Fidelity National Title

Title Insurance FAQs

TITLE INSURANCE IS ACTUALLY A PROCESS, WITH THE INSURANCE POLICY BEING THE END PRODUCT. THIS PROCESS STARTS WITH A COMPREHENSIVE SEARCH OF PUBLIC RECORDS TO DETERMINE IF ANY LIENS OR OTHER ENCUMBRANCES ARE ATTACHED TO THE TITLE. DURING THE SEARCH, DETAILED INFORMATION FROM POTENTIALLY HUNDREDS OF SOURCES IS GATHERED AND REVIEWED, INCLUDING TAX RECORDS, FEDERAL, STATE AND LOCAL RECORDS, COURT JUDGMENTS, DEEDS AND AN EVALUATION OF WHETHER THE PROPERTY CHARACTERISTICS ARE ACCURATELY REFLECTED BY THE INFORMATION ON THE TITLE. NOT SURPRISINGLY, ONE IN FOUR TITLE SEARCHES UNCOVERS SOME PROBLEM THAT MUST BE RECTIFIED PRIOR TO THE CLOSE.

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WHAT KIND OF PROBLEMS?

There are four primary categories that can cloud a title and result in significant risk for a prospective home buyer. The title search meticulously seeks out and evaluates any known indication of any of these issues; however, even the most comprehensive search may not uncover every hidden area of title risk:

- **Liens** can be placed against a title by any party with an unpaid financial obligation against the property owner. The nature of these claims can be everything from unpaid child support or alimony to unpaid parking tickets, taxes or bills from contractors like electricians or plumbers.
- **Errors** may have occurred during the course of previous ownership changes that could have included recording errors, typographical errors, incorrect legal descriptions, incorrect indexing of land records or title search errors resulting from undisclosed issues like unsatisfied claims not shown in the public record.
- **Claims** against a property may come from missing heirs or heirs born after the execution of a will, the dower or courtesy rights of spouses of former owners, claims from ex-spouses or even from government or corporate entities. They can also arise when the mental competence of a grantor of deed is called into question; when wills are not properly probated or are misinterpreted; when a title was transferred by a minor; or when a grantor of a deed did so while under undue influence.
- **Fraudulent activity** such as forged signatures or fraud in the execution of documents, the use of false powers of attorney in the execution of documents, false impersonation by someone claiming to be the owner of the property or any other fraudulent activity can invalidate any title work that occurred from that point on.

Prospective buyers should be certain they know what issues affect the title of the property they plan to buy and recognize that even new construction properties can be subject to these same kinds of problems. Buyers should make sure that all issues that come to light from the title search are adequately resolved prior to the closing.

WHAT DOES TITLE INSURANCE COVER?

Once the title search has been concluded and curative work to resolve any issues has been completed, title insurance can then be issued. The title insurance policy protects policy owners against covered financial losses associated with claims against the title that were not discovered during the title search process. It also insures against the title being rejected by the subsequent buyer of your property due to preexisting title defects and covers losses that may arise after the property is sold if title covenants were included in the sales contract. This includes attorney fees and costs associated with defending the title and insures that the policy holder is the legal owner and has access to the property. Since the final title insurance policy may have some coverage exceptions (such as conditions, utility and other easements or set-back requirements), policy owners must carefully read the coverage information for their specific policy provisions.

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WHO IS COVERED BY TITLE INSURANCE?

There are two different kinds of title insurance policies, and each covers a specific type of policy owner:

- **Lender's (or Loan) Title policies** are required by lenders and paid for by the borrower(s) at the closing. However, these policies only protect the lending institution in the event a title problem is later uncovered and causes a financial loss. Lender title insurance covers institutions up to the amount of the mortgage loan associated with the property, but makes no provision for the borrower's losses.

- **Owner's Title policies** are not required for home buyers, and in many jurisdictions an Owner's policy is not offered during the mortgage process. As a result, home buyers are left without title risk coverage and often don't know they had a choice. Without an Owner's policy, home buyers must pay for title curative work out-of-pocket and the equity they have in their property can be at risk. However, with an Owner's title insurance policy in effect, the homeowner's investment is fully protected since the policy usually covers buyers up to the full sale price.

Lender's title policies and Owner's title policies cover many of the same things. In both cases, the policy holders are protected from title risks such as title search errors, claims by missing heirs or ex-spouses, forged signatures in the chain of title and many other title problems that could go undetected before the close. Attorney fees and settlement costs are also covered up to the policy's limit.

WHAT DOES TITLE INSURANCE COST?

Many states set the rates for title insurance and major lenders may be able to secure volume-based rates for their borrowers. Home buyers should always feel free to shop policy coverage and rates before making their final choice.

Unlike other types of insurances that require ongoing payments, title insurance covers things that happened in the past (prior to the closing) that could affect the status of the property's title. There is a one time cost for title insurance at the time of the closing and the policy is good for as long as home buyers or their heirs own the property.

HOW IS TITLE INSURANCE REGULATED?

Each state has a department of insurance that generally regulates all forms of insurance, including title insurance. These governmental bodies are responsible for establishing and enforcing regulations for insurance sold in their respective states.

A TIME-TESTED PROFESSION

Unlike many countries around the world, the United States has a time-tested, extensive system of maintaining public land records that gives property owners an unmatched level of confidence in their ownership status. But the system only works because of the extensive research and corrective actions that are taken to maintain the integrity of property titles.

HOME BUYERS SHOULD ASK ABOUT THE TITLE INSURANCE OPTIONS AVAILABLE TO THEM AND FEEL FREE TO DISCUSS THE PROVISIONS AND EXCEPTIONS OF ANY TITLE INSURANCE COVERAGE THEY MIGHT BE CONSIDERING. WHATEVER THEY ULTIMATELY DECIDE ABOUT TITLE INSURANCE, IT SHOULD ALWAYS BE AN INFORMED CHOICE.