

Do I Need Title Insurance? An examination of the title to a tract of property can be a complicated matter. An attorney examining a signature on a deed cannot normally tell you whether the signature is a forgery. In examining estate records, it may be shown that Mr. Jones died leaving only three children, when in fact, there was an “outside” child that no one knew about or no one disclosed – so that there is a missing heir in the chain of title. There may be a mortgage that was recorded, but was improperly indexed in the records, so that it is not subject to be found in the chain of title. An examining attorney will normally except from his/her certification of title issues such as these listed above. Properly issued, a title insurance policy will insure that these types of title problems will not be a problem for you in the future.

Title Insurance is a form of indemnity insurance which insures against financial loss from defects in title to real property and from the invalidity or unenforceability of mortgage loans. It is meant to protect an owner's or a lender's financial interest in real property against loss due to title defects, liens or other matters. It will defend against a lawsuit attacking the title as it is insured protecting your title to the property and in the event, the title to your property is shown to reside in another, the title insurance policy will reimburse the insured for the actual monetary loss incurred, up to the dollar amount of insurance provided by the policy.

Title insurers conduct a title search on public real estate, tax, and lien records before they agree to insure the purchaser or mortgagee of land. Specifically, after a real estate sales contract has been executed and earnest money given, an attorney or other title professional will search the public records to look for any problems with the title to the property. This search typically involves a review of land records going back many years. Frequently, this examination reveals a problem or problems with the title that must be corrected before the transaction closes. Title problems or encumbrances to the title may include issues such as: 1) a previous owner may have contracted for repair or construction work on the property, but never fully paid the contractor (resulting in a mechanic's lien); 2) the previous owner may have failed to pay local, state or federal taxes (resulting in a tax lien); 3) the prior owner (or other owners in the chain of title) may have had a federal tax lien not removed during a foreclosure process; 4) a signature on a deed is a forgery; or 5) an “outside” child was not mentioned or accounted for in the estate (resulting in a missing heir claiming a title interest in the property).

Two Types of Policies: There are normally two types of title insurance policies - ***Owner*** and ***Lender***. Just as lenders require homeowners or fire insurance and other types of insurance coverage to protect their investment, nearly all lenders also require a Loan Policy of title insurance to protect their interest in the real property which is being given to secure the repayment of their loan. Buyers purchasing properties for cash or with a mortgage lender often want an Owner's Policy of title insurance to protect their interest, as well. **A Loan Policy does not provide insurance, or a benefit, for the buyer/owner except for payment of the mortgage.** Thus, if the owner suffers a loss of the title to his property due to a title problem, and the owner does not have an Owner's Policy, the mortgage may be paid by the Lender's policy, but the Owner is subject to lose the equity he/she may have in the property. It is a risk that the owner can elect to insure. The purchase of an Owner's Policy is at the option of the purchaser. It will be offered to you at or prior to closing, and you can choose to purchase an owner's policy or decline.