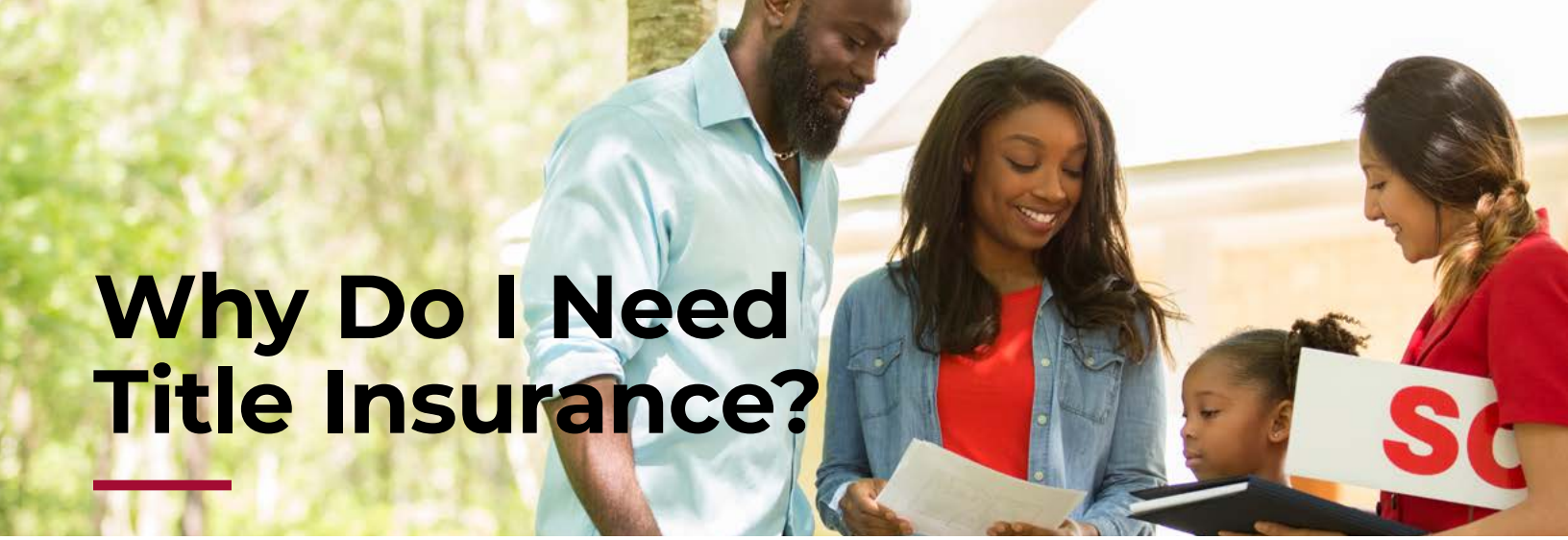

Why Do I Need Title Insurance?

Title insurance is vital in protecting your home purchase, since for the vast majority of people, a house is the largest purchase they will ever make. There is some confusion in the real estate community about title insurance and the cost of the associated premiums. Why is title insurance necessary, and what do the premiums pay for?

How Is Title Insurance Different From Other Insurance?
Imagine you walked into a car insurance company and told them you were interested in an auto policy, and they gave you a price and said that single fee would cover your insurance for as long as you owned the car, and would also continue to cover the car if you left it to an heir in your will. Sounds like a great deal, doesn't it? Title insurance works just this way; unlike many other forms of insurance (home, fire, flood, etc...) which require regular payments to maintain coverage, title insurance is a single, one-time fee which covers the property until it's sold to a new owner. And no matter how much time passes before that, the policy never expires. In fact, even after you sell your home, your title policy continues to protect the warranty the seller provides in their deed.

How Does Title Insurance Protect My Home?
The title policy protects owners from most claims and attacks on title for any reason not excepted from the policy's indemnity. Even though the title company researches every transaction as thoroughly as possible, there will always be risks that cannot be found in a title search. Some of the more common claims relate to:

- Unpaid property taxes
- Supplemental taxes assessed after closing
- Mistakes in the interpretation of wills or other legal documents
- Impersonation of the owner
- Forged deeds, mortgage releases, etc.
- Instruments executed under fabricated or expired powers of attorney
- Deeds delivered after death of seller or buyer
- Wills not probated
- Deeds or mortgages by those mentally incompetent or of minor age (or with an incorrect marital status)
- Other lack of competency, capacity or legal authority of a party
- Undisclosed or missing heirs, including birth or adoption of children after date of will
- Mistakes in the public records
- Legal confusion from name similarities
- Transfer of title through foreclosure sale when requirements of foreclosure statute has not been strictly met
- Deed not joined in by a necessary party (co-owner, heir, spouse, corporate office or business partner)
- Undisclosed (but recorded) prior mortgage or lien
- Undisclosed (but recorded) easement, right of access or use restriction
- Erroneous or inadequate legal descriptions
- Deed not properly recorded
- Off-record matters, such as claims for adverse possession or prescriptive easement
- Deed to land with buildings encroaching on the land of another
- Incorrect survey
- Silent (off-record) liens, such as mechanic's or estate tax liens
- Pre-existing violations of CC&Rs
- Post-policy forgery
- Location and dimensions of insured land

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And this list is far from exhaustive – many unseen risks can threaten homeowners' claims to their property, and title insurance is the best protection against those risks. When you are issued a title policy, you can be comfortable knowing you have the title policy coverage that was disclosed to you in your title commitment during the closing process. The title commitment is discussed below.

What Does The Title Company Do?

1. Title Review, Problem Recognition and Problem Solving
   Our system of land ownership is far from simple and often poses difficulties when it's time to transfer title. Title agents research each property carefully, assess potential risk in the title chain, and suggest ways to eliminate that risk.
2. Title Commitments
   After an in-depth review of the status of the title, the title company prepares a title commitment that sets out the applicable restrictions, easements, taxes and other matters affecting title found to be of record. This information, together with the survey, provides the buyer with a description of the property. Further, the commitment gives the parties a road map for everything that will be required to convey the title of the property.
3. Closing the Transaction
   Title agents conduct and orchestrate closings. This means they collect funds, record documents, and disburse funds, all the while following the instructions of parties and any lender involved. This process can be very complex – think of all that might be involved: lenders (both new and previous), taxes, surveys, insurance, home warranties, real estate agent commissions, down payments, earnest money and the seller's proceeds – all must be received and disbursed by the title company. The process must happen on time with balanced books. Closing the transaction in accordance with the wishes and instruction of the parties and the assumption of the escrow risk (much greater than most are aware) is a large part of what your premium pays for.

How Often Do Claims Arise?

Even though title claims are rare, they are paid daily in the industry. Nationwide, in the fiscal year 2011, title insurance companies paid $1.02 billion in claims, and that number has increased every year thereafter. In the fiscal year 2014, Stewart Title paid $44 million in claims and expenses related to claims.

Who Is In Charge of Regulation?

The insurance industry in Texas, including title insurance, is regulated by the Texas Department of Insurance. Title insurance companies are required to meet certain minimum fiscal standards and are regularly scrutinized by state auditors. TDI maintains a Guaranty Fund that insures the holders of Texas title policies from the fiscal failure of a title agency, meaning your title insurance is guaranteed by the state no matter what. Moreover, policy premiums, forms and regulations are uniform throughout Texas, bringing clarity to the system. Government oversight and the benefit of the guarantee fund gives you peace of mind that your policy will protect your home.

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