



The ABCs of Title Insurance



Montana Land Title Association Foundation

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by the
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The need for title insurance

What is a title insurance policy?

Under Montana law 33-25-105 & 111, “Title insurance policy” means a contract by which, subject to its stated terms and conditions, a title insurer insures or indemnifies the insured against loss or damage sustained by reason of:

- (a) defects in or liens or encumbrances on the title to the stated property;
- (b) Unmarketability of the title to the stated property; or
- (c) Invalidity or unenforceability of liens or encumbrances on the stated property.

A title insurance policy is not an abstract of title or representation as to the condition of title to the stated property.

Common terms and definitions:

- ◆ Abstract – a written summary of property ownership compiled from public and private records.
- ◆ Bundle of rights – all rights that remain relative to the property described.
- ◆ Chain of title – history of ownership.
- ◆ Constructive notice – the recording of rights transferred with the purchase of property.
- ◆ Grantors – listing of those who have transferred this property.
- ◆ Grantees – listing of those who have received this property.
- ◆ Title insurer – an insurer authorized under state laws to transact the business of title insurance.
- ◆ Title plant – sets of privately maintained chains of title.
- ◆ Title search – the process of reviewing property records at a public site or a title plant.



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Why should I have title insurance?

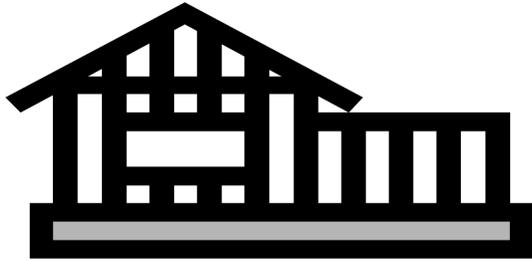
Title insurance guarantees that you are protected from financial loss due to undisclosed removal of rights or claims of ownership on the property prior to your purchase. As the term “insurance” implies you are compensated if later documents or claims surface that remove rights assumed or implied to be included in your title causing loss of value to you.

Additionally, most lenders will not finance a purchase of property without title insurance.

If the lender requires title insurance why can't the lender purchase it?

There are two basic kinds of title insurance – owner and lender. Normally the seller purchases title insurance for the new buyer in the amount of the purchase price and the borrower purchases title insurance for the lender in the amount of the mortgage.

When the mortgage is paid off, the lender's title insurance contract expires. The owner's title insurance contract is in effect for the life of the insured's ownership. There are no annual premiums, only the payment at the time of purchase.



Who determines the full and complete listing of property rights available?

Once you have signed an agreement to purchase property a title company will begin a title search to document the bundle of rights. The title search can be conducted through public records or at a title plant. This search is a complex process that requires the review of many indexes (grantor, grantee, tax liens, mortgages, etc.)

When all records have been thoroughly searched the title company will prepare a title commitment offering to issue a title insurance policy subject to any requirements or exceptions stated in the commitment. A buyer may wish to have this reviewed by an attorney.

Where do the records exist that are searched?

Each time property changes ownership the transaction must be publicly recorded. These transfer of title records are available in public offices. They are also available in private title plants built by a title company. Public records are open to everyone but the filing systems are often complex and multiple indices must be searched to verify clear title.

If a search shows a clear title, why buy insurance?

Because title records are complex, mistakes can occur. Additionally, fraudulent or unofficial documents may have been filed on property. Undisclosed or unknown heirs can claim rights following the settlement of an estate. A spouse from an undisclosed marriage may file a claim of ownership.

In conclusion:

Title insurance is your financial protection should the ownership or rights of usage for your property change during your ownership. No other insurance can provide this benefit for you. Ask your title insurer for a complete explanation of the benefits and coverages of your title insurance policy.



Excerpt from The Title Industry White Papers, published by the American Land Title Association

“Now in its second century, title insurance has become the strongly preferred form of security for home buyers, lenders and a wide variety of other real estate investors.”

“Still remaining as title insurers respond to an ever changing market are the traditional consistency, expertise, impartiality and integrity of their industry that are highly valued by lenders and others.”

“As rapid and dramatic developments continue to drive the real estate market, investor confidence will remain strong through the security brought by the title insurance industry.”

A bit of history:

- 1626 – Legislation was passed in Virginia requiring all land sales to be recorded within one year of date of sale.
- 1876 - The first title insurance company was founded by a group of Philadelphia conveyancers.
- 1907 - The American Land Title Association was formed.
- 1909 - The Montana Land Title Association was formed.

Land title insurers in Montana are licensed to do business through the office of the Insurance Commissioner. They are governed by the laws of the Montana Title Insurance Act and must obtain 12 hours of continuing education credits every year.

The objectives and purposes of the Montana Land Title Association are

- ◆ To promote the safe and efficient transfer of ownership and interest in real property within the free enterprise system;
- ◆ To provide information and education to consumers, to those who regulate, supervise or enact legislation affecting the land title evidencing industry and to its members;
- ◆ To maintain liaison with users of the services provided by the members, and with the government;
- ◆ To maintain professional standards and ethics.

For a complete listing of title insurance companies that are members of the Montana Land Title Association, view the association website at (www.mtlandtitle.com).

The website of the American Land Title Association (www.alta.org) also provides educational and informative facts and news.