



What Is Title Insurance All About?

When you buy or sell Real Estate, you will be required to pay Title Insurance. Rates are fixed by the State Division of Insurance on a standard scale. For a \$300,000 property the Seller pays \$1,182 and the Buyer pays \$430. For a \$400,000 property the Seller pays \$1,482 and the Buyer pays \$520.

These are substantial amounts of money and you may well ask:

- (1) What is the Seller paying for?
- (2) What is the Buyer paying for?
- (3) Why are the rates fixed across the industry?

Title Insurance would be better described as Real Estate Ownership insurance. It is an insurance policy protecting the beneficiary against defects on the Ownership of the Property.

In the case of the Seller's payment, this is a premium paid by the Seller for the benefit of the buyer. When someone buys a property, the title company does a thorough examination of the recorded documents affecting the Title. Sometimes there are legal defects in these documents and suddenly the new owner could find his/her right to the property threatened. In this case, the Insurer would settle the claim to protect the new owner. That's what the policy is for.

It should be noted that unrecorded documents are not insured against, as the Title company cannot examine them or know about them when issuing the policy.

In the case of the Buyer's payment, this is an insurance policy required by the Lender. As a very interested party, the lender (usually a bank or mortgage company) wants their right to the property insured also. This policy protects the lender against all the legal defects included in the seller to buyer policy plus some additional items. For example, the Seller may have installed new carpet in the house just before closing and not

paid for it. The carpet company would then have a Lien right against the property for 90 days. So, the Lender may think that their mortgage is in first lien position against the property when it isn't.

The other significant issue for which Lenders are covered (and buyers not covered) is any survey matter (e.g. an encroachment or zoning violation not shown on the existing as-built survey).

The basic purpose of a Title Company is therefore to insure, first the new Owner and, second, the Lender.

In the 1980's when Real Estate crashed, many claims were filed against Alaska Title companies and many of them couldn't pay up. As a result, the State of Alaska brought them all under the control of the Division of Insurance which now mandates the insurance rates to ensure that Title companies are always solvent enough to pay claims when they occur.

You may ask why the owner's policy (seller paid) costs 3 times as much as the lender's coverage (buyer paid) when the latter policy covers additional items. The answer is that premiums are based on the risk factor rather than the actual content of the coverage.

It is possible for an owner's policy to also include items like mechanics liens and survey matters but the cost is quite prohibitive.

If you are a Seller, you should note that there is no law forcing you to give title insurance to the buyer. However, who would be willing to buy a house without demanding this insurance? Of course, you as the seller could always suggest the buyer pay for it himself, though this is not traditional.

If you are a Buyer, you should be aware that your title insurance policy does NOT automatically cover survey issues and, therefore, you should make a careful review of the as-built survey tendered before

closing. In fact, you should discuss these matters with your licensee when writing up your offer if you have any trepidation.

The Buyer's premium, for coverage to the Lender, is mandated by the lender as a condition for lending the money for the purchase of the home.

Since premium rates are set by the Division of Insurance how do the Title companies compete for your business? The answer is quality of service. I personally can work with any of the Title companies, but favor individual Escrow Officers who display superior experience and work ethic.

The Title company used in a transaction is technically the Buyer's choice but often it becomes a negotiated decision between the parties and their Real Estate Licensees. We in the industry tend to recommend the company where we experience the best service and can therefore assure you, the customer, of the smoothest sailing.

Title companies usually also do the Closing of the transaction. This is when you sign off on all your papers to close the deal. Title companies don't make money from this - the average closing fee is around \$800. However, whilst the closing or escrow department usually functions at a loss, it is an important service that is offered to attract your insurance dollars.

Title insurance is an important and necessary part of any Real Estate deal. It is a complex and unusual type of insurance program with many technicalities not included in this article. Give me a call if you have further questions.

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