

## **THE IMPORTANCE OF TITLE INSURANCE**

Title insurance is a much-misunderstood element of the closing process. Many people have the basic questions about it. What is it? How does it work? Do I really need title insurance? These are all valid questions, and one that I would ask if I was not in the industry. In today's business and social climate, title insurance is needed more than ever because of fraud, volume of closings and many different loan products, especially the equity line of credit.

Title insurance works like no other insurance that you may have. It works from the day of recording—BACKWARDS! In other words, you are protected to the day you buy the property. What you do after that is your problem.

The two most common forms of title insurance are the Owner's and Loan/Mortgage policies. The Owner's policy is the most powerful and will last forever. The Owner's policy, obviously, insures the owner against claims which would invalidate his ownership of the land. Further, if it is issued through a reputable title underwriter (i.e., Old Republic, Chicago, Stewart, etc.), you will be able to get a reissue discount on a refinance or when you sell your home. The Loan policy is a little different because it insures the lender and not the individual owner. The Loan policy will expire when the insured loan is paid off.

The most common claims on a title policy are for search problems such as missed deeds of trust, judgments or quitclaim deeds. However, the fastest growing claim for the title industry is the open-end mortgage or equity line of credit. What happens is Mr. Jones buys a home from Mr. Smith, who has two mortgages on his property with one being a line of credit. Both loans are paid off at closing, but the line of credit is not closed. Since most equity lines used either a credit card or checks to draw money out, most people either do not remember or realize that the Visa card was secured with their home. Subsequently, Mr. Smith begins to charge purchases to his secured Visa equity line, and he hits on hard times or decides not to pay his bill.

Since Mr. Smith's equity line was not closed at the time of payoff, it was not released at the courthouse. Now, the equity line has priority, or "first position" in the chain of title ahead of Mr. Jones' new mortgages. Mr. Smith's mortgage company is now trying to foreclose on Mr. Jones' home

for a loan he did not get.

Luckily for Mr. Jones, he has an Owner's Title policy insuring that he has clear title and does not have that lien shown on the policy as an exception. Mr. Jones' title company will not subrogate his position (or take his place) and rectify the situation.

Now, this can become very expensive for the attorney, closing agent and title underwriter. But that is why we get insurance...right? Even though the county courthouses are getting more and more computerized, whether that be good or bad, it still takes time and meticulous searching to make sure that everything of record is done properly.

With the volume of today's real estate market and mortgage industry, many mistakes can be made because of the haste to get the deals done. So, to insure that you are protected against someone making a simple payoff or searching error, I encourage you to get title insurance when you are buying a home or refinancing. Remember, the only time to have insurance is when you need it.

Written by Andy Maloney, President, Nashville Title Insurance Corp.