



Michigan Land Title Association

***Welcome to MLTA's Title 101
Boot Camp 2020***

The Basics of Title Insurance

Presented in 5 Weekly Episodes

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The Program

- **Week One:** Introduction to Title and Title Insurance and how it facilitates Real Estate Transactions.
- **Week Two:** The Basic Elements of Real Estate Title and how it has evolved , as well as understanding Legal Descriptions, the foundation for Title.
- **Week Three:** How Title is Held and Real Estate Documents; County Records and Recording.
- **Week Four:** Title Commitments, Various Title Insurance Policies and Endorsements.
- **Week Five:** Real Estate Closings, and the Roles and Functions of the Escrow Closing Department.

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Week One

Introduction to Title and Title Insurance and how it facilitates Real Estate Transactions.

By **Allan Dick**, V.P. & Great Lakes Region Underwriter
for WFG National Title Insurance Company

And **Dawn Patterson**, National Underwriting Counsel
for First American Title Insurance Company

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Introduction to the Concept and Basics of Title Insurance

- You don't learn about Title Insurance in school
- No formal training program exists in Michigan
- Licensing not required for Employment
- Most of us got hired into a specific role
- Maybe an introduction for some of you
- For others it may be more filling in blanks
- Cross training – is easier said than done

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So, What is Title Insurance ?

- Not so easy to answer (So, don't feel bad)
- It is a unique form of Insurance in many ways
- Explaining Title Insurance requires a discussion of **Title**, Real Estate Title, and this rather unique form of **Insurance**, insuring the Real Estate Title.
- We will cover both aspects today, with more time being devoted to **Title** and the elements of the **title business** in the following weeks
- So, to start, let's have a quick understanding of Title – most particularly Real Estate Title

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Okay, What is TITLE?

Title is, simply speaking, the evidence of ownership. With an automobile, it is the vehicle title registered with the Secretary of State.

But with Real Estate, *Title* typically comes in the form of a Deed, which should be registered or “recorded” with the Register of Deeds for the County in which the Real Estate is located.

Real Estate *Title* is anything but simple, and has evolved over time, as next week's speaker will elaborate with more detail. But first, a brief historical perspective on land ownership, Title.

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A Historical View of Title

Ownership by Domination – until someone took it away. The Emperor in power (or the conqueror) “owned” the land.

As civilization evolved, so did land ownership. The King gave some of his land to his favored lords, who in turn shared some of that land with the people in exchange for taxes paid to the lord and/or King.

Thus evolved a system of private land ownership, along with taxes, that we learned about in school, and which was codified in England and brought to the new world.

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Land Title Registry

Private land ownership (*Title*) relies on the cataloguing of that ownership in a central registry. Starting anew, the United States established a system of land title registries, Registers of Deeds, unprecedented throughout the world. That registry has greatly facilitated private land ownership and financing in the U.S., and has since been emulated and copied by other countries.

The Evidence of *Title* found in the Register of Deeds' records is the foundation for Title Insurance, based on the research, examination and evaluation of that Evidence, together with a combination of applicable laws and common practices.

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Now, the INSURANCE

Title Insurance differs from other forms of insurance, Property and Casualty Insurance (P&C), even Life and Health Insurance, in a couple of ways:

P&C, Life and Health insures against expected future occurrences and calculates its premiums based on their probability of occurring. It is renewed regularly **with annual premiums**.

Title Insurance is historically based and reports the status of the Title to the property, insuring against the consequences of that report (policy) being inaccurate or challenged. It is provided for one **single premium** and insures the insured for as long as they own the property (actually, even longer).

It is focused on Risk Elimination, not Risk Assumption.

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But, Why Title insurance?

The concept of *Caveat Emptor* – let the buyer beware, coupled with the investment (\$).

Historically, in order to be assured that he was getting what he was paying for from the correct person, a buyer would typically engage the service of an attorney to do the research and evaluation.

But, as the population grew, attorneys trained staff to provide the research in a compiled form for the attorney to review and provide a title opinion. These searchers, also known as *conveyancers* or *abstractors*, would compile an *abstract of title*, which, together with the attorney's opinion was the precursor to Title insurance.

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The Evolution to Title Insurance

This system of abstracts and attorney's title opinions had two significant weaknesses.

It did not protect the buyer, if the research or opinion were faulty. The buyer's only recourse would be to sue the abstracter and/or attorney.

Likewise, it didn't limit the liability of the abstractor or attorney, should the buyer decide to sue them.

So, in the 1870's Title Insurance was born in Pennsylvania (after a number of such law suits against conveyancers). Title Insurance established specific liability, insuring provisions and limitations, about which you will learn in the coming weeks.

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What does it Insure?

The title insurance company pays for any loss caused by errors in searching the public records, or in the interpreting of what that search found. It also covers against the risks of fraud and forgery. A Title Policy may insure a buyer or a mortgage lender.

As you will hear later on, the Title Insurance Policy is actually a *Contract of Indemnity*. Okay what does that mean? Simply stated, we will make the insured whole, whether that is the buyer or the lender. The title insurance company will cure the title defect OR reimburse the insured for their loss. It will also pay any attorney fees it incurs in defending the title.

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The Process

Again, this will be covered further with greater detail. But, very briefly, the typical process is for the Title Company to issue a preliminary title report, after the search of the public records, called a Title Commitment, a commitment to issue a Title Policy, once the Requirements stated therein (shown on Schedule B, Part I) have been satisfied.

Those *Requirements* in the Title Commitment also serve as a road map to the *Closing*, the completion of the purchase and/or financing process. And, speaking of the *Closing* ...

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Escrow – Closing

The Closing, also called *Settlement*, provided through the Escrow services provided by a Title Company was, for a long time, referred to as an additional or customer service. In reality, however, it is now so much a part of a Title Company's operation, it is considered an additional *product*, and often the prime source of our marketing.

Buyers, Realtors, attorneys and lenders have come to recognize the value in having a qualified, independent third party, the Title Company, preside over the closing; prepare the closing papers; handle the collection and disbursement of the funds at closing; record the documents; and assure all the parties that the Requirements set forth on the Title Commitment are satisfied so that Title Policies will be issued.

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Escrow vs. Title

The 2 major aspects of the Title Insurance business, Title and Closing (or Escrow), perform decidedly different functions that both contribute to the same end result and bottom line. Whether they know it or not, both departments rely heavily on each other and need to work cooperatively.

But, *Title* training has not always been a top priority for people in the Escrow Closing Department, just as those in Title often had little exposure to the Closing process, especially in larger operations, where there is more separation. That can create a disconnect and misunderstanding between the departments. Hopefully, this program we will successfully address that.

It is valuable, if not essential to understand the Big Picture – how we in the Title business fit into Real Estate transactions, and how our elements, namely Title and Escrow, fit together, which is a good lead-in to our next speaker, Dawn Patterson, who show how we fit into the Real Estate transaction.

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This is an Introduction

But first, an invitation – we will touch upon a number of concepts and terms today and through the next 4 weeks, covering a lot of ground (pun intended). And, even that will be the tip of the iceberg. As you might expect there is much to learn about our business.

So, don't be intimidated by all that. What we are seeking to do here is provide you with some familiarity and basic understanding of the Big Picture – and, where you/we fit into that Big Picture. This is intended to be a learning tool for you. So, don't hesitate to ask questions.

Someone monitoring this webinar will collect and pass them along to the speakers at the end of this, as Q&A. I assure you they will not be considered *stupid questions*. Our group of speakers are both knowledgeable and experienced, but also friendly. So, with that, I will turn this over to Dawn.

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