Title Consumer Series: Understanding Closing & Title Costs

It's the big day. The day you go to the title or escrow company, sign your name on the dotted line, hand over a check and prepare to take ownership of your new home. It's also the day that you and the seller will pay "closing" or settlement costs, an accumulation of separate charges paid to different entities for the professional services associated with the buying and selling of real property.

It's too often a day filled with uncertainty and stress. To help you better understand this confusing subject, the California Land Title Association has answered some of the questions most commonly asked about title, closing and closing costs.

What services will I be paying for when I pay closing costs?

You will usually be paying for such things as real estate commissions, appraisal fees, loan fees, escrow charges, advance payments such as property taxes and homeowner's insurance, title insurance premiums, pest inspections and the like.

How much should I expect to pay in closing costs?

The amount you pay for closing costs will vary; however, when buying your home and obtaining a new loan, an estimate of your closing costs will be provided to you pursuant to the Real Estate Settlement Procedures Act after you submit your loan application. This disclosure provides you with a good faith estimate of what your closing costs will be in the real estate process. An itemized list of charges will be prepared when you close your transaction and take title to your new property.

Can I pay for my closing costs in installments?

No, and it is easy to understand why. Many different parties will have fulfilled their responsibilities and be awaiting payment upon closing. The title or escrow company will disburse monies to those parties, pursuant to the escrow instructions, when funds are available.

Will I be allowed to write a personal check to cover my closing costs?

Your closing funds should be in the form of a cashier's check, issued by a California institution, made payable to the title company or escrow office in the amount requested. A personal check may delay the closing or may be unacceptable to the title or escrow company. An out-of-state check could also cause a delay in your closing due to possible delays in clearing the check.

Is it a law in California that I must purchase title insurance when I buy or refinance a home?

No. However, virtually all lenders require title insurance for the face amount of their deed of trust, whether purchase or refinance. Prudent owners also value the protection afforded by the payment of the one time title insurance premium.

How much can I expect to pay in title insurance?

This point is often misunderstood. Although the title company or escrow office usually serves as a meeting ground for closing the sale, only a small percentage of total closing fees are actually for title insurance protection.

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318 Mendocino Ave., Santa Rosa CA 95401
Phone (707) 566-0900/ Fax (707) 566-0901
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Your title insurance premium may actually amount to less than one percent of the purchase price of your home, and less than ten percent of your total closing costs. The title policy is good for as long as you and your heirs own the property with the payment of only one premium.

Who will pay for title insurance charges, the buyer or seller?

Surprisingly, "who pays" is not uniform from county to county in California. In some counties the buyer will pay while in others the seller will pay. In other counties the seller will pay for the owner's title policy and the buyer will pay for the lender's policy. But in every case, the question of who pays closing costs is a matter of agreement between the buyer and seller. Usually this agreement is based on the customary practice in your county.

Why are separate owner's and lender's title insurance policies issued?

Both you and your lender will want the security offered by title insurance. Your home is an important purchase, and you will want to be certain your home is yours, all yours. Title insurance companies insure your rights and interests in order to protect you against claims.

Your lender is looking to insure the enforceability of their lien on your property and marketability. What is meant by "marketability"? Well, we in California have long been importers of mortgage money. Local lenders will "originate" a loan here, and, often, sell it to an out-of-state investor. This investor, who may never see the property, needs to know that he has a valid and enforceable lien. Title insurance is the way of making certain. Without a current title policy, the loan is essentially unmarketable.

What does my title dollar pay for?

Title insurers, unlike property or casualty insurance companies, operate under the theory of "risk elimination." Risk elimination can only be accomplished after an intensive period of risk identification.

Title companies spend a high percentage of their operating revenue each year collecting, storing, maintaining and analyzing official records for information that affects title to real property. The issuance of a title insurance policy is highly labor-intensive. It is based upon the maintenance of a title "plant" or library of title records, in many cases dating back over a hundred years. Each day, recorded documents affecting real property are posted to these plants so that when a title search on a particular parcel is requested, the information is already organized for rapid and accurate retrieval.

Trained title experts are able, with the aid of their extensive title plants, to identify the rights others may have in your property, such as recorded liens, legal actions, disputed interests, rights of way or other encumbrances on your title. Before closing your transaction, you can seek to "clear" those encumbrances which you do not wish to assume.

The goal of title companies is to conduct such a thorough search and evaluation of public records that no claims will ever arise. Of course, this is impossible--we live in an imperfect world, where human error and changing legal interpretations make 100 percent risk elimination impossible. When claims do arise, title insurance companies have professional claims personnel to make sure that your property rights are protected pursuant to the terms of your policy.

To conclude, when you pay for your title insurance policy, you are paying for a team of professionals who have worked together to deliver you a title insurance policy which represents protection for your ownership of real property.

Who can I look to for straight answers on title and closing costs?

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Title or escrow company personnel are available to review and explain your title policy and your closing statement.

Should you still have further questions or need legal or tax advice, your title or escrow officer can help by referring you to the proper source for your answer. Remember, the title or escrow officer is not a legal counsel and cannot give you legal advice.

This article was published by the California Land Title Association. Member companies of the California Land Title Association are dedicated to facilitating the transfer of real property throughout California and increasing the public's awareness of the value and purpose of title insurance.

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