WHAT IS TITLE

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For the property owner, it is a guarantee that they own the property free and clear of any liens other than the ones they agreed to when they purchased the property. The most important aspect is that the party who sold the property did, in fact, own all the interest and no one else can claim that they have an interest. This protection, or promise, lasts as long as the insured party owns the property.

For the lender, it is a guarantee that it has a valid and enforceable lien (loan or deed of trust) secured by the property, that no one else other than those listed on the policy has a prior claim (or loan, etc.) and that the party to who they are making the loan does own the property being used as security for the loan. This protection remains in effect as long as the loan remains unpaid.

The existence of a lenders title policy encourages lenders such as banks, savings and loan associations, commercial banks, life insurance companies, etc., to loan money. Because they are lending other people's money (savings or policy holder's funds), they must be concerned with safety should the borrower not make their payments. The title company insures that the title to the property is marketable in the event of foreclosure and the guarantee is backed by the integrity and solvency of the title company. Of course, this benefits everyone - from the single family homeowner to the owner of a high rise building.

Before issuing a policy of title insurance, the title company must review the numerous public records concerning the property being sold or financed. This information is available to anyone who has the time and patience to spend at the county recorder's office going through the hundreds of thousands of recorded documents. This review, or title search, will determine who owns the property, if any property taxes need to be paid, how many outstanding loans were taken out on the property, what utility companies, if any, have a right to use a portion of the property for phone, gas, electrical or water lines (known as easements), what a homeowner is and is not allowed to do with their property by reason of certain Conditions, Covenants and Restrictions (CC & R's), and if anyone else has a possible interest in the property.

The purpose of this title search is to clear up all problems before the new owner takes title or the lender loans money. This is known as RISK ELIMINATION versus RISK ASSUMPTION (taking on liability based on what happens in the future).

Examples of the latter are car, health and life insurance. Each of these types of insurance charge on-going fees for coverage and base their coverage on what may happen in the future. Title insurance, on the other hand, takes on coverage based on what has already happened and charges a one-time fee at the time the property is purchased or refinanced. While some may feel this is just another "garbage fee", it is pretty reasonable considering one's policy could last a lifetime. Once a policy of title insurance is issued, the title company will pay for the costs and legal expenses associated with any valid claim presented to the company. Without the policy, the homeowner, lender or builder - whoever would have benefited by having a policy of title insurance would have to cover all costs on their own.

Title insurance isn't just for a homeowner. Subdividers need it when they are planning a new tract of homes or a commercial strip center. Attorneys use it for clients who are investing in shopping centers, hotels, high rise office structures, hospitals, and countless other projects. Builders need it in order to obtain construction loans from their lender. Everyone wants to have peace of mind when making a large investment of their hard earned money. Title insurance companies help protect this important investment, no matter how large or small, with its own reputation and financial strength.

Lawyers Title