

TITLE

WHAT IS TITLE INSURANCE?

The purchase of a home is probably the single largest investment you'll make in your lifetime. It is only prudent that you want to safeguard your rights and investment. Title insurance assures that your rights and interests to the property are as expected, that the transfer of ownership is smoothly completed and that you receive protection from future claims against the property. It is the most effective, most accepted and least expensive way to protect your ownership rights.

Because land endures over generations, many people may develop rights and claims to a particular property. The current owner's rights - which often involve family and heirs - may be obscure. There may be other parties (such as government agencies, public utilities, lenders or private contractors) who also have "rights" to the property. These interests limit the "title" of any buyer.

Before your real estate transaction closes, the title company performs an extensive search of all recorded documents related to the property. These records are then examined by experienced title officers to determine their effect on the current status of ownership and a report is issued to you or your agents for review. This thorough examination generally allows any pending title problems to be identified and cleared prior to your purchase of the property.

If title insurance companies work to eliminate risks and prevent losses caused by defects in the title before the closings, why do you need a title insurance policy?

Because even after the most careful research, some title flaws may go undetected. Among the more common flaws to title which are not of record are forgery, invalid court proceedings, mistaken legal interpretations, defective deeds, confusion due to similarity of names, previously unrecognized rights of spouses and undisclosed heirs. These problems may surface at any time in the future.

Protection against these flaws and other claims is provided by the title insurance policy which is issued after your transaction is complete. Two types of policies are routinely issued at this time: an "owners policy" which covers you, the homebuyer for the full amount you paid for the property; and a lender's policy which covers the lending institution over the life of the loan. When purchased at the same time, you can obtain a substantial discount in the combined cost of an owner's and a lender's policy. Unlike other forms of insurance, your title insurance policy requires only one moderate premium for a policy to protect you and your heirs for as long as you own the property. There are no renewal premiums or expiration date.

Each policy is a contract of "indemnity". It agrees to assume the responsibility for legal defense of your title for any defect covered under the policy's terms and to reimburse you for actual financial losses up to the policy limits.

TITLE INSURANCE

In California, most real estate transactions are closed with a title insurance policy. Many home buyers just assume that when they purchase a piece of property, possession of the deed to the property is all they need to prove ownership. This is not true. Hidden hazards may attach to real estate. A property owner's greatest protection is a policy of title insurance.

WHAT IS TITLE INSURANCE?

It is a contract of indemnity which guarantees that the title is as reported and, if not reported and the owner is damaged, the title policy covers the insured for their loss up to the amount of the policy.

Title insurance assures owners that they are acquiring marketable title. Title insurance is designed to eliminate risk or loss caused by defects in title from the past. Title insurance provides coverage only for title problems which were already in existence at the time the policy was issued.

THE TITLE SEARCH

Title companies work to eliminate risks by performing a search of the public records or through the title company's own plant. The search consists of public records, laws and court decisions pertaining to the property to determine the current recorded ownership, any recorded liens or encumbrances or any other matters of record which could affect the title to the property. When a title search is complete, the title company issues a preliminary report detailing the current status of title.

THE PRELIMINARY REPORT

A preliminary report contains vital information which can affect the close of escrow: Ownership of the subject property; where the current owners hold title; matters of record that specifically affect the subject property or the owners of the property; a legal description of the property and an informational plat map.

WHAT TO CHECK ON EVERY PRELIMINARY REPORT

The preliminary report indicates the type of title insurance offered by the title company. It also indicates the exclusions and exceptions from coverage under which the policy will be issued.

VESTING – Make sure the names on the Preliminary Report are the correct names and that the property is the same as the property on the purchase contract.

TAXES AND ASSESSMENTS – Look for an exemption or classification designation that would change the tax amount as a result of the sale.

DEED OF TRUST – Make sure all paid off Deeds of Trusts are reconveyed. Upon proof of payment and/or an indemnity, the title company may insure around the encumbrance.

IDENTITY MATTERS – A ‘Statement of Information’ can clear up identity issues that may arise. If there are judgments and liens that belong to the party in question and have been paid then a release or satisfaction must be obtained and recorded or filed to eliminate the matter.

PENDING ACTIONS – A civil action affecting real property generally will have to be dismissed before title can insure. A divorce or probate doesn’t have to be finalized but special requirements may exist. Check with your Title Rep. or Title Officer for more information.

JOINT USE MATTERS – Driveways, party walls and easements may prompt Lenders to require a joint maintenance agreement. The preliminary report will show such agreements if one is of record.

EXTENDED COVERAGE MATTERS – If a physical inspection of the subject property discloses encroachments, lien rights, or other matters, these must be addressed before the lender will close. An extended coverage owners policy may be requested and a survey of the property will be required.

LEGAL DESCRIPTION – The legal description should always be compared to the legal description in the purchase and sale agreement to be sure that all the property being conveyed has been included in the preliminary report.

TITLE INSURANCE

STATEMENT OF INFORMATION

Statement of Information is a form routinely requested from the buyer, seller and borrower in a transaction where title insurance is sought. The completed form provides the title company with information needed to adequately examine documents so as to disregard matters which do not affect the property to be insured, matters which actually apply to some other person.

Every day documents affecting real property--liens, court decrees, bankruptcies--are recorded. Whenever a title company uncovers a recorded document in which the name is the same or similar to that of the buyer, seller or borrower in a title transaction, the title company must ask, "Does this document affect the parties we are insuring?" Because, if it does, it affects title to the property and would, therefore, be listed as an exception from coverage under the title policy.

STATEMENT OF INFORMATION CONFIDENTIAL INFORMATION FOR YOUR PROTECTION

Completion of this statement expedites your application for title insurance, as it assists in establishing identity, eliminating matters affecting persons with similar names and avoiding the use of fraudulent or forged documents. Complete all blanks (please print) or indicate "none" or "N/A". If more space is needed for any item(s), use the reverse side of the form. Each party (and spouse, if applicable) to the transaction should personally sign this form.

ESOPROW:		NAME AND PERSONAL INFORMATION		ORDER NUMBER:
First Name	Middle/Maiden Name (if none, indicate)	Last Name	Date of Birth:	
Home Phone:	Business Phone:	Birthplace:		
Social Security No.:	Driver's License No.:			
List any other names you have used or been known by:				
State of residence:	Date residence began:			
Are you currently married? If yes, complete the following information:				
Date and place of marriage:				
First Name	Middle/Maiden Name (if none, indicate)	Last Name	Date of Birth:	
Home Phone:	Business Phone:	Birthplace:		
Social Security No.:	Driver's License No.:			
List any other names you have used or been known by:				
State of residence:	Date residence began:			
RESIDENCES (LAST 10 YEARS)				
Number & Street	City/State	From (date) to (date)		
Number & Street	City/State	From (date) to (date)		
Number & Street	City/State	From (date) to (date)		
OCCUPATIONS/BUSINESS (LAST 10 YEARS)				
Firm or Business name	Address	From (date) to (date)		
Firm or Business name	Address	From (date) to (date)		
Firm or Business name	Address	From (date) to (date)		
SPOUSE'S OCCUPATIONS/BUSINESS (LAST 10 YEARS)				
Firm or Business name	Address	From (date) to (date)		
Firm or Business name	Address	From (date) to (date)		
Firm or Business name	Address	From (date) to (date)		
PRIOR MARRIAGE (S)				
Any prior marriages for either spouse? If yes, complete the following:				
Prior spouse's name:	Prior spouse of husband	Wife		
Marriage terminated by: <input type="checkbox"/> Death <input type="checkbox"/> Divorce	Date of termination:			
Prior spouse's name:	Prior spouse of husband	Wife		
Marriage terminated by: <input type="checkbox"/> Death <input type="checkbox"/> Divorce	Date of termination:			
INFORMATION ABOUT THE PROPERTY				
Street Address of Property in this transaction:				
Any construction on this property pending or contemplated? <input type="checkbox"/> Yes <input type="checkbox"/> No Any current loans on property? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, complete the following:				
Lender:	Loan amount:	Loan date:		
Lender:	Loan amount:	Loan date:		

A properly completed Statement of Information will allow California Title Company to differentiate between parties with the same or similar names when searching documents recorded by name.

This protects all parties involved and allows CTC to competently carry out its duties without unnecessary delay.

POLICY COVERAGE COMPARISON

CLTA OWNERS POLICY

1. Title to the estate or interest described in Schedule A being vested other than stated therein.
2. Any defect in or lien or encumbrance on the title.
3. Unmarketability of the title.
4. Lack of a right of access to and from the land.

ALTA RESIDENTIAL POLICY

1. Someone else owns an interest in your land.
2. A document is not properly signed, sealed, acknowledged, or delivered.
3. Forgery, fraud, duress, incompetency, incapacity or impersonation.
4. Defective recording of any document.
5. You do not have any legal right of access to and from the land.
6. There are restrictive covenants limiting the use of the land.
7. There is a lien on your land because of: a mortgage or deed of trust, judgment, tax or special assessment or HOA lien.
8. There are liens on your title arising now or later, for labor and materials furnished before the policy date - unless you agreed to pay for the labor and materials.
9. Others have rights arising out of leases, contracts, or options.
10. Someone else has an easement on your land.
11. Your title is unmarketable, which allows another person to refuse to perform a contract to purchase, to lease or to make a mortgage loan.
12. You are forced to remove your existing structure - other than a boundary wall or fence - because: it extends on to adjoining land or on to any easement; it violates a restriction shown in schedule B; it violates an existing zoning law.
13. You cannot use the land because use as a single-family residence violates a restriction shown in schedule B or an existing zoning law.
14. Other defects, liens, or encumbrances.

ALTA HOMEOWNERS POLICY

1. Someone else owns an interest in your title.
2. Someone else has rights affecting Your Title arising out of leases, contracts, or options.
3. Someone else claims to have rights affecting Your Title arising out of forgery or impersonation.
4. Someone else has an easement on the land.
5. Someone else has a right to limit Your use of the land.
6. Your Title is defective.
7. Any of covered risks 1 through 6 occurring after the policy date.
8. Someone else has a lien on Your Title, including a: Mortgage; judgment, state or federal tax lien, or special assessment; charge by a homeowners association; lien occurring before or after the Policy Date, for labor and materials furnished before the Policy Date.
9. Someone else has an encumbrance on Your Title.
10. Someone else claims to have rights affecting Your Title arising out of fraud, duress, incompetency or incapacity.
11. You do not have both actual vehicular and pedestrian access to and from the Land, based upon a legal right.
12. You are forced to correct or remove an existing violation of any covenant, condition or restriction affecting the Land, even if the covenant, condition or restriction is excepted in Schedule B.

POLICY COVERAGE COMPARISON (cont.)

ALTA HOMEOWNERS POLICY (CONT.)

13. Your Title is lost or taken because of a violation of any covenant, condition or restriction, which occurred before you acquired Your Title, even if the covenant, condition or restriction is excepted in Schedule B.
14. Because of an existing violation of a subdivision law or regulation affecting the Land: You are unable to obtain a building permit; You are forced to correct or remove the violation; or someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a mortgage loan on it. The amount of your insurance for this coverage risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
15. You are forced to remove or remedy Your existing structure, or any part of them - other than boundary walls or fences - because any portion was built without obtaining a building permit from the proper government office. The amount of Your insurance for this covered risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
16. You are forced to remove or remedy Your existing structures, or any part of them, because they violate an existing zoning law or zoning regulation. If You are required to remedy any portion of Your existing Structure, the amount of Your insurance for this covered risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
17. You cannot use the Land because use as a single-family residence violates an existing zoning law or zoning regulation.
18. You are forced to remove Your existing structures because they encroach onto Your neighbor's Land. If the encroaching structures are boundary walls or fences, the amount of Your insurance for this covered risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
19. Someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it because Your neighbor's existing structures encroach onto the Land.
20. You are forced to remove Your existing structures because they encroach onto an easement or over a building set-back line, even if the easement or building set-back line is excepted in Schedule B.
21. Your existing structures are damaged because of the exercise of a right to maintain or use any easement affecting the Land, even if the easement is accepted in Schedule B.
22. Your existing improvements (or a replacement or modification made to them after the Policy Date), including lawns, shrubbery or trees, are damaged because of the future exercise of a right to use the surface of the Land for the extraction or development of minerals, water or any other substance, even if those rights are excepted or reserved from the description of the Land or excepted in Schedule B.
23. Someone else tries to enforce a discriminatory covenant, condition or restriction that they claim affects Your Title which is based on race, color, religion, sex, handicap, familial status, or national origin.
24. A taxing authority assesses supplemental real estate taxes not previously assessed against the Land for any period before the Policy Date because of construction or a change of ownership or use that occurred before the Policy Date.
25. Your neighbor builds any structures after the Policy Date - other than boundary walls or fences - which encroach onto the Land.
26. Your Title is unmarketable, which allows someone else to refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.
27. A document upon which Your Title is based is invalid because it was not properly signed, sealed, acknowledged, delivered or recorded.
28. The residence with the address shown in Schedule A is not located on the Land at the Policy Date.
29. The map, if any, attached to this Policy does not show the correct location of the Land according to the Public Records.

POLICY COVERAGE

Not all risks can be determined by a title search, since certain things such as forgeries, identity of persons, incompetency, failure to comply with the law, or incapacity, cannot be disclosed by an examination of the public record. The preliminary title report is an offer to insure under certain situations, whereas the title policy is a contract that gives coverage against such problems.

The American Land Title Association is the standard policy of title insurance in America. The list below shows you what is covered...

WHAT IS COVERED...

- * A forged signature on the deed
- * Mistakes in the interpretation of wills or other legal documents
- * Impersonation of the real owner
- * Errors in copying or indexing
- * Falsification of records
- * Deeds delivered without the consent of the grantor
- * Undisclosed or missing heirs
- * Deeds and mortgages signed by persons of unsound mind, by minors or by someone listed as single but in fact, married
- * Recording mistakes
- * With regard to lender's coverage it covers:
 - The priority of the insured mortgage
 - The invalidity or unenforceability of the insured assignment
 - The invalidity or unenforceability of the lien of the insured mortgage on the title

WHAT IS NOT COVERED...

- * Unrecorded matters
- * Matters that a correct survey would show, i.e. boundaries, easements, etc.
- * Matters that a physical inspection of the property would disclose
- * Matters known, created or assumed by the insured
- * Rights of parties in possession
- * Unpatented water and mineral rights

A LOOK AT SOME WAYS TO TAKE TITLE

COMMUNITY PROPERTY

- * Requires a valid marriage between two people
- * Each spouse holds an undivided one-half interest in the estate
- * One spouse cannot partition the property by selling his or her interest
- * Requires signatures of both spouses to convey or encumber
- * Each spouse can devise (will) one-half of the community property
- * Upon death, the estate of the decedent must be “cleared” through probate, affidavit or adjudication
- * Both halves of the community property are entitled to a “stepped up” tax basis as of the date of death

JOINT TENANCY

- * Parties need not be married; may be more than two joint tenants
- * Each joint tenant holds an equal and undivided interest in the estate, unity of interest
- * One joint tenant can partition the property by selling his or her interest
- * Requires signatures of all joint tenants to convey or encumber the whole
- * Estate passes to surviving joint tenants outside of probate
- * No court action required to “clear” title upon death of joint tenant(s)
- * Deceased tenant’s share is entitled to a “stepped up” tax basis as of the date of death

COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP

- * Requires a valid marriage between two people
- * Each spouse holds an undivided one-half interest in the estate
- * One spouse cannot partition the property by selling his or her interest
- * Requires signatures of both spouses to convey or encumber
- * Estate passes to surviving spouse outside of probate
- * No court action is required to “clear” title upon the first death
- * Both halves of the community property are entitled to a “stepped up” tax basis as of the date of death

20 REASONS FOR TITLE

1 Title Insurance will protect you against a loss on your home or land due to a title defect.

2 A deed or mortgage in the chain of title may be a forgery.

3 Claims constantly arise due to marital status and validity of divorces.

4 A deed or mortgage may have been made by an incompetent or under aged person.

5 A deed or mortgage made under an expired power of attorney may be void.

6 A deed or mortgage may have been made by a person with the same name as the owner.

7 A child born after the execution of a will may have interest in the property.

8 Title transferred by an heir may be subject to a federal estate tax lien.

9 An heir or other person presumed dead may appear and recover the property or an interest.

10 A judgment regarding the title may be voidable because of some defect in the proceeding.

11 By insuring the title you can eliminate delays when passing your title on to someone else.

12 Title Insurance reimburses you for the amount of your covered loss.

13 Title Insurance helps speed negotiations when you're ready to sell or obtain a loan.

14 A deed or mortgage may be voidable if signed while the grantor was in bankruptcy.

15 Claims have risen dramatically over the last 30 years.

16 There may be a defect in the recording of a document upon which your title is dependent.

17 Title Insurance covers attorneys' fees and court costs.

18 Many lawyers protect their clients as well as themselves, by procuring title insurance.

19 A deed or mortgage may have been procured by fraud or duress.

20 A title policy is paid in full by the first premium for as long as you own the property.

