



Q1 2017

Michigan Abolishes Dower Rights

Governor Snyder recently signed into law bills which would eliminate Dower in the State of Michigan and will be known as PA 378 of 2016, PA 489 of 2016 and PA 490 of 2016, and will be effective 90 days from enactment which is April 6, 2017. What does all this mean for us? As you know, under the prior Michigan statutes, a wife's Dower attached to all lands which the husband owned in fee simple. Any document which conveyed real property that was signed by the husband alone, would not terminate the wife's Dower interest unless the wife also signed the deed or mortgage. The wife, although not in title, would retain an interest in the property that would need to be released by joining in the conveyance.

Public Acts 378, 489 and 490 of 2016, in short, will accomplish the following:

1. Abolish a wife's dower right whether granted by statute or at common law;
2. Repeal any section in the current laws that reference or pertain to dower rights;
3. Delete a provision that a judgment of divorce and separate maintenance include a provision in lieu of dower;
4. Take effect beginning April 6, 2017; and
5. Continue to provide dower rights to a surviving widow whose spouse died before April 6, 2017.

Source - Written By: ATA National Title Group

COMING SOON!!! SARGENT'S TITLE APP

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Sargent's Title Company

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Imagine that you have found your dream home. Your offer is accepted, you close the deal, you move in. Then, just as you've started to make the house your own, the mail carrier delivers news that turns your world upside down: There was a lien against a previous owner, and now it's been passed on to you.

That's exactly what happened to Lori Moore and her husband. "We had barely gotten everything settled in the house when two weeks later we received a letter from an attorney about a pre-existing lien on the house against the prior owner that now carried over to us as the new owners," says the Louisville, KY, resident. The lien had been missed during the title search process because, Moore says, the county clerk had filed it in a way that made it hard to find.

At first, Moore says, they weren't too concerned. "We remembered paying for title insurance, but our Realtor® explained that policy only covered the lending institution for any title problems, not us as the homeowners."

The Moores were left holding the bag for \$2,000 to pay off the lien and attorney costs. "If we would have bought [owner's] title insurance to protect us, we wouldn't have had to come up with that money as newlyweds and new homeowners," Moore says.

As Moore and her husband learned the hard way, there are two types of title insurance policies. Title insurance, in general, offers protection against any problems with the title, or legal ownership status, of the home. Any lien against a home or competing claim of ownership could jeopardize your financial stake in it, as well as your mortgage lender's. So the lender's policy covers the lender's stake, while the owner's policy covers your own.

A bank will typically do a title search as part of the mortgage approval process to determine what, if any, legal claims and rights are attached to the house—and, ideally, prevent these kinds of problems. But no matter how thorough, a title search can't rule out a relative or heir of a seller popping up with paperwork that appears to give them claim to a property. And sometimes, as in the Moores' case, there are paperwork snafus. Hence the insurance.



Here are some common situations where you would need title insurance:

Second sellers

Sometimes a distant relative—or an ex-spouse—may surface with a claim that they actually own the property, in whole or in part, and that the seller had no right to sell it to you.

If that happens, a judge could confirm the party's claim, which means you could be faced with buying them out, having to negotiate, or ... setting a bathroom schedule with a new roommate, says Marc Israel, president and chief counsel of MIT National Land Services, a title company in New York City. And say good-bye to that equity. "A buyer could potentially be out their down payment and any principal paid toward the house," says Dave Zawadzki, senior account executive at Proper Title, LLC, in Northbrook, IL.

If a judge rules in favor of someone staking claim to a house, the lender's title insurance policy will only pay for court costs incurred by the bank, and it will reimburse the bank for what you owe on the mortgage if the sale is deemed null and void, Zawadzki says. An owner's title insurance policy will cover your financial losses, such as attorney's fees and court costs, even if you have to move out of the house.



Nudging neighbors

The adage that good fences make good neighbors might not hold true if it's discovered that someone put up a fence, deck, shed, pool, driveway, etc., on your new property. And should that happen before you close, Israel says title insurance will pay the cost of any legal battle or efforts to settle the matter out of court and have the item removed from property that is legally yours.

Hidden mortgages

Just as with liens, it's possible a title search might not uncover a mortgage until after closing because it was posted incorrectly with the county recorder, Israel says. "Because the buyer received a clear title at closing, if an owner title insurance policy is in place, the buyer just has to file a claim and the policy will pay off that lingering mortgage," Israel says.

Unpaid taxes

Zawadzki says that even though a tax search might come up with no delinquent taxes on a property, that doesn't mean a buyer couldn't subsequently receive notification of delinquent back taxes after closing. And that bill could be heavy—unless the buyer has owner's title insurance. "An owner's title insurance policy would pay for this," he says, "because the buyer was given paperwork that indicated taxes were paid."

The point of purchase

Israel says a title insurance policy is issued the day of closing. It's paid for then, too. "The cost can't be built into the mortgage," he says. The one-time premium cost varies by location. "Every state regulates the price of title insurance, which is always tied to the purchase price and/or mortgage amount," Israel says.

Even if the chances are low that past owners or old tax bills might surface, it's worth it to at least have a conversation with your attorney and/or title company about title insurance. If you're on the fence about plunking down money for a policy, Israel suggests reviewing your finances. Ask yourself how you would handle the financial and possible relocation expenses if you were to suddenly awaken to a title-related nightmare.

Source – Gina Roberts-Grey

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