

WHAT IS TITLE INSURANCE? DO I HAVE TO BUY IT? DO I WANT TO BUY IT?

WHAT IS TITLE INSURANCE?

When you buy a property (home or land), you want to be sure the seller can legally transfer ownership of the property to you. Title to the property is the legal ownership of the property. If you have a mortgage, your lender also wants to make sure that they have clear title to the collateral to be able to foreclose and sell the property if you default on your mortgage.

TITLE INSURANCE ensures that the title is clear to transfer and provides an insurance policy to pay you or the mortgage lender in the event of a claim.

HOW DOES TITLE INSURANCE WORK?

When you get a mortgage to buy a property or refinance a mortgage, your lender requires you or the seller of the property to buy title insurance that protects the lender. That insurance is called a Lender's Title Insurance Policy. The title agent/insurer searches public records to see if there is anything that might prevent clear title to the property. Things that can create a title problem can include, for example:

- Someone other than the seller (for a purchase) or you (for a refinance), has a claim on the property. This might be a contractor who wasn't paid and has filed a legal claim on the property to get paid (a lien).
- A mistake in the land records means the land you thought was part of the property isn't.

Most title policies only cover problems with a title problem that happened before you bought the property or refinanced your mortgage. For these title insurance policies, there is no coverage for title problems that arise because of actions after the policy was issued. For example, if your local government changes the permissible use of your property after you buy your property, title insurance won't cover that problem (unless you get specific coverage for that type of problem with an endorsement).

Title insurance doesn't guarantee your title to the property, but it does protect you in other important ways. If you have title insurance and there's a problem with the title (that is covered by the title policy) after you bought or refinanced your property, the title insurer will try to fix the problem. But, title insurers don't guarantee that your title will be fixed if there is a problem. If the title insurer can't fix the title problem, the title insurance policy will pay the lender (if there is a mortgage) and/or pay you (if you have an owner's title policy). In either case the insurance payment won't be more than the amount of coverage on the policy.

DO I HAVE TO BUY TITLE INSURANCE? Yes, for a Lender's Title Insurance Policy. If you have a mortgage to buy a property or are refinancing your mortgage, the lender will require you (for a refinance) to buy a lender's title insurance policy. A lender's title insurance policy protects the lender if a problem with the title shows up. The amount of coverage (the most the title insurer will pay to the insured lender) is the principal amount of the mortgage – the amount you borrowed. As you pay down the principal over time, the amount of coverage on the lender's policy goes down to match the lower balance you owe on the mortgage. Your mortgage refinance lender will require a new lender's title policy every time you refinance your mortgage. But, if you refinance within regulated years of your original mortgage or refinance, you're usually entitled to a refinance discount.

You should always ask about discounts – Ask "What discounts are there that might reduce the title insurance premium?"

Even if the lender requires you to buy a lender's title insurance policy, you have the right to shop and pick the title agent and title insurer you want. You don't have to use the title agent or title insurer recommended by your real estate agent, mortgage lender, builder, attorney or other real estate professional.

WHAT IS AN OWNER'S TITLE INSURANCE POLICY? DO I HAVE TO BUY IT? No, but it can provide protection you want.

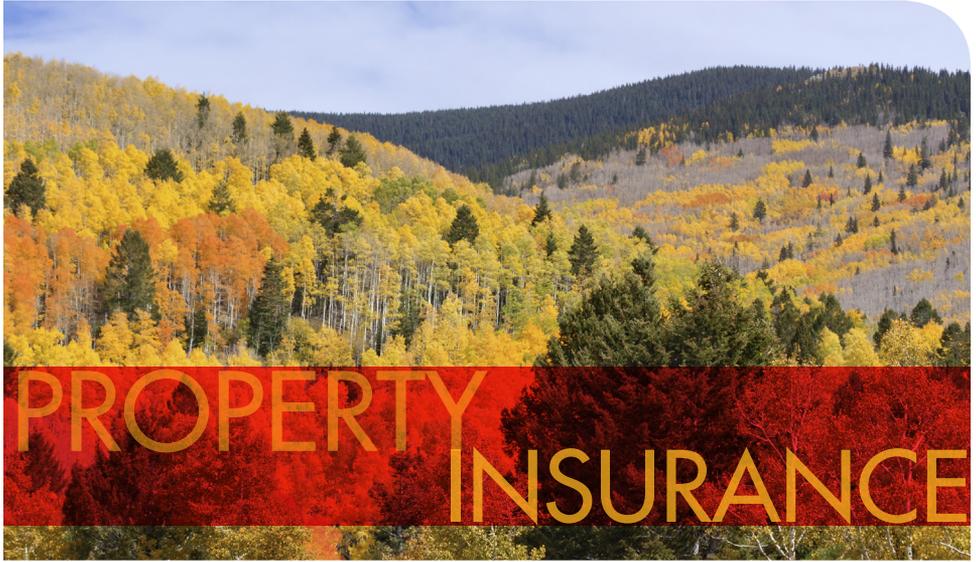
An **Owner's Title Insurance Policy** protects you for the full price you paid for the property plus legal costs if there's a problem with the title after you purchased the property. In New Mexico, it is customary for the seller on a real estate transaction to provide title insurance for the buyer by purchasing an Owner's Title Insurance Policy.

Title Insurance policies and coverage's vary. Ask questions when you shop. Some important things to know about Owner's Title Insurance:

- You only buy it once – you're covered as long as you own your property for title problems that happened before you bought the property.
- The coverage in an Owner's Title Insurance Policy won't increase as the value of your property increases over time, unless you purchase an endorsement to cover that increase in value.
- Defending your title can be expensive if there's a problem. If your Owner's Title Insurance Policy covers the problem, the policy will also cover those defense costs.

HOW DO I SHOP FOR TITLE INSURANCE? DOES THE STATE INSURANCE DEPARTMENT SET TITLE INSURANCE RATES OR DO TITLE AGENTS AND TITLE INSURERS COMPETE ON PRICE?

In New Mexico, title insurance rates are set by the Superintendent of Insurance, so your title insurance premium will be the same from every title insurance company. But, not all title and closing services are covered by the title insurance premium. You should shop around for the best price and service for those services you'll be charged for in addition to the title insurance premium.



WHAT TO WATCH OUT FOR WHEN YOU SHOP FOR TITLE INSURANCE? "AFFILIATED BUSINESS ARRANGEMENTS"

A real estate agent, lender or other real estate professional may recommend you use a particular title agent or title insurer. The real estate professional may be paid money or receive services for free by the title agent/insurer to make this recommendation. If the person will make money to make the recommendation, he or she must tell you if they will. This is called Affiliated Business Arrangement, Marketing Service Agreements or Service Provider Relationships, you should get a separate notice called a "disclosure" about it. Beware of statements like these from the person making a recommendation to use a particular title agent or title insurer:

"If you choose another title agent, your closing may be delayed."

"Everyone charges the same price."

"We will give you a discount on (something else) if you use our title agent."

If you're told any of these statements or you feel you aren't being treated fairly, contact the New Mexico Office of Superintendent of Insurance <http://www.osi.state.nm.us> or the U.S. Consumer Financial Protection Bureau <http://www.consumerfinance.gov/complaint/>

WHAT'S INCLUDED IN THE TITLE INSURANCE PREMIUM?

The services included in the title insurance premium are different in each state. Here are the activities that are part of the title and settlement services. Ask what you are paying for. Your title insurance premium may cover some or most of these activities:

- Title Search – Searching for information about who has the title to the property
- Examination – Looking at (examining) the title information for any problems with the title
- Title Insurance – The title insurer's promise to pay if there's a problem with the title
- There are other products for coverage available, ask for clarification based on your survey, easements, encroachments, improvement locations and access
- Seek legal advice

In New Mexico, the title insurance premium covers the title insurance policy.

A title agent, title insurer, attorney or other professional may charge a separate fee based on services provided.

Remember, you have the right to shop around for all these services.

WHERE DO I FIND A TITLE AGENT OR TITLE INSURER?

You can do an internet search for "Title Insurance" or "Title Agent" and add your city or state.

You can ask your real estate agent or attorney for the names of title agents, but be sure to find out if the real estate professional will make any money by recommending a particular title agent or title insurer.

Most states have an association of title agents and title insurers, New Mexico Land Title Association (NMLTA). Check out their web page for a list of their members. <http://www.nmlta.org>

Remember, these trade associations aren't government agencies and not all title agents and title insurers are members of the organization.



WHAT ARE ENDORSEMENTS TO THE TITLE POLICY?

You also can choose to add coverage to an Owner's Title Insurance Policy with endorsements. Endorsements change the policy by adding, removing or changing coverage on the policy. For example, one endorsement provides coverage for a condominium. There is usually, but not always, an extra charge for endorsements.

You also can choose to add additional coverage to the Owner's Title Insurance Policy by deleting standard exceptions 1, 2, 3 and 4. There is an additional cost to add this coverage to the Owner's Title Insurance Policy.

You'll almost always see endorsements on the Lender's Title Insurance Policy. Ask what they cover, why they were added and if they're required. You may have no choice but to pay for the endorsements on a Lender's Title Insurance Policy.

How can I find out if there have ever been consumer complaints or if a regulator has taken action against the title insurance agent or title insurance company for unfair or illegal practices?

You can search the New Mexico Office of Superintendent of Insurance website for Enforcement Actions (a review by the insurance department of the insurance company's compliance with state laws) at <http://www.osi.state.nm.us/title-insurance>

The Consumer Financial Protection Bureau, (CFPB) accepts consumer complaints. You can search the complaint database for your agent or insurer. <http://www.consumerfinance.gov/complaintdatabase/>

HOW CAN I OBTAIN THE FINANCIAL STATUS OF UNDERWRITERS AND TITLE AGENTS?

You can search the New Mexico Office of Superintendent of Insurance website for the Underwriter's Statistical Reports and the Agent's Statistical Reports at <http://www.osi.state.nm.us/title-insurance>

WHAT IS A CLOSING PROTECTION LETTER?

A Closing Protection Letter (sometimes called "Insured Closing Letter" or "CPL") forms a contract between a title insurance underwriter and lender, in which the underwriter agrees to indemnify the lender for actual losses caused by certain kinds of misconduct by the closing agent. Closing Protection Letters are available to buyers and lessees of real estate (both residential and commercial). Just about any party that acquires an interest in real estate and a title insurance policy. If you purchase an interest in land and receive a title policy, you should ensure that you also receive a Closing Protection Letter.

HOW CAN I LEARN MORE ABOUT TITLE INSURANCE?

The New Mexico Office of Superintendent of Insurance regulates title agents and title insurers. So that is a place to start. Each state insurance department has a web site and most states have information about title insurance.

You can learn more about the entire process of buying a home and mortgage lending from the "Know Before You Own" tool from the United States Consumer Financial

Protection Bureau here: <http://www.consumerfinance.gov/know-before-you-owe/>
You can learn more about title insurance at <http://www.consumerfinance.gov/askcfpb/164/what-is-owners-title-insurance.html>

You can also learn more from title agents, title insurers and their trade associations. The American Land Title Association has information for insurers at <http://www.alta.org/consumer/index.cfm>. Remember, ALTA isn't a government agency.

WHAT IF I HAVE A COMPLAINT ABOUT TITLE INSURANCE?

If you believe you have been treated unfairly, contact the Office of the Superintendent of Insurance at <http://www.osi.state.nm.us/title-insurance-complaint.html> to file a complaint.

You can also file a complaint with the Consumer Financial Protection Bureau <http://www.consumerfinance.gov/complaint/>

Please contact the New Mexico Office of Superintendent of Insurance for any other questions or concerns at 1-855-427-5674 or www.osi.state.nm.us.



