

Title Insurance

What it is, why it matters

Title insurance protects the property you have purchased against undiscovered defects or possible liens on the property. Defects could include prior unpaid taxes by previous owners and liens that have been filed on the property. Typically, insurance is a contract where the insurer guarantees another party against a possible specific type of loss (such as an accident or death) at a future date. Conversely, title insurance generally insures against losses caused by title problems that have their source *in past events*.

Title insurance companies attempt to achieve this by searching public records to develop and document the chain of title and to detect known claims against or defects in the title to the subject property. Determining who owns the title requires the examination of the indexes in the recorders' offices pursuant to various rules established by state legislatures and courts, scrutinizing the instruments to which they refer and making the determination of how they affect the title under applicable law. Title insurers use their employees or agents to perform the necessary searches of the recorders' offices records and to make the determinations of who owns the title and to what interests it is subject. When there are no claims against the property, it is known to have a "clean chain of title". A property with title issues will often delay closings which can be troublesome for an investor.

In short, title insurance insures that you are listed as the owner. This protection entitles you to the cost of defending your title in court or reimburses the insured for the actual monetary loss incurred, up to the dollar amount of insurance provided by the policy. If you opt not to purchase title insurance you will receive no protection.

Lender's Policy

The Lender, or Mortgagee, will also purchase a Mortgagee (Loan) policy to ensure they are in the first lien position on the title. The Mortgagee (Loan) Policy does not protect the Owner; the Owner must purchase a policy to receive protection.

Refinance

The owner's policy is in place to protect the purchaser of the property indefinitely until the property is sold or the Owner is removed from the Deed. Should the owner choose to refinance, their previously purchased policy will remain in place. The owner will need to make sure all property taxes are up-to-date and no other liens exist on the property before the closing of the refinance.

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Why it exists

Title insurance exists in the US because of a deficiency in the US land records laws. In many other countries, a land registration system is utilized. Under these systems, the government makes the determination of title ownership and encumbrances on the title based on the registration of the instruments transferring or otherwise affecting the title in the applicable government office.

In the recording system utilized in the majority of the US, each time a title transaction takes place, the transfer instrument is filed with a local government recorder located in the jurisdiction (typically the county) where the land is located. The instrument is then indexed by the names of the grantor and the grantee and photographed so it can be found and examined by anyone who wants to see it. For example, if a loan was closed with ReCasa; ReCasa would be the grantee and investor would be the grantor. Title documents can be found on a county recorder's website or may be requested in person. Typically, the failure by the grantee to record the transfer instrument voids it as to subsequent purchasers of the property who don't actually know of its existence.

Title insurance policies are often fairly similar. However, the cost of the title insurance varies from title company to title company. It may be worth while to research different title companies to find one that is more cost effective. Title insurance can be expensive but is worth having in order to protect you against any future problems.

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