

A buyer purchased a house for \$300,000. The buyer financed the purchase, in part, with a \$250,000 loan from a bank, secured by a mortgage on the house. Before the closing, the buyer's attorney advised him to purchase a standard-form, \$300,000 title insurance policy naming the buyer as the insured. Because the buyer had forgotten to bring his checkbook to the closing, his son, who had accompanied him to the closing, paid the premium for him.

One year later, the buyer died. Under his will, the house passed to his son.

Two years later, the son was successfully sued by a previous record owner with a superior title to the house. The previous owner's claim had not been excepted in the buyer's title insurance policy through the carelessness of a title company employee. At the time of the lawsuit, the house was still subject to the bank's mortgage. The son immediately sought indemnification for the loss from the title insurance company.

Is the son entitled to indemnification from the title insurance company?

- A. No, because the son was not named as an insured on the title policy.
- B. No, because when a mortgage remains outstanding, a title policy protects only the mortgagee from any loss.
- C. Yes, because the house passed to the son under the buyer's will.
- D. Yes, because the son paid the policy premium.

Correct

Collecting Statistics

01 min, 17 secsTime Spent

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Explanation:

Title insurance policies

(protect against undisclosed title defects)

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

A title insurance policy protects the **named insured**—ie, named persons covered by the policy—from undisclosed title defects by requiring the insurer to indemnify (ie, reimburse) the insured for any resulting losses. This means that an insurer is **responsible for title defects** that:

are **not disclosed** (ie, excepted) in the insurance policy (eg, the previous owner's claim) *and* affect the **named insured** (eg, the buyer).

The protection provided by a title insurance policy also extends to the named insured's **heir(s) or devisee(s)** once they own the insured property—and to persons who receive the property from the named insured or the heirs or devisees by [warranty deed](#).

Here, the buyer purchased a \$300,000 title insurance policy that named the buyer as the insured. The buyer died a year later, and the buyer's house (the insured property) passed to the buyer's son under the buyer's will. The son owned the house when the previous record owner with a superior title successfully sued the son. Although the son was not named as an insured on the title policy, he was protected by the policy against this title defect since he was the buyer's devisee (**Choice A**). Therefore, the son is entitled to indemnification from the title insurance company.

(Choice B) Even if a mortgage on the insured property remains outstanding, a title insurance policy protects the named insured and the insured's heir or devisees—not the mortgagee (here, the bank).

(Choice D) When determining the scope of protection provided by a title insurance policy, it is irrelevant who paid the policy premium. Therefore, the son is not entitled to protection because he paid the premium. Instead, he is protected because he received the house under the buyer's will.

Educational objective:

Title insurance policies protect named insureds and their heirs or devisees who are affected by an undisclosed title defect so long as the named insureds or the heirs or devisees own the insured property. The policy also protects persons who receive the insured property from the named insured or the heirs or devisees by warranty deed.

References

43 Am. Jur. 2d Insurance § 518 (2022) (explaining the coverage of title insurance).

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