

# 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, or claims to jeopardize your ownership — other than the mortgage you agree to pay. It also ensures all funds are properly transferred and the seller pays any outstanding expenses.

### CHOOSING A TITLE INSURER AND ESCROW AGENT

The choice of which title company 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 someone insists you use a certain company, file a complaint with the Office of the Insurance Commissioner at [www.insurance.wa.gov](http://www.insurance.wa.gov), or with the Department of Financial Institutions at [www.dfi.wa.gov/consumers/complaint.htm](http://www.dfi.wa.gov/consumers/complaint.htm).

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 Consumer Financial Protection Bureau (CFPB) online at [www.consumerfinance.gov](http://www.consumerfinance.gov), or you may file a complaint with the CFPB.



## Section 1 Title insurance

It's an insurance policy you buy from a title company when you buy a home or property. It protects you and your lender from loss if a property ownership dispute occurs. The title company searches public records that affects title to the property, 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're buying.

The fee for title insurance is usually included in your itemization of closing costs from your escrow company, and it's 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 title company must deliver your policy to you within a reasonable time after it's 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're buying. However, the title search allows the title company to measure and decide the level of risk they're willing to cover. A title search won't disclose to you all the problems related to the property. If the title search uncovers problems, you can deal with it before you close on the home or property. The title company 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 can't always locate hidden issues.

## 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 purchase price 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 company.

## WHAT OWNER'S INSURANCE COVERS

***It insures:***

- You're 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's 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). If a title company offers escrow services, they must also file their escrow fees with the 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 companies offer discounts for title insurance and escrow fees.

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

Prior to closing, the title company will issue a “title insurance commitment. Before you close, be sure to review this commitment and:

- 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’re 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 time frame.

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 loss (at the option of the title insurer). 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 set up with your mortgage lender, attorney, escrow company, or title company to hold your earnest money pending closure of the loan process. After you close on your loan, your lender may have you set up an escrow account so it can pay your property taxes and homeowner 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 company 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’s also unlawful for a title company 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 company offers a rebate from the filed premium rate, it results in a discriminatory practice, which is unfair to all consumers. Like rebating, it’s illegal for a title company to give anything to anyone as an incentive to generate a referral or actual business with that company.

If a title company 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 TO EXPECT FROM THE ESCROW AGENT

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

- Serving as a neutral third party (they're not your representative to protect your interests).
- 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 Truth in Lending Real Estate Integrated Disclosure form (TRID).
- 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.

## 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 companies charge you to cover the cost of removing a lender's lien from the property title when the loan is paid)
- 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.





## 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 ESCROW CLOSING

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 the title company handling the escrow transaction offers you rebates or incentives in return for choosing their services, report it to the Washington State Office of the Insurance Commissioner at 1-800-562-6900 or at [www.insurance.wa.gov](http://www.insurance.wa.gov).

## 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 A TRID FORM?

The Truth in Lending Real Estate Integrated Disclosure (TRID) form is 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 TRID 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: [www.hud.gov/](http://www.hud.gov/).

