

# Consumer's Guide to Title Insurance and Escrow Services



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## Introduction

**T**he decision to buy a home or property is one of the biggest and most important financial decisions you may ever make. Title insurance and the escrow process are designed to make sure when you close on your purchase, you are the legal owner, and no one has liens, claims, easements or restrictions on the property — other than the mortgage you agree to pay. It also ensures all funds are properly transferred and the seller pays any outstanding expenses.

## Section 1 Title insurance

### WHAT IS TITLE INSURANCE?

It's an insurance policy you buy from a title insurance company when you buy a home or property. It protects you and your lender from loss if a property ownership dispute occurs. The title insurance company searches public records, such as liens, claims, deeds, tax records and maps, to make sure there are no problems in the title's ownership and history for the property you are buying.

The fee for title insurance is usually included in your itemization of closing costs from your lender, and it is a one-time fee. If a problem should occur at a later date, the terms of the policy define covered and excluded losses. The policy takes effect on the issue date and covers defects that arise prior to your ownership. By law, your lender must deliver your policy to you within a reasonable time after it is issued.

### WHY TITLE SEARCHES ARE IMPORTANT

The most important reason to conduct a title search is to eliminate risk to you and your lender of future title claims and loss against the home or property you are buying. If the title search uncovers problems, you can deal with it before you close on the home or property. The title insurer and the seller may obtain payoff releases, court orders, paid assessment letters or waivers to resolve most problems. But even the most careful preventive work cannot always locate hidden issues.

### CHOOSING A TITLE INSURER AND ESCROW AGENT

The choice of which title insurer and escrow agent to use is up to you. Under federal law, the Real Estate Settlement Procedures Act (RESPA), the seller, your real estate agent, or your mortgage lender cannot require you to buy title insurance from any particular company. You may also choose one company for escrow services and another company for title insurance.

If your seller insists you use a certain title or escrow company, or threatens to cancel the transaction if you use another company, he or she is violating RESPA. To find out more about RESPA, visit the U.S. Department of Housing and Urban Development (HUD) online at <http://www.hud.gov/offices/hsg/sfh/res/respamor.cfm#CF> or you may file a complaint with HUD or with DFI at [www.dfi.wa.gov/consumers/complaint.htm](http://www.dfi.wa.gov/consumers/complaint.htm).



## DIFFERENT TYPES OF TITLE INSURANCE

*There are two types of title insurance:*

### ■ LENDER INSURANCE

protects your lender against any loss that might occur due to unknown title defects. It also guarantees the lender to have a valid first lien against the property.

### ■ OWNER INSURANCE

protects you, the buyer, from issues that might emerge after you close the sale. Example of issues may include human error, forged documents, undisclosed or missing heirs, and incorrect legal descriptions.

Only an owner's policy will protect you from personal loss, such as legal expenses for a dispute after the sale. There are no annual premiums with owner insurance.

You pay when the policy is issued. It insures you for as long as you own the property. This protection is limited to the face amount of the policy, which is usually the market value of the property when you buy it. It does not cover increases in the value of your property. If you want to cover the increased value of your property, you may buy additional coverage through your title insurer.

## WHAT OWNER'S INSURANCE COVERS

*It insures:*

- You are the owner of the property
- You against losses from prior liens or judgments on the property
- You have legal access to your property
- Your title is not rejected by a subsequent buyer because it is unmarketable due to a title defect or lien

## WHAT OWNER'S INSURANCE DOES NOT COVER

Title insurance does not protect you from losses caused by problems you created or losses not directly related to resolving or paying the claim. It also does not cover losses listed under your policy's exclusions or exceptions. It is a good idea to discuss these exceptions with an attorney before you close any real estate purchase. Some non-covered sources of loss may include:

- An unrecorded title defect you knew about
- Violations of building and zoning ordinances
- Restrictive covenants limiting how you may use the property
- Discrepancies, conflicts or shortages in area, boundary lines, encroachments, protrusions or overlapping of improvements

## THE COST OF TITLE INSURANCE

Under Washington state law, every title insurer must file its rates schedule, forms, and rate modifications with the Office of the Insurance Commissioner (OIC). It's a good idea to compare prices when shopping for title insurance. Each company's loss experience, expenses, and rates will differ.

Some title insurance companies offer discounts for title insurance and escrow to first-time home buyers, senior

citizens, certain professions, a "short-term rate" for properties resold within the last five years, and a subdivision bulk rate for homes purchased in a new subdivision.



Title companies may also offer a discount when you buy both a lender's policy and an owner's policy concurrently from the same company. The availability, amount, and applicability of the discounts vary by company. Discounts generally range from five to 30 percent of the standard rate. Be sure to ask your title or escrow agent what discounts are available.

## THINGS TO THINK ABOUT BEFORE YOU BUY TITLE INSURANCE

- Make sure the face amount of the title policy is correct.
- Make sure the effective date on the policy matches the actual closing date of the escrow.
- Verify that the policy describes all of the property and all of the interests being acquired.
- Read your policy—know exactly what is covered and what is not. If you are unsure, ask questions.
- Make sure you keep your policy in a safe place.

## HOW TO MAKE A CLAIM ON YOUR POLICY

First, only you, the policy owner, can make a claim on your policy. And second, the process to submit a claim is strictly governed by the terms of your policy. Usually, your policy will require you to promptly notify the insurer when you first become aware of a potential loss. You must then submit proof of loss or damage within a certain timeframe.

The title insurer may defend the title and pay the associated legal expenses, take corrective action to resolve the problem, or pay you for your loss up to the face amount of the policy. The insurer is only obligated to pay you if it cannot correct the defect causing the loss.

## Section 2 Escrow services

### WHAT IS ESCROW?

When you buy a home, escrow is an account you set up with your mortgage lender, attorney, escrow company, or title company. This is the account where your earnest money resides pending the closure of your loan. After you close your loan, it's also an account you may use to have your lender pay your property taxes and homeowner's insurance on your behalf.

### WHERE TO FIND ESCROW SERVICES

In Washington state, there are several parties who perform escrow services. Here's a listing of those parties and the agencies that regulate them:

| Escrow Parties               | Regulatory Agencies   |
|------------------------------|---|
| Attorneys                    | Washington State Bar Association  |
| Banks and lenders            | Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS) |
| Independent escrow companies | Washington State Department of Financial Institutions   |
| Title companies              | Washington State Office of Insurance Commissioner   |

## BEWARE OF ILLEGAL REBATES AND INCENTIVES FROM TITLE INSURERS



An unlawful rebate occurs when a title insurer offers you a rebate, discount, or other valuable benefit as an incentive for you to buy title insurance, or as a reward for steering title insurance business to their company. This type of activity inflates title insurance premium rates for all consumers. It is also unlawful for a title insurer to offer you a lower premium rate than what they filed with the Office of the Insurance Commissioner. The filed rate schedule is used as a basis for comparison between companies.

If a title insurer offers a rebate from the filed premium rate, it results in a discriminatory practice, which is unfair to all consumers. Like rebating, it is illegal for a title insurer to give any prizes or goods worth more than \$25 to any person, per year, as an incentive to generate a referral or actual business with that company.

If a title insurer offers you or your real estate agent rebates or incentives, report this activity to the Washington State Office of the Insurance Commissioner at 1-800-562-6900.



## WHAT ESCROW AGENTS SHOULD NOT DO

Most escrow officers are not attorneys and cannot practice law. For legal advice, you should consult a lawyer. An escrow officer cannot negotiate transactions or offer investment advice. Do not expect the escrow officer to give you advice about whether or not you are getting a “good deal” or you are doing things the right way. The escrow officer is there simply to follow the instructions given by the parties to the transaction.

## THE COST OF ESCROW SERVICES

You should know that escrow fees are not regulated by the state. Some escrow agents will offer a low escrow fee, but charge you other incidental fees related to the transaction, which increases the total escrow fee. Other incidental costs may include:

- Wire transfer fees
- Tracking or reconveyance fees (a reconveyance fee is what title insurers charge you to cover the cost of removing your current lender’s lien from your property title when you refinance)
- Trustee fees
- Electronic document fees
- Courier fees
- Fax fees
- Copying fees
- Trust accounting fees

The escrow agent should provide you the total fee amount he or she will charge you so you can compare prices or fees effectively.

## WHAT TO EXPECT FROM THE ESCROW AGENT

***The duties of the escrow agent include:***

- Serving as a neutral third party
- Receiving authorization from the buyer and seller to set up an escrow. They may do this via a purchase and sale agreement transaction (also called an earnest money agreement), or via a loan application from a mortgage broker/lender for a refinance transaction
- Writing the escrow instructions on behalf of the seller and buyer after reviewing the earnest money agreement or lender’s instructions. Most escrow agents prepare their own written escrow instructions to conform with the earnest money agreement and the lender’s instructions
- Following instructions precisely and in a timely manner from the buyer, seller, real estate agents, loan officer, mortgage broker, and funding lender
- Serving as a trustworthy person who is obligated to safeguard the funds or documents in his or her possession.
- Paying all bills as authorized
- Providing an accounting for the escrow transaction using a closing or settlement statement known as a HUD 1 statement
- Assuring funds or property will not change hands until ALL of the conditions necessary to the transaction are complete
- Dispersing funds or transferring the title according to the instructions after all the conditions necessary to the transaction are complete





## YOUR ROLE DURING THE ESCROW TRANSACTION

As a buyer, it's important that you read and understand the escrow instructions. The escrow instructions define what the escrow agent is going to do to meet the parties' conditions. If you have any concerns or questions about the process, be sure to ask the escrow officer.

## HOW YOU CAN HELP EXPEDITE THE CLOSING OF ESCROW

If you are concerned about how long the escrow process is taking, ask the escrow officer what you can do to help speed up the closing of the escrow. Also, make sure you respond quickly to any correspondence related to the transaction.

## WATCH OUT IF AN ESCROW AGENT OFFERS YOU ILLEGAL REBATES AND INCENTIVES

If an escrow transaction involves someone offering you rebates or incentives in return for choosing their services, and a title insurance company is not handling the escrow function, report it to the Washington State Department of Financial Institutions at 360-902-8700 or 1-877-RING-DFI (1-877-746-4334).

## FOR MORE INFORMATION

**Office of the Insurance Commissioner**  
1-800-562-6900  
[www.insurance.wa.gov](http://www.insurance.wa.gov)

**Department of Financial Institutions**  
360-902-8700  
or 1-877-RING-DFI (1-877-746-4334)  
[www.dfi.wa.gov](http://www.dfi.wa.gov)

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## WHAT IS A CLOSING OR SETTLEMENT STATEMENT ALSO KNOWN AS HUD-1?

The HUD-1 is a form used by the escrow agent to itemize all charges you and the seller must pay for the real estate transaction. It gives each of you a complete list of your incoming and outgoing funds. The HUD-1 form:

- Is a written accounting of the escrow transaction
- Is prepared at the close of escrow
- Includes all charges and credits to your escrow account
- Reflects the:
  - ▶ Purchase price
  - ▶ Funds deposited or credited to your account
  - ▶ Payoffs on existing encumbrances or liens
  - ▶ Charges for all services
  - ▶ Net proceeds (a final determination of the amount you are entitled to receive at the close of the escrow)
  - ▶ Required funds you must bring in to close the transaction

Be sure to review the closing or settlement statement carefully. It is the final statement of the finances of your transaction. If you do not understand something on it, be sure to ask the escrow agent to explain it.

For more information about settlement service costs, contact your lender or mortgage broker to get a copy of the booklet *Buying Your Home, Settlement Cost and Helpful Information* provided by the US Department of Housing and Urban Development Office of Housing-Federal Housing Commission. You can also access a copy online at: <http://www.hud.gov/offices/hsg/sfh/res/sfhrestc.cfm>.

Washington State  
Office of the  
Insurance Commissioner

