

**WASHINGTON HOMEBUYER'S  
ASSOCIATION SEMINARS**

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## **WHAT IS TITLE INSURANCE?**

A title insurance policy is an insured statement about "ownership" of "interest" on a specific piece of real property. The basic policies insure the owner or others having an interest in the property against loss by encumbrance, defective title or adverse claims against the title.

A preliminary commitment for the title insurance is the first stage in the insuring process. It is issued after a thorough search of public records have revealed the condition of recorded title. This would include current money obligations against the property, easements and restrictions of record, covenants, conditions, and any other matter of record which may affect the right of ownership, possession and use of the property.

The second or final stage of the insuring process occurs when the conveying or security instrument (deed, contract, mortgage, deed of trust, or assignment) is executed, "delivered" and recorded, after which the final policy is issued.

## **HOW LONG DOES TITLE INSURANCE LAST?**

Title insurance lasts as long as the individual owns a specific piece of property. For example, at the time of purchase, the purchaser receives title insurance showing the status of that property. As long as the individual remains the owner of the property they are insured. When they sell the property, the title insurance policy is terminated. However, qualified coverage continues as long as the insured has liability, by reason of covenants of warranty, made by the insured with the transfer of the real property.

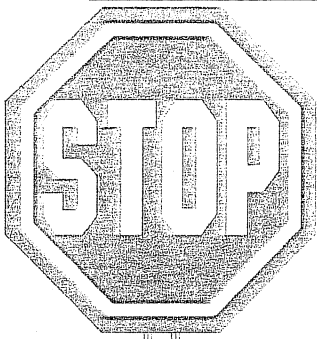
## **WHO PAYS FOR THE INSURANCE?**

By custom, not law, Owner's Standard Title Insurance Policy is paid for by the seller. Again, by custom, the purchaser pays for the Title Insurance Policy insuring the lending Institution providing the financing. Again, this is by custom, and the buyer and seller may agree between themselves as to who should bear the cost of title insurance.

The premium itself is determined by the amount and type of coverage to be provided. However, unlike other types of insurance, the premium is paid only once and is effective as long as the original policy holder, their heirs or devisees, retain title or "ownership". Title insurance rates are filed with the Washington State Insurance Commissioners office in Olympia, Washington. This office regulates the activities of title insurance companies, as well as other insurance companies operating in the State of Washington.



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# READ THAT TITLE INSURANCE COMMITMENT!

*The following items could be a potential problem at closing. If you have any concerns please contact your Account Manager for help.*

## DEED OF TRUST

Deeds of Trust, which are paid off but not re-conveyed, require a re-conveyance from the trustee or a court-ordered satisfaction to remove it from the record. Upon proof of payment and indemnity, the title company may remove those as exceptions in certain situations.

## EXTENDED COVERAGE MATTERS

A supplemental commitment may be issued after an inspection or a survey to remove this exception or replace the exception with a specific description. If the supplemental shows a question of encroachment, lien rights or other matters, most lenders will require those matters to be resolved, or the exceptions to be removed. If an extended coverage owners policy is requested, an ALTA/ACSM survey of the property is required on most sales.

## IDENTITY MATTERS

Judgments and Liens may be eliminated with an *Identity Affidavit* if they do not affect the vested owner, or purchaser. If they do affect our party, but have been paid and not satisfied, a release may be recorded or filed to eliminate these matters from the record.

## JOINT USE MATTERS

Driveways, party walls and access easements may require a joint maintenance agreement by the lender. The preliminary commitment will show an exception for agreement if one is recorded. Often a signed and notarized statement from all parties involved is required to satisfy title.

## LEGAL DESCRIPTION

Always compare the legal description in Schedule A of the commitment to the legal description in the purchase and sale agreement. Be certain that all property being conveyed has been included and thereby covered in the preliminary commitment.

## PENDING ACTIONS

A civil action affecting real property will generally need to be dismissed or settled before title to the land can be insured without showing the action as an exception. A pending divorce may not need to be finalized for a sale or loan to close, however there may be special requirements.

## TAXES AND ASSESSMENTS

Check to see if there is an exemption or classification designation that would change the tax amount as a result of the sale or loan, then disclose this to the buyer.

## VESTING

If your seller is not in title, look for a real estate contract as an exception. There may be a conveyance to the seller that is described as an exception with a question raised about that document. If none exists, check the legal

# **STANDARD OWNERS POLICY of TITLE INSURANCE**

## **PROTECTS THE OWNER AGAINST LOSS BECAUSE OF:**

- 1 Forgery**
- 2 Fraud in connection with the execution of documents**
- 3 Undue influence on a Grantor or Executor**
- 4 False personation by those purporting to be owners of property**
- 5 Incorrect representation of marital status of Grantor**
- 6 Undisclosed or missing heirs**
- 7 Wills not properly probated**
- 8 Mistaken interpretation of Wills and Trusts**
- 9 Mental incompetence of Grantor**
- 10 Conveyance by minor**
- 11 Incorrect legal descriptions**
- 12 Non-delivery of Deeds**
- 13 Deeds executed under expired or false Powers of Attorney**
- 14 Delivery of Deed after death of Grantor**
- 15 Deeds by Corporation or Partnership without proper or legal authority**
- 16 Clerical errors in recording legal documents**
- 17 Inability to market title as insured**
- 18 Record defects, liens, encumbrances, adverse claims or other matters not known or disclosed to the new owner that attach before date of policy**
- 19 Legal access**

**Extended Coverage Policy\* protects the Lender (or named insured)  
Against loss because of all of the above plus:**

- 20 Unrecorded liens**
- 21 Survey and boundary questions**
- 22 Claims of parties in possession not disclosed by public records**
- 23 Easements or claims to easements not disclosed by public records**

# VESTING



## WHEN BUYER IS ...

### ONE SINGLE PERSON

When holding title as a single person, any of the following vestings are acceptable:

JOHN Q. BROWN, a single man

MARY S. JONES, a single individual

JOHN Q. BROWN, an unmarried person

MARY S. JONES, an unmarried woman

It is acceptable, although unnecessary, to add "as her/her separate estate" to the above vesting.

### TWO OR MORE SINGLE PEOPLE

Tenants in Common - When two or more individuals hold title together, they do so as tenants in common, even if the deed does not reflect that (unless the deed creates a joint tenancy). This means that each of the individuals has a separate and distinct claim to some fraction of the ownership involved. The following are three examples of acceptable vestings:

JOHN Q. BROWN and MARY S. JONES, both single individuals

MARY S. JONES, an unmarried woman, and JOHN Q. BROWN, an unmarried man

JOHN Q. BROWN, MARY S. JONES and JOHN J. JOHNSON, all single people, as tenants in common

The specific amount of ownership can be established by inserting in the vesting the percentage of interest that each of the buyers will hold. An example of this would be:

MARY S. JONES, a single woman, as to an undivided 75% interest and

JOHN Q. BROWN, a single man, as to the remaining undivided 25% interest

If no percentage is set-forth, each of the tenants will have a presumed equal percentage.

### JOINT TENANCY

Two or more single individuals as "joint tenants with right of survivorship and not as tenants in common". This means that the joint tenants have agreed that if one of them dies that the other will automatically inherit the deceased's interest in the property. To create such an estate, the deed must reflect the above verbiage and should contain the following acknowledgment signed by the buyers:

"The grantee acknowledges that it is their intent to acquire the property described herein as joint tenants with right of survivorship and not as tenants in common".

An example of the vesting is:

JOHN Q. BROWN and MARY S. JONES, both single people, as joint tenants with right of survivorship and not as tenants in common.

Before acquiring title as joint tenants with rights of survivorship, it is recommended that the purchasers consult an attorney who can fully explain the legal effects of such a vesting and the alternatives which may be more advisable. This type of vesting has significant effect on the disposition of your estate upon your death. Further, as this estate can be easily terminated, most title companies are unwilling to insure title held in this manner.

### A MARITAL COMMUNITY

Based on the community property laws of the State of Washington, a husband and a wife hold together as one entity, not as tenants in common. When holding title in a marital community, any of the following is acceptable:

JOHN Q. BROWN and MARY S. BROWN, a marital community

JOHN Q. BROWN and MARY S. BROWN, husband and wife

MARY S. BROWN and JOHN Q. BROWN, wife and husband

It is possible for a husband and wife to acquire title as joint tenants with right of ownership rather than community property. However, Washington law does not favor joint tenancy between married persons and it is recommended that you consult an attorney before choosing this vesting.

### A MARRIED PERSON AS THEIR SEPARATE ESTATE

When one member of the marital community wants to hold title separately from their spouse, title would be vested as follows:

JANE Q. DOE, a married woman as her separate estate

This vesting is usually perfected by recording a Quit Claim Deed from the spouse. In the absence of a deed, proof that community funds are not being used for the purchase of the property, or, a Decree of Legal Separation with the necessary language establishing separate property would be required. In the event that none of these options are available, the deed can still be recorded with this vesting, but the title company would not be able to insure title in this manner. Instead, vesting would be insured as follows:

JOHN Q. BROWN, presumptively subject to the community interest of his spouse.

If financing is being obtained for the purchase, the scenario may not be practical as the lender will probably require that title be perfected in the separate estate as a condition of the loan. Automatic homestead laws may also require the execution of deeds and encumbrances by both spouses if the subject property is their primary residence.



## A Guide to the Escrow Process

first name, last name      main tel 000-000-0000  
title                              main fax 000-000-0000  
email@address.com        phone 2 000-000-0000  
123 street                      fax 2 000-000-0000  
City, state 00000              cell 000-000-0000

[www.ortc.com](http://www.ortc.com)

### Definition of Escrow

An item of value, money, or documents deposited with a third party to be held, then delivered upon the fulfillment of a condition. For example, the deposit of funds or documents with an escrow holder to be disbursed upon the closing of a sale of real estate.

Whether you are a buyer, seller, lender or borrower, you want the assurance that no funds or property will change hands until all of the instructions in the transaction have been followed.

The escrow holder has the obligation to safeguard the funds and/or documents while they are in his/her possession and to disburse funds and/or convey title only when all provisions of the escrow have been complied with in accordance with submitted instructions.

### The Escrow Process - In Short

Escrow instructions (most commonly in writing) are created, signed and delivered to the escrow holder. If a broker is involved, he/she will provide the escrow officer with information necessary for the preparation of the escrow instructions and documents.

The escrow holder will process the escrow, in accordance with the escrow instructions. When all conditions are met, the escrow will be "closed." Remember: All escrows are different, according to the type of property and complexity of the transaction.

The duties of an escrow holder includes; following instructions from the principals and parties of the transaction; handling funds; paying all bills as authorized; closes escrow when all terms of the instructions have been met and read; prepares final statements for the principals and parties involved, accounting for the disbursement of all funds deposited in escrow.



## THE ESCROW PROCESS

