

An Overview of the ALTA Policy



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An Overview of the ALTA Policy

As a real estate professional, the ALTA policy is an important component of protecting your client's financial interest in their new home or property. It is crucial that you understand what ALTA is and how the ALTA policy protects the buyer, as well as the lender, in real estate transactions. The purpose of this brief overview is to provide individuals in the real estate profession with a deeper understanding of ALTA and the ALTA policy as it applies to home buyers and lending institutions.

What Is ALTA?

ALTA stands for American Land Title Association. This association was founded in 1907. The main headquarters is located in Washington, DC and branch offices are found in all fifty U.S. states. The address for the main headquarters for ALTA is 1828 L Street, NW Suite 705, Washington, DC 20036.

ALTA provides oversight for the abstract and title insurance industry in the United States. The association is controlled by an eleven member panel known as the ALTA Board of Governors. This Board of Governors creates the current offerings for the ALTA policy, oversees the financial and business affairs of the organization and governs the 33 sub-groups or committees that form ALTA.

Who are the Members of ALTA?

ALTA membership includes professionals from a variety of fields. While a large component of ALTA membership is made up of title insurance companies, it also includes abstracters, title agents, real estate developers, construction firms, legal firms, real estate brokerages, land surveyors, financial and lending institutions, consulting firms and other professional fields that are related to the real estate insurance agency in some way.

The History of ALTA

Even prior to the creation of ALTA, real estate sales were assisted by the use of conveyancers who were charged with the duty of researching public records to locate pertinent information in regard to property deeds and liens that may have been held on properties being sold. Due to the occasional errors or omissions, the concept of insuring these services was originated in 1876 by a group of Philadelphia conveyancers. This insurance policy protected the group's clients against any possible oversight that may have occurred during the research process. Over the years that followed, the need for oversight in the title insurance industry became evident and ALTA was formed as a centralized trade association to fill this need.

What is an ALTA Policy?

An ALTA policy is a non-standard form of title insurance. While standard title deed insurance policies provide coverage to protect buyers involved in real estate transactions, the ALTA policy provides additional coverage options which are not available in most standard policies. In many cases, real estate buyers are unaware of the added benefits associated with an ALTA homeowner's policy so this form of title insurance is not commonly requested by individuals.

It should be noted that since the ALTA homeowner policy is an extended coverage policy and this coverage is optional, it is not a requirement for a successful purchase. With that being said, many conveyance and title search companies automatically check the option during property sales and transfers, sometimes adding \$1,000 or more to the final closing costs of the contract. Property buyers should be made aware of the option, its benefits and costs so that they may request or decline coverage. For the protection the ALTA policy offers to property buyers, choosing to make the extra investment required to establish a property owners policy in addition to the lenders policy may be a very sound decision.

Banks and financial institutions that lend money for property purchases are keenly

aware of the ALTA policy's benefits and protections. Due to this fact, lenders often request the addition of this policy to protect the lender's interests and the ALTA Policy is commonly perceived as a real estate finance company's best form of asset protection. Since the primary requester of ALTA policies is usually the lending institution, these policies are often referred to as "lender's coverage".

What Kind of Coverage is Included in the ALTA Policy?

ALTA policies for property buyers and mortgage holders include standard title insurance coverage and extended ALTA policy coverage that have a few minor variances from state to state to meet local legal requirements. These policies may also offer additional options. Where legally available, all of the following protections are afforded by the ALTA policy:

- * Coverage for property which is not as listed.
- * Defects, liens or other non-disclosed encumbrances in the policy.
- * Protection in the event of a property being unmarketable as it is insured.
- * Protection from "land-locked" property with no access to public roadways.

- * Protection against unenforceable mortgage agreements, as allowable per law.
- * Provision for mechanic's liens to take precedence to the insured mortgage with the exception of specific situations.
- * Protection against borrowers assigning the insured mortgage to another individual, rendering the mortgage invalid and unenforceable.
- * Protection against losses caused by invalid or illegal property purchases as a result of seller fraud, incompetence or nondisclosure. These cases would include sales contracts signed by minors, those not legally of unsound mind, illegal aliens or individuals engaged in deliberate fraud.
- * Protection against encroachment upon the rights of legal heirs, both known and unknown.
- * Protection against losses caused by purchasing property which has been condemned without proper filing or that is subject to tax liens.
- * Protection against losses caused by purchasing property subject to creditor liens.
- * Coverage in the event of loss caused by misinterpretation, errors or omissions on

legal wills, deeds and other legal documents which provide for the conveyance of property to heirs, surviving spouses and other beneficiaries or the discovery of such documents following the purchase of the property. (Common omissions include marriage and divorce, as well as the birth, adoption or death of a child after a legal will is written.)

- * Protection against losses as a result of fraudulent sales resulting from the seller obtaining the property deed in an illegal or unethical manner, including the use of duress or fraud.

In addition to the above listed protections, the ALTA policy may also include specific endorsements to insure the properties compliance with zoning or building regulations, covenants regarding easements, shared property and common areas, mechanic's liens related to construction, water rights and mineral rights. These endorsements may also offer protection against defects in title deeds that allow for right of re-entry or the power of termination which could harm the lender's interest in the property.

What are the Benefits of Choosing an ALTA Policy?

By electing to enact an ALTA policy, the requesting individual (either buyer, mortgage holder or both) can protect

their interests from all of the previously listed losses, subject to the terms and conditions of their policy. This can be particularly important in the case of properties that may have an unknown or diverse background where legal claims to the property by heirs, corporate entities, creditors and lien holders may fork in many different directions. The ALTA policy provides a financial recourse to recoup any losses that may be associated with these properties.

Even in the case of seemingly perfect titled properties, there are hazards that can create the potential for loss on the part of buyers and lenders. Shared easements, unrecorded marriages or divorces and unknown heirs are common issues that can result in a legal nightmare. The ALTA insurance policy allows injured parties to recoup these losses, up to the amount of the policy, without personally going through all of the rigorous and expensive court filings and proceedings needed to obtain and collect a judgement against a grantor who sold the property with an invalid title deed.

What the ALTA Policy Doesn't Cover

While the ALTA policy offers coverage for nearly every contingency that might be encountered in the conveyance of property from a seller to a buyer, there are a few exceptions where coverage would be void.

* The ALTA policy does not cover cases of government seizure of property by eminent domain.

* The ALTA policy is void if the property title defect is caused by any law or governmental regulation, including ordinances concerning property use, zoning restrictions, building codes, occupancy restrictions and environmental protection ordinances. The ALTA policy may still be enforced if the property title defect was recorded prior to the purchase of the property.

* ALTA protection is also nullified by defects or liens created by the policy holder or those known to the policy holder that were not shared with the ALTA policy underwriter within the appropriate time frame.

* With the exception of certain mechanical liens, any lien or title defect created after the purchase of the property is not eligible for ALTA policy protection.

* ALTA policy coverage is null if the insured mortgage is not enforceable due to the insured lender's failure to comply with "doing business" laws in the same state as the insured property.

* Claims caused by bankruptcy and similar creditor's rights filings are not eligible for ALTA coverage.

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