

### *Title Insurance Covers Title Defects Such As:*

- Forged deeds, mortgages, satisfaction of releases or mortgages and other instruments
- False impersonation of the true owner of the land or his consort.
- Instruments executed under fabricated or expired power of attorney (death or insanity or principal)
- Deeds apparently valid but actually delivered after death of grantor or grantee, or without consent of grantor
- Deeds by persons of unsound mind
- Deeds by minors
- Deeds by aliens
- Deeds which appear to convey title but are held by the mortgagee
- Outstanding prescriptive rights not of record and not disclosed by survey
- Descriptions apparently but not actually adequate
- Duress in execution of instruments
- Defective acknowledgements due to lack of authority of notary (acknowledgement taken before commission or after expiration of commission)
- Deed or property recited to be separate property of grantor which is in fact community property
- Deeds by persons apparently single but actually married
- Deed from bigamous couple - prior existing marriage in another jurisdiction
- Undisclosed divorce of spouse who conveys as sole heir of deceased consort
- Undisclosed heirs
- Misinterpretation of wills, deeds, and other instruments
- Birth or adoption of children after date of will
- Children living at date of will but not mentioned therein
- Discovery of apparent will or intestate
- Discovery of later will after probate of first will
- Administration of estates and probate of wills of persons absent but not deceased
- Conveyance by heir, devisee, or survivor of a joint estate who murdered the decedent
- Deed from trustee's purported business which is in fact a partnership or joint stock association
- Deed of executor under non-intervention will when order of solvency has been fraudulently procured or entered
- Deed to or from corporations before incorporation or after surrender or forfeiture of charter
- Claims of creditors against property conveyed by heirs or devisees within prescribed period after owner's death
- Mistakes in recording legal documents (for example, incorrect indexing, errors and omissions in transcribing, and failure to preserve original instruments)
- Recorded easement, but erroneous ancient location of pipe or sewer line which does not follow route of granted easement
- Special assessments where they become lien upon passage of resolution and before recordation or commencement of improvements for which assessed
- Want of jurisdiction of persons in judicial proceedings
- Failure to include necessary parties in judicial proceedings
- Federal estate and gift tax liens
- State inheritance and gift tax liens
- Errors in tax records (for example, listing payment against wrong property)
- Ineffective waiver of tax liens by tax or other governing authorities repudiated later by successors
- Corporation franchise taxes as lien on all corporate assets, the notice of which does not have to be recorded in the local recording office
- Erroneous reports furnished by tax officials, but not binding on municipality
- Tax homestead exemptions set aside as fraudulently claimed
- Capacity of foreign personal representatives and trustees to act
- Deed from convicted felon
- Interests arising by deeds to fictitious characters to conceal illegal activities on the premises
- Deeds in lieu of foreclosure set aside as being given under duress
- Ultra vires deed given under falsified corporate resolution
- Conveyances and proceedings affecting rights of servicemen protected by Soldiers and Sailors Civil Relief Act
- Federal condemnation without filing of notice (federal law does not require filing notice of taking in local recording office)
- Break in chain of title beyond period of examination of public records where running of adverse possession statute has been suspended (true owner is incompetent, absent, or incarcerated or title is held by the sovereign)
- Deed from record owner of land where owner has sold property to another purchaser on an unrecorded land contract and the purchaser has taken possession of the premises
- Voidable conveyances in violation of public policy (payment of gambling debt, payment for contract to commit crime or conveyance made in restraint of trade)

## WHAT IS TITLE INSURANCE?



**SECURITY TITLE  
GUARANTY CO.**

## WHAT IS TITLE INSURANCE

### AND WHY DO YOU NEED IT?

A real estate purchase is one of the best investments you can make, so be certain to protect your land ownership against possible title problems that can hinder the transfer of your real property or make it unmarketable.

A policy of title insurance is issued in real estate transactions in Colorado. Unlike casualty insurance which protects against future acts, title insurance protects against loss or damage resulting from defects that may have occurred in the past.

The process begins with the title insurance company providing a search and examination of the public records to determine and disclose the current facts relating to the ownership of a piece of real estate, such as: 1) Who currently owns the property, 2) Any liens or encumbrances against the property or its owner, 3) Easements and/or restrictions, and 4) Other recorded interests. With this information the buyer, seller, real estate agent, attorney, lender, and settlement agent can work toward closing the transaction. When the proper documents to transfer title have been recorded, a title insurance policy is issued to the new owner and/or their lender.

The charge for a title insurance policy is a one-time premium paid for at the time the policy is to be issued.

This fee includes the costs of the title search, examination, production and risk.

## WHAT EXACTLY IS INVOLVED

### IN A TITLE SEARCH?

#### *Chain Of Title*

This is simply 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, Recorder's, or Registry Office - or obtained from title plants privately owned and maintained. There are great varieties of such plants - index cards, punch cards, tract books, even sophisticated computerized plants. However, they all contain essentially the same information from which the history of the title may be secured.

#### *Judgment And Name Search*

One of the most important parts of the title search is to determine if there are any unsatisfied judgements or liens against the owner or previous owners which were in existence while they owned the title. A judgment can be a general lien against the debtor's real estate and may constitute security for any money owed under the judgment. The real estate can be sold to satisfy the judgment.

It is extremely important to be sure that a title is not subject to judgments against the owner or previous owners. Title insurance provides this protection.

A judgment against a person named Smith may affect the title of an owner named Smith, depending on whether or not they are the same person. So all possible variations of the same name must be examined.

For example, the name Smith might be spelled Schmid, Schmidt, Schmidtt, Schmidz, Schmied, Schmiedt, Smid, Smythe, and so on. The name Nichols can be spelled 73 different ways, from Nachols to Nychals. The task is to determine which of these spellings applies to the owner in question.

Rights established by judgment decrees, unpaid federal income taxes and mechanic's 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, then the owner must eliminate it before the title policy can be insured free and clear of that judgement.

#### *Commitment*

When these searches have been completed, a commitment to insure is issued stating the conditions under which title will be insured. The closing of the transaction may proceed after clearing up any defects in the title which may have been uncovered by the search and examination.

The mortgage lender is concerned about the quality of the title, because the property is to be security for the new mortgage loan. The mortgage lender requires assurance that it has a valid first (or another acceptable priority) mortgage lien on the property.

The lender's title insurance, however, doesn't 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 not. The provisions of a lender's title insurance policy are different from those of a buyer's policy, so the buyer should obtain his or her own policy.

