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Title Insurance: Is a Rider Needed?

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WHEN most people buy a house, their lender or their lawyer — usually, both — will insist that they buy title insurance.

What some buyers may not realize is that there are different levels of title insurance coverage available. Although the precise levels of coverage may vary from state to state, the idea is the same: more insurance is usually available if you are willing to pay for it.

Adam Leitman Bailey, a Manhattan real estate lawyer, said the primary function of title insurance is to protect a homeowner if there is a problem with the title. For example, he said, if a person buys property conveyed under a forged signature, and the person whose signature was forged then sues to recover the property, title insurance will pay for defending the suit and, if the insured party loses, will cover any loss up to the amount of insurance purchased.

It is also possible, **Mr. Bailey** said, that a buyer might not have clear title if a an error was made when the deed was recorded, usually in the county clerk's office. (Recording a deed puts the world on notice that legal title to the property has been transferred to a new owner.)

In addition, **Mr. Bailey** said, title insurance provides coverage for things like tax liens or court judgments filed against prior owners that were not discovered during the title search conducted before the sale.

In most cases, **Mr. Bailey** said, when buyers obtain title insurance, they actually purchase two separate policies: one to protect the mortgage lender (usually for the amount of the mortgage) and another to protect the buyer (called a fee policy and usually for the amount of the purchase price).

While that level of coverage is sufficient in most cases, what happens in a rising market when the value of the house ends up being far more than the purchase price?

Rafael Castellanos, the managing partner in the Expert Title Insurance Agency in Manhattan, said that in New York, for example, buyers can purchase what is called a "market value rider" to their standard title insurance policy. With this rider, he said, the maximum cover-

age provided under the policy will be the fair market value of the property instead of the original purchase price.

That value, he said, is determined by three arbiters — two chosen by the policyholder and one by the insurance company — and does not include increases in value attributable to improvements made by the owner. The cost of such a rider is 10 percent of the price of a standard policy.

Another way buyers can obtain additional coverage is by purchasing what is known as an extended policy. John Martin, the general counsel for the All New York Title Agency in Manhattan, said that in New York, the amount of coverage increases by 10 percent of the purchase price each year for five years, when it "maxes out" at 150 percent.

An extended policy provides protection for contingencies that a stan-

dard policy does not cover — certain zoning problems, for example. Say someone buys a house that has an addition that was not approved by the municipality and later finds out that the addition must be torn down. An extended policy

would cover that expense. In most cases, Mr. Martin said, extended policies cost 20 percent more than standard policies and carry deductibles of \$1,500 to \$4,000.

Mr. Martin said that most people were adequately protected by a standard policy. But for those who are buying a newly built house, particularly in a new subdivision, he said, extra protection might be a good idea because there is a greater likelihood of title claims for any number of reasons. And those who want the most insurance money can buy might not mind spending the extra 10 or 20 percent for greater peace of mind.

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