

A title company is a key player in the home buying/selling process. It is a neutral third party that is there to help both the seller and the buyer complete the sale of the real property. They handle the transfer of documents and money, as well as coordinate the agents, lender and all other parties that may be needed in the transaction. They handle the closing, or the final transfer, which includes obtaining instructions from all parties, recording the documents, and providing a paper trail of the entire process. They provide the new owner and lender with policies that give peace of mind for the most important purchase in many buyers' lives.

In California, the real estate agent listing the house is typically the one who contacts the title company, although the buyer or lender may take the first step on occasion. Sometimes the title company is contacted before there is a buyer and the real property is just being listed. Obtaining a Preliminary Title Report (PTR) early is useful for two reasons. First, the PTR will reveal any title problems or defects early in the process so the parties can work towards resolution of the issues. Second, it can facilitate an expedited closing as the search process of checking the property and owners has been completed.

A title company does a search to make sure the property is owned by the party who claims to be the owner, and that no other party can assert a claim of ownership. The search process is performed for the following real property transactions including sales, refinances, second mortgages, home equity loans, construction, and foreclosure. The title company will search all property records to confirm the history of ownership. It will search for any financial claims, e.g. liens or deeds of trust against the property.

What are some of the issues that may arise in a title search?

LIENS: Liens can pop up unbeknownst to the owners. A lien is a legal hold or claim on property as security for a debt or charge. Common lien examples are: unpaid city/county/state taxes; child or spousal support; or equity judgments created through divorce proceedings and abstracts of judgments. If real property is being sold from the estate of a deceased person, or through a bankruptcy, there are usually additional legal requirements for the sale to be completed.

CLERICAL MISTAKES: Clerical mistakes, known as Scrivener's Errors (a mistake by the preparer of a document), can also be found and the requirements needed to clear title may be made by the title company.

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FRAUD AND FORGERY: A search process is also the time that fraud and forgeries are most likely detected since close attention is given to the documents recorded that pertain to the property and owners. If documents appear to be irregular, fraudulent or forged, it is discovered in the title search.

Once the title is clear and ownership confirmed, the title company will organize the closing. Once closed, it will issue title insurance to the new owner(s) and lender(s). The title policy will protect the insured against any claims against the property pursuant to the coverage of the policy. Unlike auto insurance which is strictly required to operate a vehicle, title insurance is not mandatory, however the requirement for title insurance is built into most sales contracts and almost all lenders require title insurance to cover their interest in the property. For the buyer to have protection, they need an owner's policy which assures the owner that they are purchasing property from the party that has the authority to sell it and that there aren't any issues other than what has been disclosed that would challenge or diminish their ownership and enjoyment of their new property. Protection for the lender is provided through the Lender's Policy. The loan policy is not a protection for the owners, just the lender.

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