

Title Insurance Explained

Title insurance is a very important part of the real estate transaction process, although many people don't fully understand why it is necessary. "Title" in real estate terms means that you are paying for the right to occupy and use your land. Part of the price paid for title will be for the improvement, or the actual home, but the major cost of most property is the land itself. It is important to understand this, because the title may be restricted by rights and claims of others; this could in turn limit your use and enjoyment of the property and even bring financial loss. Title insurance protects you from this scenario.

While most insurance premiums are charged annually and protect you from future problems, title insurance is a one time charge because it protects you from claims that have already happened. Title insurance companies therefore have every incentive to make sure the risk is minimal. The role of title insurance is to eliminate risk prior to issuance of coverage for both the buyer and the title company. A claim or loss is a losing situation for all involved and every attempt is made to eliminate this possibility early on. Therefore, the title company will begin researching the history of the title with public records. An agent for the title company investigates the title chain to determine if any "material objections" exist. Material objections are the results of earlier documents that did not transfer the title clearly.

Examples are:

- Deeds, wills and trusts that contain improper wording or incorrect names;
- Outstanding mortgages and judgments, or a lien against the property because the seller has not paid his taxes;
- Easements that allow construction of a road or utility line;
- Pending legal action against the property that could affect a purchaser; or
- Incorrect notary acknowledgements.

Any of these problems will be identified and corrected as early in the process as possible. However, sometimes there are undetectable problems which can surface later and cause financial hardship or even loss of the property.

Some examples are:

- A forged signature on the deed, which would mean no transfer of ownership;
- An unknown heir of a previous owner claiming ownership of the property;
- Instruments executed under an expired or a fabricated power of attorney; or
- Mistakes in the public records.

If one of these scenarios becomes a legal issue for you at some point down the road, that's where title insurance becomes so valuable. The title company has certified that the title is transferable and is responsible for defending against claims as they

arise. This could involve perfecting the title or paying out for valid claims. Besides being extremely stressful, these are often complicated and expensive legal proceedings. However, the title company will have the responsibility to take care of these, and title insurance saves you any costs involved.