



TitleNews Online Archive

Top Title Industry Claims Trends

November 9, 2021

Learning about claim trends and hearing stories that lead to claims are important to title professional as they are a valuable teaching tool. While all claims are not covered, they are claims nonetheless and need to be resolved. Regulators will dole out fines for not properly responding to insured.

According to an industry survey, the top claims by number (not cost) are:

1. Closing errors
2. Searching errors
3. Boundary and survey issues
4. Easement issues
5. Recording problems
6. Fraud and forgery
7. Access
8. Mechanics liens

Recording problems, fraud/forgery, access and mechanics liens are the types of issues title policies are designed to cover. These make up about a quarter of the number of claims. Meanwhile, nearly three quarters of the types of claims that are typically handled are either closing or searching errors. This is where the industry has a chance to make a difference.

Missing or an incorrect legal description can cause big problems down the road. Little errors can cause big problems as well. Mistakes could be minor or result in the deed of trust being indexed incorrectly resulting in a \$1 million deed of trust getting foreclosed.

Another common closing error is the failure to pay assessments, taxes or municipal liens, as well as failing to make payoffs for prior mortgages or judgments. Neglecting to pay or close lines of credit are not as common anymore but can still result in claims.

Execution defects where the signatory does not match title or there's a missing spouse are other common closing errors that can spur a claim. Additionally, a botched notary acknowledgement can make a document void.

Common search errors that can lead to claims include:

- Missed deed or break in chain of title
- Missed tax liens

- Missed judgments
- Prior mortgages
- Heirs or probate defects
- Examining or abstracting error

Forgery and identify theft are two main culprits when it comes to fraud. The increase in property values spurs the increase in forgeries. With rising values, criminals will pretend to be the homeowners.

Wire transfer fraud continues to be a top threat. A new trend is that the criminals can block the initial wiring instructions email. Then when the title/settlement agent receives an email with wiring instructions, they think it's the original.

Claims can often be prevented at the closing table. The recommendation is to slow down. When conducting the search and exam, read all the documents. Often easements and restrictions can show up in the middle of a document. It's not enough to just have the document in the file. An important piece is to follow the underwriter's guidelines. In addition, know the underwriter's representative. Talk to them when you have questions.

When a claim comes in, the first thing to do is investigate and ask some questions.

1. Does the asserted title defect fall within the insuring provisions for the policy, such as is it one of the covered risks? If no, the claim is denied. If yes, then ask the next question.
2. Does the asserted title defect fall within an Exclusion in the policy? If no, proceed to question three. If yes, the claim will be denied.
3. Does the asserted title defect fall within an Exception in the policy? If the answer is no, the matter is covered under the policy. If yes, the claim will be denied.

In 2019, the industry paid roughly \$544 million in claims. This decreased to \$468 million in claims paid in 2020. For more data, check out ALTA's **industry financial data**.

Contact ALTA at 202-296-3671 or ***communications@alta.org***.