

**What is Title Insurance?**

Title insurers, unlike property or casualty insurance companies, operate under the theory of risk elimination. Title companies spend a high percentage of their operating income each year collecting, storing, maintaining and analyzing official records for information that affects the title to real property. Their technical experts are trained to identify the rights others may have in your property, such as recorded liens, legal actions, disputed interests, rights of way or other encumbrances on your title. Before closing your transaction, the title company will proceed to “clear” those encumbrances, which you do not wish to assume.

This theory is different from most other insurance where, for example, rates and anticipated losses are based on actuarial studies and premiums are pooled on the assumption that a certain number of claims will be made. The distinction is important: Title insurance premiums are paid to identify and eliminate potential risks and claims before they happen. Medical and casualty insurance premiums, for example, are paid to insure against an unpredictable future event, knowing that risks exist and claims will, occur. Furthermore, title insurance involves a one-time premium, paid when you close the real estate transaction, while property, casualty, and medical insurance require renewal premiums.

**How Does a Title Search Help?**

A title search will reveal many of these potential problems. A [title search](https://dictionary.findlaw.com/definition/title-search.html) is done by examining public records to look up the history of property ownership. You can do your own title search, assuming you know what to look for, but if you are getting a loan to enable you to purchase the property, the lender will require that a qualified third party do the title search. The title search shows not only limitations on the use of the property and rights others may have in the property, but also liens or monetary obligations that are outstanding against the property.

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Once you know whether there are limitations on the use of the property or liens against the title, you may wonder why you cannot just deal with those issue before you purchase the property? Why would you need insurance once you know about all the problems? Isn't it like buying fire insurance after your house has burned down? In fact, buying [title insurance](https://dictionary.findlaw.com/definition/title-insurance.html) is a little like buying fire insurance on your burned down house.

Most people are familiar with the kinds of insurance that covers events that have not yet happened -- automobile liability insurance, medical insurance, life insurance are examples of such policies. Usually, these policies exclude events that occur before the date the policy is issued. In other words,

you cannot get life insurance on someone who has already died, and you will not find an insurance company willing to give you insurance coverage for a car accident that has already occurred.

Title insurance, on the other hand, covers events relating to the title that have already happened. It does not cover anything that happens to the title after the date of issuance. If you have liens filed against the property for [taxes that you didn't get around to paying](https://realestate.findlaw.com/owning-a-home/property-tax-basics.html), your title insurance policy is not going to help you. But, if the lien is for taxes not paid by someone who owned the house 80 years ago, then you may have coverage under your title policy.

Before offering to issue a title insurance policy, a title company will do a title search to learn whether there are any problems or limitations with the title. This search is done in an effort to minimize the risks of offering insurance. By minimizing the risks of claims being made, a title insurance company is able to offer its insurance policies for a relatively low, one-time fee.

Problems such as deeds, wills, and/or trusts that contain improper vesting and incorrect names, outstanding mortgages, judgements, and tax liens, [easements](https://realestate.findlaw.com/land-use-laws/easement-basics.html), or incorrect notary acknowledgments are generally found through the title search and usually can be cleared up before the closing on the property. When these problems are not cleared they will often be listed as exceptions to the policy's coverage. You would then need to decide whether the property is still something you want to purchase given the known problems with the title.

Perhaps you are wondering what the point of title insurance is if the title company won't cover known problems with the title. Isn't it like buying medical insurance that won't cover you if you get ill? The answer is "not really". There can many problems with a title that even a diligent and trained eye may not uncover during a title search.

**What Title Problems Can Arise?**

Examples of problems that can come up after you purchase your property include fraudulent acts by prior owners -- such as forged documents that transfer no title to the real estate, [forged mortgages](https://realestate.findlaw.com/mortgages-equity-loans/how-to-avoid-mortgage-fraud.html), or forged satisfactions or releases of mortgages, impersonation of the true owners of the land by fraudulent persons, and/or instruments executed under expired or fabricated power of attorney. In addition, the deed may have been executed by someone who forgot to get divorced before he remarried, who forgot he got divorced and has inherited the property as the surviving spouse, or who forgot that he already sold the property to another purchaser who is now in possession of the

property. Or perhaps you have acquired perfectly good title to a piece of property for which there is no legal access.

Other problems that may occur include execution of the deed by someone who is a minor or otherwise not competent, mistakes in public records or mistakes in recording the legal documents. Such mistakes can include incorrect indexing, errors and omissions in transcribing due to similarity in names, and failure to preserve original instruments.

In addition, defective acknowledgement due to lack of authority of notary; descriptions that appear to be, but are not, adequate; erroneous location of an ancient pipe or sewer line which does not follow the route of a granted easement; invalid, suppressed, undisclosed and erroneous interpretations of wills; previously undisclosed heirs with claims to the property; tax titles which are invalid because of

irregularity in the proceeding; liens for unpaid estate, inheritance, income or gift taxes and/or special assessments which become liens can also impact on the use and enjoyment of your property.

**How Title Insurance Protects You**

The goal of title companies is to conduct such a thorough search and evaluation of public records that no claims will ever arise. Of course, this is impossible – we live in an imperfect world, where human error and changing legal interpretations make 100 percent risk elimination impossible. When claims arise, professional claims personnel are assigned to handle them according to the terms of the title insurance policy. Title insurance reimburses you for the amount of your covered losses as defined in the policy and will provide defense against wrongful claims against your title.

**Here are some situations for which your title insurance would provide protection:**

* Forged deeds, mortgages, satisfactions or releases of mortgages, and other instruments
* Impersonation of the true owners of the land by fraudulent persons
* Outstanding prescriptive rights not of record and not disclosed
* Liens from unpaid estate, inheritance, income and gift taxes
* Inaccurate or incomplete legal descriptions
* Mistakes in recording legal documents
* Special assessments that become liens upon passage of resolution and before recordation or commencement of    improvements for which assessed
* Recorded easement, where the actual access path does not follow route described in the granted easement
* Fraud, duress or coercion in securing essential signatures
* Invalid, suppressed, undisclosed and erroneous interpretation of wills