

Farm Management

Consider title insurance

INSURANCE is an important risk management tool that every farm operation must have. Property insurance protects against fire and wind, auto insurance protects against driving accidents, and life insurance protects against untimely deaths. A lesser known but important risk management tool is title insurance. This type of insurance protects the buyer in a

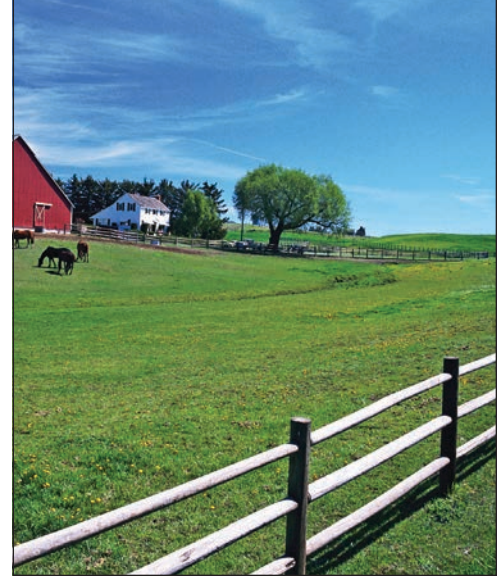


Country Counsel

By ROBERT MOORE

real estate transaction by insuring against issues that have arisen in the past.

Title insurance can only be issued by a licensed title insurance agent. Most title companies have licensed agents and provide title insurance policies. The first step in the title insurance process is a title search. The agent conducts a search of public records related to the real estate. Typically this involves a search of all deeds, easements, leases, mortgages and



similar documents at the county recorder, as well as any judgments or liens in the judicial system related to the property.

The following are just a few of the issues for which title insurance provides protection: confusion caused by similar names; forged deeds and documents; clerical errors in public records; undisclosed or missing heirs; invalid divorces; unpaid child-support liens; and unpaid taxes.

Also, the title insurance will pay for any legal fees incurred by the buyer in defending a lawsuit over title issues.

If a title defect is found during the title search, one of three things will occur. The title defect can be cured. For example, a new deed or affidavit can be executed to clear up a misspelled name. The title insurance company can also identify the title issue as an exception in the title policy. For example, a title insurance company may expressly not insure any issues related to a joint fence line agreement between two adjoining landowners. It is important to read each title insurance policy closely to understand what title issues, if any, are being excepted from the policy. Lastly, the title insurance company can refuse to insure the property.

Owners and lenders

There are generally two types of title insurance: owner's and lender's. The owner's policy protects the buyer from defects in the title, while the lender's policy ensures that a lender's mortgage is valid and is not subordinate to other liens or mortgages. If the property is being purchased with financing, the lender will often require lender's insurance.

Title insurance premiums are a one-time payment made at time of closing. The premiums are calculated by a formula established by the Ohio Department of Insurance. Premiums for a \$500,000 owner's policy will be about \$2,200 and a \$1 million policy will be about \$3,600. A lender's policy can be purchased in combination with an owner's policy for an extra \$100.

Like any other insurance, the question becomes — is it necessary? In most situations, title insurance is a good idea. A premium of \$3,600 is a relatively small amount to protect a \$1 million investment — less than 1% of the purchase price. This is especially true when purchasing real estate from an unfamiliar person, or when purchasing real estate from a divorce, bankruptcy, settlement foreclosure, forced estate sale or any other situation where the sale may be contested. Without title insurance, a buyer can never be sure the purchase of real estate is fully protected.



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