

# Title Insurance Information

## What is Title Insurance?

Title insurance is actually a process, with the insurance policy being the end product. The process starts with a comprehensive search of public records to determine if any liens or encumbrances are attached to the title. During this search, detailed information from potentially hundreds of sources is gathered and reviewed, including tax records, federal, state and local records, court judgments, deeds and an evaluation of whether the property characteristics are accurately reflected by the information on the title. Not surprising, one in four titles searches uncovers some problem that must be rectified prior to the close.

## What Kind of Problem?

There are four primary categories that can cloud title and result in significant risk for a prospective home buyer. The title search meticulously seeks out and evaluates any known indication of any of these issues; however, even the most comprehensive search may not uncover every hidden area of title risk:

- **Liens** can be placed against a title by any party with an unpaid financial obligation against the property owner. The nature of these claims can be everything from unpaid child support or alimony to unpaid parking tickets, taxes bills from contractors like electricians or plumbers.
- **Errors** may have occurred during the course of previous ownership changes that could have included recording errors, typographical errors, incorrect legal descriptions, incorrect indexing of land records or title search errors resulting from undisclosed issues like unsatisfied claims not shown in the public records.
- **Claims** against a property may come from missing heirs or heirs born after the execution of a will, the dower or courtesy rights of spouses of former owners, claims from ex-spouses or even government or corporate entities. They can also arise when the mental competence of a grantor of deed is called into question; when wills are not properly probated or are misinterpreted; when a title was transferred by a minor; or when a grantor of a deed did so while under undue influence.
- **Fraudulent activity** such as forged signatures or fraud in the execution of documents, the use of false powers of attorney in the execution of documents, false impersonation by someone claiming to be the owner of the property or any other fraudulent activity can invalidate any title work that occurred from that point on.

Prospective buyers should be certain they know what issues affect the title of the property they plan to buy and recognize that even new construction properties can be subject to these same kinds of problems. Buyers should make sure that all issues that come to light from the title search are adequately resolved prior to the closing.

## Why the Seller Provides Title Insurance?

Simply put, you're responsible for the product you sell. In this case, it's real estate, one of the most important largest investments most people make in their lifetime. Let us look at the Warranty Deed you will be signing; along with its promises you make to the buyer (grantor is the Seller, grantee is the Buyer):

".....the grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain, and agree to and with the grantees, their heirs, and assigns, that at the time of the signing and delivery of these presents, he is well seized of the premises above conveyed, had good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that same are free and clear from all former and other grants, bargain sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind of nature...."

### The home seller goes on to guarantee;

"The grantor shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantees, their heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof."

In simple terms, you could be responsible and even financially liable to the buyer for the rest of your life! This includes any fraud, forgery, clerical errors, defective deeds, marital rights' disputes and many other problems that can arise out of ownership dating back to Patent on the property (1861). Just one claim such as this can be financially catastrophic.

As United States citizens, we often hear about how wonderful freedoms of assembly, speech, religions, etc. are. One of the most powerful freedoms we enjoy today, which has been partially responsible for our economic success, is the right own and enjoy private property. The Warranty Deed is a creation of our Colorado State Legislature and Colorado Real Estate Commission. The Warranty Deed provides protections for the buyer, and when joined with title insurance, forms a protective shield around the new Buyer.

The good news is title insurance is designed to take on the financial commitment you guaranteed to the buyer, all for a one-time fee. Should any claims arise; the policy that the seller provided to you when you purchased the property will protect you. And the policy you provide when you sell your property will protect the buyer and relieves you of any future financial liability.

**Please contact us if you have any questions or concerns.**