

CATIC

TITLE INSURANCE

The Better **CHOICE.**
The Better **VALUE.**

WHETHER YOU ARE

- A lender that originates mortgage loans secured by property in Ohio, or
- An investor or government sponsored enterprise that purchases those mortgages,

If you've been accepting an Opinion or Certificate of Title (an "Opinion") rather than requiring a title insurance policy, it's time to review that adherence to custom and consider why title insurance is clearly the better option, especially after the change in Ohio law occurring upon the enactment of [Senate Bill 13](#).

- **An Opinion is not equal to a Title Insurance Policy**

If the information in the Opinion is incorrect or incomplete, and as a result the recipient of the Opinion incurs a loss, the recourse is a cause of action alleging legal malpractice on the part of the lawyer who issued the Opinion. In some cases, this may mean making a claim through the firm's errors and omissions (E&O) policy, and in other cases it may mean having to sue the firm for malpractice.

By contrast, you can make a claim on a title insurance policy directly to the title insurer, a company established for the purpose of insuring interests such as the validity, enforceability and priority of a mortgage. If a claim is not covered by a law firm's insurer, keep in mind that a title insurer such as CATIC also has considerably more financial assets available to pay claims than the average law firm.

- **Claims based on an Opinion can be barred by the passage of time**

A new law, effective in mid-June, bars most actions for legal malpractice commenced more than four years after the occurrence of the act or omission that is the basis for the malpractice claim.

You may have an additional year to bring a malpractice claim after the discovery of the loss in the fourth year, but only if you can prove the loss could not have been discovered within the three years after the occurrence of the act or omission.

By comparison, you can make a claim on a CATIC title insurance policy as long as you have an interest insured by the policy. A claim can also be made on a policy insuring a mortgage before, during or after a foreclosure.

- **A Title Insurance Policy insures against more risks than an Opinion**

An Opinion provides the status of the title based upon an examination of certain public records. In general, an Opinion does not give rise to liability resulting from matters that are not shown in those specific public records.

A Standard CATIC Loan Policy provides coverage for not only those matters addressed in an Opinion, but in most cases will also insure against loss resulting from many hidden defects, such as claims arising from adverse use, unrecorded easements, encroachments, and unrecorded mechanics' liens.

- **You need the complete protection that a CATIC title policy can deliver**

A CATIC policy doesn't just insure against more traditional defects, it also insures against loss resulting from more current threats, such as forged title documents and wire fraud.

Endorsements can make a standard policy even better by adding coverage regarding certain terms of the mortgage, such as those addressing variable interest rates or future advances, or concerning specific matters affecting the property, such as existing restrictions, easements, or mineral rights.

- **You need the reliable coverage that a CATIC title policy can provide**

Imagine that today you receive an Opinion in lieu of a title insurance policy, and six years later you are foreclosing and a preliminary judicial report reveals that there are two unreleased liens in significant amounts that were recorded before the mortgage, and that the party granting the mortgage did not own the entire interest in the property. Do you have recourse against the law firm that issued the Opinion?

Not according to the new law. The act or omission resulting in the loss occurred more than four years ago, so any malpractice claim based on that Opinion is barred. The claim is barred even if you could prove that you could not have reasonably discovered the loss within three years of the act or omission.

The result would be entirely different if you had relied on a CATIC title insurance policy insuring your interest in the mortgage, and that policy had omitted any reference to either the liens or the partial ownership. Your remedy would be to make a claim directly to CATIC, and the Company would act swiftly to mitigate any losses and ultimately reimburse you for any loss incurred according to the terms of the policy.

- **You need the value that a CATIC title insurance policy can offer**

Articles comparing Opinions with title insurance policies typically conclude that title insurance policies offer better coverage than Opinions but are more expensive. Such an analysis equates cost with expense, when in fact the determination of whether something is expensive should consider the value to the customer. By that measure, a title insurance policy is clearly a better value than an Opinion.

Going forward, compare your options and make an informed decision. Choose title insurance if you want the most complete protection, the most reliable coverage and the best value. Choose CATIC. And remember, you can always contact Richard Jacobson at RJacobson@catic.com for more information.

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building **partnerships** together.

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