

The Fund & Title Insurance

Laying the Groundwork

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The logo for 'The Fund' is centered on a blue background. It features the word 'The' in a large, white, serif font, positioned above the word 'Fund' which is in a larger, white, serif font. A registered trademark symbol (®) is located to the upper right of 'Fund'. Below the word 'Fund' is a thick white horizontal line that is broken in the middle by a small gap.

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The Fund

- The Fund was founded in 1948 by and for Florida attorneys to help them provide real estate purchasers and lenders with legal expertise and title protection
- Attorneys' Title Fund Services, LLC ("ATFS") still known as The Fund, now provides services to thousands of Fund members issuing title insurance on Old Republic National Title Insurance Company ("ORNTIC")



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What is Property Ownership?



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Types of Ownership

- Title can be held by one party in fee simple absolute, or in a co-tenancy as follows:
 - Estate by the entirety (presumption for married couple)
 - David and Mary as husband and wife
 - Married Couple is like a third “person”
 - Protection from creditors against one party
 - No protection from federal tax liens
 - Joint tenants with right of survivorship
 - David and Mary as joint tenants with right of survivorship
 - “Last man standing gets all”
 - Common in northeastern United States
 - For married couples estate by the entirety is better



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Types of Ownership, Continued

- Tenants in common (presumption for co-tenants not married to each other)
 - David and Mary
 - Each will own an undivided one-half interest in the property unless otherwise stated
 - Partition action if one wants to sell and the other does not
 - Divorce changes estate by the entirety into tenants in common
- Life estate with remainderman
 - David for *his* life then to Mary
 - David for Frank's life then to Mary
 - Enhanced or Lady Bird Deed
 - David for his life then to Mary, David reserving for himself the rights to . . .



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Types of Ownership

- Title can also be held by
 - A trustee of a trust
 - A trust cannot hold property
 - A legal entity, such as
 - Corporation
 - LLC, or
 - Partnership




State of Delaware
Secretary of State
Division of Corporations
Delivered: 12:45 PM 01/13/2016
FILED: 12:45 PM 01/13/2016
File Number

CERTIFICATE OF INCORPORATION OF

FIRST: The name of the corporation is:
SECOND: Its registered office in the State of Delaware is located at 16192 Coastal Highway, Lewes, Delaware 19958, County of Sussex. The registered agent in charge thereof is Harvard Business Services, Inc.
THIRD: The purpose of the corporation is to engage in any lawful activity for which corporations may be organized under the General Corporation Law of Delaware.
FOURTH: The total number of shares of stock which the corporation is authorized to issue is 1,500 shares having a par value of \$0.010000 per share.
FIFTH: The business and affairs of the corporation shall be managed by or under the direction of the board of directors, and the directors need not be elected by ballot unless required by the bylaws of the corporation.
SIXTH: This corporation shall be perpetual unless otherwise decided by a majority of the Board of Directors.
SEVENTH: In furtherance and not in limitation of the powers conferred by the laws of Delaware, the board of directors is authorized to amend or repeal the bylaws.
EIGHTH: The corporation reserves the right to amend or repeal any provision in this Certificate of Incorporation in the manner prescribed by the laws of Delaware.
NINTH: The incorporator is Harvard Business Services, Inc., whose mailing address is 16192 Coastal Highway, Lewes, DE 19958.
TENTH: To the fullest extent permitted by the Delaware General Corporation Law a director of this corporation shall not be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

I, the undersigned, for the purpose of forming a corporation under the laws of the State of Delaware do make and file this certificate, and do certify that the facts herein stated are true; and have accordingly signed below, this

Signed and Attested to by: 
Harvard Business Services, Inc., Incorporator
By: Richard H. Bell, II, President

How to Transfer Property Ownership

Deeds - Essential Requirements:

- Original document
- Notary for recording, not validity
- Two witnesses
 - Notary may be a witness but must sign on the witness line
- Legal capacity
 - Over 18 years old, etc.
- Language of conveyance
 - Sell and convey
- Consideration (we do NOT typically insure gifts)
- Name of the preparer
 - Person's name



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Mortgages - Essential Requirements:

- Original document
- Notary for recording, not validity
- Witnesses
 - Not required by Florida law
 - Two witnesses required by all lenders
 - Notary may be a witness but must sign on the witness line
- Legal capacity
 - Over 18 years old, etc.
- Language granting a mortgage lien
- Name of the preparer



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Conveyances by Individuals

- Sign name as on document
- Homestead considerations
 - Deed
 - Spouse to sign or
 - Non-homestead language in deed
 - Mortgage
 - Spouse to join the mortgage for homestead purposes – be specific
 - Remember that it may become homestead at any time



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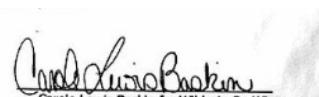
Conveyances by Entities & Representatives

- Authority to convey or mortgage
 - Corporation or Limited Liability Company
 - TN chapter 11
 - Partnership
 - TN chapter 23
 - Agent under a power of attorney
 - TN chapter 4
 - Personal Representative of an estate
 - TN chapter 2
 - Guardian for a minor
 - TN 10.04.06

Signed, sealed and delivered in the presence of:

Witness (Print) Howard Baskin

Witness (Print) VERNON C STAIRS


Carol Lewis Baskin for Wildcats On Wings
Trustee of the 101236 Land Trust
Agreement Dated 7/22/98
PO Box 340189, Tampa, FL 33694-0189
813-493-4565

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Title Search Introduction



Gathering of Information

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Searching Title to Land

- Only option for examining title prior to title plants
- Attorneys
 - Searched courthouse records manually
- Courts record documents
 - Order received
 - Index them by names of parties
 - Creating Grantor/Grantee Index



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Searching Title to Land

- Later, abstracters
 - Digested public records to create abstracts
 - Condensed history of title to land tracing ownership back to earliest public record
 - Including a statement of all
 - Liens
 - Charges
 - Liabilities



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Searching Title to Land

- Title plants were created to store & share abstracts
 - Convert courthouse data
 - **Property Index**
 - Indexed by legal descriptions
 - **General Index**
 - Indexed by names of parties
 - Sometimes errors are revealed
 - More timely correction
- Some large title plants were later merged into The Fund



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ATIDS

- ATIDS – Automated Title Information Data System is the largest database of computerized title information in the State of Florida
 - 1967 The Fund started developing a computerized title plant
 - 1971 ATIDS introduced
 - Name index
 - Property index



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Title Examination Introduction



Review of Gathered
Information for Creation of
Commitment

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What is Title Examination?

- Review & evaluation of recorded documents from past to present
 - To establish
 - Unbroken chain &
 - Legal sufficiency of instruments – confirming accuracy
 - Legal descriptions
 - Parties, etc.
 - To reach conclusion as to quality of title
 - To determine encumbrances, limitations or adverse matters



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Examining Title to Land

- Attorneys
 - Initially
 - Examined courthouse records manually &
 - Gave opinions of title
 - Later, used title plants
 - Examined abstracts &
 - Created title commitment
 - Today
 - Still use of title plants for creation of title commitment or
 - Order a commitment from The Fund



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Legal Descriptions


- Real property can be described in several ways in Florida
 - Metes & bounds
 - From point of beginning go north 0° 0 min. 0 sec. for 125 feet more or less
 - Government survey method - fractional sections
 - NE ¼ of the NE ¼ of Section 4, Township 1 N & Range 40 E
 - Platted property
 - Lot, Block, Plat Name, Plat Book No., & Page
 - Lot 86, Bronson's Landing According to the Map or Plat thereof as recorded in Plat Book 66, page(s) 139 through 149, Public Records of Orange County, Florida



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Legal Descriptions, Continued

- Condominiums Sec. 718.104, F.S.
 - Official Record Book & Page for Declaration Of Condominium
 - Apartment No. 128-C of that certain Condominium known as ELWOOD TOWER SOUTH, a condominium, dated September 23, 1966, recorded in Official Records Book 3184 at Page 123 at seq. of the Public Records of Broward County
-  Can a surveyor find the property on the face of the earth if given the legal description?
- Not adequate legal descriptions
 - Street address
 - Tax ID
 - Both street address and tax ID
 - Shortened tax appraiser's description
 - But PACE financing lien will attach when tax appraiser description is used

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Chain of Title

Chain of Title

- In examining title
 - Analyze abstract to create a chain of title
- A **chain of title** is a “record of successive conveyances, or other forms of alienation, affecting a particular parcel of land, arranged consecutively, from the government or original source of title down to the present holder”
Black’s Law Dictionary
- Think each link is ownership – chain is from owner to owner

Encumbrances & Adverse Matters



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Encumbrances & Adverse Matters

- Encumbrances and adverse matters may include:
 - Mortgages
 - Judgments
 - Construction liens
 - Code enforcement liens
 - Child support orders
 - Competing ownership claims
 - Defective court proceedings
- Must be addressed in the commitment as either
 - B-I – requirements or
 - B-II – exceptions



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Commitment for Title Insurance

Reason for Title Search & Examination

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What is a Title Commitment?

- It is a promise to issue Title Insurance
- It contains the same
 - Terms
 - Conditions and
 - Exclusions as will appear in the final policy (unless deleted)
- Jacket
 - Schedule A – from chain
 - Schedule B-1 – “charms” to be removed
 - Schedule B-2 – “charms” to remain



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What is a Title Commitment?

- Buyer to review to determine if exceptions (B-II) are acceptable
 - Contract calls for marketable title
 - Easements & other items
- Lender to review to determine if exceptions (B-II) are acceptable
- Settlement agent to review (even if ordered) to determine
 - Accuracy
 - B-I – items to be removed by satisfaction or otherwise
 - B-II – if title is marketable
 - B-II – items to be removed
- Seller to review to determine if all exceptions (B-II) are listed

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AMERICAN LAND TITLE ASSOCIATION
COMMITMENT FOR TITLE INSURANCE
(With Florida Modifications)

ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN ABSTRACT OF TITLE. IT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. IT IS NOT A SUBSTITUTE FOR A TITLE SEARCH OR EXAMINATION. ANY RESEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, AND CREATING A COMMITMENT TO ANY PERSON, INCLUDING A PROPOSED INSURED.


THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO INSURE IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice, Schedule B, Part I—Requirements, Schedule B, Part II—Requirements, and Schedule B, Part III—Requirements, the Company will issue the Policy according to the terms and provisions of this Commitment. The Company will not issue the Policy unless the information entered in Schedule A both the specified dollar amount as the Proposed Amount Insured.

If all of the Schedule B, Part I—Requirements have not been met within 180 days of the Commitment Date, the Company's liability and obligation end.

OLD REPUBLIC
 1400 South
 6412 17th St.
 Miami, FL 33156



This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice, the Commitment to Issue Policy, the Commitment Requirements, and Schedule B, Part I—Requirements, and a counter-signature by the Company.

Form C21, Schedule B—ALTA Commitment for Title Insurance 2021 v. 10.00 (With Florida Modifications)
 07/01/2021

AMERICAN LAND TITLE ASSOCIATION
COMMITMENT
(With Florida Modifications)

ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Transaction Identification Data, for which the Company assumes no liability as set forth in the Commitment to Issue Policy.

Commitment Number: (enter text here)	Revision Number: (enter text here)	Issuing Office File Number: (enter text here)
Property Address: (enter text here)	Loan ID Number: (enter text here)	Issuing Office's ALTA® Registry ID: (enter text here)

SCHEDULE A

- Commitment Date: (enter text here)
- Policy to be issued:
 - OWNER'S 2021 ALTA® Owner's Policy with Florida Modifications
 Proposed Insured: (enter text here)
 The estate or interest to be insured: (enter text here)
 - MORTGAGEE 2021 ALTA® Loan Policy with Florida Modifications
 Proposed Insured: (enter text here)
 The estate or interest to be insured: (enter text here)
 - MORTGAGEE 2021 ALTA® Loan Policy with Florida Modifications
 Proposed Insured: (enter text here)
 The estate or interest to be insured: (enter text here)
- The estate or interest in the Land at the Commitment Date is: (identify each estate or interest) (enter text here)
- The Title is, at the Commitment Date, vested in (identify vesting for each estate or interest here) and, as disclosed in the Public Records, has been since (enter text here)
- The Land is described as follows: (enter text here)

Old Republic National
 1400 Wacker Drive, Suite 900
 Miami, FL 33139

AUTHORIZED
 (enter text here)

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COMMITMENT
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ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Schedule B-I

Issuing Office File Number:

REQUIREMENTS

All of the following Requirements must be met:

- The Proposed Insured must verify the Company in writing of the name of any party not shown on interest in the Land or who will make a loan on the Land. The Company may require:
- Pay the agreed amount for the estate or interest to be insured.
- Pay the premiums, fees, and charges for the Policy to the Company.
- Documents satisfactory to the Company that convey the Title or create the Mortgage to it authorized, executed, delivered, and recorded in the Public Records.

Schedule B-II

Issuing Office File Number:

EXCEPTIONS FROM COVERAGE

NONE HISTORICAL LAND RECORDS CONTAIN DISCRIMINATORY COVENANTS THAT ARE ILLEGAL AND UNENFORCEABLE BY LAW. THIS COMMITMENT AND THE POLICY THAT ANY DISCRIMINATORY COVENANT IN A DOCUMENT REFERENCED IN SCHEDULE B AS IF EACH DISCRIMINATORY COVENANT IS REJECTED, REPEATEDLY, REMOVED, AND NOT REINCLUDED OR REINCLUDED ONLY THE REMAINING PROVISIONS OF THE DOCUMENT WILL BE EXCEPTED FROM COVERAGE.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following exceptions unless stated to the satisfaction of the Company:

- Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, modified, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
- General or special taxes and assessments required to be paid in the year _____ and subsequent years.
 - Rights or claims of parties in possession not recorded in the Public Records.
 - Any encumbrance, easement, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
 - Easements or claims of easements not recorded in the Public Records.
 - Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.
- Any Owner's Policy issued pursuant hereto will contain under Schedule B for the following exception: any adverse ownership claim by the State of Florida by right of reversionary in any portion of the Land interest including, including submerged, filled and artificially created lands, and lands accreted to such lands.

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 07/01/2021

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Title Insurance



Types of Florida Title Insurance

- Owner's Policy (O21) ALTA 2021 Owner's Policy with Florida modifications
 - Indemnifies owner against loss if title is unmarketable
 - Issued for full insurable value = fair market value
- Loan Policy (M21) ALTA 2021 Loan Policy with Florida modifications
 - Indemnifies lender against loss if the mortgage is not a valid lien of specified priority
 - Issued for full principal indebtedness or up to 125% of that amount
- CPL's = Closing Protection Letters
- ALTA – 2021 (July 1, 2021)

American Land Title Association (ALTA)

- National trade association
 - www.alta.org
- Creates ALTA title insurance forms used throughout country
- ALTA will require that the title agent
 - Become a member
 - Pay a license fee or
 - Apply for and obtain an occasional use waiver annually



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Title Insurance is Unique


	Other Insurance	Title Insurance
Coverage for:	Future hazards	Past hazards not yet discovered
Premium is Paid:	Continuously	One time upon issuance of policy
Premium is Spent:	Paying future claims	Reducing claims risk prior to policy issuance & held in reserve for future undiscovered risks



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What Does Title Insurance Cover?

- Occurrences before effective date which surface after effective date
- Breaks & defects in chain of title
- Gap – Sec. 627.7841 F.S.
- Attorney's negligence
-  Forgery, fraud, undue influence, duress, incompetency, incapacity, impersonation
- Failure of a document to be properly created, executed, witnessed, acknowledged, notarized, delivered, indexed or recorded
- Defective judicial or administrative proceedings



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Who Does Title Insurance Protect?

- The insured and
- The attorney examining title
 - By providing another resource for liability for title defects; consequently, reducing overall attorney liability



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