

# TITLE RELATED FREQUENTLY ASKED QUESTIONS

## 1. Why do I need Title Insurance?

Title insurance is an insurance policy or contract issued by a title company. It protects you, the purchaser or owner, against a loss that may arise by reason of a defect in your ownership or an interest you have in real property.

In addition, the title insurance company agrees to defend you in court if there is an attack on your title. It will cover attorney and court expenses or pay a loss caused by the defect in title up to the face amount of the policy subject to the terms listed in your policy.

## 2. What types of policies are available to me as a homeowner?

For the average property owner, there are two different types of title insurance policies that you need to be aware of: A. Owner's Policy of Title Insurance and B. Loan Policy of Title Insurance

Since most property owners mortgage or borrow money at the time of purchase or during ownership, the lender can be expected to request protection of its investment against loss. Lenders know that many things can cause loss of title or that expenses are incurred while defending an attack. They insist upon a Loan Policy of Title Insurance to protect their stockholders' and investors' investment in your property.

An Owner's Policy of Title Insurance protects your investment (equity) as the buyer or owner of the property. As the owner, you should want to have the same assurance as the lender that the investment you have made cannot be lost because of a problem or defect with the title.

## 3. Doesn't the seller's deed take care of giving me clear title?

Not at all. A "deed" is merely an instrument whereby a seller transfers his or her right of ownership, whatever it may be, to you. It is not proof that the person described as the seller is actually the owner. It does not do away with claims or rights others may have in the property. From the deed, you cannot determine what rights, liens or claims may be outstanding against your title.

## 4. How does title insurance differ from other types of insurance?

Title insurance is different from other types of insurance in that it protects you, the insured, from loss that may occur from matters or defects from

the past. Other types of insurance such as auto insurance, life insurance or health insurance, cover you against losses that may occur in the future. Title insurance does not protect against a defect that may originate at a later date.

## 5. What are the risks?

There are numerous defects or problems that can arise to cause an attack or loss of the title to your property. Some of these include problems not disclosed by the most careful search of the public records (the title search). Hidden risks can cause a total loss of your investment or heavy legal expenses in the defense of an attack on the title. Some title problems may show up months or years after the original purchase of the property. The following are examples of matters that can cause loss of title or an expensive lawsuit:

- Forged deeds, releases, wills or other legal documents
- Failure of spouses to join in conveyances
- Undisclosed or missing heirs
- Deeds from minors, aliens or persons of unsound mind
- Errors in indexing of public records
- Liens for unpaid taxes including estate, inheritance, income or gift taxes
- Erroneous reports furnished by tax officials
- Mistakes in recording legal documents
- Deeds from defunct corporations
- Unprobated wills

## 6. What is an abstract? Doesn't it tell about the property?

An abstract, which is used in some parts of the country, is a history of the title to property as revealed by the public records. Deeds, mortgages, other instruments and legal proceedings which have affected property through the years are all included in the abstract.

If something is revealed in the abstract which might stand in the way of a clear title, it is up to the owner and the owner's attorney to clear it. If they cannot do this, it must be accepted as a limitation on your right of ownership. Also, it is frequent for matters which seriously affect the title to be omitted in an abstract, because they are not shown in the public records.

## 7. Can an examination of the abstract reveal all the defects in the title?

It may not...simply because the public records, from which an abstract is made, may not show everything which affects the title. For example: statements in the record may be incorrect or may fail to show important facts. There may be fraudulent or improperly executed documents on the record. Facts revealed in the abstract may be interpreted incorrectly. There may even be ordinary clerical mistakes which could seriously endanger the title.

Even after all these possible hazards are eliminated, there still remain some of the most serious sources of risk...hazards which by their very nature simply cannot be uncovered.

## 8. How does title insurance protect against hidden risks & defects?

Title insurance defends you in a lawsuit attacking your title and either corrects the title problem or pays the insured's losses up to the face amount of the policy. The policy also protects you after you sell the property for defects occurring prior to your ownership that cause a loss to a purchaser if the title was warranted by you.

The title policy guarantees that at the date the deed was filed for record placing title in the name of the insured, the title was free of defects apart from those "excepted to" in the policy. The policy does not guarantee an actual amount of land. It guarantees that there are no buildings or other improvements belonging to someone else located on the insured land when an acceptable survey is furnished to the title company. An additional premium is paid to amend the standard survey exception.

## 9. How do I obtain title insurance and what does it cost?

It's easy! Simply inform the title company, attorney or agent handling the closing of your property that you want to purchase an Owner's Policy of Title Insurance.

In most states, the premiums for the title insurance policies are regulated by the state insurance commission or some other governmental body. You only pay the premium once. The cost depends upon the purchase price of the property, and your policy amount must be equal to the purchase price. Your closing agent will quote you that price either upon your inquiry or at the time of closing.

## 10. Is purchasing the Owner's and Lender's Policies duplicate coverage?

No, it's not a double payment or duplicate coverage. The Lender's Policy protects the lender's interest only so long as the loan is outstanding and only in the amount of the balance of the loan at any given time. The Owner's Policy protects you up to the face amount of the policy during your ownership and after you have sold the property if you have warranted the property to your subsequent buyer.

After arranging a loan, you pay a premium for the purchase of the Loan Policy of Title Insurance based on the amount of the loan. If you desire to purchase an Owner's Policy at the same time, you pay an additional premium only for the difference that covers your equity or investment in the property together with a small "simultaneous issue fee." Because of this, you do not pay twice for the two policies.

If you buy your Owner's Policy separately, you pay the full premium for the policy. Likewise, if you refinance or borrow additional money at a later time, you can expect to pay additional premiums for the new policies, if required.

## 11. Is the record of ownership complete from first owner to present?

Most properties purchased have had a number of different owners over the years. The continuous record of all those transactions is called the "Chain of Title," and like any other chain, it is no stronger than it's weakest link. Anything wrong with the title of the previous owner may affect your title.

## 12. What are some more common examples of liens on property?

Taxes - Unpaid real estate taxes are a first lien on any real property. If there has been a tax sale or forfeiture or any other objection or protest, it means there are complications in the way of the clear title.

Mechanic's Lien - If the former owner had a new sink installed and failed to pay the bill, the plumber may file a Mechanic's Lien claim. This stands as a claim on the property which you, as the new owner, may have to pay in order to clear your title.

Suits or Judgements - If a person is sued and a judgement is rendered against that person, any real estate he or she owns may become security for the debt. This means that he or she cannot sell that real estate and deliver a clear title until the judgement is paid, released or otherwise satisfactorily disposed of. Further, other suits filed against the owner or real estate, even though not yet decided, may prevent the sale of the property.