

SLIDE 5 – Protection of Title

You could make the argument that the most important factor of a real estate sale is by starting with a clear title that can transfer from seller to buyer with little interference. But without clear title or a valid title search to prove title holder, the water gets murky. In this section we'll look at how to get to a clear title on the way to a painless closing.

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**Title companies**

Title companies conduct title searches – research done to trace a title back to its original owner or date if dictated by statute.

The title search is done before the sale of property to ensure no other party has a competing claim for the property.

Payment to the title company is typically part of the closing costs.

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**Chain of title vs. Abstract of title**

A **chain of title** is a detailed history that dates back to a property's original owner that includes all owners and lien holders and the dates of acquisition.

The **abstract of title** is basically a summary of a property's history. It is less detailed than a chain of title.

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**Title opinion**

Once a title company has completed a title search they will offer legal opinion of title which can then be insured through a title insurance company.

An opinion of title come through attorneys, summarizes the title search and states the current ownership rights and whether any other liens or claims exist against the title.

Brokers and sales agents may not give opinion of title. This is considered an “unauthorized practice of law.”

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**Title insurance**

Title insurance protects real estate owners and lenders against loss or damage they might experience because of liens, encumbrances or defects in the title to the property.

Defects are things such as another person claiming an ownership interest, improper documents, fraud, forgery, liens, encroachments, easements and other items specified in the insurance policy.

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### **Title insurance – For owners**

Owner's title insurance protects owners if problems with the title that did not surface during the title search.

The one-time fee for the title insurance ensures that expenses for defending title claims against the owner's property are paid.

Owner's title insurance is not transferrable.

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### **Title insurance – For buyers**

The buyer also purchases title insurance to protect their investment and in most cases is a requirement of the lender.

Let's say for example you have purchased a home and the title opinion said you had a free and clear title. Yet at a later date someone sues and says they have a claim against the home from before you purchased it. Maybe it's a failure to pay taxes or from contractors who say they were not paid for work done on the home before you purchased it.

Having title insurance makes the insurance company liable for future claims against the ownership title.

The policy value should be the full sales price of the home.