TEXAS TITLE INSURANCE OVERVIEW

TEXAN TITLE

BUILDING RELATIONSHIPS

TITILE INSURANCE is a contract of indemnity between the insured and a title insurance company. The form of the contract is determined by the Texas Department of Insurance. Likewise, title insurance rates in Texas are promulgated by the Department and are uniform for all title companies.

There are two major types of policies. The Owner's Policy of Title Insurance is issued to urchaser and insures against certain listed title risks. The Mortgagee Policy of Title Insurance is issued to a lender and insures the validity of the lender's lien against the property.

Before issuing a title policy, a careful search is made of the county, state, and federal records that affect real estate. This is accomplished by using the company abstract plant, which maintains references to every deed, mortgage, lien, death, divorce and other matters affecting the property. These instruments are examined by professional examiners employed by the title company. Based upon the results of the examination, the title company works with all parties involved to cure any title defects, such as unpaid liens or probate issues. Once satisfied the title is insurable, the title company proceeds to close the transaction and issue a title policy.

Some of the risks a title policy protects against include: forgeries, false representations, mistakes of law, undisclosed heirs, illegal trusts, delinquent taxes, fraud, lost wills, mistakes in legal description, clerical mistakes, defective acknowledgments on documents and platting discrepancies. In most cases, it is customary that the seller of the property pay the premium for the Owner's Policy, but this is sometimes a matter of negotiation and in many instances is paid for, or partially paid for, by the buyer. The premium for the Owner's Policy is based on the sales price. The borrower is responsible for paying for a Mortgagee's Policy, which is based on the amount of the loan.

The title company also acts as an escrow agent between the seller, buyer and lender, and has responsibilities to all parties for fair dealing. The title company receives the buyer's money, including any loan proceeds, as well as all other documentation required for the transaction. When all requirements of the contract and the lender are satisfied and all funds are disbursed, the transaction is considered "closed."

THE COMMUNITY PROPERTY SYSTEM, which is governed by Texas case law and statutes, is mandatory for all married couples in Texas, whether the marriage is by civil law or common law. Likewise, when a married couple who are nonresidents of Texas purchase property in Texas, the laws of the State of Texas will govern as to that property , and the property will be considered community property. However, property in other states acquired by married couples who subsequently move to Texas is governed by the case law of the state in which the property is located. Further, the system provides statutory methods allowing spouses to divide community property into separate property.

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TEXAS HOMESTEAD LAWS primarily provide for the security of a family's home, shelter, and earning a livelihood free from the claims of all creditors, except the holders of purchase money liens, home equity liens, and liens for improvements and taxes. The "residential homestead" refers to the lot or land upon which the residence of the family or single adult is located, and anything which is a part of that land is subject to the homestead exemption laws of the State of Texas.
In the residential context, the homestead is owned and occupied as the home and is protected from forced sale for general debts.

Only certain types of liens are valid against the homestead, including liens:

- To finance the purchase of the homestead
- For past due taxes on the homestead
- For loans to pay for work and material to repair or renovate the home
- For owelty of partition liens, including divorce or probate
- For loans to refinance a federal tax lien
- For home equity loans as defined by Section 50(A)(6), Article XVI of the Texas Constitution