

### Why Title Insurance?

In some states title insurance is required to be provided to a buyer of real property by the seller as a condition of the purchase. Georgia is not one of those states. In Georgia, owner's title insurance is customarily purchased at closing but generally is not a contractual obligation on the seller to provide to the buyer. Based on the fact that owner's title insurance is customary, many purchasers may not know or understand what benefits their policy provides them.

Title insurance protects the insured against financial loss in the event certain issues arise regarding the insured's interest in the property. In addition to protection from financial loss, title insurance also provides for the cost of defending against any covered claim.

There are two types of title insurance: lender's title insurance and owner's title insurance. Lender's title insurance only protects the interests of the lender and most lenders require title insurance as a condition of loan approval. Owner's title insurance protects the interest of the owner. There are 2 types of policies: basic and enhanced. A basic policy is analogous to auto insurance coverage for the state required minimums in that the insured has coverage but not for all the issues that might be raised in the future. Unlike auto insurance with future payments required in order to continue coverage, title insurance involves a one-time fee and may last indefinitely. The owner's protection lasts as long as the owner or any heirs have an interest in or any obligation with regard to the property.

What are the risks to a purchaser without owner's title insurance? Purchasers of real property expect to possess any and all legal rights to their property. Most purchasers are under the misconception that once they purchase a property, no other party has a legal right to that property without their consent. However, it is possible for a third party to constrain or even supersede the legal rights of the owners to the property without the owner's consent. How is this possible?

Prior to the completion of the sale of real property, a title search and examination is completed. The title search should determine the owner and any encumbrances, according to the real estate records. However, there can be hidden title defects that even the most thorough title search does not reveal, to include a forged document, an unaccounted for heir or a mis-indexed lien. For these reasons and more, a purchaser of real property can end up in a position where others may have a lawful and superior claim to their property.

History has proven that an owner of real property can have his/her property **legally** taken from them because they unknowingly purchased the property from a party whose rights were inferior to or encumbered by those of a third party. Protecting innocent purchasers from loss is the reason title insurance was developed in 1876 and the critical importance of this coverage is no less today.

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