

Questions and Answers about Title Insurance

What is Title Insurance?

Title Insurance is the modern method of real estate title protection. A **policy of title insurance** protects the insured against a partial or total loss arising out of defects, liens and encumbrances in the title to real estate.

Why do I need Title Insurance?

Under our American System, any interest in land must be recorded in the public records if the holder of that interest wants to be protected. Once it has been so recorded, all subsequent parties are presumed to know of its existence, since it is on the public record for all to see.

Therefore, the public records must be thoroughly searched in order to determine the ownership of any piece of the land at any given time, and in order to know whether there are any mortgages, liens or other encumbrances outstanding against it.

Out of the millions of documents on record, it is imperative that a prospective buyer or lender find all those which affect the title to his /her particular parcel. Obviously, this is a job for experts who specialize in this field. Their carefully prepared, meticulously maintained indexes, and their highly trained, skilled personnel, enable them to make a thorough search of the records in a fraction of the time it would take a layman and to certify their finds to the prospective buyer or lender.

Unfortunately, however, there are many possible defect in the title, such as forged documents, documents executed by legal incompetents, etc., which even the most painstaking search of the records would not disclose. Consequently, the ultimate protection is a policy of title insurance.

What is the difference between an Owner's Policy and a Mortgage Policy? Why do I need both?

An **Owners Policy** protects the interest of the owner of real estate and lists the name(s) of the new buyer as the insured party. As the new buyer, you will want assurance from the seller that the title is marketable and free from liens that could create problems in the even you should decide to sell or refinance the property in the future. The Owner's Policy does assure that the title is marketable and provides for defense of the title and the expense of the insurance company, if it is challenged or questioned by others. The Owner's Policy is mailed directly to the new owner, unless otherwise specified.

A **Mortgage Policy** protects the interest of the mortgage lender and lists the lender as the insured party. All lenders require the borrower to provide proof and assurance that the loan being applied for will be in the correct lien position. If the validity of the lien of the mortgage is challenged or questioned, the policy provides for defense of the mortgage interest. The Mortgage Policy is mailed directly to lender.

The Difference

The Owner's Policy is always in the full face amount thereof, and continues as long as the owner or his/her heirs have interest in the property, while the Mortgage Policy protection terminates immediately when the loan is paid off.

What is the cost of Title Insurance?

The cost depends upon the face amount of the policy issued. The face amount is normally the market value of the real estate in the case of an Owner's Policy, and the amount of the loan in the case of a Mortgage Policy. Only one premium is paid and the protection lasts as long as the insured has any interest in the property.

NOTE: In this area it is customary for the seller to incur the cost of the Owner's Policy and the buyer to incur the cost of the Mortgage Policy.

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What defects are insured against?

Your title policy will protect you against any defects, not excluded from the coverage of the policy, which cause actual loss or unmarketability of title. Such defects include errors in description, errors in searching the public records, unpaid taxes, legal incompetency of parties, fraud, forgery, outstanding dower rights, defects in the execution of instruments, and many others.

How am I protected if a claim arises?

Under the terms of your title, Century Title Agency Services/ underwritten by First American Title Insurance Company will, at its own expense, defend you against any adverse claim or legal action arising out of any encumbrance or legal action arising out of any loss resulting there from up to the face amount of the policy.

If I have Title Insurance, do I also need legal advice?

YES. The Title Insurance policy does not take the place of legal counsel. In every real estate transaction there are many matters not covered by your policy which require the advice of an attorney. The coverage of the policy itself, and the specific exclusions there from, your rights and obligation as a seller or purchaser, the tax consequences of your transaction—these and many other issues should all be fully discussed and explained by a qualified attorney.



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