

# Understanding Title Insurance

## What is Title Insurance?

A Title Insurance Policy is a guarantee by a title company that a thorough investigation of the title to the property has been conducted and that you have been notified of any outstanding claims to the property. The title insurance company reports any defects in the title in the form of a Title Commitment so that these matters can be corrected. It is important that you know of all claims on the property and have them resolved and declared away prior to you taking title to the property. The Title Commitment will carefully detail what items of encumbrance are not covered by the policy. You can then either get these items resolved or bow out of the transaction. Title insurance covers matters that occurred before the policy's effective date, but were discovered later. Your policy will detail what is covered, what is not covered and the effective date.

Title insurance is issued by the title company when they are certain the property is free from all liens, encumbrances, interests, etc., and the insurance guarantees such. This is so the title can be legally transferred to the buyer to be used as security for the lender's funds. This is why Title Insurance is required by the lender. Your lender has an interest in knowing that you and the lender are the only parties with claims to the property.



The title insurance company thoroughly searches the public records to uncover any unpaid taxes, mortgages, judgments against previous owners, easements and other court actions or recorded documents which can affect title to the real estate. The insurance also provides protection against any defect in the public record such as forgery, similar names, error in the records, etc., and protest against any undiscovered or unrecorded claims that may arise in the future.

When Title Insurance is issued the title insurance company accepts the responsibility for any and all claims on the property prior to your purchase if they do not find the claim or call it to your attention prior to your purchase of the property. That responsibility includes defending your title in court if necessary (at their expense) or bearing the cost of settling the claim (if it proves valid) in order to perfect your title and keep you in possession of your property.

Unlike other forms of insurance, the original premium is your only cost as long as you or your heirs own the property. There are no annual payments required to keep your Owners Title Insurance Policy in force.

### **Title Insurance protects you twice**

- **It notifies you of claims against the property**
- **It Insures you against any future claims on hidden items.**

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## Why Title Insurance is so important!

To understand why a title search is so important you must understand the nature of real estate. Real estate has always been considered man's most valuable possession. It is so basic a form of wealth that many special laws have been enacted to protect ownership of land and the buildings which stand on the land. The owner who is selling the property has extremely strong rights, as do his family and heirs. Also, there may be others who have "rights" in the property you are going to buy. These may be governmental bodies, contractors, or any other individuals who have perfectly proper unpaid claims against the property. Unscrupulous owners may have gotten a second mortgage on the home prior to closing.

Anyone who has such a claim in the property you are buying is, in a sense, a part-owner. The property may be sold to you without the party having the claim knowing about the sale. Without a title check conducted by the title insurance company you would know nothing about such claims at the time you buy. All such claims remain attached to the real estate you are purchasing and not to the previous owners. The title company will notify you of all liens, encumbrances, and interest in the property so that these can be resolved by the current owners prior to the sale. Proof of a "good" title, a title free of any liens, encumbrances or interests, is important because otherwise you are liable for the claims.

Title insurance policies are standard. Owner's policies usually do not cover one or more of the following matters (often referred to as "Standard Exceptions"), unless an additional premium is paid and/or extra investigative work or a survey is done and the necessary evidence is furnished to the title company. When the evidence is furnished and the insurance coverage is given, this is frequently referred to as "Extended Coverage." The Standard Exemptions are:

- ◆ **Claims** of people who turn out to be living in the house (such as prior owner's tenants or someone living without your knowledge in your cabin) if their presence there isn't a matter of public record;
- ◆ **Boundary line** disputes;
- ◆ **Easements** or claims of easements not shown by public records;
- ◆ **Unrecorded mechanic's liens** (claims against the property by unpaid home improvement contractors);
- ◆ **Taxes** or **special assessments** left off the public record.



Other important exclusions from coverage include zoning, environmental protection laws, matters arising after the effective date of the policy, and matters created, suffered or assumed by the insured.