



# What is TITLE?

## What is Title and why is it needed?

### Title Insurance... What is it?

Title is a bundle of rights in real property. Protecting purchasers and lenders against loss is accomplished by the issuance of a title insurance policy. Usually, during a purchase transaction the lender requests a policy (commonly referred to as the Lender's Policy) while the buyers receive their own policy (commonly referred to as an Owner's Policy).

In short, the policy states that if the status of the title insured (either the owner or lender) suffers a loss as a result of a title defect, the insurer will reimburse the insured for that loss and any related legal expenses, up to the face amount of the policy subject to exceptions and exclusions contained in the policy.

### Who's covered?

Typically there are two (2) policies issued. The Lender's Policy insures the lender for the loan amount. The Owner's Policy insures the purchaser for the purchase price.

### How is Title Insurance different from other types of insurance?

While the function of most other forms of insurance is risk assumption through the pooling of risks for losses arising out of unforeseen future events (such as sickness or accidents), the primary purpose of title insurance is to eliminate risks and prevent losses caused by defects in title arising out of events that have happened in the past. To achieve this goal, title insurers perform an extensive search and examination of the public records to determine whether there are any adverse claims (title defects) attached to the subject property. Said defects/claims are either eliminated prior to the issuance of a title policy or their existence is excepted from coverage. Your policy is issued after the closing of your new home, for a one time nominal fee, and is good for as long as you own the property.

### What's involved in a title search?

A title search is done to determine 1) that the person who is selling the property actually has the right to sell it, 2) that the buyer is purchasing the correct parcel of land and 3) possible defects in title.

- a) A "title search" is made up of three separate searches:
  1. Chain of Title - History of the ownership of the subject property.
  2. Tax Search - The tax search reveals the status of the taxes and assessments.
  3. Judgment and Name Search - Searches for judgments and liens against the owners' and purchasers' name.
  
- b) Once the three searches have been completed, the file is reviewed by an examiner who determines:
  1. Whether or not the Chain of Title shows that the party selling the property has the right to do so.
  2. The status of taxes for the subject property. The Tax Search will also indicate the existence of any special assessments against the land and whether or not these assessments are current or past due.
  3. Whether there are any unsatisfied judgments on the Judgment and Name Search against; the previous owners, sellers, or and purchasers.

Rights established by judgment decrees, unpaid federal income taxes and mechanic liens all may be prior claims on the property, ahead of the buyer's or lender's rights. The title search will only uncover defects in title that are of public records and thus allowing the title company to work with the seller to clear up these issues and provide the new buyer with title insurance.

### Are there different kinds of Title Insurance Policies?

Yes. After the searches have been examined the title company will issue a commitment, stating the conditions under which it will insure title. The buyer, seller and the mortgage lender will proceed with the closing of the transaction after clearing up any defects in the title that have been uncovered by the search and examination.

## How do I know which one to order?

As an owner you have your choice of three different types of coverage: Standard, Extended or the ALTA Homeowner's Policy.

*The ALTA Homeowner's Policy is not available for certain types of properties. Nor may it be necessary for your specific transaction.*

For help in determining which coverage is best for you, please call your title unit. Ultimately, the final decision resides with you.

## How does Title Insurance Protect me?

Title Insurance is assurance that any defect in title to the land you are purchasing (which can be discovered from the public records) has been called to your attention and corrected before your transaction closes. Should there be a claim made against your title as covered by your policy, it is then our obligation to protect you by:

- Defending your title, in court if necessary, at our expense.
- Bearing the cost of settling the claim if it proves to be valid, in order to protect your title and keep you in possession of your property.

## The Closing Process and Responsibilities

### Executed Purchase & Sale Agreement

Agreement is executed between the buyers and sellers  
 Buyer completes their Loan Application  
 Purchase and Sale Agreement is sent to Fidelity to open escrow

Lender	Escrow	Title Insurance
<ul style="list-style-type: none"> <li>• Credit Report</li> <li>• Verification of:                             <ul style="list-style-type: none"> <li>- Buyer's Funds</li> <li>- Employment</li> </ul> </li> <li>• Underwriter</li> <li>• Loan Approval</li> <li>• Mortgage Insurance (if necessary)</li> </ul>	<ul style="list-style-type: none"> <li>• Place title order if necessary</li> <li>• Review Title</li> <li>• Work with the title company to clear up any issues</li> <li>• Determine status of                             <ul style="list-style-type: none"> <li>- Homeowners dues</li> <li>- Commissions</li> <li>- Taxes</li> <li>- Liens</li> <li>- Mortgages</li> </ul> </li> <li>• Prepare Closing Statement, Escrow Instructions, Excise Tax Affidavit and other documents as needed</li> <li>• Oversee the signing of the closing documents</li> <li>• Collect funds to close</li> <li>• Coordinate recording of documents</li> </ul>	<ul style="list-style-type: none"> <li>• Complete title search and examination</li> <li>• Verify legal description</li> <li>• Issue title commitment</li> <li>• Work with escrow to clear any title issues</li> </ul>
Lender	Escrow	Title Insurance
<ul style="list-style-type: none"> <li>• Wire funds</li> </ul>	<ul style="list-style-type: none"> <li>• Disburse funds</li> </ul>	<ul style="list-style-type: none"> <li>• Issue Policies</li> </ul>

## The Glossary of Real Estate Terms

### CLOSE OF ESCROW

The date the documents are recorded and title passes from Seller to Buyer. On this date, the Buyer becomes the legal owner, and title insurance becomes effective.

### ESCROW INSTRUCTIONS

Written documents which direct the escrow officer in the specific steps that must be completed in order for the escrow to close.

### FEE SIMPLE

An estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.

### LEGAL DESCRIPTION

A description of land recognized by law, based on government surveys, spelling out the exact boundaries of the entire piece of land.

### QUIT CLAIM DEED

A deed operating as a release; intended to pass any title, interest or claim which the grantor may have in the property, but not containing any warranty of a valid interest or title in the grantor.

### SURVEY

The measurement by a surveyor of real property which delineates the boundaries of a parcel of land. A survey may be required by a title insurance company, depending on the type of coverage chosen.

### VESTING

The names, status and manner in which title of ownership is held with a fixed or determinable interest in a particular parcel of real property; also that portion of a title report or policy setting forth the above.

### WARRANTY DEED

A deed used in many states to convey fee title to real property.

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**Fidelity National Title**