

What is a title commitment?

A title commitment is a “snapshot” showing the condition of title to a parcel of property at a specific moment in time; once issued, the commitment is good for 90 days from its issuance and obligates the Title Company to issue a policy of title insurance when all curative requirements specified in the commitment, if any, have been satisfied. However, the Title Company can and will update the commitment to show any matters that arise after the date of commitment but before the date of closing.

What does the title commitment obligate the Title Company to insure?

- The title commitment obligates the Title Company to insure “indefeasible” title, not “marketable” title, subject to the conditions specified in the commitment. *“Indefeasible” means title that cannot be defeated, set aside or made void.*
- The title commitment and subsequent policy is a contract **AND NOT AN OPINION OF TITLE**, which means the Title Company can decide whether a title “defect” is an insurable risk or not.
- The “contract” insures payment to the insured for loss incurred due to covered title risks, as well as associated costs, i.e., attorney fees, costs and expenses.

What is the composition of a title commitment?

The title commitment is made up of four schedules:

Schedule A:

Provides the following information:

- The effective date of the commitment
- Who will be insured (*buyer and/or lender*)
- The amount of title insurance coverage
- The legal description of the property being insured
- How title to the property is currently vested (*who owns the interest in the property and the type of interest*)

Schedule B:

Contains exceptions to coverage. These are recorded items that affect use and enjoyment of the property.

Some examples are:

- Deed restrictions
- Easements
- Building lines
- Mineral reservations

Schedule C:

Shows items to be resolved prior to and/or at closing. Some examples are:

- Existing liens
- Bankruptcies
- Abstracts of judgments
- Marital status issues
- Probate issues
- Vesting problems
- Mechanic’s lien affidavits

Schedule D is a required regulatory disclosure of the ownership of the title insurance company and agents, the costs of the policies being issued, and provides certain consumer protection notices

What other matters should I be aware of in the commitment?

- In addition to the exceptions in the title commitment and policy, there are also “exclusions”. These exclusions are set out in the preprinted jacket to the commitment. Exclusions are matters that the title policy does not insure, such as use. Also, if there is a title matter undisclosed to the Title Company and one that cannot otherwise be discovered by diligent search of the title, but said matter is known to the insured, then that matter is not insured by the policy.
- Exclusions and some exceptions are automatic and may not be objected to by the Buyer, unless specifically addressed in the real estate purchase contract.