A Country Without Title Insurance

Description

Every day, we see mistakes in land records that can have real consequences for owners and lenders. An improperly created easement could cost a small business owner their access point. An undetected credit line deed of trust from a prior owner could cost a lender their lien position. A fraudulent deed could cost a homeowner their largest lifetime investment. But there is good news. Our industry provides a product that defends against these problems and defrays or absorbs the costs for fixing problems. It turns out, title insurance is a proven, cost-effective solution that has been getting more affordable every year.

But title insurance is under attack. Why? Ill-informed politicians use title insurance as a talking point to say that it adds unnecessary closing costs. Is title insurance an unnecessary expense?

Try to imagine a country without title insurance. Imagine that title insurance companies, title agents, and title examiners in the United States are no longer the marshals of land records. Would you expect fewer title problems and improved home affordability? Or would we have the same title problems we see day in and day out, coupled with the question of who will pay to resolve these issues when title insurance is no more? Most likely, it will be those property owners who didnâ??t buy title insurance now paying out of their own pockets for the mistakes or negligence of others and hiring attorneys to sue for remedies. Folks spending bad money after good just to try to be made whole. Buyers who saved a few bucks at closing face losing far more money â?? or worse their property â?? down the road. It would be incredibly frustrating for us to regress to how things were before the birth of title insurance in the wake of the Pennsylvania Supreme Court ruling in Watson v. Muirhead in 1868.

And the U.S. Legislature knows it.

In August of 2023, the Federal Housing Finance Agency (FHFA) and Fannie Mae abandoned their title waiver pilot program, and today we have **bipartisan** support of the Protecting Americaâ??s Property Rights Act (H.R. 5837 and S.2687) in both the Senate and House. The bill would amend the Charter Acts of Fannie Mae and Freddie Mac to require that all loans purchased by the GSEs are protected by a title insurance policy issued by a state licensed and regulated title insurance company.

Clearly The White House did not discuss this matter with the Legislature or our industry representatives before issuing their statement.

As if this werenâ??t bad enough, Fannie Mae has announced that, as part of their title waiver pilot, *they will be charging lenders a fee to cover the risk associated with title insurance being waived*. Fannie Mae will be charging lenders a premium to cover a risk. In other words, Fannie Mae will become a primary market insurer, providing an **unregulated alternative to title insurance for a fee**. This isnâ??t a pilot program to save buyers money. This is a pilot for GSEs to trial a new, unregulated business in direct competition with title insurance.

This is a critical time to be active in supporting our industry. According to a recent independent report, our industry directly generates $30 billion to Gross Domestic Product annually and supports 155,000 jobs with employees earning $13 billion in wages and benefits.

Our voices need to be heard!

Call or write your United States senators and representative and ask that they back the Protecting Americaâ??s Property Rights Act (H.R. 5837 and S.2687). You can find their contact information here by entering your address.

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