

RE96R15:

Overview of Insurance in the Residential Real Estate Transaction

Definition:

Insurance policy- a legal contract of the promise that an insurance company gives you to pay for the losses outlined in your policy for premiums that you pay to the insurance company. A policy is not a bank account where premiums are stored. They constitute a promise that the company will pay for costs, less deductibles, if applicable. This course is only an overview and the parties should contact an insurance agent.

Types of insurance related to the real estate transaction

I. Insurers:

- a. Licensed by the Commonwealth's Division of Insurance
 - i. Must demonstrate it meets state's standard minimum requirements
 - ii. Must agree to participate in state's Guaranty Fund
- b. Surplus Lines Market
 - i. Unlicensed insurance market
 - ii. Not licensed by the Division of Insurance
 - iii. Not regulated by state law
 - iv. Not members of the state's Guaranty fund
 - v. Unusual or expensive properties

II. Homeowners Insurance:

- a. Requirement
 - i. No law requiring anyone to purchase insurance on their home
 - ii. Requirement of the lender to protect the bank, or lender in the event you require a mortgage to purchase the home, or have an existing mortgage
 1. Cannot require you to insure for greater than replacement cost of the dwelling
- b. Homeowners' Policy
 - i. Application
 - ii. Insurance binder
 - iii. Pay for one year in advance and show proof of same
 - iv. Cancellation or Non-renewal
 1. After policy has been in effect 60 days, company can cancel at any time provided they give sufficient notice

- a. Grounds include: conviction of a crime that may increase hazard under the policy; fraud or misrepresentation in obtaining the policy; willful or reckless acts or omissions by the insured increasing the hazard of damage; physical changes to the property making it uninsurable; determination by the insurer that continuation would violate the law, or place the insurer in violation of the law
 2. In the case of non-payment only ten (10) days notice is required
 3. A company can refuse to renew coverage at the end of the term (usually one year) provided that the insured is given at least forty-five (45) days prior notice as well as the reason for the non-renewal
- c. Basic Coverages Available
 - i. Replacement
 1. "Dwelling limit"
 2. Consider outbuildings (garage, sheds, etc.)
 3. Foundation and land not insured
 4. Replacement cost v Market Value
 5. If coverage is less than replacement cost your insurer is not obligated to pay total costs of replacement/partial loss coverage/may be obligated to cover a percentage of loss
 - a. Penalties for underinsurance
 - ii. Contents insurance
 1. Personal belongings, furniture, clothing, electronics, jewelry, etc.
 - iii. Fire, windstorm, theft
 - iv. Exclusions could include flood, earthquake, damages due to neglect or poor maintenance
 - v. Damage to your real property
 - vi. Damage to personal property
 - vii. Costs incurred in finding alternative housing
 - viii. Personal liability, medical payments (limited)
 - ix. Deductibles and Discounts
 1. The higher your deductible, the lower the premium you'll have to pay
 2. Discounts may include non-smoker (Smoke Free Credit), sprinkler, fire extinguishers, new wiring, new plumbing, proximity to hydrants, senior discounts, dead bolts, alarms, group plans, multiple policy discounts (ex. Bundling auto and home, 2nd home, umbrella policies), burglar alarms, etc.

- d. C.L.U.E. Reports
 - i. Federal Fair Credit Reporting Act
 - ii. Comprehensive Loss Underwriting Exchange
 - iii. Insurance companies use the report in reviewing applications for coverage
 - iv. Prospective Buyers cannot request a copy of the CLUE report-only available to property owners
 - v. Inquiry v Claim
 - vi. Can an insurance company deny eligibility?
 - 1. Past history of claims
 - 2. No laws governing prior owners' loss history governing eligibility

- e. The FAIR Plan
 - i. MPIUA (Massachusetts Property Insurance Underwriting Association)
 - ii. High Risk Insurance offered to those refused coverage
 - iii. Consumer must meet plan criteria
 - iv. "Insurer of last resort"

III. Title Insurance:

- a. Indemnity insurance against financial loss from defects in title to real property from invalidity or unenforceability of mortgage loans
- b. Two types
 - i. Lender's Title Insurance
 - 1. Protects the lender's interest in the collateral of loans secured
 - 2. Disclosures must be made relative to cost and attorney's fees
 - 3. Provides coverage for loss or damage sustained by reason of a covered risk at the time of closing
 - a. Forgeries, improper legal descriptions, recording errors
 - 4. Post-closing issues /risks created such as encroachments, boundary line issues, wetland and zoning issues are not, or may not be, covered
 - ii. Owner's Title Insurance
 - 1. Protects the difference between the mortgaged amount and the remaining equity in the property

IV. Renter's Insurance:

- a. Optional
- b. Loss prevention tool for renters

V. Condominium Insurance:

- a. Certificate of Insurance to be provided by Owner/Seller/Trustees
- b. MGL (Massachusetts General Laws) c. 183, sec. 10 (b) (5)
- c. Master policy
 - i. All unit owners share collective responsibility for insuring areas of the complex owned in common -- building exteriors and hallways, the pool area, etc.
- d. Unit Owner's policy
 - i. Insures everything within the four walls of individual unit
- e. Detached single-unit condominiums

VI. Liability Insurance:

- a. Personal Liability coverage during the listing period and beyond
- b. Managing Liability Exposure
 - i. Pools
 - ii. Dogs
 - iii. Trampolines
 - iv. Walks-Steps (Target v Papadopoulos, 2010)

VII. Mortgage Insurance:

- a. PMI (Private Mortgage Insurance)
- b. Purchased separately by consumer in addition to life insurance policy

VIII. Flood Insurance:

- a. Homeowner Flood Insurance Affordability Act of 2014
- b. New surcharge on policies to offset subsidized policies and achieve sustainable goals
- c. New law lowers recent rate increases on some policies, may prevent some future increases, repeals certain rate increases, and provides for some refunds to policyholders
- d. FEMA Maps (Federal Emergency Management Agency)
- e. Elevation certificates
 - i. Document generated by an engineer, licensed surveyor, or qualified person to provide data to assist homeowners in evaluating their flood risk
 - 1. Tool to accurately determine location of your home in relationship to the Base Flood Elevation (BFE)

REFERENCES:

<http://www.mass.gov/ocabr/docs/doi/consumer/homeowners-guide.pdf> A Massachusetts Guide to Insurance for Your Home and Ways to Help Reduce Your Insurance Premiums

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter183A/Section10> Massachusetts General Laws Chapter 183A/Section 10

<http://www.mass.gov/ocabr/insurance/home-insurance/national-flood-insurance-program.html>
National Flood Insurance Program

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175> Massachusetts General Laws Chapter 175 regarding Homeowners Insurance

<http://caselaw.findlaw.com/ma-supreme-judicial-court/1532932.html> SJC Ruling
PAPADOPOULOS v. TARGET CORPORATION, 2010

<https://www.mpiua.com/> Massachusetts Property Insurance Underwriting Association (FAIR Plan) Acts of 2014 Chapter 346

[Hermida v. Archstone](#), 2011

<http://www.mass.gov/eopss/agencies/mema/hazard-mitigation/floodplain-mgmt/the-national-flood-insurance-program.html> Mass.gov National Flood Insurance Program website

<http://www.floodelevationcertificate.org> Flood Elevation Certificate information