

Title Search vs. Title Policy

DEFINITION

- > Compilation of all documents appearing in the public record; merely reports on the status of title.
- > Insurance against loss or damage resulting from defects or failure of title to a particular parcel of realty; or from the enforcement of liens existing against it at the time of the insurance.

Relationship: Both of these products are the result of a search or examination of the “title” to the property evidenced by the public records and/or a survey and inspection of the property.

LIABILITY

- > Does not provide insurance coverage to lender.
- > Coverage does not extend to assignees of original Lender.
- > Searcher not liable for defects or liens not disclosed by public records.
- > Does not pay defense costs in connection with claims.
- > Liability limited to searcher's Errors and Omissions Policy and life of individual searcher or searching company.
- > A title policy covers hidden hazards which are not indicated or disclosed by a search of the public records. (See attached list of hidden hazards covered by title insurance.)
- > The Title Company pays costs of cure, and actual loss, if incurred.
- > Title Company has a duty to defend and incurs all cost of defense. Policy coverage is not reduced by defense costs.

DURATION OF PROTECTION

- > Recourse may be limited by state statute of limitations.
- > The title company is required by law to maintain reserves based on exposure to claims.
- > Coverage afforded by title insurance for an owner continues for the rest of the owner's life -- even after one sells the property in the event his warranties of title are attacked in the future by his purchaser or a successor in interest.
- > Coverage afforded by title insurance for a lender continues to protect the lender even if the lender should have the unfortunate experience of becoming a lender in possession as a result of exercising its rights to foreclose upon the default of the borrower.
- > Title coverage enhances marketability of loans on the secondary market because a lenders policy insures not only the original beneficiary under the deed of trust, but also, (1) any and each successor in interest to the original beneficiary, and, (2) any governmental agency which is an insurer or guarantor of the indebtedness secured by the insured deed of trust.

In conclusion, both the liability and duration of protection provide a distinct advantage to obtaining a title policy.