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Title Insurance/Q & A

When you buy or refinance a home, you have a lot of things on your mind. Chances are, title insurance isn't one of them.
Title insurance is really a two-part transaction. First, the company or attorney searches property records to ensure that there haven't been any clerical errors, mistakes in examining records, undisclosed heirs, omissions in deeds, unknown liens or fraud involving the deed, says Jeremy Yohe, spokesman for the Washington, D.C.-based American Land Title Association. It verifies that the seller really owns the property and is free to sell it.

"One out of every three searches reveals a title or public record defect that's fixed before the transaction closes," Yohe says.
Next, the entity doing the search contracts with an underwriting company to issue an insurance policy that will pay to defend you in court if anyone challenges your title and to compensate you for your equity if you lose. Homebuyers typically need two policies: an owner's policy which protects them, and a lender's policy, which safeguards the lender.

Here are six questions to ask to help you make smart choices:

1. Are the prices regulated? In many states, they are, so there won't be much of a price difference between companies. Still, smart consumers are looking at two factors: quality of insurance and of the title search, says Ronald Mann, law professor at Columbia University in New York. The goal is to find a title company or attorney that will do a thorough search and an underwriter that will be there in 10 or 15 years if there's a problem.

   Even in a regulated environment, you might be able to save money, says Orlando Lucero, vice president of Stewart Title of Albuquerque LLC. While insurance costs may be regulated, ancillary expenses like wire transfer or courier fees could add up, he says. So ask about the complete transaction price, not just insurance costs.
   In unregulated areas, the difference in price "could be wide -- 10 percent, 20 percent or more," says Frank Pellegrini, president of Prairie Title Services Inc. in Oak Park, Ill. To find out if you're in a regulated area, ask your lender or state insurance department.

2. What coverage do I need? The average policy is "pretty standard," says Mann. Owner's policies typically protect against a number of contingencies, like fraud, forgery, undisclosed heirs and spousal claims, says Pellegrini. If you want additional coverage, that could boost the insurance cost. For example, a restriction endorsement could protect you if the construction of your home inadvertently violates the restrictions of your subdivision, Pellegrini says.

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Or, your lender could require additional insurance on the property or mortgage. For instance, an ARM, or adjustable-rate mortgage, endorsement would guarantee that the lender is first in line for repayment if the home goes into foreclosure, says Pellegrini.

3. Who usually pays? The party responsible for paying for the two policies -- buyer's and lender's -- varies from state to state and sometimes from county to county, says Yohe. In some locales, the buyer may pay for one; the seller, the other. That doesn't mean if the buyer pays, he can't haggle for all or part of his costs. "It can always be negotiable," Yohe says. If you're buying the owner's and lender's policies from the same company, "in many cases, there's a substantial discount," says Lucero.

4. Is the seller pushing a specific title company? If you pay for the title insurance, you have the right to select the company. If you're not paying but want to choose the company, be prepared to share some of the costs, says Mann. Be wary if the seller is pushing his title company, he says. A title search is meant to find errors before you buy. Use the same company that your seller did years earlier and odds are you'll get the same results, Mann says. Often, searchers aren't using actual records but summaries or extracts of those records. A fresh set of eyes (and extracts) could unearth problems, allowing you to fix them before you buy, he says.

5. Who do I trust? If you're getting advice from your seller, your real estate agent and your mortgage lender, look to the lender, Mann says. "The lender's interest dovetails with yours in getting these things done well," Mann says. The lender is guaranteeing a large amount of money based on the assurance that the property you're using as collateral is really yours.

6. How much reassurance do I need? Banks and insurance companies aren't supposed to go under, but they do. If you want to verify that the underwriter issuing the insurance policy is currently sound, check its financial solvency with ratings companies like Fitch Ratings, Demotech Inc. or A.M. Best Co.

   You can also research the underwriter and title company or attorney online to see what past customers are saying about their services. Every business has its bad apples. In very rare instances, a title insurance agent has issued policies but pocketed the premiums instead of forwarding them to the underwriter, so consumers weren't covered, says Joseph W. Eaton, co-author of "The American Title Insurance Industry."

One easy solution: Contact your underwriter directly and ask for a copy of your policy, he says.

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