

*This column originally appeared in the Benicia Herald Dec .19, 1999*

---

## **TITLE INSURANCE: 'PREDICTING THE PAST'**

**By Rod Herman, All Rights Reserved**

Buy a home. You get title insurance. Refinance an existing mortgage. You get title insurance. Take out an equity loan. You get title insurance.

Yet ask the average consumer just what a title insurance policy covers, and you'll probably get a blank stare along with a couple of shoulder shrugs.

When most of us hear the word insurance, we think about things like auto, home or life insurance policies – all of which protect us financially from unknown future calamities.

The companies who underwrite these policies rely on actuarial tables to predict how many people out of a given population will be involved in a particular type of accident or claim.

In essence, they're taking a calculated risk. They know they can't predict the future with complete certainty. But they usually they can determine with pretty good accuracy what the associated risk is for a given person and a given activity.

Imagine, though, if insurance companies had the ability to look into the future. For example, what if homeowner's insurance carriers across the U.S. could all jump ahead to Dec. 31 and identify every house where a Christmas tree fire would occur. They'd easily be able to prevent these calamities from occurring altogether.

Unfortunately, though, the time machine is still (excuse the pun) light years away, which means that for the time being most insurance companies are stuck with actuarial tables and predictability models.

But one part of the insurance industry already has its own sort of time machine. I'm talking, of course, about title insurers, who look not into the future, but rather into the past.

Title insurance, you see, insures the policy holder that the property they acquired was free of undisclosed liens at the time title transfers. And so, rather than looking ahead into the unknown, title insurance companies are able to thoroughly research the past – to make sure that all claims against a particular piece of property are either disclosed or removed before the transfer occurs.

By researching county records ahead of time and even inspecting the property in person if necessary, title insurers can usually eliminate all potential claimants before an insurable event occurs.

Let's say that you're buying a home from someone who's owned it for 25 years. Along the way, the homeowner has taken out four or five loans against the property. He's also had various contractors perform work to the house.

As part of the title search, the title company pulls up public records to make sure that only those loans which are currently active are still recorded against the property. They also look for judgments that may have been attached to the property or owner. They look for mechanics liens that may have been filed by unpaid contractors. They pull up recorded easements. And they find out what deed restrictions or conditions may have been recorded against the property.

By doing so, all loans or title defects that are the current owner's responsibility can be paid off or corrected before escrow closes.

Most of the time, title companies do an admirable job. Occasionally, though, something can fall through the cracks. And that's when the title policy itself comes into play. It insures you against items the title company may have missed.

Because title insurers do such a good job researching public records and looking for title defects, it really is very rare for a homeowner or lender to actually be involved in a title claim.

Why then, you ask, do you need title insurance? Why pay the \$1,500 or more for a policy that less than five percent of the population ever uses? Why not spend the money for insurance against meteor showers or alligator attacks?

Well, you see, the term title insurance is actually somewhat of a misnomer. Although the piece of paper you receive after escrow closes is called a title insurance policy, the majority of what you're really paying for is all the research that goes into making sure you never have a claim.

It's like paying for the use of a time machine to eliminate accidents before they occur, rather than paying for a piece of paper to protect you against something that statistically might happen.

The title insurance industry's time machines are the title plants that each company operates. There they maintain up-to-date copies of all matters of public record pertaining to real estate.

Thus, most of what you're paying for when you pay your title insurance premium is not for a piece of paper protecting you against some future claim, but rather for the data collection and manpower necessary to ensure that you're getting a home that's free from unknown claims, limitations or restrictions.

*Rod Herman is a real estate agent with Coldwell Banker Solano Pacific in Benicia as well as a long-time housing writer. You can reach him at his office (707-747-6600) or via e-mail at [rod@HomeSection.com](mailto:rod@HomeSection.com). You can read (and subscribe) to Rod's real estate blog at [www.HomeSection.com](http://www.HomeSection.com). Archive copies of selected columns can also be found on the same web site.*

*©Rod Herman and HomeSection.com. You are given permission to print the contents of any article for non-commercial purposes ONLY. Reproduction for commercial purposes or for any other non-personal use is strictly prohibited without the express written permission of Rod Herman and HomeSection.com. All rights reserved.*