The Importance of Title Insurance: Educating and Empowering Consumers in Our Age of Information

By Nick Caruso

Without a doubt, buying a home is one of the single largest investments a homeowner will make in his or her lifetime. Along with a home purchase, buyers protect their property from fire, theft or wind with homeowners insurance, and from rising water with flood insurance. Purchasing these policies is a no-brainer for homeowners across the board, as they are all part of caring for their newly acquired asset.

However, hidden hazards may lurk under the surface of a transaction in the form of an outstanding lien, pending legal action against the property, possible tax issues and more, all of which could place a severe financial burden on the new owners. In order to be truly protected from these lesser-known, but not less severe matters, homeowners will want to pursue one last line of defense: title insurance.

Although it may not be the first thing prospective buyers consider, title insurance is one sector of the real estate transaction that should not be overlooked. With new industry regulations on the horizon and a beckoning movement to create more transparency in the real estate industry and the transaction process itself, it is imperative that consumers understand their right to buy title insurance, as well as their options for doing so.

When a buyer purchases a property, he or she is actually purchasing the title to the property—meaning, the right to occupy and use the space as listed. In addition to the aforementioned issues that could conceivably arise, title insurance protects owners of single-family residences and condominiums from a litany of other problems, such as building permit violations and trust and zoning matters, improper documentation and wording of deeds, wills and trusts.

“One of the biggest problem areas for consumers over the last six years or so has been fraud and inadvertently getting tripped up in fraudulent transactions,” says Glenn Clements, group president of Direct Operations for Stewart Title. “For example, if a false conveyance occurs on a house that’s been vacant for six months and a deed is recorded and the house is sold, and six months later the real owner comes back home, the situation could wind up in a claim.”

Unpaid or delinquent tax payments can also raise a red flag as a title issue. “Tax issues are not unheard of. They aren’t as expensive as fraud, but these are some common reasons why people buy title insurance,” adds Clements.

For many consumers, problems normally covered by title insurance are gray areas, ones that buyers may not completely understand even when seated at the closing table. For this very reason, the Consumer Financial Protection Bureau (CFPB) recently proposed changes that will help real estate professionals across the board better serve consumers, allowing for more transparency in the industry and more education for unaware consumers. Part of these proposed changes is ensuring that lenders are working with quality
business partners and settlement providers with higher security and operational compliance standards.

“Lenders are really making this flight to quality. They don’t want a bad reputation because some title company without financial standing caused an issue for one of its consumers. We’re seeing lenders become very focused on ensuring a high-quality experience and a high level of financial stability,” says Marvin Stone, CFPB program manager for Stewart Title.

The CFPB is also working to create and pass new consumer-designed Loan Estimate and Closing Disclosure forms that will replace the Good Faith Estimate, Truth-in-Lending Disclosure and HUD-1 statements. The new forms will be easier for homebuyers to understand and will be partnered with a three-day rule that states that all disclosures must be in the buyers’ hands three business days prior to closing. These changes, along with new requirements lenders must consider when underwriting loans, all aim to simplify the process for everyone involved, particularly consumers.

“On the old forms, the information is there, but it’s hidden. These forms were made by different groups and at different times. The new forms will make the transparency more visible and more understandable,” says Stone.

The upcoming Loan Estimate and Closing Disclosure forms were designed by the bureau based on feedback from consumers that was received after many consultations. The results are now being brought to the industry for possible implementation.

“Lenders are understanding that with the Ability to Repay and Qualified Mortgage (QM) rules coming into play, they are now competing on price and the closing experience, which is becoming much more important. They want to improve that experience for the consumer,” adds Stone.

In accordance with the CFPB’s efforts, whose stated goal is to make sure consumers have the information they need to choose the financial services that are best for them, the consumers’ right to find and choose a reputable title insurance provider remains of the highest importance. Thankfully, this task is made easier today due to the prevalence of the Internet and our age of information.

“Consumers can check the Better Business Bureau, look at recommendations, talk to the Department of Insurance and Wealth—there are lots of ways consumers can vet an insurance company.”

John Arcidiacono
CMO, Stewart Title

Though the right to choose whether or not to purchase title insurance in the first place lies strictly in consumers’ hands, Arcidiacono still believes it’s a great chance for further education. “It’s a huge opportunity for the industry, and specifically Stewart, to educate customers so they can make an informed decision. What they select should be clear to them as well as why they’re making the decision.”

“What Stewart is trying to do is bring the consumer into the transaction earlier—invite them online, help with their experience, get educational materials out there for them if they’re a first-time homebuyer—so they know what happens when they get to the closing table and how much money to bring,” says Jennie Craig of Stewart Title. “We’re trying to build outward and invite our customers, REALTORS®, lenders, builders and consumers into the transaction so they can see exactly what’s happening and be a more informed and empowered consumer.”

“Every industry can be more transparent. Not just real estate, but across the board. What happened with mortgage firms over the last five years or so has fueled this,” adds Arcidiacono. “There is a sense of urgency and we’re seeing everybody taking measures to be more transparent.”

Considering the various title defects that could possibly occur throughout, or even after, a transaction, a one-time premium could protect homeowners from any title issue that may come their way. And knowing that astute lenders want to be insured against these same financial stressors should be enough to get homeowners off the fence and into their own title insurance policies.