



## The Title Commitment

February 2003

The title commitment is the vehicle by which a title insurer discloses to all parties connected with a particular real estate transaction all the liens, defects, and objections that affect the subject property. Also known as a “commitment to insure” or an interim title binder, it lists all requirements that must be met before a title company can insure a title as “marketable” or a loan as having a certain priority.

Marketable title is a title free from reasonable doubt or defect, which can be readily sold or mortgaged. It is a title that assures a purchaser “quiet and peaceful enjoyment” of the property, yet marketable title may have certain encumbrances that a reasonable purchaser would be willing to accept. Stated another way, marketable title means that a reasonable seller and reasonable purchaser can agree to a reasonable sales price, subject to reasonable burdens that all parties have knowledge of and accept.

Through a title commitment, the title company is informing all parties of all known burdens affecting the property and committing to issue its policy when certain requirements have been met. This assurance of a title commitment by a title company provides a safe procedure for purchasers and lenders to close transactions before the actual title policies have been issued.

### The Jacket

The cover sheet or jacket of the commitment states the general terms of and exceptions to the commitment. It limits liability to the amount stated in the commitment and in the instance that any of the parties have knowledge of a lien or encumbrance and fail to disclose that information to the insuring company. Further, it reserves the right to

amend the commitment to reflect changes in the information presented (a change in the insured amount if the price changes, for example, or the right to add exceptions for new information that goes of record.)

The title commitment is preliminary to the issuance of the policy or policies and all liability and obligations shall cease and terminate six months after the effective date of the commitment or when the policy or policies committed for are issued, whichever first occurs.

The title commitment is made up of three sections: Schedule A, Schedule B-1, and Schedule B-2. Each section provides important information about the transaction that all parties need to know.

### Schedule A

This part of the commitment stipulates the basic facts of the transaction, including:

- the date of certification (the effective date),
- the purchaser and the lender,
- types and amounts of policies to be issued,
- the sales price and loan amount,
- the estate being insured,
- how title to the estate is currently vested (the present owner or owners and how they hold title,
- the legal description and address of subject property, and
- the estimated title insurance charges, based on preliminary information.

### Schedule B-1

Schedule B-1 lists the necessary requirements that must be met before a title policy can be issued, including any or all of the following items:

- releases of deeds of trust,
- releases of tax liens,

Corporate Office  
3033 East First Avenue  
Suite 600  
Denver, CO 80206  
303-321-1880  
Fax 303-331-0272

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for a complete list of  
office locations:  
[www.LTGC.com](http://www.LTGC.com)

- releases of judgments,
- correction deed(s),
- warranty deed(s), and/or
- deed(s) of trust, if there are to be any.

These requirements could be items necessary to comply with the terms of the real estate contract or lender’s loan package, as well as items necessary to correct defects in the past chain of title.

## Schedule B-2

Schedule B-2 lists the necessary exceptions to title—items not being insured over by the title company—including:

- standard exceptions (eight of them, listed below),
- taxes, and
- further burdens not being insured over by the title company that will affect the subject property after closing, such as covenants, conditions, and restrictions (CC&Rs); easements (for example, utility or access); and/or mineral reservations.

There are eight standard exceptions taken by the title company, which include:

1. The rights or claims of parties in possession not shown of public record.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, and any facts that a correct survey and inspection of the premises would disclose and that are not shown of public record.
4. Any lien or right to a lien, for services, labor, or material before or after the effective date, imposed by law and not shown by the public records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any are created,

first appearing in the public records or attaching subsequent to the effective date of the commitment and prior to the date the warranty deed is recorded. This exception is sometimes referred to as the “gap exception,” referring to liens that may occur after the title company has closed the transaction but before the conveyance documents are recorded.

6. Taxes and assessments not yet due or payable and special assessments not yet certified to the Treasurer’s office.
7. Any unpaid taxes or assessments against the land.
8. Liens for unpaid water and sewer charges, if any.

It is very important that all parties review the commitment upon receipt. Many Realtors first review the title commitment themselves, then call their buyers or sellers to verify receipt and go over the information with their clients. If there are any discrepancies found in the information listed, notify the closing office or title department (at the number listed on the delivery slip sent with the commitment) right away so we can correct any inaccuracies before closing.

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Corporate Office  
3033 East First Avenue  
Suite 600  
Denver, CO 80206  
303-321-1880  
Fax 303-331-0272

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