

Title insurance – owner’s policy?

By James L. Goldsmith, Esq.

The Truth-in-Lending/RESPA Integrated Disclosure (TRID) form that will come into use after August 1, 2015, will require a notice that an owner’s title insurance policy is optional. When your clients ask whether they should obtain such a policy, what will your answer be?

I am aware that there are agents in practice who now advise buyers to forego acquiring the owner’s title policy. Say it isn’t so! If that is or has ever been your practice, change it! Should your buyer follow your advice, elect not to purchase an owner’s title insurance policy and then suffer a loss that would have been covered by that policy, your buyer will turn to you to cover that loss. Are you willing to be your buyer’s title insurance provider?

While the risk of a title defect may be relatively small, the consequences can be huge. Before a buyer is permitted to decline an owner’s policy, they must first sign an affidavit stating they understand what they are doing, how foolish the decision is, and they are willing to go forward with their decision anyway. No one in my family will ever acquire property without obtaining such a policy, regardless of the savings. We simply don’t have the ability to see into the future and assure ourselves that the path ahead is clear. Anyone insisting on foregoing an owner’s policy should be told to consult their attorney. Me? I’d have the buyer sign a hold harmless in which they agree that I am blameless if they make the decision, independently, to not purchase an owner’s policy. Be advised.

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