

**WHO NEEDS  
TITLE INSURANCE?**





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**A** lot of homebuyers are confused by title insurance. Is it optional? Is it something you may not need, like an extended warranty on an appliance? What exactly does it insure, anyway?

The answers are pretty simple. Let's start with why you need it.

Before you go into a closing, it's critical to know that your title to the property will be free and clear. This means that, after the closing, it will be free of prior indebtedness or other defects or encumbrances. It is then what is called a "marketable title."

Normally, at the closing the seller gives the buyer a deed, which transfers the title to you and warrants your title against claims of other persons. However, you should not accept a deed without having your attorney, or someone approved by your attorney, conduct a thorough title examination of the property.

A title examination involves researching the public records to disclose the previous owners of record, prior deeds, mortgages, court judgments, probate proceedings and divorces, foreclosures, tax and construction liens, and other matters that could affect title. In other words, the legal history of the property. In some cases, a title examination will uncover title defects that could jeopardize a buyer's ability to take clear title to the property.

Should research reveal title defects, the seller may be asked to undertake legal proceedings to clear the defects. Of course, you'd want to follow these proceedings closely with your attorney, and make sure that they conform to the requirements of the law.

There are also hidden defects, which may not surface even in the course of a thorough title examination. One of these could put your ownership of the property in question, even after you've closed.

Some examples of defects, both obvious and hidden, are the following:

- ❖ Lost or forged deeds.
- ❖ A married signer who represents himself or herself as single.
- ❖ Claims of undisclosed heirs.
- ❖ Impersonation of another.
- ❖ Clerical error made at the courthouse when earlier documents were recorded.

- ❖ Incorrect legal description.
- ❖ Instruments signed by minors.
- ❖ Instruments signed by mentally incompetent persons.
- ❖ Title taken as a result of an improperly probated will.
- ❖ Confusion of title resulting from similar names.

The point of title insurance is to secure your claim to property and protect you against a hidden defect. If you are forced to defend your title in court, the insurer agrees to pay the costs.

Your lender will insist on title insurance in the amount of the mortgage loan, but a lender's policy or mortgagee policy does not protect your ownership interest. You need an owner's policy for that.

The owner's title insurance policy is an agreement that the insurer will pay all losses involved in any claim covered by the policy terms. The policy provides two types of coverage:

1. If someone contests your insured title in a legal action, the insurer will defend the title at no expense to you.
2. If there is a defect in your title which cannot be eliminated, title insurance protects you from financial loss. That is, you will be reimbursed up to the amount of the policy — generally, the full amount of your loss.

You pay a modest, one-time premium for title insurance, and the protection continues in effect forever, even after you sell your home. The policy is issued in an amount equal to the purchase price of the property or its market value.

## **What Title Insurance Costs And Where To Get It.**

**M**any companies sell title insurance. But because ownership is defined strictly by legal rights, a person trained and licensed in the complexities of real estate law is best qualified. Note that a title agency only prepares documents for closing and issues your title insurance policy — the title agency does not represent your legal interests and cannot give you legal advice. It's best to have your real estate attorney conduct a thorough title examination and issue an owner's policy.

Since your ownership rights must be legally protected, a person trained in the complexities of real estate law is best qualified to issue your owner's title insurance policy. That's your real estate attorney.

**THIS INFORMATION IS PROVIDED TO YOU BY:**



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