



WHAT IS TITLE INSURANCE?

How It Works

Before you understand title insurance, you need to understand what a title is. Basically, a title is a term that includes all of your legal rights to own, use and sell a piece of land. The title reflects all previous ownerships and transfers, including rights previously granted by other parties, such as mortgages and easements.

If there are problems with the title, the ownership of your land could be in question. Unpaid taxes, a lien (which is an unpaid claim) filed by someone who worked on the house, or any of countless other situations could cause a major problem. And even if you don't get the land, you might still be responsible for the mortgage! That's why it's important to have title insurance.

So what is title insurance? It's insurance against undisclosed problems with the title, and it protects you against financial loss due to title defects, liens or other matters of public record. Title insurance will defend you against a lawsuit attacking your title, or reimburse you for the actual money lost.

Before a policy is issued, a title insurance company conducts in-depth research to detect, prevent, and eliminate risks and losses caused by title problems. They do this by searching public records to develop and document the chain of title to the property and by identifying all outstanding claims.

For a one-time premium, your owner's title insurance policy will remain in effect for as long as you own the property.

Your mortgage lender will also require a title insurance policy. The lender's policy protects the lender against any title problems that may affect repayment of the loan. The owner's policy and the lender's policy are two different policies, and the one-time premiums for both are usually paid by the home buyer. In a few states, the home seller pays for the owner's policy. If you have a question about this, ask your real estate agent, mortgage lender, attorney or closing agent.

Examples of Title Problems

This list shows why it's important to own title insurance. Although a thorough examination should identify all title problems reflected in public records, not all of these problems are apparent in public records. Any of the title problems listed here can make your title worthless (and yes, these things DO happen) – but an owner's title policy protects you from financial losses caused by title issues.

Hidden Title Problems

1. Someone has presented themselves as the true owner of the land, but actually is not.
2. There are forged title documents.
3. There are people who claim to have “power of attorney” who don’t really have the legal authority to act for another person.
4. There are deeds delivered after the death of one of the people involved, without the pre-written consent of the deceased.
5. It is discovered that a will isn’t legally valid.
6. A deed is to, or from, a defunct corporation.
7. There are heirs missing or not disclosed in title documentation.
8. Wills were misinterpreted.
9. Deeds were made by people of unsound mind.
10. Deeds were made by minors.
11. Deeds were made by non-citizens.
12. Erroneous reports were furnished by tax officials.
13. Estates were executed with key people absent.
14. There is an undisclosed divorce of a spouse who claims to be an heir.
15. There is a spouse who is supposedly, but not legally, divorced from someone involved in the proceedings.
16. Children were born or adopted after the date of a will that involved the property.
17. Surviving children were omitted from a will that involved the property.
18. Mistakes were made in recording legal documents.
19. Title records were falsified.
20. Creditors make claims against a property that was sold by heirs or other people named in a will.
21. Deeds were made under duress as a last option to foreclosure.
22. Easements (limited rights for other parties to use the land) exist that were not located by a survey.
23. A deed incorrectly identifies public property as private property.
24. There are errors in tax records.
25. There are deeds from a bigamous couple.
26. Representations on legal documents (e.g., Notary seals) are invalid or incorrect.
27. The property was condemned but there is no official record of the condemnation.

Questions and Answers

What is a title?

When you purchase a home, you are really purchasing the title to the property – which is the right to occupy and use the property. That legal right is usually documented in the form of a deed recorded at the local courthouse. A title may be contested based upon past rights and claims asserted by others. These types of claims can complicate your purchase of the property, or challenge your ownership later on, and potentially cause you to lose money.

Why do you need title insurance?

A home is often the largest single investment any of us ever make. Title insurance protects against loss of value from defects that may exist in the title, or arguments made by others that such defects exist. These defects or problems include fraud, forged signatures on deeds, unknown heirs or previous owners, liens and documentation errors. If you were uninsured and your right to the title is challenged, you could lose significant money defending yourself – you could even lose your home.

How does title insurance protect you?

An owner's policy of title insurance protects a buyer against defects in the title of the property, either clearing up title problems or paying for your losses. For a one-time premium generally paid at closing, an owner's title insurance policy remains in effect as long as you, or your heirs, retain an interest in the property.

How does title insurance protect the lender?

A lender's policy of title insurance protects the lender that financed a piece of real estate against loss caused by defects in the owner's title.

Why do I need title insurance on a refinance?

Title insurance on a refinanced mortgage is usually offered at a reduced rate, and it assures your lender that you actually own the property. It insures that no one else has a preemptive position in front of the lender, and if someone does, it pays the lender's losses.

Why do I need title insurance on a brand new house?

Even if your home itself hasn't had previous owners, the land that it stands on has. Your policy insures you as the owner of a specific piece of property. It clarifies the property rights and insures that your builder hasn't used it as collateral on another loan, that there are no unidentified easements affecting your property and that no problems will surface to hurt you later.

Five Things You Should Know

Know what "escrow" is, and who's dealing with it for you.

You will hear the term "escrow" quite a bit during the home buying process. So, what is escrow?

Escrow (or "settlement service") describes the process of a third party holding money or property in trust for another until certain conditions are met. An example is any amount given to your real estate agent to accompany your offer on a house. That money goes into an escrow account until you close. Likewise, the settlement agent holds your down payment and your lender's loan proceeds in escrow until closing.

You also might keep money in escrow with your mortgage company for as long as you're paying for your house, so the mortgage company can pay your homeowners insurance and real estate taxes for you.

Know what is meant by "closing."

Closing (or "settlement") is the point where all the title research is completed, the mortgage loan is approved, and all the paperwork is ready to be signed and recorded. Once all of the documents have been signed, the funds disbursed and the deed and mortgage recorded, the transaction has "closed." In most cases, after closing, the house is all yours.

So, if the house is all mine, why do I need title insurance?

You need title insurance to protect both yourself and your mortgage lender.

The purpose of title insurance is to protect you and your lender from defects in the title to your home. Your lender will require title insurance before your loan is funded. Without title insurance for yourself, your down payment and any equity created over time is at risk should title defects surface. And once you have title insurance, you are protected from title problems and claims against your property even if they do not surface for decades.

So, where do I get title insurance?

You choose your title insurance company.

When it comes to title insurance, you have the right to choose whatever company you'd like. Although many people just rely on their attorney, mortgage lender or real estate agent to pick a title insurance company for them, ultimately the decision is yours.

What is the final thing I should know?

Title insurance is a one-time cost. You don't pay monthly or annual premiums to keep your title insurance – you pay it just one time, typically at closing. Then you're covered for as long as you own your home.