

# TITLE INSURANCE FAQS

## WHAT IS TITLE INSURANCE?

Title insurance insures against financial loss caused by defects in title to real estate. Title insurance companies defend against lawsuits attacking the title, or in the case of a covered loss, reimburse the insured up to the policy limit.

## WHAT KINDS OF DEFECTS DOES TITLE INSURANCE PROTECT YOU FROM?

It protects you against loss due to title defects, liens, or other similar matters. Title insurance protects you from claims of ownership by other parties. It protects you against losses from problems that arose before you bought the property. The title company will defend you in court if there is a claim against your property, and will pay for covered losses.

## IS IT REQUIRED?

Texas does not require title insurance. The lender will require you to buy a Loan Policy of Title Insurance to protect their interest.

## HOW LONG DOES IT LAST?

A loan policy lasts until the loan is paid off. An owner's policy lasts as long as you or your heirs own the land. It also may provide warrantor's coverage after you no longer own the property, depending on your policy provisions. Policy language has changed over time, so read the continuation of coverage provisions in your policy carefully to determine coverage terms.

## DO YOU HAVE TO RENEW YOUR POLICY?

You pay for title insurance only once, when you buy the policy, unless you decide later to add more coverage. Keep your policy, even if you transfer your title or sell the property. Coverage lasts as long as you or your heirs own the land, and may last forever for any title warranties made when you sell the property.

## WHAT HAPPENS IF I TRANSFER MY TITLE TO MY BUSINESS, MY TRUST, MY LLC, OR MY CHILDREN?

Depending on the type of policy you have, it may not provide coverage when you transfer your title into your business or to someone else that is not considered an insured. To determine what type of coverage you have, read your policy, check with your title agent, or speak with an attorney.

## IS IT LIKE HOMEOWNERS INSURANCE?

No, title insurance is different from other types of insurance. It does not insure against fire, flood, theft, or any other type of property damage or loss. It protects against losses from ownership problems that arose before you bought the property, but were not known at the time you bought the property. It does not guarantee that you will be able to sell your property, or borrow money on it.

## WHAT'S THE DIFFERENCE BETWEEN A TITLE COMMITMENT AND A TITLE POLICY?

The title commitment comes before closing; the title policy is issued after closing. The commitment says that a title company is willing to issue title insurance under certain conditions and if the seller fixes certain problems. The policy provides coverage for the property.

## WHAT DOES THE TITLE COMMITMENT DO?

The title commitment lists any potential issues, exclusions, or exceptions. It alerts the buyer to issues that exist and could cause problems in the future. It does not guarantee that there are no current issues or that none will arise in the future. You should discuss how to clear potential issues with the title agent. You may wish to review potential issues with a lawyer.

Read the title commitment carefully as these items can become exclusions or exceptions under Schedule B of your policy. Exceptions and exclusions are items not covered by the policy.

## WHAT TYPES OF POLICES ARE THERE?

There are two types of policies, owner's policies and loan policies.

### 1. Owner's Policy

The owner's policy protects you against losses from ownership problems that arose before you bought the property, but that were not known at the time you bought the property. For example, you could lose title to your property due to fraud, errors or omissions in previous deeds, or forgery of a previous deed. The owner's policy protects the buyer from the covered risks listed in the policy. There are separate types of policies for commercial and residential property. The T-1 is commonly used for commercial property and undeveloped land. The T-1R is for most residential property.

### 2. Loan Policy

The loan policy is issued to the mortgage lender. It protects the lender's interest in the property until the borrower pays off the mortgage. For a complete list of covered risks, see the Covered Risks section of the Loan Policy.

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## WHY DO I NEED A LOAN POLICY?

Most lenders will require a loan policy as a condition of the mortgage. The policy will repay the balance of your mortgage if a claim against your property voids your title. A loan policy covers up to the amount of the principal on your loan.

## HOW LONG DOES THE LOAN POLICY LAST?

Loan policies remain in effect until you repay the loan. Most lenders will require you to buy a new loan policy if you refinance your home. When the new loan pays off the existing loan, the old loan policy expires.

## WHY DOES MY OWNER'S POLICY COST MORE THAN THE LOAN POLICY?

When you buy an owner's policy and a loan policy at the same time, the loan policy is issued at a discounted price of \$100. If you decide not to purchase an owner's policy, you will pay full price for the loan policy.

## DO I GET A DISCOUNT IF I REFINANCE?

Yes, if you refinance within eight years. The premium discount varies, based on the number of years since the original purchase. If the original purchase occurred within four years from the date of the loan policy, you get a 50% discount. If the purchase occurred within eight years of the loan policy, you get a 25% discount. After eight years, you pay full price for the loan policy.

## WHAT IF MY HOME INCREASES IN VALUE? AM I STILL COVERED?

You are covered for the value of your policy. If you add improvements to your home, or if your home increases in value over time, you can buy an increased value endorsement to cover the increase in your property's value.

## CAN I GET A DISCOUNT ON THE PRICE OF MY POLICY?

No. The premium rate is set by the Texas Department of Insurance. Each title agent is required to charge the same premium for a policy.

In Texas, the premium includes charges for additional services such as the title search, the title examination, and closing the transaction. You only pay the title policy premium once, at the closing of the sale. The buyer and seller may negotiate who pays the premium.

## IS THERE A WAY TO SAVE MONEY ON MY CLOSING?

You can shop around for cheaper escrow fees, or closing costs. These differ between agents.

Some title companies add extra charges for things like tax certificates and escrow fees, recording fees, and delivery expenses. Review any extra charges carefully. Ask for documentation of the true cost of these services. You may ask to see your closing papers in advance. You may also have an attorney attend the closing with you.

## DO TITLE COMPANIES CHARGE THE SAME POLICY PREMIUMS?

Yes. Title insurance rates in Texas are regulated. All title companies will charge the same premium for a policy. Rates are based on the property's sale value. For example, the basic premium for a \$50,000 property is \$522, and the basic premium for a \$100,000 property is \$875.

## WHO DO I BUY A TITLE POLICY FROM?

You should always buy from a licensed company. It's illegal to sell title insurance without a license in Texas. If you buy from an unlicensed company, your claims could go unpaid.

To verify that a company is licensed, call TDI's Consumer Help Line at 1-800-252-3439. You can also check online.

## DO I GET TO PICK MY OWN TITLE COMPANY?

You may choose any title company you want; you don't have to use a company selected by a real estate agent, builder, or lender.

Section 9 of the Real Estate Settlement Procedures Act (RESPA) prohibits sellers from conditioning the home sale on the use of a specific title insurance company. You may contact the Consumer Financial Protection Bureau, who regulates RESPA, if you have a complaint.

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## IF THERE'S SOMETHING YOU DON'T LIKE IN THE POLICY, CAN YOU CHANGE THE POLICY LANGUAGE?

Title policy forms in Texas are promulgated, or standardized. This means most of the policy language is the same regardless of which company that sells the policy. Title agents are required to use the standardized forms. The parts of the policy that may be changed are the property description in Schedule A, the Exceptions in Schedule B, and the Exclusions. You should review those sections carefully. You can request corrections if you notice an error. The agent may be able to remove an exception, if a title problem is cleared up or if you buy additional coverage.

Check the policy's legal description of the land against your survey to confirm that what is being conveyed in your contract is accurate. Title insurance does not protect against boundary disputes with your neighbor, unless you purchase additional coverage.

## WHAT IS A TITLE DEFECT?

A title defect is anything that can cause a title to be considered invalid or defective in some way. Some examples are:

- Invalid documents due to forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation.
- Failure of any person or entity to have authorized a transfer or conveyance.
- A document affecting title that is not properly executed, signed, witnessed, notarized, or delivered.
- Undisclosed or unrecorded easements not otherwise apparent on your land.
- No right of access to and from the land.
- A document executed under a falsified, expired, or otherwise invalid power of attorney.
- A document not properly filed, recorded, or indexed in the public records.
- Ownership claims by undisclosed or missing heirs.
- Defect arising from an improper prior foreclosure.
- Undisclosed restrictive covenants affecting your property.

Lien issues can also cause title defects. Some examples of lien issues are:

- Any statutory or constitutional contractor's, mechanic's, or materialman's lien for labor or materials that began on or before the policy date. Talk to an attorney about your rights.
- Lien for labor or materials furnished by a contractor without your consent.
- A previous owner failed to pay
  - a mortgage or deed of trust
  - a judgment, tax, or special assessment
  - a charge by a homeowners or condominium association.
- Other liens or claims that may exist against your title that are not listed in the policy.

*This information was furnished by the Texas Department of Insurance and HSTX Title makes no claim to the accuracy.*

Notify your title company immediately if someone files a lien or claims an interest in your property. Failure to do so could jeopardize your claim. Contact the underwriter listed on the policy and follow their claim-filing procedures.

## WHAT DOESN'T A TITLE POLICY COVER?

A title policy generally won't cover mistakes or defects, financial issues, or rights issues.

- Defects that are created after the policy is issued.
- Defects that you create, or of which you had knowledge.
- Problems that arise because of your failure to pay your mortgage, or to obey applicable laws or restrictive covenants that were disclosed to you.
- Certain taxes and assessments.
- Losses resulting from rights claimed by someone else occupying the land. The title company may need to inspect the property. There may be a charge for the inspection.
- Homestead, community property, or survivorship rights of a policyholder's spouse. Texas homestead laws address the rights of a spouse or survivors of a property owner.
- Claims from other people who may have certain rights if your property is near a body of water or has a river or stream flowing through it.
- Condemned land, unless a condemnation notice appeared in the public record on the policy date or the condemnation occurred before the policy date.
- Violations of building and zoning ordinances and other laws and regulations related to land use, land improvements, land division, and environmental protection.
- Disclosed restrictive covenants limiting how you may use the property. Request copies of restrictions and have your attorney explain them.

## COMPLAINTS AGAINST AGENTS OR TITLE COMPANIES

If you have a dispute about your premium or a claim, contact your title insurance agent or the title insurance company. Item No. 10 of your policy conditions should list the company's toll-free number.

If you can't resolve your problem with the agent or company, you can file a complaint with TDI. For more information, call the Consumer Help Line at 1-800-252-3439 between 8 a.m. and 5 p.m., Central time, Monday-Friday.