

[Title Insurance Demystified: Do Homeowners Really Need It?](#)

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Title insurance is an absolute necessity in every real estate conveyance transaction. The problem is that most home buyers don't know what title insurance is or what it covers, and only see it for the first time on the closing settlement statement. Closing attorneys and title insurance companies need to do a better job explaining the excellent benefits of title insurance and its reasonable cost before the closing.

What Is Title Insurance?

Title insurance is policy of insurance (technically an indemnification policy) protecting homeowners and lenders from actual financial loss in the event that certain covered problems develop regarding the rights to ownership of property. While closing attorneys search and certify each title to real estate before a closing, there are often hidden title defects that even the most careful title search will not reveal. In addition to protection from financial loss, title insurance pays the cost of defending against any covered claim.



There are two types of title insurance, lender's and owner's policies. Lender's policies are required by most every public mortgage lender in the U.S., and are typically paid as part of closing costs. Owner's policies are optional and paid for by home buyers. I will discuss owner's policies in this post.

Title Defects: What Does An Owner's Policy Of Title Insurance Cover?

I recently represented a condominium seller who was shocked to learn a day before the closing that there were several un-discharged mortgages and liens on her unit left over from the original developer. Likewise, I represented a young family who was dismayed to learn that the property they were about to buy was subject to the claim of a long-lost heir of a prior owner. Fortunately for both clients, both properties were protected by title insurance which enabled the closings to go forward as scheduled, with the title company undertaking the obligation to discharge the mortgage, deal with the "missing" heir, and clear the title. If title insurance was not available in these transactions, the deals would have been canceled altogether. Or the closings would have been delayed by months if not years until the issues were resolved, if at all.

In addition to un-discharged mortgages and the sudden appearance of unknown or missing heirs claiming an interest in the property, an owner's policy of title insurance also covers these types of title defects:

- Forged deeds or impersonations
- Incorrect legal or boundary descriptions
- Recording errors

There is also a new extended coverage policy available from [First American Title](#) and other companies which covers:

- Building permit violations
- Adverse possession or prescriptive easements
- Building encroachments
- Incorrect surveys
- Pre-existing violations of subdivision, zoning laws, restrictive covenants.

How Much Does Title Insurance Cost?

Title insurance is a one-time premium paid at closing and is calculated based on the purchase price of your home. The cost today is roughly \$3.65 per \$1,000 in value. Thus, a \$500,000 home would cost a one time premium of \$1,825. (Enhanced coverage policies run about 10% more). Title insurance is a good deal because you pay once and it continues to provide complete coverage for as long as you or your heirs own the property. Those who decline title insurance rationalize that the risk of a title defect is minimal and not worth the premium. That is false. As a former claims counsel for a national title company, I could write a treatise on the different types of title problems I have seen derail closings and drag on for years. If you don't believe me, here are some real [title defect horror stories](#).

Full Disclosure: The Role Of The Closing Attorney

Most home buyers don't know that the closing attorney pockets a share (typically 70%) of the title insurance commissions paid at closing. While lender's policies are required no matter what, closings attorneys do have a financial incentive to recommend owner's policies for buyers. But those who reject title insurance for that reason would reject life insurance because a financial adviser makes money off it. As I said before, even the most careful title search cannot reveal a hidden title defect that can wreck havoc on any subsequent sale or refinancing of the property.

To borrow from Nike's old slogan, Title Insurance: Just Get It.

Please contact me at rvetstein@vetsteinlawgroup.com if you have any further questions about title insurance.