

## **Why You Need Title Insurance**

Since buying a home is one of life's largest investments, you will want to be certain it's safely yours. Most homeowners provide for the security and safekeeping of their homes by insuring them against hazards such as fire, theft, and weather damage. But there is another hazard that can pose an even greater risk to homeownership: defects in the title to your property can cause you to lose all or part of your investment. Even the most diligent search of the public records could fail to disclose a number of title defects. A few of the problems that could suddenly surface are forged wills or deeds, title transferred by someone under age, a married person conveying real estate without their spouse, fraudulent impersonations, secret marriages, undisclosed heirs, invalid divorces, and false affidavits. Without the protection of title insurance, your investment is in jeopardy. Fortunately, there is a way to protect your investment from these defects by purchasing owner's title insurance. Following are most commonly asked questions regarding title insurance. We've also included a few horror stories showing how such hidden hazards can arise unexpectedly and threaten homeownership. We hope that this information helps you to better understand the value of title insurance in protecting your homeownership.

### **What is a title?**

A title is the foundation of property ownership. It is the owner's right to possess and use the property.

### **Why is transferring the title to real estate different from transferring the title to other items, such as a car?**

Because land is permanent and can have many owners over the years, various rights in land may have been acquired by others (such as mineral, air or utility rights) by the time you come into possession of it, even if the land has never before been built upon. So in order to transfer a clear title to a piece of land, it is first necessary to determine whether any rights are outstanding.

### **What is a title search?**

A title search is a detailed examination of the historical records concerning a property. These records include deeds, court records,

property and name indexes, and many other documents. The purpose of the search is to verify the seller's right to transfer ownership, and to discover any claims, defects and other rights or burdens on the property.

### **What kind of problems can a title search reveal?**

A title search can show a number of title defects and liens, as well as other encumbrances and restrictions. Among these are unpaid taxes, unsatisfied mortgages, judgments against the seller and restrictions limiting the use of the land.

### **Are there any problems that a title search cannot reveal?**

Yes. There are some "hidden hazards" that even the most diligent title search may never reveal. For instance, the previous owner could have incorrectly stated his marital status, resulting in a possible claim by his legal spouse. Other "hidden hazards" include fraud and forgery, defective deeds, mental incompetence, confusion due to similar or identical names and clerical errors in the records. These defects can arise after you've purchased your home and can jeopardize your right to ownership.

### **What is title insurance?**

Title insurance is your policy of protection against loss if any of these problems – even a "hidden hazard" – results in a claim against your ownership.

### **How much could I lose if a claim is filed against my property?**

That depends on the claim. In an extreme case, you could lose your entire home and property – and still be liable to pay off the balance of your mortgage. Most claims aren't that dramatic, but even the smallest claim can cost you time, money and aggravation, not to mention the cost for a legal defense.

### **How does title insurance protect my investment if a claim should arise?**

If a claim is made against your property, title insurance will, in accordance with the terms of your policy, assure you of a legal defense – and pay all court costs and related fees. Also, if the claim proves valid, you will be reimbursed for your actual loss up to the face amount of the policy.

**The owner of the property has a deed. Isn't that proof of ownership?**

Not necessarily. A deed is just a document by which the right of ownership in land is transferred, whatever that right may be. It's not proof of ownership, and it doesn't do away with rights others may have in the property. In addition a deed won't show you liens or claims that may be outstanding against the title.

**Wouldn't an abstract show property limitations and restrictions?**

Maybe – and maybe not. An abstract is a history of the property title as revealed by the public records. Abstracts may contain errors and do not disclose "hidden hazards" that can threaten your property title if you do not have a title insurance policy.

**What about an attorney's opinion?**

An attorney's opinion is based on a search of the public records. So, once again, even the most exhaustive search of these records may not reveal everything. Unlike a title insurance company, an attorney is not liable if you should suffer loss because of "hidden hazards" in the title.

**The owner of the property I want to purchase has lived in the home for only six months. He had a title search done six months ago. Why do I need another one?**

Because the owner could, in a very short time, do many things to encumber the title. For example, he could grant easements or construct improvements that encroach on adjacent property. He could get married or divorced, or have a lien filed against the property. It is necessary to conduct an up-to-date title search to uncover any such problems.

**If the builder of my home already has title insurance on the property, why do I need it again when I purchase the land from him?**

A title policy insuring the builder does not protect you. Also, a great many things could have happened to the land since the builder's policy was issued. Liens, judgments and unpaid taxes for which prior owners were responsible may be disclosed after you purchase the property – causing you aggravation and costing you money.

### **Are there different types of title insurance policies?**

Yes. Basically there are two different types of policies – a loan policy and an owner's policy. The loan policy protects the lender's interest in the property as security for the outstanding balance under the buyer's mortgage. The owner's policy safeguards the buyer's investment or equity in the property up to the face amount of the policy. (Title insurers in many states (Virginia being one) offer increased policy coverage through inflation endorsements to cover increases in value due to inflation.)

### **How much does title insurance cost?**

Probably a lot less than you think. Charges vary in different sections of the county, but generally the cost of title insurance (including search, examination and related services) amounts to about one percent, or less, of the cost of the property. And unlike other insurance premiums, which must be paid annually, a title insurance premium is paid one time only, usually at settlement.

### **How long does my coverage last?**

For as long as you or your heirs retain an interest in the property and, in some cases even beyond.

### **Where can I get title insurance?**

From any licensed title insurance company or its representatives operating in your state, such as Title Associates, Inc. When choosing a title insurer, it is important that you look for a company with expertise and experience, as well as the financial strength to protect you should a claim arise.

## **Horror Stories**

### **The walking corpse**

The homeowner was a widow with seven sons. One of her offspring, the captain of a fishing vessel, had not been heard from for many years. Presumed lost at sea, he was declared legally dead. When the widow passed away, her six remaining sons inherited her home. It was an attractive house, and they put it on the market at a modest price to facilitate settlement of the estate. Recognizing a bargain, the

Montgomery's bought the property. They were delighted with their new home until the long lost sea captain returned from the dead. It turned out the widow's missing son had decided years ago to start a new life elsewhere. When the captain eventually returned and found the house had been sold, he promptly filed a claim against the Montgomery's for his rightful share of the property.

### **News travels slowly**

A lady of means placed her home in the county up for sale. Before embarking on a cruise, she gave her lawyer power of attorney on the property. Weeks later, the Harper family decided to buy the country place, it's fertile land and picturesque setting were ideal for farming. Exercising his authority, the attorney signed the deed and sold the property to the Harpers. Everything appeared proper, except for one hitch. The woman died in a distant part of the world before the attorney signed over the property. When the lady's heirs discovered that the land had been sold after her death, they claimed the deed was invalid and demanded their right to the property.

### **The refined forger**

The Carters were charmed by the elderly lady, impeccably mannered, she explained that her country home had been vacant for some time, so she was letting it go at an irresistible price. The Carters leaped at the offer, only to find out later they were unwilling victims of a classic forgery caper. More cunning than charming, the old woman had learned that the real owners of the country home were living in Europe. She forged a deed to the property and had it recorded in her own name. Her low asking price assured a quick sale. By the time the Carters were made aware of the scam, the little old lady was long gone.

### **John's other wife**

John and Maxine were an ideal couple, pleasant, personable, respected among their peers. They made quite an impression on Mr. and Mrs. Denton, who purchased their home. The Denton's were less impressed however, when they heard from John's real wife. It seems that Maxine wasn't John's wife but his mistress, which meant that the deed of ownership she signed was invalid. The Denton's did eventually meet John's legitimate wife in a court of law, when she claimed her legal right to the property.

## **A small cost for years of protection**

The real estate you own represents stability, permanence and the hope of the future. Don't take a chance and let your property be taken from you because of a flaw in the title. It makes good sense, for the relatively small amount it costs, to protect yourself with title insurance

