



# Title Insurance Newsletter

## Why Do I Need Title Insurance?

by Gloria Tison, Manager/Counsel - Kotner Title

Lenders almost always require lender's title insurance to ensure that the lender has a first priority lien on the property in the event of foreclosure or unpaid property taxes. Owner's title insurance, however, is optional. Why then should an owner obtain title insurance?

Although optional, an owner's policy typically protects the home buyer from the most common risks, including:

- Conflicting ownership claims, such as will complications or undisclosed heirs to the property
- Outstanding lawsuits, liens and other encumbrances against the property
- Undisclosed easements or other agreements that may limit the usage or reduce the value of the property
- Forgery or fraud
- Defective paperwork, like improper recordings from escrow and closing
- Missing information

A benefit of obtaining title insurance is that a comprehensive search is made

on your property that will reveal issues enabling them to be cleared before you take title. One of the most common issues that arises, results from the common misperception that if a husband and wife own a property together, it is as joint tenants with right of survivorship.

In Illinois, this must be specifically stated. If it is not, then the law assumes that the property is owned as tenants in common. When the first spouse dies, the surviving spouse inherits either by intestacy or pursuant to the will. People who do not realize that the property was owned as tenants in common not as joint tenants with right of survivorship later transfer it as if the surviving spouse inherited the entire property. At some point down the line, the owner tries to sell the property only to learn that there are other individuals with property interests in what they thought was all theirs!

Another issue that a title search will reveal, relates to legal descriptions. There

are instances where parts of a person's home, garage or even swimming pool are located on the neighbor's property. Even homebuyers of new construction need title insurance because there may be a sketchy past regarding who previously owned the land. Additionally, if the builder failed to pay any contractors, a title insurance policy could save you from a mechanic's lien.

A title company will uncover these situations so the relevant parties can take steps to clear up the issues. If any situation arises where the ghosts of your property's past come back to haunt you, your owner's title insurance will cover certain disputes and legal trouble that you did not cause. Although claims are rare, when they happen, they require extensive research and legal fees to protect the homeowner. Owner's title insurance is a one-time premium that lasts for as long as you own the real estate. That peace of mind that lasts long after the one-time payment is forgotten.



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*Servicing ALL of  
southern Illinois!*

# Home Title Fraud

by Gloria Tison, Manager/Counsel - Kotner Title

People often ask whether they need special title theft insurance or home title lock insurance in addition to a traditional owner's title insurance policy. These people have heard advertisements warning against the threat of a thief deeding the individual's property title to themselves and then mortgaging it or selling it.

A fraudulent transfer of your title can happen, but it is very rare. When you have title to real estate you have the right of possession, control, exclusion, enjoyment, and disposition. The deed is the physical document that conveys title to the real estate to the owner. Title fraud or deed fraud occurs when a scammer forges your name on a deed and records it with the county recorder of deeds.

Most scammer look for homes with no mortgages, a home that is empty or a second residence, or one occupied by an elderly individual. Stealing a title and obtaining a loan on the property or selling it is not as simple as just forging title documents on an individual's home. It involves forging a deed and deceiving a title company, the recorder of deeds, and lenders. Lenders and title companies have safeguards in place that make it unlikely that the fraudulent transfer would not be discovered.

As the true owner of the property, you are protected. If a perpetrator of title fraud takes out a loan using the property as collateral, the rightful owner has NO obligation

to repay the loan. The scammer was not the owner of the property and the lender has no legal claim on the property to satisfy the fraudulent borrowing. Because a person who forged a deed has no ownership in the property he or she cannot transfer or sell it to another individual. The scammer can be criminally prosecuted. Unfortunately, a victim of title fraud will have to hire an attorney to help him or her sort through the mess.



There are some steps to help you avoid this rare type of crime:

- Monitor your credit. Look for mortgage or home equity inquiries or activity that you do not recognize.
- Look out for missing or new utility bills.
- Look for property tax information or homeowner's insurance in the mail that lists someone other than you.
- Evaluate your cyber security practices. Make sure that your passwords are secure. Do not divulge too much information on social media.

Most title theft insurance offered is just a deed monitoring service that alerts a customer if there is suspicious activity. It is a personal decision whether this is of service to an individual. If opting to obtain title theft insurance, look for a provider whose terms include payment of legal fees to clear title to any forged instruments it discovers.

**\*MOBILE CLOSINGS AVAILABLE\***

**Our office or yours, we  
get the deal done!**



## BUYERS

Buying a home? You need to be certain that the seller is the true owner of the property and that no outstanding issues damaging title carry over to you. Why? Because if there are problems with the title it can restrict the use of the property and ultimately result in financial loss. That's where Kotner Title can help you.

## SELLERS

Selling your house? Kotner Title will work with you to coordinate any satisfactions of liens and prepare all the necessary closing documentation to make the experience for you and the buyer as smooth as possible. We promise competitive rates, great communication and amazing service.



## REALTORS

You need a trustworthy partner who understands your needs.

Realtor's Benefits with Kotner Title:

- Full service on every transaction
- Timely and accurate title commitments
- Superior communication
- Knowledgeable and professional staff
- Contract upload capability or drop off



## LENDERS

Kotner Title is proud to say that we have the necessary experience to meet or exceed the compliance guidelines that are required of lenders. We are fully TRID compliant and protect a lender's interest against any title defects by carefully reviewing your instructions and ensuring that all documents are executed in a timely fashion.