

Virginia Search Requirements

Effective July 1, 2021

General Background: Traditionally in Virginia, before the mid to late 1990's, title examiners were required to do at least a **60-year search, back to a general warranty deed**, and as much beyond 60- years to determine that all pertinent matters were addressed. The traditional purpose for such a lengthy search was to make sure that unborn children were protected in a time when the age of majority was 21, people often married younger, and the mortality rate of young people was high.

The red-hot market of the 21st Century changed the traditional standard in residential transactions for title insurance purposes, first to a **40-year standard**, then to even shorter periods, depending on the type of transaction being insured (acreage, subdivision lot, purchase, refinance, etc.) One reason for shortened searches was that agents, independent title examiners, and/or underwriters probably had plant files for subdivisions older than 40-years, so easements could be identified. In addition, in many areas of the state title agents routinely take exception for all easements and other matters of record; a broad, general exception that would cover anything outside search parameters.

The purpose of the title search is to search Circuit Court records to:

- 1) determine who is the record owner the real estate;
- 2) determine who else might have a right to use all or a portion of the real estate (life estate, easement, leases, etc...);
- 3) determine who might have a lien against the real estate (deed of trust, *lis pendens*, judgments, etc...);
- 4) determine that legal access exists; and
- 5) discover possible marketability issues that show up in the chain of title, matters that are not necessarily Schedule B-2 title exceptions, but might influence whether someone continued with a purchase.

For title insurance purposes, the time periods may be shortened because **Old Republic National Title Insurance Company**, as your title underwriter, is willing to insure the risk of any adverse matter prior to the search requirements **as long as our search requirements, effective as of the date of the search, are met.**

Residential Search Requirements – Purchase Transactions

1. **If the lot is 20 acres or more with no standard subdivision perform at least a 60-year search back to a general warranty deed**
 - a. Alternatively, you may search back to an “on point” standard Owner’s Title policy issued by any title underwriter. An “on point” policy is defined as an Owner’s policy insuring the identical real estate to be insured which outlines the easements and other exceptions to title in specific detail in Schedule B.
 - b. Be sure to check all items listed on Schedule B of the policy to determine that deed book and page numbers are accurate.

2. **If the lot is in a subdivision, or is less than 25 acres, perform at least a 40-year search back to a general warranty deed.**
 - a. Alternatively, you may search back to the subdivision plat, whether, or not less than 40 years old, IF a “helper” Owner’s policy is available to provide other easements, etc. [A “helper” policy is defined as an Owner’s policy that covers the *same* block and section of the subdivision, but not the same lot, as that described in the legal description to be insured.]
 - b. As an alternative, you may search back to an “on point” Owner’s Title policy less than 40-years old.
 - c. Be sure to check all items listed on Schedule B of the policy to determine that deed book and page numbers are accurate.
 - d. If a 40-year search does not get back to the subdivision of the property which it will not in many cases (oldest Virginia subdivisions date from the 1880s) take broad exceptions in the Owner’s policy for easements and restrictions.
Covenants, conditions, and restrictions, if any, appearing in the public records.
Easements or servitudes, if any, appearing in the public records.
3. **All properties require a 20-year judgment search.**
 - a. Search judgments on all who owned the property within the 20-years prior to the transaction you are insuring unless you have an on-point Owner’s policy on which you are relying.
 - b. July 1, 2021 the statute of limitation on judgments was shortened to 10-years. However, for title insurance purposes for now we still require a 20-year search.
4. **Search a subservient access easement until a recorded access easement found.**
5. **If the legal description references a recorded plat of survey, make sure it is actually recorded where referenced and is legible.** If not contact ORT underwriters or require a survey, be done and recorded to provide an insurable legal description. Include a copy with the search notes.

Residential Search Requirements – Refinance, Equity Lines, Second Loans

If the property being refinanced or having a second mortgage or an equity line added **does NOT qualify for a Short Form Title Policy**, then you must **follow the requirements above as if it were a Purchase transaction**.

If the property **qualifies for a Short Form Title Policy**, then a **two-owner title search** back to a general warranty deed PLUS a judgment search on all who owned the real estate in the last 20-years may be done. NOTE: in counting the owners of a “two-owner search,” only count “bona fide purchasers for value.” Do not count transfers by will or intestate succession, nor should you count transfers by deed of gift or quitclaim deed.

1. The ALTA Short Form Loan Policy is only issued on 1-4 Family Residential properties.
 - Conditions needed for policy to be issued:
 - a. platted subdivision - not acreage
 - b. existing improvements on property – **NOT for construction loans**
 - c. condominiums and townhouses are insurable
 - d. access to a public road must appear in the land records
 - e. residential property only
 - Does not apply to:
 - a. construction loans
 - b. raw land, or unimproved property
 - c. commercial property
 - d. multi-family residential (more than 4 units, unless individual condominium or townhouse)
2. Deed to the current owner and immediately prior owner must be **general warranty deeds**; if not, search back to last general warranty deed of record.
3. Deeds must be reviewed for possible underwriting objections.
4. Current owner, or immediately prior owner, must have or have had an **institutional purchase money deed of trust**. If not, search back to owner who last had an institutional deed of trust.
5. Run judgments for 20-years on all who owned the real estate in the last 20-years, and financing statements for 5-years on all who owned the real estate in the last 5-years.
NOTE: Judgments filed *after* an owner deeded out the real estate do not attach and may be ignored.

Commercial Property Search Requirements

Search at least 60-years, back to a general warranty deed, but 100 years is recommended. In some cases, you may need to search back to the land grant from the Sovereign. Lender's counsel typically will want copies of at least all easements, restrictions, and the vesting deed. In some cases, they may ask for copies of all documents in the chain of title. Generic exceptions are not acceptable in commercial transactions. Review lender instructions. If seller provides an on-point Owner's title policy, your examiner may use it as a guide, but should still do an independent full search.

A mineral search must go back to at least 1850 and perhaps further depending on the need for the search and the locality involved.