



## Title Insurance - What is it? Do I Need It?

Insurance for your home or auto provides protection against future events such as fires, tornadoes, hail damage, and collisions. Title insurance provides protection from past events concerning ownership of property.

When you buy property (land or land with a building such as a home), the seller transfers the title to the property to you. Title to property means legal ownership of the property. Some problems with the title could prevent the seller from transferring the property title to a buyer or prevent a lender from issuing a mortgage loan.

Title insurance helps to make sure the seller can transfer the title to you. It also may help protect you if a problem with the title comes up after you buy or refinance property. Title insurance doesn't guarantee there are **no** problems with a title. But it does guarantee that there are no problems with the title that would prevent a sale or refinance of the property.

If you borrow money to buy a property or if you refinance your mortgage, you have to buy a loan title policy (also known as a lender's title policy) because the lender requires it. You pay the premium once for each new loan policy. The policy protects the lender's financial interest in your property and stays active as long as the mortgage loan exists.

As part of the real estate contract between the buyer and seller, there is a negotiation between the parties as to who will pay the premium for an owner's title policy. Customarily, but not always, the seller will pay the premium to assure title is able to transfer to the buyer.

You **do not** have to buy an owner's title policy when you purchase a property. This policy gives you protection above the protection given to the lender by the loan title policy. The owner's title policy keeps protecting you for as long as you own the property.

Premium discounts may be available to lower your premium. The most common premium discount is a refinance or reissue discount. Ask your title agent or title insurer about discounts.

In Colorado, title insurers may charge different premium rates; [shop to find the lowest premium](#).

The premium you pay for title insurance in Colorado covers the search and examination as well as the title policy. There should not be a separate charge for title search or examination.

While your lender may require you to buy a loan title policy, *you or the seller*, whoever is paying for an owner's policy, has the right to choose the title agent and title insurance company. If your real estate agent, attorney, lender, home builder or other real estate professional tells you that you are required to use a particular title agent or title insurer, that is **not true**. If the statement is from a real estate agent, you should report this incident to the Colorado Division of Insurance by filing a complaint.

With title insurance, you get a title search, title commitment, and title insurance policy.

The title agent or title insurance company completes a [title search](#) of public records for any problems with the title, such as someone other than the seller having a legal right to the property. The [title commitment](#) is the insurance company's promise to issue a title insurance policy under certain conditions. The [title insurance policy](#) is the company's promise to fix some problems missed during the title search. If the company cannot fix the title problems after you buy the property, they will pay your lender or you up to the policy limit. Remember, a title insurance policy does not guarantee there are **no** problems with a title. The policy ensures that there are no title problems preventing a sale or refinance of the property in the future.

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### What is title insurance?

When you buy property (land or land with a building such as a home), the seller transfers the title to the property to you. **Title** to property means legal ownership of the property. Some problems with the title could prevent the seller from transferring the property title to a buyer or prevent a lender from issuing a mortgage loan.

**Title insurance** helps to make sure the seller can transfer a title to you. It also may help protect you if a problem with the title comes up after you buy or refinance a property. Title insurance does not guarantee there are no problems with a title. However, it does guarantee there are no problems with the title that would prevent a sale or refinance of a property.

The **title insurance policy** is the title insurance company's promise to try to fix some problems missed during the title search or to pay your lender or you if the title problems can't be fixed.

If you borrow money to buy property or if you refinance your mortgage, you have to buy a **loan title policy** because the lender requires it. You pay the premium once for each new **loan title policy** (also known as a **lender's title policy**). This loan policy protects the lender. The loan policy stays in force as long as the mortgage loan exists.

You do not have to buy an **owner's title policy** when you buy a property. This policy gives you protection above the protection of the loan title policy. An owner's policy, if purchased at the time you buy a property, stays in force—keeps protecting you—for as long as you own the property.

Premium **discounts** may be available to lower your premium. The most common premium discount is a **refinance or reissue discount**. Ask your title agent or title insurer about discounts.

### Does my homeowners insurance cover title problems?

No.

### What's the difference between a clean title and a marketable title?

Clean or clear title means ownership of the property with **no** other legal claims on the property. Title insurance doesn't guarantee there are **no** legal claims on the property. Instead, title insurance guarantees a marketable title—one that has no legal claims on the property that would prevent the seller from transferring the property title or a lender from financing (or refinancing) the property.

## What is a title search? Why is it important?

The path to title insurance includes a title search, title commitment, and title insurance policy. During a *title search*, the title agent or title insurance company searches public records for any problems with the title. Most title problems found in a search must be fixed before an insurer will issue a title insurance policy. Some things that can create a title problem are:

- Someone other than the seller (for a purchase) or you (for a refinance) has a legal right to the property. An example might be a building contractor who was not paid and has a legal hold on the property until paid what is owed ([mechanic's lien](#));
- A tax lien for unpaid taxes; and,
- A mistake in the land records that could mean that land you thought was part of the property is not.

A title search is important because certain problems with a title could mean:

- a seller couldn't legally transfer the title;
- a lender wouldn't lend you money to buy the property; and,
- you don't want title problems after you buy the property.

In Colorado, the title search is included in the title insurance premium. See "[What does the title insurance premium cover in Colorado?](#)"

## What is a title commitment? Why is it important?

Once a title search is finished, you will get a title commitment. The *title commitment* is the insurance company's promise to issue a title insurance policy under certain conditions. This document is the insurer's offer to write a policy upon payment of the premium. The commitment lists possible problems with the title—problems that title insurance will not cover. These problems may need to be fixed before the lender will lend you money to buy the property. One such problem is a *mechanic's lien*. An example of a mechanic's lien would be if the seller did not pay a contractor who made renovations to the property, and the contractor put a legal hold—a mechanic's lien—on the property until payment is made.

The title commitment also lists problems the title insurance will not cover. For example, if property does not have access to a street. The title commitment would show the title insurance policy does not cover problems related to street access.

You can (and should) review the title commitment before you buy a title insurance policy. A title commitment is important. It tells you what was found in the title

search as well as what the title insurance policy will (and will not) cover. If you have any questions about the *title commitment*, you may want to consult an attorney.

### What if a title search finds a problem with a title?

A title search may find problems with the title. These problems may make it impossible for the seller to transfer the title to you. Or, a lender will not lend you money to buy the property. A title agent can fix most of these title problems. This is called *curing the title* or *clearing the title*. Often, the title problem is an unpaid bill to a contractor or a government office. The title agent will work with the seller (in a property purchase) or you (in a property refinance) to get the bill paid and *clearing the title*.

Sometimes a title problem cannot be fixed. The title insurance company will not issue a title policy or will only issue a title policy that does not cover that specific problem. A [title exception](#) is an issue a standard title insurance policy does not cover. An example is an easement, such as a utility company's right to use a part of your property for a specific purpose.

### Are there title insurance policies that cover title problems that can't be fixed?

Yes. *Extended coverage policies*—sometimes called the homeowner's title insurance policy—will cover title problems that can't be fixed before the purchase or refinance. For example, the extended coverage policy will cover some title problems that happen after the policy is issued.

### What is a title exception?

A *title exception* is something a standard title insurance policy does not cover. Title exceptions are typically for problems not recorded (or documented) in the public records searched by the title agent or insurance company. Examples include easements, boundary disputes, and mechanic's liens or taxes owed but not shown in the public record. When you get the *title commitment*, ask your title agent if there are title exceptions to understand what the policy will not cover. If you have any questions concerning exceptions or any other matter identified in the *title commitment*, you may want to consult an attorney.

### Can the title agent or title insurer remove title exceptions?

A title search may find problems with the title that make it impossible for the seller to transfer the title to you or that make a lender unwilling to write a mortgage for the property. A title agent can fix most title problems. This is called *curing the title* or *clearing the title*. Often, the title problem is an unpaid bill to a contractor or a

government office. The title agent will work with the seller (in a property purchase) or you (in a property refinance) to get the bill paid.

**Are there title insurance policies that cover problems that happen *after* I buy or refinance a property? What is an extended coverage title policy? What's an endorsement on a title insurance policy?**

All title insurance policies cover problems with a title that happened *before* you bought or refinanced the property. *However, there are policies that will cover some problems that happen after you buy or refinance a property.*

Ask about an *extended coverage* policy. An extended coverage title policy can cover problems a standard title policy does not cover. For example, suppose your local government changes the laws that define how you can use your property (often called *permissible uses*) *after* you buy it. An extended coverage policy could cover that problem when most title insurance policies would not. An extended coverage policy lists the coverages it adds to the standard title insurance policy.

Also, you can ask about *endorsements*. Each endorsement on your title insurance policy adds specific coverage to the standard title insurance policy. An example of an endorsement might be one that would cover you if you learn that your home is actually across the property line and you are forced to remove that portion of the building.

You will almost always see endorsements on a loan title insurance policy. Ask what they cover, why they were added, how much they add to the cost of the policy, and, if they are required to be included in the policy. You may have no choice but to pay for the endorsements on a loan policy.

**What happens if I file a title insurance claim?**

Title insurance guarantees there are no problems with the title that would keep you from transferring title or financing (or refinancing) a mortgage. If you have title insurance and a problem with the title comes up after you buy or refinance the property, you can file a claim. After you file a claim, the title insurer will try to fix the problem (if the policy covers the problem). However, title insurers do not guarantee they can fix your title; sometimes titles cannot be fixed. If the title insurer cannot fix the problem, it will pay the lender (if you have a mortgage) and/or pay you (if you have an owner's policy) up to the amount of the loss. The claim payment will not be more than the amount of coverage in the policy.

**Can I sue the title insurer for not paying a claim? What is mandatory arbitration?**

If there is a problem with your title and you file a claim, the title insurance company may not pay your claim. For example, an insurer might not pay a claim because the insurer determines the policy does not cover the problem. You may not agree with the title insurance company's decision to deny the claim.

You could ask the Colorado Division of Insurance for help. But, if all attempts to get your claim paid fail, you may be able to go to court to enforce your rights under the title insurance policy *unless your policy has a mandatory arbitration provision*.

Some title insurance policies replace your right to go to court to settle a dispute with the title insurer with a requirement to use mandatory binding arbitration. Mandatory binding arbitration means that any dispute must go to arbitration, and the decision of the arbitrator is final. Going to arbitration is very different from going to court. Typically, the insurance company picks the arbitrator and you cannot appeal the ruling of the arbitrator.

*You may reject the mandatory arbitration provision in a title insurance policy, but may have to pay a higher premium.*

What's a loan title insurance policy? What's a lender's title insurance policy? Do I have to buy it? Do I have to buy title insurance if I have a mortgage or refinance a mortgage? Why do I have to buy title insurance?

A *loan policy* (sometimes called a *lender's policy*) is a title insurance policy that protects the lender's financial interest in the property. The amount of coverage required is the same as the amount of the mortgage (the amount you borrowed to buy or refinance the property).

Lenders probably will require you to buy a loan policy when you apply for a mortgage to buy a property or refinance a property you already own.

*Even though the lender requires you to buy a loan policy and the policy protects the lender, you pay for the policy.* You only pay for the policy once and the lender is covered until the mortgage is paid. The amount of coverage goes down as you pay the mortgage.

You have the right to shop for and choose the title agent and title insurer for a loan policy. You **do not** have to use the title agent or insurer your real estate agent, mortgage lender, builder, attorney, or other real estate professional recommends for a loan policy.

How does a loan title insurance policy protect me?



A *loan title insurance policy* protects *the lender—not you*. But your lender probably will not give you a mortgage to buy the property unless you buy a loan title insurance policy for them.

What is an owner's title insurance policy? Do I have to buy it?

An *owner's title insurance policy* protects *you* after you buy the property for prior problems not identified during the *title search*. The coverage is for the full price you paid for the property plus legal costs.

*You don't have to buy an owner's title policy, but it can protect you.* Customarily, as part of the negotiated real estate contract between the buyer and seller, the seller pays the premium for an [owner's title policy](#) to assure title to the property is able to transfer to the buyer.

Title insurance policies and coverages vary; ask questions when you shop.

Some important things to know about owner's title insurance:

- You, or the seller, pay for it only once. You are covered as long as you own your property for title problems that happened before you bought or refinanced the property. If a problem the policy covers comes up after you sell the property, you may have coverage for that too.
- If you have a policy, keep it in a safe place, you never know when you may need it.
- The coverage in an owner's title policy does not increase as the value of your property increases over time—unless you get an [endorsement](#) to cover that increase in value.
- Defending your title can be expensive if there is a problem. If your owner's title policy covers the problem, the policy will cover those legal defense costs.
- You have the right to shop for and choose the title agent and insurer you want if you are paying the premium. You do not have to use the title agent or insurer your real estate agent, mortgage lender, builder, attorney, or other real estate professional recommends.

Why do I need an owner's title policy if I have a loan title policy?

An *owner's title insurance policy* protects *you* after you buy the property for prior problems not identified during the *title search*. The coverage is for the full price you paid for the property plus legal costs.

A *loan title policy* protects the lender, not you. You probably cannot get financing for your property unless you buy a loan title insurance policy for the lender.

**Are there different types of owner's title policies? What are the differences, and what do they cost?**

Yes. There is a standard owner's title policy and an [extended coverage](#) owner's title policy, often called a homeowner's title policy. The extended coverage owner's title policy gives you more protection, including coverage for some problems that happen after the policy is issued. In addition, the coverage amounts increase over time with inflation in an extended coverage owner's title policy.

**What should I watch for when I shop for title insurance? What is an affiliated business arrangement? Why am I getting a notice about an affiliated business arrangement?**

A real estate agent, lender or other real estate professional may recommend that you use a particular title agent or title insurance company for title insurance settlement and closing services. Or, they may assume that you will use a particular company without asking you. Both are called a *referral*.

Professionals may make a referral based on good service or lower costs in the past. Or, they may make a referral because they have a formal relationship with the title insurance company or agent. If the professional will make money for the referral because of a formal relationship, this is called an *"affiliated business arrangement" or "AfBA."* In that case, the professional who made the referral is required to tell you about the relationship. The law requires that *you should get a separate written notice called a disclosure about the relationship.*

*Remember, whoever pays for the title insurance is allowed to choose where and from whom to buy the insurance.*

Ask questions if a professional who recommends a particular title agent or title insurer makes statements such as these if you tell them that you want to find your own title insurance agent or company:

"If you choose another title agent, your closing may be delayed."

"Everyone charges the same price."

"We'll give you a discount on [something else] but only if you use our title agent."

If the statement is from a real estate agent, you should report this incident to the Colorado Division of Insurance by filing a complaint.

**Do all title insurance agents and companies charge the same premium?**

*No.* In Colorado, title insurers can compete on price. You should shop around to compare title insurance premiums. Be sure to ask what title and closing activities

([link to below](#)) the title insurance premium covers and does not cover. Choose the agent and company that will provide you with the best price and service to meet your needs.

### Are there discounts for title insurance?

Yes. Ask about discounts that might reduce the title insurance premium. For example, you may get a discount if you refinance or sell your property within a few years of a recent title search. Ask your title insurance agent about a *reissue or refinance discount*. Also, if you buy a loan policy *and* an owner's policy at the same time, expect a discount on one of the policies. Ask how much the discount will be.

### How many times do I have to pay for title insurance?

There is only one [premium](#) for the lifetime of an [owner's title policy](#) that protects you. Customarily, as part of the negotiated real estate contract between the buyer and seller, the seller pays the premium for an [owner's title policy](#) to assure title is able to transfer to the buyer. Each time you refinance the property, you will pay a premium for a new loan title policy.

### What does it mean if the title insurance agent also provides settlement (or closing) services?

Settlement (or closing) services include preparing documents related to buying/selling or refinancing and arranging for and witnessing when documents are signed.

Settlement (or closing) services fees are **not** included in the title insurance premium.

Some settlement (or closing) services fees are:

- Escrow fee - accept, hold and pay money related to the closing;
- Document preparation fee - draft legal documents;
- Overnight fee - send documents to/from buyers/borrowers/sellers as well as other involved parties who are not local, such as to pay off mortgages and send loan documents back to the lender; and,
- Recording and handling fee - organize, send and track documents to the public records recording office.

*Remember, as the buyer, you have the right to shop around for all of these services since these fees will be paid by you.*

### What does the title insurance premium cover in Colorado?

The services included in the title insurance premium are different in each state. The services that a title insurance premium covers in Colorado are, generally:

- [Title Search](#) - Searching for information about who has the title to the property;
- *Title Examination* - Looking at (*examining*) the title information for problems;
- [Title commitment](#) - Company's promise to issue a title insurance policy under certain conditions; and,
- [Title insurance policy](#) - Company's promise to fix some problems missed during the title search or to pay your lender or you if the title problems cannot be fixed.

In Colorado, a title agent, title insurer, attorney, or other professional may charge a separate fee for endorsements to a title insurance policy, legal services rendered by an attorney, as well as closing and settlement fees for services provided by a title agent.

**Can I choose the title agent and title insurer, or does the lender choose?**

Whoever pays for the insurance, either you or the seller, is allowed to choose where and from whom to buy the insurance. You have that right to choose even for a loan policy that protects the lender.

**How do I shop for title insurance? Where do I find a title agent or title insurer?**

- Use online shopping tools to help you compare companies.
- Ask someone you trust, such as a friend or relative, with recent home buying or refinancing experience.
- Search the Internet for "title insurance" or "title agent," and add your city or state.
- Ask your real estate agent or attorney for the names of title agents. Also ask if they will make money to recommend a particular title agent or title insurer.
- Colorado has a trade association of title agents and title insurers - Land Title Association of Colorado (LTAC) [www.ltac.org](http://www.ltac.org)
- Trade associations are not government agencies. Remember, not all title agents and title insurers belong to them.

**Can I choose the title agent and title insurer for a loan policy, or does the lender choose?**

Yes, you choose if you are not buying an [owner's title policy](#). While your lender may require you to buy a loan title policy, *you or the seller*, whoever is paying for an owner's policy, has the right to choose the title agent and title insurance company.

**How can I learn about any consumer complaints or regulator actions against a title insurance agent or company for unfair or illegal practices? How can I file a complaint against a title insurance agent or company?**

The Colorado Division of Insurance has information about complaints. Visit our website at <https://www.colorado.gov/pacific/dora/node/126031>.

You can search the website for enforcement actions concerning agents and market conduct examinations of insurance company's compliance with state laws.

You can file a complaint against a title insurer or agent at <https://www.colorado.gov/pacific/dora/consumer-complaint-portal>.

**How can I learn more about title insurance?**

The Division of Insurance regulates title agents and insurers doing business in Colorado, visit our website at <https://www.colorado.gov/pacific/dora/node/97926>.

You can learn more about the entire process of buying a home and getting a mortgage from the "Know Before You Owe" tool from the U.S. Consumer Financial Protection Bureau (CFPB) at [www.consumerfinance.gov/know-before-you-owe/](http://www.consumerfinance.gov/know-before-you-owe/). You can learn more about title insurance at [www.consumerfinance.gov/askcfpb/164/what-is-owners-title-insurance.html](http://www.consumerfinance.gov/askcfpb/164/what-is-owners-title-insurance.html).

In addition, you can learn more from title agents, title insurers and their trade associations. The American Land Title Association (ALTA) has information for consumers at [www.alta.org/consumer/index.cfm](http://www.alta.org/consumer/index.cfm). ATLA may have a list of title insurance agents and insurers near you. Remember, ALTA is not a government agency.

**What if I have a complaint about title insurance?**

If you believe you have been treated unfairly, contact the Division of Insurance at <https://www.colorado.gov/pacific/dora/consumer-complaint-portal> to file a complaint.