

# Title Insurance

## Consumer's Guide



### Prepared by

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## What is Title?

Title is a term that encompasses a bundle of rights in real property. This bundle of rights governs an individual's legal right to own, possess, use, control, and dispose of real property (land and the improvements on it). Buyers of real property should have a title search performed to determine if they are receiving all of the ownership rights to the property they are buying. The title search of the public records will reveal matters which affect the title, both beneficial and burdensome.

## What is Title Insurance?

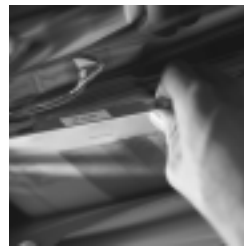
Title insurance is a contractual obligation between you (and/or your lender) and the title insurance company. In exchange for a one-time premium payment, the title insurance company provides protection against future losses that might result from a variety of possible title defects, liens, or encumbrances. Coverage becomes effective as of the date your real property transfer is recorded in the local land records.

## What is a Title Defect?

A title defect is a problem or omission associated with the title that impairs your ownership rights to the property. Possible title defects include, but are not limited to: (1) judgments, (2) liens, (3) unpaid real property taxes, (4) outstanding interests in the title, (5) fraud or forgery in prior conveyances of the title or powers of attorney, (6) problems with minors and mental incompetence that were unknown to you at the time you purchased the property.



## What is a Title Search?



A title search is conducted by a title company, title agency, title abstractor, or attorney who performs a detailed inspection of the historical public records concerning the property. These records are commonly referred to as "the land records." Title searches are performed to locate matters that affect and pertain to the property, such as the chain of title, defects, liens, encumbrances, real property taxes, and mortgage liens. The title search includes information on whether the seller has the title to the real property being transferred, and if not, what matters affect his title.

## Who is Protected by Title Insurance?

A buyer or a lender may be protected by a title insurance policy. A buyer may purchase an owner's title insurance policy and will be the named insured on that policy. The buyer's lender will require a loan policy, and that lender will be the named insured on the loan policy.

The owner's policy protects you, the homeowner, against the specific types of claims listed in the policy. The owner's policy remains in effect as long as you or your heirs have an ownership in the property. The policy cannot be transferred to the new owner if you sell the property. There is a one-time premium which is payable at closing. If the homeowner chooses to buy an owner's policy, he is required to purchase coverage for the full value of the property, which is typically the sales price.

The lender's policy protects the lender's security interest (the mortgage) by indemnifying the lender for losses in the event that the mortgage is not enforceable or does not have the priority over other matters of title as insured in the policy. The lender's policy coverage amount is based on the amount of the initial mortgage and decreases over the life of the loan as the balance decreases. The lender's coverage terminates when you pay off the mortgage in full. If you refinance your mortgage, the new lender will require a new lender's policy. If you purchased an owner's policy on this property, check with your

title insurance company to determine if you need a new owner's policy or an endorsement to your existing owner's policy.

### **What is Covered?**

Title insurance protects you and/or your lender against losses resulting from claims against your ownership of your property. It is different from other property insurance coverages because title insurance provides coverage for problems or "hidden risks" that have occurred **before** you took title to the property, yet the problems or hidden risks affect your ownership rights.

Title insurance coverage includes:

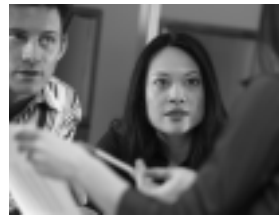
- Protection from financial loss due to covered claims against your title, up to the face amount of the policy.
- Payment of your legal expenses if the title insurance company is required to defend your title against covered claims.

Title insurance does not cover losses listed under your policy's exclusions and exceptions. Be sure to discuss these exclusions and exceptions with your settlement agent or attorney before your closing.

### **Who Sets the Rates for Title Insurance?**

Title insurance companies establish their own rates and can negotiate the rate with any potential insured. You should shop around to determine which company has the most competitive rates. In order to make a true cost comparison, you may wish to inquire as to charges for other associated services, such as the title search, the title examination, title commitment preparation, settlement fees, release fees, notary fees, courier fees, and document preparation fees. You may be entitled to a discount, called a "reissue credit," on your title insurance premium if you are refinancing and have previously purchased an owner's title insurance policy. On a new purchase, you may also be entitled to a reissue credit if your seller purchased an owner's title insurance policy, no matter what company issued the prior policy. The seller may have to produce the policy so that the credit may be accurately calculated by your title agent.

### **Who Chooses the Title Insurance Company?**



You do. However, the person you choose to conduct your closing may only have a contractual relationship and appointment with one or more title companies so inquire as to which title companies they represent.

### **Title Insurance Shopping Tips**

- Buyers should insure for the full purchase price of the property; the lender needs a policy only for the amount of the loan.
- Local practice, not the law, determines who pays the premium. This can be a negotiation point between the seller and the buyer. Your real estate agent or settlement agent can advise you.
- Verify that the policy describes all of the property and all of the interests you are acquiring in the transaction.
- Ask about all rate or premium discounts that may be available.
- Shop around. Talk to your settlement agent or attorney about title insurance before the settlement date so you will have time to find a competitive rate.
- Read the policy. Know exactly what your policy does and does not cover.
- Be sure you are dealing with licensed title insurance agents and title insurance companies. You can search for insurance companies on the Bureau's web site at [scc.virginia.gov/pages/Insurance](http://scc.virginia.gov/pages/Insurance). You can search for insurance agents and agencies at [scc.virginia.gov/pages/Consumers](http://scc.virginia.gov/pages/Consumers) or you can call the Bureau's Consumer Services Section at 1-877-310-6560.



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