

# TITLE SEARCH

## WHAT'S IN A TITLE SEARCH?

*You've decided to purchase a home and hope to take possession as soon as possible. The terms have been agreed upon and all the financial arrangements have been made. But, before the transaction can close, a title search must be done.*

*A title search is the process of determining from the public records just what these rights are and who owns them. It is a means of determining that the person who is selling the property really has the right to sell it, and the buyer is getting all the rights to the property (title) that he or she is paying for.*

*The process can be undertaken by the title company in those areas where the company maintains direct offices. In some areas, however, searches are made only by agents and practicing attorneys. In most real estate transactions today, a title insurance policy is purchased to assure the buyer that he or she has purchased a valid title.*

*In those transactions where title insurance is involved, the title company must determine insurability of the title as part of the search process. This leads to the issuance of a title policy.*

*The title insurance company will, at its own expense, defend the title and will pay losses within the coverage of the policy if they occur.*

*But what, exactly, is involved in a title search? The following is a step-by-step review:*

**CHAIN OF TITLE** - a history of the ownership of a particular piece of property, telling who bought it and sold it, and when. The information may be derived from public records - usually a County Clerk's or Recorder's Office - or obtained from title plants privately owned and maintained by title companies.

**TAX SEARCH** - a search to determine the present status of general real estate taxes against the property. It will reveal if taxes are current or whether any taxes are past due and unpaid from previous years. In addition, the tax search will indicate the existence of any special assessments against the land and, if so, whether or not these assessments are current or past due. Title insurance protects the buyer against loss from unpaid and past due taxes and assessments.

**JUDGMENT AND NAME SEARCH** - One of the most important parts of the title search is to determine if there are any unsatisfied judgments against the seller or previous owners which were in existence while they owned the real estate. A judgment is a general lien against the debtor's real estate and constitutes security for any money owed under the judgment. The real estate can be sold to satisfy the judgment.

A name search will examine all possible spellings of the name on the judgement to ensure correctness.

Rights established by judgment decrees, unpaid federal income taxes and mechanics' liens all may be prior claims on the property, ahead of the buyer's or lender's rights. If a judgment is discovered that constitutes a defect in the title, it is pointed out, and the seller must then eliminate it before the title of the new buyer can be insured free and clear of that judgment.

**COMMITMENT** - After these searches have been completed, the title company issues a commitment to insure, stating the conditions under which it will insure the title. They buyer, seller and the mortgage lender, if any, can then proceed with the closing of the transaction AFTER clearing up any defects in the title which may have been uncovered by the title search and examination.

The mortgage lender is as concerned as the buyer about the quality of the title because the property is to be security for the new mortgage loan. The lender requires assurance that it has a valid first (or other acceptable priority) mortgage lien on the property. This is not only common sense, but generally is a legal requirement of regulated mortgage lenders.

The lender's title insurance, however, does not protect the new buyer of the property. Although the land is the same, the interest of the buyer and the interest of the lender are very different. The provisions of a lender's title insurance policy are very different from those of an owner's policy, so the buyer should obtain their own title coverage.

