

# Virginia State Bar Informational Brochures

## A Title Insurance Guide for the Homebuyer

*A Public Information Brochure from  
the Virginia State Bar Real Property Section*

### **Why should I purchase an owner's title insurance policy in connection with the purchase of my home?**

An owner's title insurance policy could save you money and time if a title defect is discovered after you purchase your home.

Title means ownership in property. When you purchase your home, you are purchasing the land subject to any matters that have occurred in the chain of ownership at any time in the past. Even the most meticulous title search may not uncover every title defect. An owner's title insurance policy provides lasting peace of mind because it is more than an opinion of title — it provides for compensation for loss caused by title defects overlooked by a title examiner or uncovered after your purchase.

### **When will I use an owner's title insurance policy?**

If a title defect is uncovered after your purchase, your owner's title insurance policy would cover the cost to correct the defect if you are required to defend your title. If you do not have an owner's title insurance policy and a title defect is discovered that threatens your ownership, then you could be required to pay to correct the problem.

Title defects escape detection for many reasons. A defect may have arisen outside of the time period examined during the title search. A document that impacts title may have been improperly indexed or never filed at all. Or the title examiner may have overlooked a key document or made some other error. Your owner's title insurance policy covers loss related to errors made in the title examination as well as other hidden risks.

An owner's title insurance policy may prove especially useful when you sell the property you are now purchasing. Title insurers frequently agree to rely on existing policies to facilitate new transactions. If a previously overlooked or undiscovered title defect threatens to delay or derail your future sale, your owner's title insurance policy may allow your purchaser to obtain their own title insurance policy without requiring you to resolve the defect. If you purchase a title insurance policy now, then you will already have taken a huge step toward a quick resolution of such a future obstacle.

### **What kinds of title defects would an owner's title insurance policy cover?**

An owner's title insurance policy protects you against matters that affect the ownership of your land. It ensures that you **own** the land, that there are **no undisclosed liens** on the land, that you are able to **access** your land from a public right of way, and that you have a **marketable** title. Specific defects that an owner's title insurance policy would commonly cover include:

- fraud perpetrated by someone posing as the owner of the property,
- wills not properly probated and/or executors not properly qualified to act,
- incorrect indexing in the land records by the Clerk of Court,
- missing interests of parties who never properly conveyed out in the chain of title,
- deeds that have been executed but never recorded in the land records,
- unreleased liens on title not disclosed in the title policy, and
- incorrect legal descriptions.

Your owner's title insurance policy will be customized to reflect the unique history of the property you are purchasing. You should talk to your attorney, settlement agent, or title insurance agent if you have specific questions or concerns — especially if you are worried about coverage for a known or suspected title defect. Because title insurance is so closely related to ownership rights, any concern regarding title insurance should be resolved before your home purchase is completed.

### **Why do I need an owner's policy if the lender is requiring a loan policy? Why is the owner's policy sometimes described as optional?**

Ownership of land is so important that land title records are maintained by the Clerk of the local Circuit Court. But no one is required to review the Clerk's records to sell real property or to prepare a deed. This is where title insurance comes in. Title insurers will not insure without obtaining a report from someone who reviewed the Clerk's records. Thus, any title insurance policy

— lender’s or owner’s — provides peace of mind because, if title insurance is available, you know someone other than the seller believes the seller has the right to convey the seller’s title to you.

But the lender’s title insurance policy only insures the lender as to the enforceability and priority of its lien on your property. It does not insure what you, as owner, have invested in your purchase.

When applied to owner’s title insurance, the word “optional” can be tragically misleading. The Consumer Financial Protection Bureau requires that adjective. While no one will compel you to purchase an owner’s title insurance policy, if you finance the purchase of your home, your lender will probably decline to offer you a loan if you do not purchase a lender’s policy. If a previously undetected title defect is discovered after your purchase, a lender’s policy will not pay to correct the problem for you. The lender’s policy protects the lender against title defects which would prevent the lender from selling your home if you default on your loan. Your owner’s title insurance policy is the only mechanism that will pay to preserve your interest or compensate you for loss caused by a defect in your title. You cannot individually benefit from the provisions of a title insurance policy or the work that stands behind it unless it is your policy.

### **How much does an owner’s title insurance policy cost?**

The premium paid for an owner’s title insurance policy is based upon the amount of the purchase price.

In some circumstances, title insurers may offer a choice between standard and enhanced coverage. Enhanced coverage protects against additional potential defects not covered under the standard policy. For example, one of the most significant additional coverages insures against fraudulent deeds that may be executed and recorded after you purchase your property. Another important benefit of the enhanced policy is the inflation rider, which automatically increases coverage 10 percent per year for the first five years, up to 150 percent of the original face value of your owner’s title insurance policy.

Many insurers also offer discounts when a lender’s title insurance policy and an owner’s title insurance policy are purchased together or if your seller has an owner’s title insurance policy. An exact quote and explanation of the coverage options available can be obtained from your attorney, settlement agent, or title agent.

Unlike other types of insurance, you only pay the premium for owner’s title insurance when you purchase your property. There are no renewals, no monthly or quarterly premiums, and no extensions required to maintain your insurance. An owner’s

title insurance premium is a one-time expense that provides a lifetime of coverage.

### **Major Considerations: Protecting Your Equity and Ownership**

Your owner’s title insurance policy will protect your interests while you own your home and, if you convey with a general warranty deed (as is customary), even after you sell. Its benefits not only protect you, but also, since most policies define the term “insured” to include you and your heirs or devisees, may extend beyond your life.

For most people, the purchase of a home is the biggest purchase made in a lifetime. Your purchase represents an important long-term investment and secures someplace to live. Owner’s title insurance uniquely protects both aspects of your purchase. While other insurance products protect you or your property against financial loss related to physical harm, your owner’s title insurance policy protects you from financial loss based on a failure of the chain of ownership of your property. Unless you can afford to defend against or absorb the loss of your home, title insurance should be considered an essential part of your home purchase.

#### **Public Information Brochures**

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