

70+ Ways to Lose Your Property

A forgery 50 years ago; a deed executed under duress; bigamy that went unknown; an error by a clerk in the county recorder's office; a misapplied tax payment— these are but a few of the hidden “title defects” that could cause you to lose your property. And, even if you don't lose your property altogether, title problems could make it impossible for you to sell.

You don't want a problem that occurred long before you bought your property to deprive you of ownership or your right to use or dispose of it. And you don't want to pay the potentially high cost of defending your property rights in court.

An Owner's Policy of title insurance is your best protection against potential defects that can remain hidden despite the search of public records. A Loan Policy of title insurance also exists to protect your mortgage lender's interest.

For a one-time premium, you will be issued a policy protecting you against covered losses suffered due to undetected defects that existed prior to the issue date of your First American policy, up to the amount of the policy. Your title insurance policy also provides for legal defense costs unless the matter is excluded or excepted.

Your title insurance policy protects you against potential defects such as:

1. Forged deeds, mortgages, satisfactions, or releases
2. Deed by person who is insane or mentally incompetent
3. Deed by minor (may be disavowed)
4. Deed from corporation, unauthorized under corporate by-laws or given under falsified corporate resolution
5. Deed from partnership, unauthorized under partnership agreement
6. Deed from purported trustee, unauthorized under trust agreement
7. Deed to or from a “corporation” before incorporation, or after loss of corporate charter
8. Deed from a legal nonentity (styled, for example, as a church, charity, or club)
9. Deed by person in a foreign country, vulnerable to challenge as incompetent, unauthorized, or defective under foreign laws
10. Claims resulting from use of “alias” or fictitious name style by a predecessor in title
11. Deed challenged as being given under fraud, undue influence, or duress
12. Deed following nonjudicial foreclosure, where required procedure was not followed
13. Deed affecting land in judicial proceedings (bankruptcy, receivership, probate, conservatorship, dissolution of marriage) unauthorized by court
14. Deed following judicial proceedings subject to appeal or further court order
15. Deed following judicial proceedings where all necessary parties were not joined
16. Lack of jurisdiction over persons or property in judicial proceedings
17. Deed signed by mistake (grantor did not know what was signed)
18. Deed executed under falsified power of attorney
19. Deed executed under expired power of attorney (death, disability, or insanity of principal)
20. Deed apparently valid, but actually delivered after death of grantor or grantee, or without consent of grantor
21. Deed affecting property purported to be separate property of grantor, which is in fact community or jointly owned property
22. Undisclosed divorce of one who conveys as sole heir of a deceased former spouse
23. Deed affecting property of deceased person, not joining all heirs
24. Deed following administration of estate of missing person who later reappears
25. Conveyance by heir or survivor of a joint estate who murdered the decedent

26. Conveyances and proceedings affecting the rights of service member protected by the Service-Members Civil Relief Act
27. Conveyance void as in violation of public policy (payment of gambling debt, payment for contract to commit crime, or conveyance made in restraint of trade)
28. Deed to land including "wetlands" subject to public trust (vesting title in government to protect public interest in navigation, commerce, fishing, and recreation)
29. Deed from government entity, vulnerable to challenge as unauthorized or unlawful
30. Ineffective release of prior satisfied mortgage due to acquisition of note by bona-fide purchaser (without notice of satisfaction)
31. Ineffective release of prior satisfied mortgage due to bankruptcy of creditor prior to recording of release (avoiding powers in bankruptcy)
32. Ineffective release of prior mortgage or lien, as fraudulently obtained by predecessor in title
33. Disputed release of prior mortgage or lien, as given under mistake or misunderstanding
34. Ineffective subordination agreement causing junior interest to be reinstated to priority
35. Deed recorded but not properly indexed so as to be locatable in the land records
36. Undisclosed but recorded federal or state tax lien
37. Undisclosed but recorded judgment or spousal/child support lien
38. Undisclosed but recorded prior mortgage
39. Undisclosed but recorded notice of pending lawsuit affecting land
40. Undisclosed but recorded environmental lien
41. Undisclosed but recorded option, or right of first refusal, to purchase property
42. Undisclosed but recorded covenants or restrictions, with (or without) rights of reverter
43. Undisclosed but recorded easements (for access, utilities, drainage, airspace, views) benefiting neighboring land
44. Undisclosed but recorded boundary, party wall, or setback agreements
45. Errors in tax record (mailing tax bill to wrong party resulting in tax sale, or crediting payment to wrong property)
46. Erroneous release of tax or assessment liens, which are later reinstated to the tax rolls
47. Erroneous reports furnished by tax officials (not binding local government)
48. Special assessments which become liens upon passage of a law or ordinance, but before recorded notice or commencement of improvements of which assessment is made
49. Adverse claim of vendor's lien
50. Adverse claim of equitable lien
51. Ambiguous covenants or restrictions in ancient documents
52. Misinterpretation of wills, deeds, and other instruments
53. Discovery of will of supposed intestate individual, after probate
54. Discovery of later will after probate of first will
55. Erroneous or inadequate legal description
56. Deed to land without a right of access to a public street or road
57. Deed to land with legal access subject to undisclosed but recorded conditions or restrictions
58. Right of access wiped out by foreclosure on neighboring land
59. Patent defects in recorded instruments (for example, failure to attach notarial acknowledgment or a legal description)
60. Defective acknowledgment due to lack of authority of notary (acknowledgment taken before commission or after expiration of commission)
61. Forged notarization or witness acknowledgment
62. Deed not properly recorded (wrong county, missing pages or other contents, or without required payment)
63. Deed from grantor who is claimed to have acquired title through fraud upon creditors of a prior owner

And extended coverage may be requested to protect against such additional defects as:

64. Deed to a purchaser from one who has previously sold or leased the same land to a third party under an unrecorded contract, where the third party is in possession of the premises
65. Claimed prescriptive rights, not of record and not disclosed by survey
66. Physical location of easement (underground pipe or sewer line) which does not conform with easement of record
67. Deed to land with improvements encroaching upon land of another
68. Incorrect survey (misstating location, dimensions, area easements, or improvements upon land)
69. "Mechanics' lien" claims (securing payment of contractors and material suppliers for improvements) which may attach without recorded notice
70. Federal estate or state inheritance tax liens (may attach without recorded notice)
71. Preexisting violation of subdivision mapping laws*
72. Preexisting violation of zoning ordinances*
73. Preexisting violation of conditions, covenants, and restrictions affecting the land*

...And many more