

Commit to Knowing Your Title Commitment

By Alex Pankonin

General Counsel for Assured Title Agency

A title commitment is the result of an order being placed with a title insurance entity usually pursuant to a mutually executed contract to buy and sell real property. The Commission approved real estate contract in Colorado calls for the seller to convey marketable title to the purchaser, free and clear of all liens and encumbrances except as specifically noted, as evidence by a commitment for title insurance.

A title commitment serves two functions under a Colorado real property transfer pursuant to the Commission approved Contract to Buy and Sell Real Property. First, it is a binder for insurance evidencing insurable title. Second, it is the primary evidence of marketable title called for in the sales contract.

A real estate broker serves his or her client by reading the title commitment for two things:

1. Whether the title meets the contracts requirements (generally marketable); and
2. Ensure that title is insurable.

Title commitments may look different from title insurance entity to title insurance entity, but all title commitments generally have the same information on them even though where the information may be found may be slightly different.

Schedule A

Effective date

This date represents the last time the title entity searched the county land records.

Policies to be issued

- Most common policies issued are an owner's title insurance policy protecting the interests of the buyer/insured and a lender's title insurance policy (if there is a loan) to protect the interests of the lender.
- The names of the insured(s) will be listed in this section

Charges

Premium charged for the policies and any other charges for endorsements requested by owner or lender (if applicable).

Estate covered and title holder

Generally the estate covered is in "Fee Simple". Also check the title holder's name to make sure that the Seller under the sales contract is properly in title.

Legal description (usually attached as an Exhibit "A")

Legal description should be the same as on the contract.

Schedule B-1

Schedule B-1 describes the requirements for issuance of the title insurance policy. In other words, it describes an "If, then" statement:

If, and only if, the requirements of Schedule B-1 are fulfilled, then title insurance as described in the commitment will be issued.

A myriad of issues may be addressed in Schedule B-1 depending on the status of title. The typical requirements are as follows:

1. Payment of consideration
2. Payment of premium amounts for insurance plus any endorsement costs
3. Execution, delivery, and recordation of any document conveying interest in the property or creating a lien pursuant to the purchase of the property.
4. Payment of taxes, charges, and assessments levied or assessed against the property that are due and payable.

In addition to the above items, there may be requirements for the preparation of an ILC, a survey, payment of delinquent homeowner assessments, payment of liens outstanding and still a cloud on title.

Schedule B-2

Schedule B-2 contains all the matters on title that the title entity is taking exception to, or simply, is not providing insurance coverage over.

The first seven or eight exceptions are considered standard or preprinted exceptions. These are exceptions found on all title commitments.

Disclosure of impairments of record may be found in Schedule B-2.