

## When Your Title Company Is Gone

New Jersey Title Insurance Company recently ceased issuing policies in New York. Washington Title Insurance Company has announced that it is relinquishing its license to issue title insurance policies in the State of New York. The recent ceasing of business of title underwriters and the inevitable problems that will occur as a result further exemplifies the necessity of selecting an underwriter with substantial financial strength.

The concomitant complications of undercapitalized underwriters disappearing from the landscape, literally overnight, are overwhelming. For starters, your client is sued by an alleged heir of a person in the back chain of title. The company you selected to protect your client is gone, along with their claims department. Both you and your client are on your own.

Slightly less drastic, your client wants to refinance, and use his original mortgage to consolidate with a new loan, and save the mortgage tax previously paid. You discover that the mortgage was never recorded. You think, no problem, we'll just get a refund from the title company and proceed. When it is disclosed that the title company that you directed your client to is gone, you immediately realize who is going to pay that mortgage tax. You are.

As any experienced real estate practitioner knows, exceptions to title are routinely cleared by providing the seller's title policy to the new title company. This is possible only if both title companies are parties to the Mutual Indemnity Agreement, which several of the newer players in the title world are not.

The plethora of problems resulting from an out of business title insurance company also includes:

- failure to pay real estate taxes
- unrecorded deeds and mortgages
- unpaid transfer tax and mortgage tax
- large escrow deposits missing

Don't get involved with referral malpractice; always use an underwriter with sufficient reserves and not a title underwriter of last resort. Of course, it only makes sense to apply the same rules for the title agent you chose.

