



What Is Title Insurance? Why Do You Need It?

You're having breakfast. There's a knock on the door. A former owner's brother introduces himself. He was out of the country when his sibling passed away and didn't sign-off his interests as an heir to the estate.

Could this be a problem?

A title insurance policy protects against losses that occur when you discover after closing that someone else can claim ownership of the property. Could that happen? Yes, if the rights of a previous owner were overlooked during your title examination or a search that came before it.

What is a title examination, or title search?

It's a close examination of all public records that involve title to the real estate you are purchasing. The person conducting the search looks at past deeds, wills, and trusts to make sure the "chain of title" has passed correctly to each new owner. The examiner also tries to verify that all prior mortgages, judgments, and other liens have been paid in full.

"Clouds" on the Title

If a problem (called a "defect" or "cloud" on the title) is found it should be corrected prior to closing. For instance, a previous owner sold the property 15 years ago. His wife was listed on the deed but for some reason did not sign-off at closing. Her interest in the property must be removed to clear the title.

A title search should uncover other potential problems or nuisances, such as rights another may hold (right of ways, view easements, power line easements, mineral rights), claims by prior undisclosed heirs, and pending legal actions.

If the title looks good why do I need title insurance?

Because no one is perfect. Examination covers all aspects of ownership during the 40 years prior to closing. Even an expert title examiner can miss a defect that might crop up to create problems for you later.

What does the policy cover?

- Problems that did not show up during the title search or were missed by the examiner.
- Errors in public records.
- The policy will pay your legal fees if you must go to court to defend your deed.
- If you lose the property the insurance will pay you for the loss.

What isn't covered?

- A title insurance policy does not cover defects that occur after you purchase the property.

PRACTICE EMPHASIS IN REAL ESTATE PURCHASES/SALES AND LITIGATION AS WELL AS WILLS, TRUSTS, PROBATE LITIGATION, BUSINESS SUCCESSION PLANNING & FORMATION

- Policies often exclude problems having to do with easements, mineral and air rights, and liens. Be sure to ask for an explanation of all exclusions, and a recommendation as to which items should be cleared up prior to closing.

Do I have to buy title insurance?

Not if you're paying cash for the property.

- If you're obtaining a mortgage the lender will require a policy to cover its interests.
- The lender may or may not require you to buy a policy for your own protection.

To whom is the policy issued? Who is paid if there's a problem?

- A lender policy is usually issued for the amount of the mortgage. It pays the lender if a problem surfaces.
- An owner's policy covers the property's full sales price and insures the owner against loss.

Who pays for title insurance?

The buyer. Even if it's not required buyers can make seller payment a stipulation of an offer to purchase.

Buyers may be able to save money on the title search and policy if the present owner's policy can be updated and reissued. Ask your Realtor or closing agent if that's possible.

How often must I pay the premium?

Title insurance policies are paid in-full with a one-time fee which is usually part of closing costs.

Am I protected if my home increases in value?

Ask about inflation riders for your policy. They increase the coverage amount as the property's value increases.

Title insurance is a relatively inexpensive item and can be one of the best purchases you'll make for your new home. You'll sleep a little better knowing you're protected if a long-lost heir shows up on your doorstep.

