

# 70

## SOMETHING WAYS YOU COULD LOSE YOUR HOME AND 1 WAY TO STOP IT

There are many title issues that could cause you to lose your property or your mortgage investments. Even the most careful search of public records may not disclose the most dangerous threat: hidden risks. These issues may not be uncovered until years later.

Without title insurance from a reputable and financially secure company, your title could be worthless. With the proper insurance, your rights will be defended in court.

### Here are some of the issues that occur most frequently:

1. Forged deeds, mortgages, satisfactions or releases.
2. Deed by person who is insane or mentally incompetent.
3. Deed by minor (may be disavowed).
4. Deed from corporation, unauthorized under corporate bylaws or given under falsified corporate resolution.
5. Deed from partnership, unauthorized under partnership agreement.
6. Deed from purported trustee, unauthorized under trust agreement.
7. Deed to or from a "corporation" before incorporation, or after loss of corporate charter.
8. Deed from a legal non-entity (styled, for example, as a church, charity or club).
9. Deed by person in a foreign country, vulnerable to challenge as incompetent, unauthorized or defective under foreign laws.
10. Claims resulting from use of "alias" or fictitious name style by a predecessor in title.
11. Deed challenged as being given under fraud, undue influence or duress.
12. Deed following non-judicial foreclosure, where required procedure was not followed.
13. Deed affecting land in judicial proceedings (bankruptcy, receivership, probate, conservatorship, dissolution of marriage), unauthorized by court.
14. Deed following judicial proceedings, subject to appeal or further court order.
15. Deed following judicial proceedings, where all necessary parties were not joined.
16. Lack of jurisdiction over persons or property in judicial proceedings.
17. Deed signed by mistake (grantor did not know what was signed).
18. Deed executed under falsified power of attorney.
19. Deed executed under expired power or attorney (death, disability or insanity of principal).
20. Deed apparently valid, but actually delivered after death of grantor or grantee, or without consent of grantor.
21. Deed affecting property purported to be separate property of grantor, which is in fact community or jointly-owned property.
22. Undisclosed divorce of one who conveys as sole heir of a deceased former spouse.

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Title Agency

# 70-Something Ways

## You Could Lose Your Home *continued*

23. Deed affecting property of deceased person, not joining all heirs.
  24. Deed following administration of estate of missing person, who later re-appears.
  25. Conveyance by heir or survivor of a joint estate, who murdered the decedent.
  26. Conveyances and proceedings affecting rights of service-member protected by the Soldiers and Sailors Civil Relief Act.
  27. Conveyance void as in violation of public policy (payment of gambling debt, payment for contract to commit crime, or conveyance made in restraint of trade).
  28. Deed to land including "wetlands" subject to public trust (vesting title in government to protect public interest in navigation, commerce, fishing and recreation).
  29. Deed from government entity, vulnerable to challenge and is unauthorized or unlawful.
  30. Ineffective release of prior satisfied mortgage due to acquisition of note by bona fide purchaser (without notice of satisfaction).
  31. Ineffective release of prior satisfied mortgage due to bankruptcy of creditor prior to recording of release (avoiding powers in bankruptcy).
  32. Ineffective release of prior mortgage of lien, as fraudulently obtained by predecessor in title.
  33. Disputed release of prior mortgage or lien, as given under mistake or misunderstanding.
  34. Ineffective subordination agreement, causing junior interest to be reinstated to priority.
  35. Deed recorded, but not properly indexed so as to be locatable in the land records.
  36. Undisclosed but recorded federal or state tax lien.
  37. Undisclosed but recorded judgment or spousal/child support lien.
  38. Undisclosed but recorded prior mortgage.
  39. Undisclosed but recorded notice of pending lawsuit affecting land.
  40. Undisclosed but recorded environmental lien.
  41. Undisclosed but recorded option, or right of first refusal, to purchase property.
  42. Undisclosed but recorded covenants or restrictions, with (or without) rights of reverter.
  43. Undisclosed but recorded easements (for access, utilities, drainage, airspace, views) benefiting neighboring land.
  44. Undisclosed but recorded boundary, party wall or setback agreements.
  45. Errors in tax records (mailing tax bill to wrong party resulting in tax sale, or crediting payment to wrong property).
  46. Erroneous release of tax or assessment liens, which are later reinstated to the tax rolls.
  47. Erroneous reports furnished by tax officials (not binding local government).
  48. Special assessments which become liens upon passage of a law or ordinance, but before recorded notice or commencement of improvements for which assessment is made.
  49. Adverse claim of vendor's lien.
  50. Adverse claim of equitable lien.
  51. Ambiguous covenants or restrictions in ancient documents.
  52. Misinterpretation of wills, deeds and other instruments.
  53. Discovery of will of supposed intestate individual, after probate.
  54. Discovery of later will after probate of first will.
  55. Erroneous or inadequate legal descriptions.
  56. Deed to land without a right of access to a public street or road.
  57. Deed to land with legal access subject to undisclosed but recorded conditions or restrictions.
  58. Right of access wiped out by foreclosure on neighboring land.
  59. Patent defects in recorded instruments (for example, failure to attach notarial acknowledgment or a legal description).
  60. Defective acknowledgment due to lack of authority of notary (acknowledgment taken before commission or after expiration of commission).
  61. Forged notarization or witness acknowledgment.
  62. Deed not properly recorded (wrong county, missing pages or other contents, or without required payment).
  63. Deed from grantor who is claimed to have acquired title through fraud upon creditors of a prior owner
- In certain states, an extended coverage policy may be requested to protect against such additional defects as:**
64. Deed to a purchaser from one who has previously sold or leased the same land to a third party under an unrecorded contract, where the third party is in possession of the premises.
  65. Claimed prescriptive rights, not of record and not disclosed by survey.
  66. Physical location of easement (underground pipe or sewer line) which does not conform with easement of record.
  67. Deed to land with improvements encroaching upon land of another.
  68. Incorrect survey (misstating location, dimensions, area, easements or improvements upon land).
  69. "Mechanics' lien" claims (securing payment of contractors and material suppliers for improvements) which may attach without recorded notice.
  70. Federal estate or state inheritance tax liens (may attach without recorded notice).
  71. Pre-existing violation of subdivision mapping laws.
  72. Pre-existing violation of zoning ordinances.
  73. Pre-existing violation of conditions, covenants and restrictions affecting the land.
  74. Post-policy forgery against the insured interest.
  75. Forced removal of residential improvements due to lack of an appropriate building permit (subject to deductible).
  76. Post-policy construction of improvements by a neighbor onto insured land.
  77. Damage to residential structures from use of the surface of insured land for extraction or development of minerals.