1-800-927-4357

www.insurance.ca.gov

TITLE Insurance

California Department of Insurance

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Dear California Consumer:

The California Department of Insurance (CDI) is the nation's leading consumer protection agency and your best resource for honest and impartial answers to insurance questions.

We have knowledgeable insurance professionals staffing our consumer hotline. My staff is available to help you get answers to insurance related questions, file a request for assistance, or report suspected insurance fraud.

Call 800-927-HELP (4357) or visit www.insurance.ca.gov to view all of our consumer information guides and insurance resources. These tools are available to consumers for free.

Thank you for giving us the opportunity to serve you.

Sincerely,

California Department of Insurance

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Introduction

The decision to purchase a home (or other real property) or refinance is probably the largest and most important financial decision you will make. You and your lender will want to make sure that title to the property is indeed yours and that, unknown to you, no one else has liens, claims, or encumbrances on your property. Title insurance guarantees you or your lender against losses from any defects in title that may exist in the public records at the time you purchase that property, and certain other risks described in the title insurance policy.

Possible title defects include:

- Errors in public records
- Unknown Liens
- Illegal Records
- Missing heirs
- Forgeries
- Undiscovered encumbrances
- Unknown easements
- Bounders/ Survey Dispute
- Undiscovered wills
- False impersonation

Before issuing a title insurance policy, title companies check for defects in your title by examining title plants (a database of property information) or public records including deeds, mortgages, wills, divorce decrees, court judgments, tax records, liens, encumbrances, bail bonds and maps. The title search determines who owns the property, what outstanding debts are against it, and the condition of the title. You should receive the results of this search, which describes the title of the property you are purchasing or refinancing and includes a preliminary title report or commitment.

Title companies also handle property closings and hold money in an escrow account until the purchase is complete.

What is Title Insurance?

Title insurance is a contractual obligation that protects against losses that occur when title to a property is not free and clear of defects (e.g. liens, encumbrances and defects that were unknown when the title policy was issued). Title insurance also guarantees loan priority. The terms of the policy define what risks are covered and what risks are excluded from coverage. The title insurer will reimburse you or your lender for losses that are covered, up to the face amount of the policy, and any related legal expenses. This protection is effective as of the issue date of the policy and covers defects arising prior to your ownership. Title companies issue policies on all types of real and personal property. Two types of title insurance policies for real property are the most common – a lender's policy and an owner's policy. *(See Page 14 for terms for Title Insurance)*

How Does Title Insurance Differ from Homeowner's Insurance?

Title insurance protects against losses due to defects in title. Before issuing a title insurance policy, title companies search and examine title plants or public records to identify liens, claims or encumbrances on the property, and alert you to possible title defects. The premium cost is a one-time fee payable at the time of escrow closing. In contrast, homeowner's insurance insures your house and contents and may provide coverage for losses due to fire or lightning, theft, vandalism, and personal liability claims brought against you, the policyholder. Homeowner's premiums are often billed monthly, quarterly or annually and installment payment options are often available. Title insurers in California are not permitted to provide homeowners insurance to you.

Save money by comparing rates

Under California law, every title insurer, underwritten title company (agent for one or more title insurance companies), and controlled escrow company must file its schedule of rates, forms, and rate modifications with the Insurance Commissioner. Since each company's loss experience and expenses differ, the rates will differ as well, so you can save money by comparing rates.

Competing title insurers and underwritten title companies may offer different costs or services for title insurance required. You may choose one company for escrow services and another for title insurance.

The person who pays for the policy selects the title insurance company. Be sure that any title company you select meets your standards and those of your lender. Ultimately, the choice of which title insurance company to select is yours. You may want to contact more than one title insurer or underwritten title company to compare costs and services. You can visit our website at www.insurance.ca.gov for a list of California Department of Insurance licensed title insurers and underwritten title companies.

Discounts

Title insurance companies may offer discounts for title insurance and escrow, such as:

- for first-time buyers,
- a "short-term rate" for a property that has been resold within the last five years,
- concurrent rate if the company is providing both the owner's and the lender's title insurance policies in the transaction,
- a subdivision bulk rate for homes being purchased in a new subdivision,
- refinancing discounts, and
- short-term financing rates and other discounts that may be available.

The availability of discounts, the amount of the discounts and the applicability of the discounts may vary by company. Be sure to ask the company or its title marketing representative what discounts are available.

In the case of a refinance, if you have an existing title insurance policy, you may be entitled to a reissue or refinance discount. Also, if the previous owner of the house can provide proof of an owner's policy, the new owner may be eligible for a reissue discount on an owner's and lender's policy (from NAIC and Entitledirect.com)

Who does Title Insurance protect?

Title insurance protects you and your lender if someone challenges the title to your property. This may be in the form of an alleged title defect, which was unknown to you at the time you purchased the property, but came to light at some future date during your ownership of the property. A title insurance policy contains provisions for the payment of losses which result from a covered claim. The title insurance policy also covers legal fees in defense of a claim against your property. Coverage can benefit the homeowner or the bank or mortgage company (lender).

Choice of Title Insurer

The choice of which title insurer to use belongs to the person who pays for the policy. Federal law, the Real Estate Settlement Procedures Act (RESPA) of 1974 (Public Law 93-533), prohibits the seller from requiring you to purchase title insurance from any particular company.

Please visit the Consumer Financial Protection Bureau internet site at www.cfpb.gov for additional information on RESPA and title insurance.

What does Title Insurance Cover?

Two basic types of title insurance policies are available to owners of real property in California: (1) a standard coverage policy and (2) an extended coverage policy.

A standard policy insures primarily against defects in title which are discoverable through an examination of the public record. This includes defects in title or recorded liens or encumbrances, such as unpaid taxes or assessments, and defects due to lack of access to an open street. A standard policy also covers an additional, limited number of risks that are not discoverable through a search of the title plant or public records.

The extended policy provides greater coverage than the standard policy. Generally, the extended policy provides the same coverage as the standard policy, but also insures against defects, liens, encumbrances, easements, and encroachments and conflicts in boundary lines that are not reflected in the public records. Since an extended policy covers many "off-record" defects in title, the insurer will typically require a survey of the property to be insured.

Since title insurance is required by your lender, the lender should specify the type of lenders policy required.

Endorsement Options

You may also purchase, at an additional cost, optional endorsements to cover risks that are not included in the standard or extended coverage title insurance policies. Endorsements are available to provide coverage against environmental protection liens, enforcement of covenants, conditions and restrictions, damage due to water and mineral development, accuracy of boundaries, and other potential risks. Endorsements may also add additional named insureds, such as your inter vivos trust (which some call a "living trust").

Be sure to discuss available optional endorsements with your title company or its title marketing representative. Certain endorsements are required by the lender and will be automatically ordered by the title or escrow company.

Who Should Purchase Title Insurance?

There are two types of policyholders of title insurance, and policies differ accordingly: (1) an owner's policy (standard and extended) and (2) a lender's policy. Lenders will require their own title insurance as a condition of your loan. A lender's policy insures that the lender's security interest in the property has priority over claims that others may have in your property. A lender's policy does not protect you. Similarly, the prior owner's policy does not protect you, either. If you want to protect yourself from claims by others against your new home, you will need an owner's policy. An owner's policy insures the buyer for as long as he or she owns the property. This protection is limited to the value of the property at the time of a claim. It is usually less expensive to purchase a lender's policy and owner's policy at the same time from the same title insurer. Contact your title insurer for additional information.

How Much Title Insurance Will I need?

The home buyer should insure the full purchase price of the property; the lender only requires title insurance to cover the amount of your loan.

Who Pays the Premium for the Title Policy?

In California, settlement practices vary from locality to locality.

The party that pays the title premium is a matter of local custom and practice and not set by law. Depending upon the region, the premium for a title insurance policy can be paid by the buyer or the seller or split between both parties. In Southern California, the seller customarily pays the premium for title insurance.

It has been the practice in Northern California that the buyer customarily pays the premium for title insurance, or occasionally the premium is split between buyer and seller. In almost every county, the buyer pays the lender's policy premium. The parties are free to negotiate a different allocation of fees. Your title company or escrow company can advise you as to who normally pays the premium in your area.

How is the Premium Determined and When is it Paid?

Title insurance premiums are based on the dollar amount of coverage provided. Every title insurance company is required to file its schedule of rates and forms with the Insurance Commissioner.

Premiums are paid only once, at the close of escrow. There are no continuing premiums like other types of insurance.

What is Escrow?

Escrow is a closing service which handles the funds and documents involved in the property transaction. Escrow enables the buyer and seller to transact business with each other through a neutralparty. The “escrow holder” typically receives purchase funds from the buyer for deposit in an escrow account, prepares the deed or other documents, pro-rates taxes, interest, and insurance according to the escrow instructions, secures release of any contingencies imposed in the escrow, records deeds as instructed, requests issuance of the title insurance policy, prepares final accounting statements for the parties, disburses funds as authorized by the escrow instructions, and closes escrow when all of the escrow instructions of buyer and seller have been carried out. Historically, the escrow process is handled differently in Northern and Southern California. In Northern California, title insurance companies tend to handle all title and escrow services in the same transaction. In Southern California, the title and escrow transactions are separate with escrow being provided by banks, escrow companies, or title companies. Practices and prices will vary from county to county, so be sure you understand your individual transaction. *(See Terms of Title Insurance on page 14 for a description of Escrow Sale fees or Escrow Loan Fees.)*

Important Tips

- Be sure to check to see that the title policy amount is correct. The Owner's policy amount should be the purchase price of the property. The Lender's policy amount should be for the amount of the loan.

- Check to see that the effective date given on the policy matches the actual closing date of the escrow.

- Verify that the policy describes all of the property and all of the interests being acquired.

- Discounts may be available for first time buyers and for others with special circumstances. Always ask your title company or its title marketing representative about available discounts.

- Concurrent rates may be available if the insurer is providing both an owner's and a lender's title insurance policy in the same transaction.

Unlawful Rebates and Commissions

An unlawful rebate occurs when a lender or real estate broker or home builder receives free or discounted services, property, or money in exchange for steering business to a title company. Such rebates act to inflate title insurance premium rates for all consumers. It is also unlawful if a title insurer, underwritten title company, or a controlled escrow company offers you a fee or charge that is less than the currently effective schedule for fees and charges filed with the California Department of Insurance (CDI). The filed schedule is used as a basis for comparison between companies. If a title insurer offers a rebate from the scheduled fees and charges, it results in a discriminatory practice, which is unfair to all consumers.

Like rebating, it is unlawful to pay a commission indirectly or directly to any person as a means of generating a referral or actual placement of title insurance. If either of these activities involves a real estate broker, you can report this activity to the Department of Consumer Affairs Bureau of Real Estate, and any other appropriate government agencies.

If you suspect that a title insurance company, escrow company or title insurer is offering unlawful rebates or commissions, you can report this suspected activity to the California Department of Insurance.

If you have a question, problem, or dispute with a title insurance company, contact the CDI for assistance.

Terms for Title Insurance

Ancillary Fees

These fees may not be included in the services listed above:

- Wire
- Courier
- Carrier
- Notary
- Government Taxes
- Reverse Mortgage
- Short Sale
- Real Estate Owned (REO)
- Outside signing service

Please visit the Consumer Financial Protection Bureau internet site at www.cfpb.gov for additional information on the Real Estate Settlement Procedures Act (RESPA) and disclosure requirements regarding these ancillary fees.

Escrow Loan Fee

The fee tied to the loan fee for a sale or purchase of a home. Some escrow companies require this fee. For a refinance, it is the fee paid for the escrow of a refinance transaction.

Escrow Sale Fee

The fee paid for the escrow process involved in a home purchase. It is not applicable to refinancing a home.

Foreclosure

If a homeowner can't afford the house, he may decide to relinquish ownership and give the house to the bank that holds the mortgage

Lender's Policy

When you refinance your home or take out a new mortgage, the lender seeks protection for its investment by requiring the purchase of a lender's title insurance policy to protect against losses resulting from claims made by others against your new home.

Owner's Policy

An owner's policy provides assurance that the title insurance company will stand behind the owner if a covered title problem arises after the home is purchased. It is issued in the amount of the real estate purchase.

Reverse Mortgage
A special type of home loan that lets you covert a portion of the equity in your home into cash. (source hud.gov)

Short Sale
A home being sold for less than the mortgage, with the lender agreeing to take the lesser amount to settle the loan.

Title Insurer
Title insurer means any company issuing title policies as insurer, guarantor or indemnitor. A title insurer must have a certificate of authority from the CDI to issue title insurance policies in California.

Title Lender's Policy Fee
The fee charged for a lender's title insurance policy that protects the lender's security interest in the property.

Title Marketing Representative
An individual employed by a title insurer, underwritten title company, or controlled escrow company whose primary duty is to market, offer, solicit, negotiate, or sell title insurance. Title marketing representatives must be registered with the CDI.

Title Owner's Policy Fee
The fee paid for the owner's title insurance policy that protects the buyer of the home; not applicable in a refinance.

Title Plant
A data base of organized data files with information on land and improved real properties compiled and used by title insurance companies to perform title searches.

Underwritten Title Company
Any corporation engaged in the business of preparing title searches, title examinations, title reports, certificates or abstracts of title upon the basis of which a title insurer writes title policies. An underwritten title company must be licensed by the CDI.

Frequently Asked Questions

The Home Equity Conversion Mortgage (HECM) is FHA's reverse mortgage program, which enables you to withdraw some of the equity in your home. The HECM is a safe plan that can give older Americans greater financial security. Many seniors use it to supplement Social Security, meet unexpected medical expenses, make home improvements and more. You can receive additional free information about reverse mortgages in general by contacting the National Council on Aging at (800) 510-0301. It is smart to know more about reverse mortgages, and decide if one is right for you!

1. What is a reverse mortgage?

A reverse mortgage is a special type of home loan that lets you convert a portion of the equity in your home into cash. The equity that you built up over years of making mortgage payments can be paid to you. However, unlike a traditional home equity loan or second mortgage, HECM borrowers do not have to repay the HECM loan until the borrowers no longer use the home as their principal residence or fail to meet the obligations of the mortgage. You can also use a HECM to purchase a primary residence if you are able to use cash on hand to pay the difference between the HECM proceeds and the sales price plus closing costs for the property you are purchasing.

2. Can I qualify for FHA's HECM reverse mortgage?

To be eligible for a FHA HECM, the FHA requires that you be a homeowner 62 years of age or older, own your home outright, or have a low mortgage balance that can be paid off at closing with proceeds from the reverse loan, have the financial resources to pay ongoing property charges including taxes and insurance, and you must live in the home. You are also required to receive consumer information free or at very low cost from a HECM counselor prior to obtaining the loan. You can find a HECM counselor online or by phoning (800) 569-4287.

3. Can I apply for a HECM even if I did not buy my present house with FHA mortgage insurance?

Yes. You may apply for a HECM regardless of whether or not you purchased your home with an FHA-insured mortgage.

4. What types of homes are eligible?

To be eligible for the FHA HECM, your home must be a single family home or a 2-4 unit home with one unit occupied by the borrower. HUD-approved condominiums and manufactured homes that meet FHA requirements are also eligible.

5. What are the differences between a reverse mortgage and a home equity loan?

With a second mortgage, or a home equity line of credit, borrowers must make monthly payments on the principal and interest. A reverse mortgage is different, because it pays you – there are no monthly principal and interest payments. With a reverse mortgage, you are required to pay real estate taxes, utilities, and hazard and flood insurance premiums.

6. Will we have an estate that we can leave to heirs?

When the home is sold or no longer used as a primary residence, the cash, interest, and other HECM finance charges must be repaid. All proceeds beyond the amount owed belong to your spouse or estate. This means any remaining equity can be transferred to heirs. No debt is passed along to the estate or heirs.

7. How much money can I get from my home?

The amount varies by borrower and depends on:

- Age of the youngest borrower or eligible non-borrowing spouse
- Current interest rate; and
- Lesser of appraised value or the HECM FHA mortgage limit of $625,500 or the sales price

If there is more than one borrower and no eligible non-borrowing spouse, the age of the youngest borrower is used to determine the amount you can borrow.

8. Should I use an estate planning service to find a reverse mortgage lender?

FHA does NOT recommend using any service that charges a fee for referring a borrower to an FHA-approved lender. You can locate a FHA-approved lender by searching online at www.hud.gov or by contacting a HECM counselor for a listing. Services rendered by HECM counselors are free or at a low cost. To locate a HECM counselor Search online or call (800) 569-4287 toll-free, for the name and location of a HUD-approved housing counseling agency near you.

9. What if I change my mind and no longer want the loan after I go to closing? How do I do this?

By law, you have three calendar days to change your mind and cancel the loan. This is called a three day right of rescission. The process of canceling the loan should be explained at loan closing. Be sure to ask the lender for instructions on this process. Mortgage lenders differ in the process of canceling a loan. You should ask for the names of the appropriate people, phone numbers, fax numbers, addresses, or written instructions on whatever process the company has in place. In most cases, the right of rescission will not be applicable to HECM for purchase transactions.

10. How do I receive my payments?

For adjustable interest rate mortgages, you can select one of the following payment plans:

- Tenure- equal monthly payments as long as at least one borrower lives and continues to occupy the property as a principal residence.

- Term- equal monthly payments for a fixed period of months selected.

- Line of Credit- unscheduled payments or in installments, at times and in an amount of your choosing until the line of credit is exhausted.

- Modified Tenure- combination of line of credit and scheduled monthly payments for as long as you remain in the home.

- Modified Term- combination of line of credit plus monthly payments for a fixed period of months selected by the borrower.

For fixed interest rate mortgages, you will receive the Single Disbursement Lump Sum payment plan.

Single Disbursement Lump Sum - a single lump sum disbursement at mortgage closing.

Government Resources

California Bureau of Real Estate
1651 Exposition Blvd.
Sacramento, CA 95815
(877)373-4542
Check License & Information Line (877) 373-4542
Web site: www.dre.ca.gov
Contact regarding complaints against real estate agents

California Department of Business Oversight
1515 K Street, Suite 200,
Sacramento, CA 95814-4052
(916) 327-7585
(866) 275-2677
Web site: www.dbo.ca.gov
Contact regarding complaints against escrow companies only

California Contractors State License Board
9821 Business Park Drive
Sacramento, CA 95827
(800) 321-2752
Web site: www.cslb.ca.gov
Contact for complaints against home builder/contractors

Consumer Financial Protection Bureau
P.O. Box 4503
Iowa City, Iowa 52244
(855) 411-2372
Web site: www.cfpb.gov
Contact for complaints regarding consumer products provided by financial institutions.

Office of the Comptroller of the Currency
Customer Assistance Group
400 7th Street SW, Suite 3E-218
Washington, D.C. 20219
(800) 613-6743
Web site: www.occ.gov
Contact for consumer complaints regarding national banks

Resources

American Land Title Association

1800 M Street, NW, Suite 300 S
Washington, DC 20036-5828
(800) 787 - ALTA (2582)
Web site: www.alta.org

A national title industry trade association. Contact for consumer information regarding title and various real estate topics

California Land Title Association

1215 K Street, Suite 1816
Sacramento, CA 95184
(916) 444-2647
Web site: www.clta.org

A state title industry trade association. Contact for consumer information regarding title and various real estate topics

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Talk to the Department of Insurance

We are the state agency that regulates the insurance industry. We also work to protect the rights of insurance consumers. Contact the California Department of Insurance (CDI):

If you feel that a title insurer or title company has treated you unfairly, or

- If you have questions or concerns about insurance.
- If you want to order CDI brochures.
- If you want to file a request for assistance against your title company or insurance company.
- If you are having difficulty filing a claim with your insurance company.
- Check the license of an agent, broker, or insurance company.

Call:

Consumer Hotline at 1-800-927-4357

TTY 1-800-482-4833

Write:

California Department of Insurance

Rate Regulation Branch LA3

300 South Spring St., South Tower 12th Fl

Los Angeles, CA 90013

Visit us on the Web at:

www.insurance.ca.gov

Visit us in person:

300 South Spring St., South Tower 9th Floor

Los Angeles, CA 90013

8:00 AM to 5:00 PM, Monday through Friday, except holidays

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The California Department of Insurance

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1-800-927-4357 *(Consumer Hotline)*
1-800-482-4833 *(TTY)*
1-877- 401-9550 *(CEOB)*
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This brochure is a joint project of the staff of the California Department of Insurance.

Form 415 / Title Insurance
January 2019