

NewsLink

Title Insurance Claims:

What to Do When Someone Challenges Your Ownership Rights



When a buyer purchases a home, the lender will require the buyer to purchase a title insurance policy to protect the lender's investment in the mortgage.

The homeowner will also want to purchase an Owner's policy to protect their ownership rights. A portion of the title fee the homeowner pays at closing is used to investigate the property's title at the time of the transaction. It also covers the efforts a title agent makes to clear all former claims and liens against the property to ensure the homeowner is getting a marketable title. However, sometimes matters arise after the new owner has taken possession of the property that did not appear in the public records or were overlooked in the investigation that will result in a claim against the owner's title or rights to the property.

The Source of Claims

Title insurance claims can arise from several sources, including:

- Your neighbor shows up with a survey that shows your garage is built partially on their property and demands you tear it down.
- An heir appears who was not consulted when the property was sold and sues you for their share.
- You apply for a home equity line of credit and are refused because it appears an earlier mortgage was not paid off.

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- A contractor demands payment for a mechanic's lien filed against the property after the former owner failed to pay for the new roof.

What Can a Homeowner Do When a Claim Is Presented to Them?

Step one: Don't panic. You can submit your claim directly online to the title insurance company. If you aren't sure who underwrote your title insurance policy, you can contact your title insurance agent who provided your policy when you closed on your house. You can check your closing documents to get the contact information for your title agent or contact your real estate agent or mortgage lender who should also have that information. Your title agent can assist you in submitting the claim yourself or can submit the claim for you.

Kyle Knopsnyder, senior claims counsel at Doma Title Insurance, Inc., noted that homeowners often check their title insurance policy to try to discover what is covered. But he acknowledged that insurance policies can be complicated to read.

“The easiest thing to do is to submit a claim to us and let us make that determination,” he said.

“If you think it is even remotely possible that the claim is covered, you should submit it. You don't want to take the chance of failing to submit a claim when you could have.”

Before you hire an attorney to defend your ownership rights, you will want to first ascertain if the claim is covered. Knopsnyder emphasized that the title company is in the best position to understand the nature of the claim, assess its validity and determine the best course of action.



What Your Title Agent Can and Can't Do

According to Knopsnyder, although your title agent can help facilitate your claim, they cannot speculate about the validity of the claim or the possible outcome. He said the agent will also be unable to provide a timeline for resolution because every claim is unique, and some claims may require more in-depth legal investigation.

Investigating the Claim

The first thing a title underwriter will do is to acknowledge receipt of your claim. Melinda Price, assistant chief claims counsel at Doma, said if an agent submits a claim on behalf of the homeowner, the agent is advised to forward that email to the customer to keep them in the loop.

The initial investigation includes reviewing the documents submitted with the claim, such as the agent closing file. The attorney will also order an updated search to determine if the issue being identified is active and enforceable against the property.

“Sometimes, we need to get information from third-party providers,” she added. “This stage of the process is the part that takes the longest because we need all the documents before we can make a coverage determination.”

Determining a Course of Action

After reviewing your claim, the underwriter will make one of the following determinations:

- Accept coverage outright;
- Accept coverage with a reservation of rights because they think an exclusion or exception to the policy may ultimately apply, but it is unknown without further research;
- Accept coverage in part and deny in part;
- Deny coverage because the claim fails to trigger a covered issue or because an exception or exclusion applies; or
- Deny coverage because the claim being alleged will not result in the homeowner sustaining a loss under the terms of the policy.

If the underwriter accepts coverage, there are several possible options for resolving and clearing the title, including:

- Curing the title defect by recording the appropriate documents or by paying off the lien;
- Representing the insured at court to defend the insured's interest;
- Seeking prosecution against illegal actions that resulted in the claim, for instance a fraudulent deed or a sale that defrauded another owner;
- Negotiating a settlement with the insured or a third-party claimant;
- Negotiating for the removal of an easement;

- Paying the diminution of the value of the property if an easement cannot be removed; and
- Paying the policy limits or the value of the property in the case of the complete failure of the title.

How Long It Takes and How You Can Help

Price noted that on average, it takes 30-40 days for a coverage determination, unless additional investigation becomes necessary. Once the coverage determination is made, the claims attorney begins the curative process, which can be a very lengthy process if the matter ends up in court.

There are steps the homeowner and the agent can take to help speed up the process, including promptly providing copies of all requested documents. Homeowners are also advised to stay in communication with their agent throughout the process, and to be patient, understanding that it will always take some time for the title underwriter to complete its due diligence on each claim.

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