

Among the myriad documents associated with mortgages, title insurance is one of the least understood by both buyers and sellers. It plays an important role, but in many cases, ends up perceived as just another line item amidst closing costs. However, title insurance is critical in protecting buyers and lenders from misinformation or omitted information during a title exchange.

## Title Insurance Defined

Title insurance is designed to protect buyers and lenders from intentional fraud or a lack of information. Sellers have a responsibility to disclose any issues that may affect the legitimacy of their claim to a property's title. Title insurance provides financial protection against legal fees incurred to resolve any title dispute related to the sale in question.

When a buyer contracts with a lender to buy a property, both parties have a clear assumption that the entity selling the property has a right to do so. If there are errors associated with that right, or a third party has a material interest in the property, the entire sale may be thrown into question. It takes time, research, and occasionally litigation to resolve these problems, which title insurance covers on the lender's or buyer's behalf.

For most mortgages, the lender will insist on a lender's title insurance policy to protect themselves. The premium for this insurance is generally included in the closing cost, so the buyer pays for the lender's protection. Lenders will generally make this form of protection a mandatory part of the mortgage contract, and its inclusion is nearly universal.

Buyers can also purchase title insurance, which will protect them in the event that new information questions the legitimacy of their ownership. An owner's title insurance policy is not mandatory but provides additional protection and coverage, especially in situations where a property is being purchased without a mortgage. Depending on the potential legal status of the property, the buyer can negotiate with the seller and request that they pay for the policy.

## What Title Insurance Covers

Title insurance can be used for multiple reasons. Some of them involve fraud, while others are born out of poor recordkeeping on the part of the previous owner or the government. The following situations are among the most common title defects that can impact a property sale.

### Tax Issues

One common problem that necessitates title insurance is a debt related to back taxes. While it is possible for a property owner to accrue a tax debt on their property out of ignorance, it's reasonable to infer that a significant amount of tax owed on a property is due to negligence or malfeasance. If a property owner willfully accrues such a tax debt, they may seek to sell the property without disclosing the debt and associated title defect.

### Bookkeeping Errors

Whether willful or not, mismanaged accounting and title records can creep up to cause problems during a title transfer. One such situation is when a third party imposes a lien on the property due to an outstanding debt. These debts may be to other lenders for lines of credit or even to contractors who have conducted significant work on the property without being fully compensated. These liens must be resolved prior to a sale, and a negligent seller may not realize the existence or impact of these liens. In more malicious situations, a seller may be trying to evade financial responsibility for such liens. Additionally, title filing errors during the previous or current sale may need to be resolved before the current transfer can be completed.

### Fraudulent Ownership

In some instances, a purported seller may not have the legal right to sell the property at all. A person may attempt to

defraud the government, the buyer, and the lender by willfully claiming ownership with a fraudulent title. Further, if the property was part of an estate distributed among multiple heirs, there may be multiple people who have a potential claim to the title. Such confusion must be resolved prior to a sale, but some people are motivated to sell a property as quickly as possible without regard for due diligence about title ownership.

### Contested Ownership

Related to the unclear or inconsistent will mentioned above, it is also possible for there to be previously unknown heirs to an estate who have a legal right to the property. These instances may occur without anyone being aware, including the seller. Therefore, the seller may be under the firm impression that no one else has a legal right to the property, but if such an heir has a claim that can be pressed, it must be resolved prior to the title transfer taking place.

Each of these categories can impact a title transfer in significant ways, occasionally dismantling the entire agreement. Adequate title insurance policies can protect both the buyer and lender from any costs associated with resolving them, whether or not that results in the completion of the title transfer.

## Title Insurance Costs and Lender Requirements

As with many other forms of insurance, title insurance is heavily regulated by state and local governments. Therefore, there's no simple formula that will determine the title cost for any given property without consulting a specialist familiar with the jurisdiction in which the property is found. In general, title insurance is inexpensive compared to the coverage it provides because it is rarely used.

A particular policy's premium is determined in relation to the total cost of the property—but also factors in local regulations and risk factors associated with the title. For example, if the property was recently involved in an inheritance or sold at auction, the insurer may increase the premium anticipating the greater risk of a title defect.

Motivated buyers can occasionally reduce title insurance premiums by bundling them with other forms of insurance, such as business insurance or auto insurance. Individuals and companies should consult their current providers to receive quotes that may reflect these bundle discounts. Nevertheless, there is some room for insurers to set their own prices for title insurance as long as they adhere to local regulations. For larger properties, the price differences between different lenders may result in saving hundreds or thousands of dollars at closing.

Buyers should go into every property purchase expecting to buy a lender's title insurance policy, as it is a requirement for virtually every mortgage contract. As far as the buyer is concerned, however, there are no special requirements for this policy aside from paying for it on behalf of the lender. Title insurance policies are straightforward and rarely require special consideration outside of finding an appropriate insurer and paying for the policy at closing.

## Title Insurance in Brief

As with all insurance, title insurance is at its best when a situation is at its worst. Some people and organizations negotiate in bad faith to sell a property when the title has some defect. These issues can drain significant time and money, so to protect the lender's investment, buyers are compelled to purchase a lender's title insurance policy as part of the closing costs.

In addition to the lender's policy, buyers should also consider purchasing an owner's title insurance policy to protect themselves. As this can be part of the negotiations, sellers may be asked to pay for it, which will also encourage them to act in good faith regarding the property title's integrity. In most situations, title insurance policies will go unused. When they are necessary, however, the premium cost will pay for itself many times over.