

Topic No. 15: Step 11 - Title Insurance

Topic objective: To inform buyers of the need to secure assistance in reviewing the commitment for title insurance.

In the process of purchasing a home, there may be some tasks that will require professional expertise from someone other than your agent. All real estate agents (including exclusive buyer agents) must be careful to avoid doing work that may be considered legal work. Agents are not allowed to practice law.

While your agent should be involved with the selection of who you purchase title insurance from, you should not expect the agent to have the professional expertise to properly advise you on matters regarding the title commitment. The title commitment is a promise by the title company to provide you a fee simple interest (considered a marketable title) in the property you are purchasing. The title company is insuring the title against defects, liens, encumbrances, and adverse claims.

Buyers should be aware that the commitment document will contain a schedule of exceptions that will not be covered by the insurance. Your agent should inform you that it is important for you to review these exceptions. After reviewing these exceptions, you should contact the title company and get clarification as to how these exceptions may impact you. Some buyers may take it upon themselves to request backup documentation for their own review. If the buyer has any unanswered questions regarding the commitment, legal assistance should be secured.

Often, buyers will want an attorney to review the commitment, remove any outdated language, and ensure that the title is conveyed properly. This legal service is very important in cases where the property is to be included in a living trust.