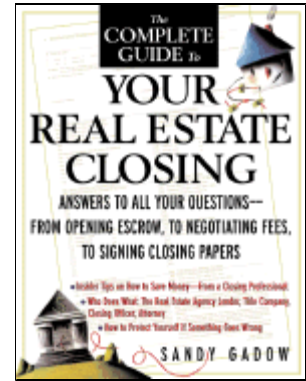


How your Title Insurance Dollar is Divided Up

by Sandy Gadow



Often misunderstood, title insurance is viewed by many home buyers as an unusually high expense in comparison to other closing costs in their real estate transaction. Lender costs are generally accepted, as borrowers realize they are getting something valuable for their money, a mortgage to purchase the property. City or county transfer taxes are accepted, as they are a non-negotiable requirement of most real property transfers. Buyers understand and pay for fire or hazard insurance policies on their property, anticipating the policy will reimburse them in case of a loss. Why then are title insurance premiums, a one-time charge for a title policy lasting an indefinite period of time, considered not worthy of the cost?

Melanie and Bill Murphy, grudgingly paid out \$950.00 to purchase Owner's title insurance on a \$250,000.00 home they were buying in Richmond, Virginia. As required by their lender, the Murphys also purchased a Lender's Policy to protect the mortgage holder's interest in the property. Realizing that title insurance was a necessity, Melanie and Bill wanted to have this protection, but the cost seemed high to them in comparison to other closing costs. The Murphys understood the \$875.00 fee for fire insurance, and were comfortable paying that charge. But Bill hadn't heard of any of his friends having to make a title insurance claim, and he wondered how valuable that policy really was. Bill had doubts that he was getting value for his dollar in purchasing the title insurance policy.

Homebuyers may be confused as to where their title insurance dollar goes. Looking at the statistics, title insurers paid out \$487 million in claims thru the 3rd quarter of 2004, \$662 million in 2003 and \$583 million in 2002. While the amount paid out in claims is rising every year, historically title insurance claims represent between 4-6% of the total revenue collected. It would seem logical that the higher percentage of claims that an insurance company pays out, the better value the insured is getting for his money. With title insurance the opposite is true.

Title insurance is based on the theory of "loss prevention" which means that the greatest amount of time, and money, is spent preventing title problems from ever occurring in the first place. According to an American Land Title Association (ALTA) survey, one out of every four real estate transactions shows evidence of title problems. You may not even be aware that a problem exists, as title companies make every effort to ensure the property is free of all possible title problems before issuing the policy of title insurance.

Preventing potential loss and subsequent claims is a highly labor-intensive, and expensive, component of a title company's operating budget. One reason is that in order to maintain current records, which are critical to the accuracy of a title search, new documents must be up-dated and indexed daily. Skilled and trained researchers and underwriters must interpret the effects of these documents on the title. Forged documents, one of the most common title problems found, in addition to falsified documents, invalid deeds, and incorrect property descriptions, are just some of the title issues which must be examined. Other title risks include recording mistakes, deed indexing errors, unpaid mechanics' liens, judgment liens, income tax or property tax liens, undisclosed easements, claims by missing heirs, and claims by ex-spouses.

The cost of a title insurance policy relative to the cost of a property transaction is about one-half to one percent of the purchase price. The premium price is based on five factors, starting with the

largest percentage and descending to the smallest.

1. The cost of maintaining current title information on property local to that operation, the “title plant”
2. The cost of searching and examining the title to subject properties
3. The cost to resolve or clear defects to the title
4. The claims costs covering title defects, including legal fees
5. The allowance for a reasonable profit

The average expense ratio for a title company is greater than 90%, while the expense ratio for personal property or casualty insurance is less than 30%. Adding to the expense title companies incur is the need to perform the majority of underwriting work in the state and county where the property is located. Performing title searches on a national level, which could be more cost effective, is generally not possible as laws and customs vary from state to state.

Brian Harrison, a title researcher for a local title company, was conducting a title search on a property in Plainview, New York. His search revealed a federal tax lien against John and Roberta Simmons, the Sellers, (and against the property), in the amount of \$84,504.00. The Simmons’ assured Mr. Harrison that the lien had been paid off, and they produced a faded copy of an IRS form titled “Release of Levy,” which described the property and was signed by an IRS agent. Mr. Harrison went ahead and authorized the closing of Mr. and Mrs. Simmons’ property sale, without listing the tax lien as an exception of the new owner’s policy of title insurance. Shortly thereafter, the IRS threatened to execute against the property. The “Release of Levy” document which John and Roberta Simmons produced was in reality only a promise from the IRS to forego collection efforts as long as the Simmons made installment payments on the outstanding lien balance of \$41,572.00. Once the sale was finalized, the Simmons’ stopped making payments to the IRS on the tax lien. The title company was obligated to pay the full amount owing to the IRS to obtain the correct document, called a “Certificate of Release of Federal Tax Lien.” which cleared the lien from the property.

A unique benefit of Owner’s title insurance is that its coverage can extend long after an owner has sold the property. This coverage was tested in the case of Mr. and Mrs. Stark of Toledo, Ohio. A judgment lien in the amount of \$253,513.00 was placed on the Stark’s property and was still in place when Mr. Stark deeded the house to his wife. Mrs. Stark sold the home a short time later to Richard and Nancy Prouder. After living in the home several years, the Prouders sold the house to Henry and Edwina Miller. Nearly eight years passed before the bank who had filed the original lien started enforcement of it’s claim against Mr. Stark. The bank filed a lawsuit against the Millers, as the current owners of the home, and sought to force a sale of the house. Henry and Edwina Miller contacted their title company and learned that the bank had the right, as a judgment creditor, to file their lawsuit against the Millers, as the lien against Mr. Stark was filed during the time Mr. Stark owned the home. The title company representing Henry and Edwina Miller determined that the judgment lien had gone undetected because it was originally indexed in the local computerized title plant under the name “Stank,” instead of “Stark.” The title company insuring Henry and Edwina Miller negotiated a settlement with the bank, paying out \$147,500 for an assignment of the judgment lien. Knowing that the prior owners, Richard and Nancy Prouder also had held title insurance, the Miller’s title company made a claim against the Prouders on the warranties given when they sold the home. The Prouders title company reimbursed the Miller’s title company in the amount of \$145,000.00.

Although you may not be aware of the financial benefits of your Owner’s title insurance policy, when a title claim is made, it is usually very significant. It may be large in terms of dollar loss, or critical in terms of property loss. Whether a claim is valid or not, your Owner’s title insurance policy will cover

all the legal expenses necessary to defend your title.

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