

What is Title Insurance?

About Title Insurance

Title is a bundle of rights in real property. Protecting purchasers and lenders against loss is accomplished by the issuance of a title insurance policy. Usually, during a purchase transaction the lender requests a policy (commonly referred to as the Lender's Policy) while the buyers receive their own policy (commonly referred to as an Owner's Policy).

In short, the policy states that if the status of the title to a parcel of real property is other than as represented, and if the insured (either the owner or lender) suffers a loss as a result of a title defect, the insurer will reimburse the insured for that loss and any related legal expenses, up to the face amount of the policy, subject to exceptions and exclusions contained in the policy.

Typically there are two policies issued. The Mortgagee's Policy insures the lender for the amount of the loan. The Owner's Policy insures the purchaser for the purchase price.

How is title insurance different from other types of insurance?

While the function of most other forms of insurance is risk assumption through the pooling of risks for losses arising out of unforeseen future events (such as sickness or accidents), the primary purpose of title insurance is to eliminate risks and prevent losses caused by defects in title arising out of events that have happened in the past. To achieve this goal, title insurers perform an extensive search and examination of the public records to determine whether there are any adverse claims (title defects) attached to the subject property. Said defects/claims are either eliminated prior to the issuance of a title policy or their existence is excepted from coverage. Your policy is issued after the closing of your new home, for a one-time nominal fee, and is good for as long as you own the property.

What's involved in a title search?

A title search is actually made up of three separate searches:

- Chain of Title – History of the ownership of the subject property
- Tax Search – The tax search reveals the status of the taxes and assessments
- Judgment and Name Search – Searches for judgment and liens against the owners' and purchasers' names

Once the three searches have been completed, the file is reviewed by an examiner who determines:

- Whether or not the Chain of Title shows that the party selling the property has the right to do so.
- The status of taxes for the subject property. The Tax Search will also indicate the existence of any special assessments against the land and whether or not these assessments are current or past due.
- Whether there are any unsatisfied judgments on the Judgment and Name Search against the previous owners, sellers, or and purchasers.

Rights established by judgment decrees, unpaid federal income taxes and mechanic liens all may be prior claims on the property, ahead of the buyer's or lender's rights. The title search will only uncover defects in title that are of public record, thus allowing the title company to work with the seller to clear up these issues and provide the new buyer with title insurance.

In Summary

After the searches have been examined, the title company will issue a commitment, stating the conditions under which it will insure title. The buyer, seller and the mortgage lender will proceed with the closing of the transaction after clearing up any defects in the title that have been uncovered by the search and examination.