

FORGERY - A CAUSE FOR ALARM

Forgery is the crime of falsely and fraudulently making or altering a legal document. It is a felony punishable by imprisonment in a state prison. It is also an act which may cloud title to property and may result in protracted legal proceedings.

The incidence of forgery is escalating, and the victims are innocent property owners. Title industry figures reveal that over the last decade forgery losses tripled, accounting now for over 20% of all losses paid by title insurers. These statistics indicate that the consumer's chances of becoming a forgery victim are the greatest ever. Forgeries affecting real property are created in a number of ways.

- A deed may be forged by someone, often a family member or associate, in an attempt to transfer legal ownership of the property without the knowledge of the true owner. A lender's recorded security agreement for a loan may be eliminated by a forged instrument falsely indicating payment of the secured debt, thereby allowing another loan to be fraudulently obtained. A note and deed of trust may be forged by a person who then sells the note secured by the deed of trust and disappears, leaving an unsuspecting homeowner to discover the cloud on title when the purchaser of the note commences foreclosure proceedings for the nonpayment of the debt.
- A fraudulent document may be notarized by either a person impersonating a notary or a legitimate notary who fails to ascertain that the person signing the document is not the person whose name appears on the document.

The mounting trend in forgery has received serious attention. No longer may title companies concentrate only on removing risks arising from inadvertences or errors in recordings; instead, they now have the additional responsibility of contending with criminal acts. The title industry is reevaluating its title and escrow practices and strengthening notarization processes, hoping to close loopholes which forgers might otherwise exploit. In addition, special incentives are being offered to company employees who detect forgeries during the process of title examination and escrow closings.

The title insurance industry is also working with law enforcement agencies, providing them with assistance in the prosecution of forgers by making available industry expertise and offering results of their investigations. The California legislature has responded to widespread public concern by raising the penalty for forgery so that it now is a felony punishable by up to three years in state prison, and, in the case of multiple forgeries or repeat offenders, severely limiting the granting of probation. For forgeries affecting homeowners, a fine may also be imposed of up to \$75,000. Through improved practices and cooperation with enforcement agencies, the title industry has moved vigorously to reduce the incidence of forgery and lessen the opportunities for forgery.

But, what can you as a property owner do about forgery? While you may not be able to prevent a forgery, you can be protected. Title insurance provides protection against forgeries in your title which may have occurred prior to the issuance of your title insurance policy. Without this protection, you would single-handedly face the uncertainty and expense of resolving legal issues.

Your local title company will be happy to provide additional information.

