

# TITLE TALK

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

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## Unraveling the Mystery of Title Insurance

One of the common questions at the settlement table occurs when a purchaser realizes they have paid for something called title insurance and asks “what is title insurance and why do I need it”. We have all, at one time or another, been in the position of having to answer that question and the many follow up questions as the purchaser attempts to understand what protection they will obtain and why it is necessary at all. This article is limited to an explanation of the ALTA Owner’s and Lender’s Policy (1992), the most commonly issued policies.

The first point to address in answering the question is to explain that unlike other kinds of insurance which protect against future events, title insurance protects against *past events*. The protection provided is more or less two fold. It protects a buyer’s investment in the property against title defects and also ensures that the buyer gets marketable title to their property. Essentially, it provides protection against any prior liens or judgments which the buyer could be held responsible for and also guarantees the title purchased is marketable in the future. It can be summarized that *title insurance protects one’s investment in the property from past events which could either cost the owner money or create obstacles when they try to sell their property in the future.*

It should be explained to the purchaser that the title insurance premium is a one time expense and they will be covered until they sell the property. It will also continue to protect their heirs if they die while in title to the covered property. Further, the buyer should understand that they will be defended free of charge should a covered claim arise as well as having the claim paid up to the amount of the policy. It would be wise to make clear, however, that the coverage is for claims *arising from defects occurring before the date of the policy*. Often purchasers have the impression that the coverage will protect them from liens occurring after they have purchased the property.

Buyers are often confused about why they have purchased both owner’s and lender’s policies. They should be helped to understand the differences in the two policies and why both are

necessary. An *owner’s policy covers the purchaser’s interest* in the property as explained above. The *lender’s policy is necessary to protect the mortgage holder’s interest* in the property. It insures the validity and enforceability of the mortgage lien up to the amount of the mortgage. The coverage lasts as long as the mortgage has an open balance. Just as the owner’s policy will protect the owner against past defects and title problems, the loan policy protects the mortgage holder so that they can be assured of their lien status should a claim arise. The loan policy

is often a requirement of the mortgage lender as a condition to obtaining a mortgage loan. It should be made very clear that the *loan policy will not protect the owner*, only the mortgage holder.

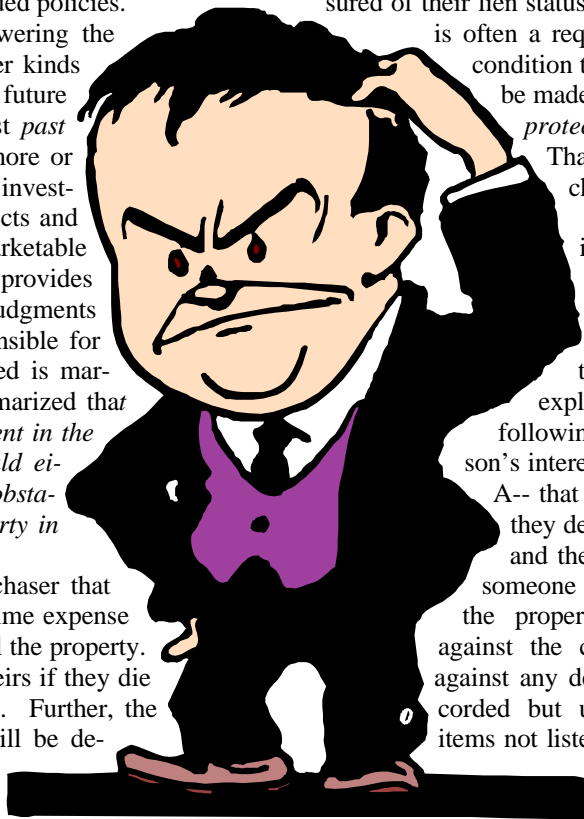
That is why it is strongly advisable to purchase an owner’s policy.

The second point to address is what is covered on an owner’s policy and what is not covered. Of course, it would be impossible to list every conceivable item covered or every situation not covered. To simplify, it can be explained that the coverage includes the following “insuring provisions”

1) The person’s interest in the property as stated in Schedule A-- that they own the property absolutely until they deed their interest to someone else or die and the interest passes to their heirs. Should someone come forward claiming an interest in the property, the policy would defend them against the claim. 2) The policy also protects against any defect or lien on the title such as a recorded but undisclosed prior mortgage or other items not listed on Schedule B of the policy as well as undisclosed but recorded easements or restrictions affecting the property not listed on Schedule B. 3) It will

protect against any unmarketability of title. 4) Lastly, they are guaranteed the legal right of access to and from the property. It may be helpful to explain that Schedule A sets forth the purchaser’s interest in the property and the property covered. Schedule B lists all of the items found in a title search of the property as well as other items, which are not insured by the policy as they are known to be “adverse” to the title. This would

*(Continued on page 3)*



# Helpful Websites for Delaware Real Estate Professionals

The following websites are very useful tools for anyone working in real estate. At Old Republic, we have come to rely on them in conjunction with our searches at Recorder of Deeds and for researching title issues. We thought it would be helpful to provide a list and explain briefly what is contained in each site.

## Courts and General Information

**The complete Delaware Code:**

[www.delcode.state.de.us/](http://www.delcode.state.de.us/)

**Links to all the Delaware Courts, Codes and Rules:**

<http://courts.delaware.gov/rules/>

## Online Searches

**Division of Corporations:**

<https://sos-res.state.de.us/tin/GINameSearch.jsp>

You can type in a corporate name and get the status of the corporation

**US Patriot Search:**

<http://www.oldrepublictitle.com/TAssets/impairment/FindByDirectpr.asp>

**Recorder of Deeds New Castle County:**

<http://www.ncc-deeds.com/reccikshr/default.asp>

You can search all scanned records at the Recorder of Deeds and will get the basic recording information and a brief description of the document and parcel. You can purchase a copy of the document and print it or subscribe for \$100 a month for unlimited purchases.

**New Castle County Register of Wills:**

<http://www.co.new-castle.de.us/Willsearch/willsearch.asp>

You can search for an estate file by name or file number. It provides basic information such as date of death, the executor and if the estate is open or closed.

## Maps

<http://datamil.delaware.gov/>

Map of the entire state. You can specify many different layers showing such things as roads, water, topographical etc... It has a really handy feature where you can create your own map. It is a little tricky to use and if you have a slow computer it will take a while to load. It is very informative though and useful for the different layers you can show.



## New Castle County

<http://www.co.new-castle.de.us/NCCEmaps/NCC%20Tax%20Assessment%20Maps.html>

New Castle County tax map. You enter by clicking on your hundred and then your map page. This is basically the tax map book format, it does not provide any layers or tax parcel information. You get the outline of your parcel

<http://dmz-arcims02.co.new-castle.de.us/website/nccparcelmap2/viewer.htm>

This map is very easy to use. You can locate by tax parcel number and select any number of layers from zoning to open permits. You can also view an aerial view of the parcel.

## Tax Information

**New Castle County:**

<http://www.co.new-castle.de.us/ParcelView/parcelsearch.asp>

You can search by address, parcel number or deed record. It will provide a printout of tax information and other things such as the year the structure was built.

## Other Sites of Interest

[www.oldrepublictitle.com/de](http://www.oldrepublictitle.com/de)

Old Republic's Delaware site. This is loaded with useful forms for various filings in Delaware, Realty Transfer Tax Rates (all three counties) which you can download, an insurance rate calculator for figuring premiums, endorsements, a Delaware rate manual and a great deal of other information and links.

*Check us out!*

<http://www.ilpi.com/msds/ref/areaunits.html>

Online conversion tables. This will convert acres into square feet, rods into feet etc... It is really useful for those of us who have forgotten nearly everything we learned in high school math!

If you need help with any of the above map websites (they can be tricky) or if you would like the above links emailed to you so that you can simply click the hyperlink, please call Kim Derr at (302) 661-1997 or email [kderr@oldrepublictitle.com](mailto:kderr@oldrepublictitle.com). Also, if you know of any sites not listed, please let us know.

### Old Republic Title's Delaware Office Revised Holiday Schedule

Memorial Day .....	Monday, 5/29
Independence Day .....	Tuesday, 7/4
Labor Day .....	Monday, 9/4
Thanksgiving Day .....	Thursday, 11/23
Day After Thanksgiving .....	Friday, 11/24
Christmas, 2006 .....	Monday, 12/25
New Years, 2007 .....	Monday, 1/1

## OUT OF THE LOOP?

- Do you know of anyone who would be interested in receiving a copy of Title Talk?
- Has anyone joined your staff that would like to receive a copy of Title Talk?
- Are we sending Title Talk to someone who is no longer in your office?

If so, please e-mail the changes/additions to: Linda M. Webber at [LWebber@oldrepublictitle.com](mailto:LWebber@oldrepublictitle.com)

## KEEPING CURRENT

Amendment to Title 30 of the Delaware Code (Transfer Tax)

Amended to close the "merger" loophole created by a recent judicial decision. Merger transactions and all kinds of indirect dealings in intangible property that are considered the sale of real property under §5401 (7) are intended to be taxed under the Realty Transfer Tax.

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Should you need any additional information with regard to any of the above items, please contact either the Dover or Wilmington, DE offices.

## *Mystery of Title continued . . .*

*(Continued from page 1)*

include restrictions on the property, easements etc... Schedule C is a legal description of the property insured.

Finally, the purchaser should be made aware that there are standard exclusions from coverage. These exclusions are shown on all policy jackets and will be the same for every title company in Delaware. These exclusions very generally include such things as zoning laws, governmental rights of eminent domain not recorded in public records, liens or claims known by the purchaser but not in public record or disclosed to title agent and any claim arising out of the transaction involving bankruptcy laws or other state insolvency laws or creditor's rights laws.

Generally, any adverse claim is covered by the owner's policy is covered unless it does not fall within the first four items listed on the policy jacket (insuring provisions above), it is *excepted* from coverage in Schedule B or it is *excluded* from coverage in items 1-4 on Exclusions from Coverage on the policy jacket. Endorsements can be purchased which will add to the policy coverage. The seller may notice these on the HUD as most lenders require the Environmental Protection Lien Endorsement and the Restrictions, Encroachments and Minerals Endorsement. These afford the lender additional protection of the mortgage lien.

In summary, Title Insurance can be difficult to explain but an attempt should be made to help the purchaser understand what protection the policy provides. Too often, it becomes just another document in the packet from the settlement table. At Old Republic, we are committed to having the consumer understand what they have purchased as well as the protection it provides a property owner. Please forward to Old Republic any questions you or the purchaser may have regarding title insurance. We strive to have our insured understand what they have purchased and we want to be able to help with any claims that may arise.

*(If you would like a reprint or consumer oriented version of this article, please call Kim Derr at 302-661-1997)*

## RELIEF HAS ARRIVED!

Effective February 1, 2006, Aireca Mical was promoted to Agency Assistant. Aireca will be focusing primarily on the following:

- Supply Orders (jacket requests, etc.)
- Policy Reporting
- Accounts Receivable
- Computing of Insurance Premiums
- Assist State Manager in Agency Administration Support.

Aireca can be reached at the Dover Office via e-mail at: [amical@oldrepublictitle.com](mailto:amical@oldrepublictitle.com) or via telephone at: 302-734-3570.

## Welcome Steven Jones

Steven Jones has joined the Wilmington office of Old Republic Title as a Title Examiner. Steve is a welcome addition to our staff as he has over thirteen years experience in Title Insurance.

Steve's experience includes title searching, title examining and settlement preparation. At ORT he will be examining searches and maintaining the title plant as well as overseeing the settlement preparation work.

Steve has completed course work at University of Delaware and plans to continue his education in the near future.