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Coverage Designed To Protect Against Construction Liens *018*

Anyone planning to build a house or add a significant addition to their home is taking on an exciting project—but one with many associated risks. Chief among them is the risk of having a lien put on the property if the general contractor fails to pay subcontractors or suppliers providing construction materials. These liens can subject property owners to financial liability and may impair a property owner's ability to sell or refinance the home later.

But a new coverage available from Attorneys' Title Guaranty Fund, Inc. (ATG) is designed to provide home owners protection against this type of construction lien problem. Called Owner's Construction coverage, the coverage provides a mechanism that ensures subcontractors and suppliers are properly paid, as required under the Illinois construction lien law. In some circumstances, absent proper payment procedures and documentation, the property owner can be forced to pay the contractor twice. That is, the home owner pays a subcontractor for labor or pays a supplier for materials—even though he or she already paid the general contractor for the same labor or materials. According to ATG president and CEO, Peter Birnbaum, "Payment without following the legal process doesn't count as a legitimate payment, and unfortunately, home owners can face significant losses. Involving a real estate attorney—early in the project—who can assist in making the proper legal arrangements will prevent this type of misfortune."

or new construction project as opposed to obtaining a loan for same. When there is a lender involved, the lender establishes a Construction Loan Escrow wherein payments are properly tracked. Property owners with no lenders and no approved system in place for tracking payments put themselves at risk of having a lien put on their property, even before it is completed. Owner's Construction coverage provides the procedure for tracking and documenting payments made to contractors and suppliers.

"While most general contractors are honest, dedicated professionals, recent events indicate a growing problem with unscrupulous general contractors who have received the owner's money but fail to pay subcontractors and suppliers, or unscrupulous subcontractors who fail to pay suppliers," says Birnbaum. "People in these situations can be in litigation for years. With Owner's Construction coverage, the owner has peace of mind knowing that persons listed by the owner and general contractor as providing materials and labor on the project are properly paid and that they forego any future lien rights," Birnbaum adds.

Consumers who want further information should contact their real estate attorney or ATG's Construction Escrow department at (312) 372-8361.

Opposed To Obtaining Loan

Owner's Construction coverage is designed for home owners or potential home owners who put up their own money for a remodeling