

What is Title?

Frequently Asked Questions



■ **What is Title Insurance?**

The purchase of a home is often the single largest investment people will make in a lifetime; therefore, the importance of fully protecting such an investment cannot be over stressed. Title insurance is protection which assures that the rights and interests to the property are as expected, that the transfer of ownership is smoothly completed and that the new owner receives protection from future claims against the property. It is the most effective, most accepted and least expensive way to protect property ownership rights.

Because land endures over generations, many people may develop rights and claims to a particular property. The current owner's rights—which often involve family and heirs—may be obscure. There may be other parties (such as government agencies, public utilities, lenders or private contractors) who also have "rights" to the property. These interests limit the "title" of any buyer.

■ **Why do You Need a Title Insurance Policy?**

If title insurance companies work to eliminate risks and prevent losses caused by defects in the title before the closing, why do you need a title insurance policy? The title to the property could be seriously threatened or lost completely by hazards which are considered hidden risks—"those matters, rights or claims that are not shown by the public records and, therefore, are not discoverable by a search and examination of the those public records." Matters such as forgery, incompetency or incapacity of the parties, fraudulent impersonation, and unknown errors in the records are examples of "hidden risks" which could provide a basis for a claim after the property has been purchased.

Title insurance isn't just for a homeowner. Subdividers need it when planning a new tract of homes or a commercial strip center. Attorneys use it for clients who are investing in shopping centers, hotels, office buildings and countless other projects. Builders need it in order to obtain construction loans from their lender. Everyone wants to have peace of mind when investing their hard-earned money. The title insurance company will help protect these important investments, no matter how large or small, with its own reputation and financial strength.

■ **Why Does the Lender Need a Policy on my Property?**

For the lender, a title policy is a guarantee that it has a valid and enforceable lien (loan or deed of trust) secured by the property, that no one else other than those listed on the policy has a prior claim (or loan, etc.) and that the party to whom they are making the loan does own the property being used as security for the loan. This protection remains in effect as long as the loan remains unpaid.

The existence of a lender's title policy encourages lenders such as banks, savings and loan associations, commercial banks, life insurance companies, etc., to loan money. Because they are lending other people's money (savings or policy holder's funds), they must be concerned with safety should the borrower not make their payments. The title company insures that the title to the property is marketable in the event of foreclosure and the guarantee is backed by the integrity and solvency of the title company. Of course, this benefits everyone—from the single-family homeowner to the owner of a high-rise building.

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■ What is a Title Search?

Before issuing a policy of title insurance, the title company must review the numerous public records concerning the property being sold or financed. The purpose of this title search is to identify and clear all problems before the new owner takes title or the lender loans money.

Our research helps us to determine if there are any rights or claims that may have an impact upon the title such as unpaid taxes, unsatisfied mortgages, judgments, tax liens against the current or past owners, easements, restrictions and court actions. These recorded defects, liens, and encumbrances are reported in a “preliminary report” to applicable parties. Once reported, these matters can be accepted, resolved or extinguished prior to the closing of the transaction. In addition, you are protected against any recorded defects, liens or encumbrances upon the title that are unreported to you and which are within the coverage of the particular policy issued in the transaction.

■ What Types of Policies are There?

Protection against flaws and other claims is provided by the title insurance policy which is issued after your transaction is complete. Two types of policies are routinely issued at this time: An “owner’s policy” which covers the home buyer for the full amount paid for the property; and a “lender’s policy” which covers the lending institution over the life of the loan. When purchased at the same time, a substantial discount is given in the combined cost of the two policies. Unlike other forms of insurance, the title insurance policy requires only one moderate premium for a policy to protect you or your heirs for as long as you own the property. There are no renewal premiums or expiration date.

■ How is Title Insurance Different Than Other Types of Insurance?

With other types of casualty insurance such as auto, home, health, and life, a person thinks of insurance in terms of future loss due to the occurrence of some future event. For instance, a party obtains automobile insurance in order to pay for future loss occasioned by a future “fender bender” or theft of the car.

Title insurance is a unique form of insurance which provides coverage for future claims or losses due to title defects which are created by some past event (i.e. events prior to the acquisition of the property).

Another difference is that most other types of insurance charge ongoing fees (premiums) for continued coverage. With title insurance, the original premium is the only cost as long as the owner or heirs own the property. There are no annual payments to keep the Owner’s Title Insurance Policy in force. While some people balk at another “closing fee”, title insurance is pretty reasonable considering the policy could last a lifetime.

■ How Does a Title Insurance Policy Protect Against Claims?

If a claim is made against the owner or lender, the title insurance company protects the insured by:

1. Defending the title, in court if necessary, at no cost to owner/lender, and
2. Bearing the cost of settling the case, if it proves valid, in order to protect your title and maintain possession of the property.

Each policy is a contract of “indemnity.” It agrees to assume the responsibility for legal defense of title for any defect covered under the policy’s terms and to reimburse for actual financial losses up to the policy limits.

Talk to your Fidelity National Title sales executive to learn more.



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