

Protecting your Interests through Title Insurance

Why title insurance is important for both lenders and owners. The risks, benefits and cost of title insurance.

Title Insurance: Just what it is and why do I need it?

Almost everyone is familiar with some form of insurance coverage: insurance coverages on your car, your life, medical/dental insurance or fire insurance on your home. But what exactly is "title" insurance?

Title Insurance is information on the status of title to real property before the purchase or mortgage of real property and protection against adverse claims that may affect the title. Here is how it works:

Before the closing of a loan or sale takes place, the public records are searched and examined to determine ownership, limitations to that ownership, encumbrances and any adverse matters affecting title to the property. These records are searched by examining the official courthouse records, where all recorded documents, judgments, liens, tax assessments (such as street or sewer), special taxes, and other matters, such as divorce and bankruptcy, are filed. The results of this examination will then be provided in a preliminary title report or "commitment" to insure the property. A commitment is a binding contract which reflects the current status of title before a loan or sale is closed and binds the Company to issue its title insurance in favor of the insured as owner or mortgagee of the property being searched, subject to certain conditions and stipulations. If there are serious problems found in the chain of title the title insurer will report those matters and also exclude them from coverage. Buyers and lenders know there are some limitations which should be removed such as the paying off and release of a prior mortgage or judgment. Otherwise, they will continue to adversely affect the property and the priority of their interests after closing. Sometimes problems are discovered and a title company may choose to "insure over" the matter in order for the transaction to proceed as planned.

"If title to the property is cleared before I buy or mortgage the property, why do I need title insurance?"

No matter how careful or efficient, human beings can make mistakes which could ultimately result in financial loss if not insured against. Items such as missed judgments, tax liens or a prior mortgage may be missed or omitted from a title search or commitment. A forged or fraudulent deed in the chain of title or an undisclosed heir's interest may surface at a later date. An owner's or lender's interest can best be protected from these conditions of title with title insurance.

There are two types of title insurance policies: Owner's Title Insurance and Lender's or "Mortgagee's" Title Insurance. An Owner's Policy is issued in the amount of the purchase

price and insures the title to the property for as long as they or their heirs own the property or have liability through warranties of title. A Mortgagee's Policy insures the lender in the amount of the loan against the invalidity or unenforceability of the new mortgage. The policy decreases as the loan is paid down and expires upon payment in full of the loan. Separate title insurance policies protect different interests. Individuals assuming that they are adequately covered without the protection of title insurance may learn a costly lesson. It is important to know that the mortgagee policy does not provide coverage for the owner. Also, a prior owner's policy will not protect a new buyer. Consider, for example what would happen if upon the purchase of a new home the buyer were to rely on their seller's owner's policy and later discovered a previous undisclosed interest or that a large judgment or tax lien was filed against that seller after he took title to the property. Or, suppose the individual purporting to sign the deed as your seller's wife was an imposter. The only way to be covered for these catastrophes is to purchase title insurance coverage.

Benefits of Title Insurance

Although title insurance agents make every effort to eliminate the risk involved in the purchase or mortgage of real property, there will always be certain risks for the buyers and investors.

The benefits of title insurance are:

- clears title problems
- pays valid claims
- provides a defense for claims attacking the title as insured

A The title insurance policy insures your interest subject to exclusions and conditions contained therein and insures against loss or damage resulting from: Any title risks covered by that policy up to the amount of the policy; and any costs, attorneys' fees and expenses we have to pay under the policy.

Covered Title Risks

Subject to its terms and conditions, a title policy covers the following title risks, if they affect title to the insured property on the policy date:

- Someone else owns an interest in the title.
- A document is not properly signed, sealed, acknowledged, or delivered.
- Forgery, fraud, duress, incompetency, incapacity or impersonation.
- Defective recording of any document.
- Lack of legal right of access to and from the land.
- There are restrictive covenants limiting the use of the land.
- There is a lien on the title because of:
 - (a) a mortgage or deed or trust
 - (b) a judgment, tax or special assessment.

- Others have rights arising out of leases, contracts, or options.
- Someone else has an easement on the land.
- Title is unmarketable, which allows another person to refuse to perform a contract to purchase, to lease or to make a mortgage loan.
- You are forced to remove your existing structure other than a boundary wall or fence because:
 - (a) it extends onto adjoining land or onto any easement
 - (b) it violates a restriction shown in the policy.
- Other defects, liens or encumbrances.

Costs

Unlike most types of insurance the title insurance premium is paid only once. If the owner's and lender's policy are purchased simultaneously, there is a substantial discount.

Protection

If a claim is made against your title as insured, The title insurance underwriter protects you by (1) defending your interest in any court case and paying the costs, attorneys' fees, and expenses incurred in that defense; (2) If the claim is proven to be valid, The title insurance underwriter will pay the costs of your claim, up to the amount of the policy or will undertake the responsibility of perfecting the title as insured at its own expense.