



Understanding Title Insurance: A Lender's Guide to the Title Commitment

Prepared by Black Hills Title - Your Partner in Secure Real Estate Transactions

What is Title Insurance?

TITLE is the ownership right to a property. TITLE INSURANCE protects those property rights.



What is it?

THE TITLE COMMITMENT is the initial search of the property showcasing what the underwriter will be insuring and what will be excepted out of the policy. The commitment includes items like the legal description, the current vesting and mortgages of record.

Title insurance is a risk elimination product. So the majority of what the consumer pays for is to cover UPFRONT risk elimination expense. (all the curative work done before closing) This is different from most other insurance products and is often the most misunderstood aspect. Typically, other types of insurance assume a particular risk and provide financial indemnity in the event the risk occurs (i.e. a house fire). Title insurance, on the other hand, emphasizes loss prevention by reducing risk caused by title problems arising from past events.

The results of the initial process of searching, chaining and examining title are sent to all parties involved in the real estate transaction in the form of a title commitment. This is the first document issued by the title company - it sets out the findings as to the status of the title and states the terms on which the insurer will issue the final policy.

The title commitment serves as a critical tool for both the buyer and the lender, ensuring transparency and clarity about the property's title status before proceeding with the transaction. It acts as a preliminary report that highlights potential issues or requirements that need addressing prior to the issuance of the final title insurance policy. This document is divided into several sections, each providing essential information to safeguard the interests of all parties involved.

3 Key Components of the Title Commitment

Serving as the agreement between the title company and the insured party (the buyer), it is crucial to thoroughly review the title commitment schedules outlined below.

- Schedule A:** This section contains essential details about the transaction, including the effective date of the commitment, the proposed insured parties (like the buyer and lender), the amount of insurance coverage, the identity of the current vested legal owner, and the legal description of the property.
- Schedule B-I (Requirements):** This section lists the conditions and requirements that must be satisfied before the title insurance policy can be issued. It may include items such as payment of outstanding taxes, resolution of any liens or encumbrances, and recording of a deed and/or mortgage.
- Schedule B-II (Exceptions):** This section outlines the exceptions to coverage, which are matters that the title insurance policy will not cover. These can include easements, restrictive covenants, or other encumbrances that are recorded in public records and affect the property.

Lender Checklist for Title Commitment Review

- Does the legal description shown on Schedule A match what will be shown on the mortgage?
- Do the borrowers names shown on the mortgage match the names shown on Schedule A?
- Is the title commitment showing the correct loan amount and requested endorsements?
- Have the requirements shown on Schedule B-I been satisfied?

How Title Insurance Protects Lenders

Protects Against Title Defects

Safeguards against issues like liens, forgery, or undisclosed heirs that may arise after closing



Insures Lender's Lien Priority

Confirms the lender's lien has priority over other claims, insuring their investment is secure.



Covers Legal Defense Costs

May cover legal fees if a title dispute arises and goes to court.



Offers Financial Security

May provide monetary compensation in case of title related losses.



Title Endorsements

Commonly Requested Endorsements and Their Brief Explanations

ALTA 5 – Planned Unit Development (PUD)

This endorsement insures against loss or damage sustained by the Insured by reason of: present violations of any restrictive covenants referred to in Schedule B that restrict the use of the Land or the forfeiture or reversion of Title by reason of any provision contained in the restrictive covenants; the enforced removal of any existing structure on the Land (other than a boundary wall or fence) because it encroaches onto adjoining land or onto any easements; and the failure of the Title by reason of a right of first refusal to purchase the Land that was exercised or could have been exercised at Date of Policy.

ALTA 6 Adjustable Rate Mortgage (ARM)

This endorsement insures against the invalidity, unenforceability, or loss of priority of the lien of the insured mortgage by reason of provisions for changes in the rate of interest.

ALTA 7 Manufactured Housing Unit

This endorsement is issued in conjunction with either a Loan or Owner's Policy to insure a manufactured housing unit located on the land. Manufactured housing includes pre-fab homes, mobile homes, modular homes, and other manufactured housing permanently attached to the land as a fixture.

ALTA 8.1 Environmental Protection Lien

This endorsement is only issued in conjunction with a Loan Policy covering primarily residential property. Section (a) insures that there are no environmental protection liens filed in the public records which have priority over the lien of the insured mortgage unless excepted in Schedule B. Section (b) insures that there are no state statutes which provide that liens filed after the Date of Policy would have priority over the lien of the insured mortgage, except for those specifically excepted under Section (b).

ALTA 9 Comprehensive

This endorsement to the Loan policy insures against violations of restrictions, encroachments over easements, building lines or property lines, and damage by reason of mineral or other subsurface substance development. It may not be issued on an Owner's Policy.

ALTA 14 Future Advance (ALTA 14.3 for Reverse Mortgage)

This endorsement insures against loss or damage sustained by the Insured by reason of: (1) invalidity or unenforceability of the insured mortgage as security for Advances; (2) lack of priority of the lien of the insured mortgage as security for Advances; and (3) invalidity or unenforceability of the mortgage because of Re-Advances and repayments, lack of outstanding debt before an Advance, and failure to comply with legal requirements for Advances; (4) invalidity or unenforceability of the insured mortgage because of adjustment of interest or addition of interest to principal, and (5) loss of priority of the insured mortgage caused by adjustment of interest rates and addition of interest to principal.

ALTA 22 Location

This endorsement to a Loan or Owner's Policy insures that a designated improvement is located on the Land and the improvement is known as a particular street address.

An endorsement may be attached to a commitment or policy to delete exceptions or coverages or to alter or modify other portions of the policy.

Disclaimer: This document is for informational purposes only. It does not constitute legal advice, and readers are encouraged to consult a qualified professional for specific guidance related to their individual circumstances. The information provided herein aims to offer a general overview of title insurance, the title commitment and commonly requested endorsements, helping readers gain a better understanding of their functions and implications.

Have specific questions? Call any Black Hills Title location to speak with a licensed title examiner or closing agent.

Find us here  www.bhtitle.com

