy. A claim by a lender under a loan policy usually arises in the context of a foreclosure or a challenge to the priority or enforceability of the insured mortgage.

Owner's Policy

For a one time premium at closing an owner's policy is a snapshot of the title as of the moment of recording and assures the quality of the title from that point backwards.

An Eagle policy goes even further by providing certain coverages after the closing date. An owner's policy remains in force for as long as the insured and their heirs own the property.

Coverage under an owner's policy far exceeds what is covered by an attorney's certification or by a title search.

In addition to covering title defects that a title search should reveal, the policy covers defects that would not be found by searching the public records as well as matters predating the title search. Just the fact that a new search was made is no protection either. The closing company's liability is limited to negligence and does not include responsibility for hidden defects. A claim made against a property, valid or not, must be defended by the owner which, without an owner's policy, can result in substantial legal fee.

An owner's policy will assign defense counsel and pay the legal expenses to defend the insureds. According to the American Land Title Association, survey information proves that claims do happen and with surprising frequency. ALTA noted that title insurers paid approximately \$350 million in claims in 2000. These payments were made to compensate insured homeowners for losses they experienced under policies issued to them or to defend their titles from the claims of others. During 2001, the New Hampshire office of First American paid out over \$500,000 in claims! One-third of that was for legal costs, and two-thirds was for the actual settlement of these claims.

If you would like more information together with true examples of claims made, ask your First American Title Insurance closing agent at Main Street Title.

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