

# understanding TITLE INSURANCE

**THE TITLE INDUSTRY IN BRIEF:** Prior to the development of the title industry in the late 1800's, a homebuyer received a grantor's warranty, attorney's title opinion, or abstractor's certificate as assurance of home ownership. The Buyer relied on the financial integrity of the grantor, attorney, or abstractor for protection. Today, title insurance companies are regulated by state statute. They are required to post financial guarantees to ensure that any claims will be paid in a timely fashion. They also must maintain their own "title plants" which house duplicates of recorded deeds, mortgages, plats, and other pertinent county property records.

## What IS TITLE INSURANCE?

Title insurance has the unique distinction of being the only form of insurance invented in the United States. It is said that as early as 1853, title insurance existed in this country. Title insurance is a contract to protect an owner against losses arising through defects in the title to real estate owned. If the title is insurable, the company guarantees the owner against any losses due to defects in title or expenses in legal defense of the title up to the amount of the policy, which is the purchase price of the property.

The theory of title insurance is that, in the ideal instance, no risks are taken. This belief arises because a policy is not issued until careful examination of the title has been made. Title insurance, therefore, performs two functions: one, an efficient title search, and two, insurance against loss by reason of certain defects in the title. However, title insurance does involve risks.

Since the accuracy of the examination of title records is the keynote of a successful title insurance company, and since efficient examinations are the key to doing business, title insurance company operations have come to center on "title plants". These plants contain the records of the County Recorder's Office, which show the history of title to any parcel of land. In addition, the title plant contains a file containing a record of past searches and examinations of title. These serve as starting points for future searches and examinations of title. In brief, the title plant contains a concise record of pertinent information to enable skilled technicians to conduct short, efficient title examinations and issue its *Policy of Title Insurance*.

## Why IS TITLE INSURANCE NEEDED?

Buyers of real property could face substantial financial loss if a serious cloud on the title goes undetected. An expert title search before the purchase of real property will identify the nature of title and fix most problems that might be present. An Owner's Policy offers protection against various hazards, including those even the most thorough search of the public records do not disclose, such as forgeries, missing heirs, or recording errors. And, the Owner's Policy will pay valid claims as well as defense costs against attacks on the title. For a one-time premium that is modest in relation to the value of property involved, the purchaser receives the protection of a title policy backed by the reserves and solvency of an insurance company.

Similarly, the Seller wants to be sure his or her title is marketable in order to sell the property. A title insurance commitment facilitates the flow of mortgage money by identifying title problems so they can be resolved whenever possible and also by insuring against title risks.

Financial organizations are acutely concerned when it comes to the security of the funds they lend for real estate investments. The Loan Policy provides the lender a high degree of safety against loss of capital from title hazards. By identifying risks and eliminating them whenever possible, the title industry is a major element in encouraging lending.

## When IS THE PREMIUM DUE?

It is a one-time premium which is paid at the close of escrow. It is customary for the Seller to pay for the Owner's Policy. If there is a new loan, the Buyer pays for the Lender's Policy. The policy has a perpetual term and provides coverage for as long as you are in a position to suffer a loss.