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The Value of Owner's Title Insurance

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"An Ounce of Prevention Is Worth A Pound of Cure" - Benjamin Franklin

An Owner's Title Insurance Policy protects you against challenges to your legal title to your property. It guards against claims from your geographical neighbors, and claims based upon defects in your chain of title. Title insurance can also protect you against liens, undischarged mortgages, undiscovered easements, and many other problems that can result in loss of your property or a substantial loss of value. It protects you against many matters that cannot be detected in even the most careful title search. Perhaps most importantly, an Owner's Title Insurance Policy covers you when there is actually nothing wrong with your title, but someone else thinks otherwise and will not be convinced without litigation to demonstrate that you are correct.

An Owner's Policy either pays for an attorney hired by the company to defend you against the challenge, or if the challenger's claim is enforceable and results in a complete loss of title, you will be compensated for the fair market value of your property. In the case of liens, easements, or other blemishes on title, you may be paid for the resulting reduction in the value of your property. As a practical matter, many property disputes settle short of a full-blown trial. The financial resources of the title insurance company can help make it possible to settle the claim financially, or to implement a practical solution like construction of an alternate driveway or moving a fence or wall.

An Owner's Policy protects you for the entire time you own your property and even thereafter. If you later sell your land via a Warranty Deed (the most common form of conveyance), you make a promise to all future owners that the title to the property is good. Technically, a subsequent owner could sue you for defective title. Title insurance continues to protect you against such claims even years after you have sold the property.

Do not confuse Owner's Title Insurance with Lender's Title Insurance. If you are getting a loan, it is likely that a Lender's Title Insurance Policy will be included as part of your closing costs. That policy does not give you, the Owner, any protection at all. It only insures the bank's mortgage interest against title problems. In a worst case scenario, resulting in total loss of the property, the bank's mortgage may be paid off by the title insurance company, but you would have no attorney to defend you and no compensation for the loss of your home or land. Many people mistakenly believe they purchased a policy in the past, but upon further investigation discover that what they remember was the premium for the Lender's Policy. To have protection for yourself, you must purchase the Owner's Policy counterpart to the Lender's Policy, issued at the same time.

You may have to purchase a new Lender's Policy each time you refinance in the future, because a Lender's Policy is specific to a particular mortgage. But you don't have to purchase a new Owner's Policy. It continues in force through any number of refinancings.

At purchase or refinance are the best times to buy a title insurance policy, because you have already paid for a title search. A title search is mandatory to be able to get a title insurance policy. If too much time lapses between the search and a request for a policy, a new search has to be done, with a new title search charge to you.

The premium you pay for an Owner's Policy is a one-time premium, not a monthly or annual charge. In considering the value of a policy, you should be aware that in Maine many attorneys charge \$250 to \$400 PER HOUR for investigation, negotiation, and litigation work in land disputes. Attorney and surveyor fees can easily run into the tens of thousands of dollars. Real estate title disputes frequently take two years or more to resolve if not settled.

Given these considerations and my own experience consulting or representing clients with title problems, I recommend that all buyers and owners of land in Maine be protected by a title insurance policy. The one-time cost is reasonable for the magnitude of harm that can be avoided.

Finally, if you do purchase an Owner's Policy, it is important to remember that you have it. More than once, people have come to my firm for help with a title dispute, forgetting that they have a policy. Before they start paying me the hourly cost of investigation and litigation work, I ask them if they have a policy. We can often check title company databases to see if a policy was issued. If so, the claim is submitted to the title insurance company for evaluation instead, saving the Owners thousands of dollars. Thus, if you have a policy, keep it in a safe and memorable place, with other important papers.

More Information About Title Insurance:

Why You Need Title Insurance by American Land Title Association:

<https://www.homeclosing101.org/protect-your-property-rights/>

What Is Owner's Title Insurance? by U.S. Consumer Financial Protection Bureau (CFPB):

<https://www.consumerfinance.gov/ask-cfpb/what-is-owners-title-insurance-en-164/>

If you have further questions, please be sure to speak to your lawyer and/or your real estate agent about this important issue. If we are handling your closing, please give us a call at (207) 872-0112.

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