

"What Is Title Insurance?"

When buyers purchase real estate, or when lenders lend on real estate, they want to know that their seller or borrower, as the case may be, holds good title to the real estate and that they, in turn, will be assured of holding title to the real estate without fear or concern of some third-party later claiming a right to their real estate. In days gone by, attorneys would examine abstracts of title to determine whether good title existed. Today, almost all transactions use title insurance instead.

Title insurance is issued by title insurance underwriters such as Chicago Title Insurance, First American Title Insurance Company and Land America/Lawyers Title Insurance Company. While sometimes the underwriter itself serves as the party performing the title examination and preparing the title insurance commitment, other times an agent of the underwriter takes on that role. In Madison, for example, both Preferred Title and Dane County Title are agents for underwriters, while First American Title and Land America are owned and operated by the underwriters themselves.

Title insurance differs from most other types of insurance. For example, when you purchase a fire insurance policy, that policy insures against loss if a fire breaks out at your facility. In other words, if some particular insured event happens in the future, the insurance company provides coverage. Title insurance, on the other hand, does not provide insurance against future events. Rather, the title insurance company examines the real estate records pertaining to the piece of property at issue and based on that examination issues a title insurance commitment. The title insurance commitment will show the status of your seller's or borrower's title and will include, as exceptions to the title insurance, those matters that the title examiner has uncovered in its examination. Those exceptions to insurance, such as easements, mortgages and covenants and restrictions are not insured over by the title insurance company unless some event occurs at or before closing which permits the title company to remove the exception. Typically, for example, when buying real estate, the seller will have a mortgage on the property which must be satisfied at closing. Only if the title company is assured that the mortgage has been satisfied will it remove the mortgage exception. Exceptions such as easements and covenants and restrictions would likely not be removed from the title insurance but coverage protecting the buyer and lender can be negotiated and is available through endorsements or other language written into the title insurance policy.

POSTED:

Feb 24, 2008

RELATED PRACTICES:

[Real Estate](#)

<https://www.reinhartlaw.com/practices/real-estate>

RELATED PEOPLE:

[Harvey L. Temkin](#)

<https://www.reinhartlaw.com/people/harvey-temkin>



Either at or after the closing, the buyer or lender, as the case may be, will receive a title insurance policy reflecting the previously negotiated title commitment. (You should always tickle your file to make sure you actually receive the title policy as title companies are sometimes slow in sending them out.) The title insurance policy will insure that if anyone claims an interest in your real estate that predates the date of the title insurance policy, and if the title policy does not include an exception reflecting that interest, the policy holder can pursue a claim against the title insurance company. The title insurance policy does not insure defects in title that arise after the date of the title insurance policy.

Because of the way title insurance works, it is critical that an attorney or other knowledgeable party carefully review the title insurance commitment and, specifically, the exceptions to insurance that are contained in the commitment. As noted, many of those exceptions may be removed from the final title policy upon request based upon certain documentation such as mortgage satisfactions, affidavits and other releases. Other exceptions to insurance will remain in the final policy.

Title insurance is a critical component in almost all real estate transactions. Buyers and lenders, however, must understand that title insurance does not provide blanket coverage. Rather, the title insurance commitment must be carefully reviewed to make sure that the title insurance policy will provide the protection that is needed and expected.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.