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TITLE INSURANCE

WHAT IS IT & WHY DO I NEED IT?

1. WHAT IS TITLE INSURANCE?

Title Insurance is a contract between the insured and the insurance company. The insurance company, subject to the terms and conditions of the title policy, insures the condition to title to an interest in real property. The policy is limited by defects or encumbrances against which no insurance is provided. The insured must sustain a monetary loss as a result of the defect in order to submit a claim.

2. WHY DO I NEED TITLE INSURANCE?

During the course of the transaction, the seller(s) would have disclosed liens and encumbrances affecting record title and, depending on the type of coverage, certain matters that are not recorded. Without title insurance, you have no guarantee that the seller who sold you the property could in fact do so.

3. DO I HAVE TO GET AN OWNER'S POLICY OF TITLE INSURANCE WHEN I PURCHASE THE PROPERTY, WHEN THE LENDER IS REQUIRING A LENDER'S POLICY OF TITLE INSURANCE?

No you don't have to get an owner's policy, however, you will have to waive title insurance and any rights you might have to rely on the preliminary report issued in conjunction with the issuance of the lender's policy of title insurance.

In other words, you don't get to rely on any representation made to the lender in the issuance of the lender policy. If an issue arises under these circumstances, the lender would most likely have to foreclose (take the property back at the trustees sale and fail to realize their debt and a result of the defect). In those rare cases where the lender did not have to foreclose, the title company (under the subrogation provisions of the policy) may have the right to recover its loss from you since one of the representations made to the lender by you in your deed of trust was clear title.

4. WHY CAN'T I PURCHASE TITLE INSURANCE FOR JUST MY EQUITY AT THE TIME OF PURCHASE?

Under the provisions of your policy of title insurance, you must sustain a loss as a result of the missed or covered matter. For example, you purchase the property for \$540,000.00 with a \$40,000 down payment. Since the loan amount is \$500,000.00, you think that you only want title insurance for your equity (\$40,000.00). To sustain a loss under such a policy, the monetary value of the loss would have to be greater than the amount of the lender policy (or \$500,000.00) since the property would still be worth more than simply \$40,000.00. As the loan is paid down and your equity increases, your coverage would still be limited to the last \$40,000.00 of value.

5. WHAT HAPPENS AS THE VALUE OF MY HOME INCREASES OVER TIME?

Most title insurance policies are capped at the time of issuance by the value of the property at the time of purchase. In the event of a complete collapse of title, the maximum payable is the face value of the policy. In assessing the diminution in value, various factors are considered--including the value at the time of purchase. There is one policy of title insurance for purchasers of residential property (1-4 units), which does include a provision that increases the coverage over the first 5 years of the policy by 10% a year to a maximum of 150% of the original face.

6. WHAT TYPES OF TITLE INSURANCE ARE AVAILABLE?

CLTA STANDARD TITLE INSURANCE POLICY: A policy formulated by the California Land Title Association for use by its members. The California Land Title Association is an association of title insurance companies and title companies. This policy insures against loss as a result of Fraud or Forgery in either the instant transaction or a prior transaction or a defect in title resulting from a recorded matter which is not excepted in Schedule B Part II of the policy. This is the lowest level of coverage.

ALTA STANDARD POLICY OF TITLE INSURANCE WITH REGIONAL EXCEPTIONS: A policy formulated by the American Land Title Association for use by its members. It is basically the same as the CLTA Standard Policy of Title Insurance.

ALTA RESIDENTIAL POLICY OF TITLE INSURANCE: Another policy formulated by the American Land Title Association. This policy gives all of the coverages of the two policies above plus Mechanic's Lien Coverage for work done without the approval or consent of the insured. For instance, if the seller has had work done to the property but did not pay the vendors who performed the work, the buyer(s) are protected by the policy.

ALTA/CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE: This policy was formulated by both associations. It gives all of the coverages above, plus a number of additional ones. This policy increases by 10% per year for each of the first 5 years of the policy until the covered amount is 150% of the original amount of coverage. Survey coverage can be added by endorsement, but title companies will require a survey.

ALTA EXTENDED OWNER'S POLICY OF TITLE INSURANCE: This gives all of the coverages of the Standard Policies above, plus coverage against certain unrecorded matters which an inspection or survey would disclose. Title companies would always require a survey and would perform an inspection. Any matters discovered would be added to the exceptions from coverage. This type of policy is usually issued for commercial transactions.

7. WHAT IF THE PROBLEM ARISES OUT OF SOME MATTER I AGREED TO OR CAUSED?

No title insurance policy insures the insured against his own action. If the insured agreed to something or caused something then it is not a covered under any title policy.