

Two years ago, a developer conveyed title to a lot to a woman by warranty deed. The woman purchased an owner's policy of title insurance before the closing. Because of an error by the title insurance company, the title commitment and title policy failed to list a county tax lien encumbering the lot as an exception to coverage.

Last year, the woman conveyed the lot for a bargain price by quitclaim deed to a friend, who paid cash, did not conduct a title search, and did not purchase title insurance.

Subsequently, the county began proceedings to foreclose the tax lien, and the friend filed a claim with the woman's title insurance company, demanding that the company reimburse her for the tax lien amount.

Is the title insurance company obligated to pay the friend's claim?

- A. No, because the friend is not a named insured on the title insurance policy.
- B. No, because the title insurance policy did not expire when the woman conveyed the lot to the friend.
- C. Yes, because the tax lien was not listed as an exception on the title insurance policy.
- D. Yes, because the woman is liable to the friend for breach of the covenant against encumbrances, and the title policy should cover the friend's potential loss.

## Explanation:

### Title insurance policies

(protect against undisclosed title defects)

	Losses covered	Duration of coverage
<b>Owner's policy</b>	Reduction in full market value of property	While insured owns property AND after insured conveys by warranty deed
<b>Lender's policy</b>	Reduction in value or priority of mortgage	Ends once mortgage is paid in full or otherwise discharged

Both owner's and lender's **title insurance policies** protect insureds—named persons covered by the policy—from undisclosed title defects by requiring the insurer to indemnify (ie, compensate) the insureds for any resulting losses. This means that an insurer is only **responsible for title defects** that:

are **not disclosed** in the insurance policy (the county tax lien) *and* affect the **named insureds** (the woman).

Therefore, the insurance company is not obligated to pay the friend's claim since she was not named in the insurance policy **(Choice C)**.

**(Choice B)** An owner's title insurance policy remains in effect so long as the named insured (or his/her heirs) owns the property or conveys it by **warranty deed**. As a result, the woman's policy *did* expire when she conveyed the property by quitclaim deed.

**(Choice D)** A covenant against encumbrances promises that there are no outstanding claims on, or interests in, the property (eg, mortgages, tax liens) other than those disclosed in the deed. But since this covenant only appears in warranty deeds, it did not appear in the quitclaim deed that the woman gave the friend. Therefore, the woman cannot be held liable under this covenant.

### Educational objective:

Title insurance policies only protect *named* insureds who are affected by an undisclosed title defect. Therefore, insurance companies are not required to indemnify persons whose names do not appear on the policy.

### References

43 Am. Jur. 2d Insurance § 518 (2018) (title insurance).

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