

LAWYERS LINK



Is Title Insurance Necessary When Buying a Foreclosed Home?

If a homeowner is unable to keep up with their mortgage payments, eventually the bank will take possession of the mortgaged property and take over the title. This is considered a foreclosure. In turn, the bank can sell the property to a new buyer in hopes of recovering its costs. Sometimes, foreclosed properties

are in good shape and it's a great investment for the buyer. Other times, not so much.

No matter how many times foreclosure sales go smoothly, they are still high-risk transactions. Having title insurance is a must, *especially if you are purchasing a foreclosure.*

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What is Title Insurance?

A title insurance policy protects your legal rights over the property, occupancy, use, control, and disposition of the property. Before issuing a policy, the title insurance company will perform an extensive search of relevant public records related to the property. This search reviews the chain of title from the time the property came to be, until now. It confirms that there are no judgments, liens, missing heirs, encroachments, and so forth clouding the title. The title search also confirms that the seller has the right to sell the property.

Title officers carefully search these records in order to clear the title, allowing the sale to proceed. Most of the time, if a title is cleared to close, then it is good to go. However, there are times when things get missed in the search, or a clerical or recording error may have occurred, or perhaps an unknown heir or will has surfaced. If you take ownership without title insurance, and a situation like this arises, you could be in for an expensive battle to keep your rights to the property.

Title insurance offers you protection against any defects in the title that may turn up.

Title Insurance and Foreclosed Homes

Some states use a judicial foreclosure process (through the courts), and other states use a nonjudicial foreclosure process (out of court). Either way, title companies will perform a title search on a foreclosed property, just as they would any other type of property. A title search will disclose existing title defects and any other liens and burdens. Any title issues that are missed during the title search will be covered by a title insurance policy. Without title insurance, you could put yourself at a very high risk.

There are two types of title insurance policies: an owner's policy and a lender's policy. If you are financing this property, you will likely be required by your lender to purchase a lender's policy. It is important to know that a lender's policy will not protect you. An owner's policy will cover your rights to the property, regardless of title defects.

Foreclosure properties can be a great deal when buying a new home, though they can come with great risk. Protect yourself with title insurance.



MONTHLY INDUSTRY TERMS

Lien

A claim upon a piece of property for the payment or satisfaction of a debt or obligation.

Caps

Consumer safeguards that limit the amount the interest rate on an adjustable rate mortgage can change at each adjustment or over the life of the loan.

Private Mortgage Insurance (PMI)

In the event that a buyer does not have a 20% down payment, lenders will allow a smaller down payment—as low as 3% in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance will usually require an initial premium payment and may require an additional monthly fee, depending on the loan's structure.

