

UNDERSTANDING CLOSING & TITLE COSTS: PART 2



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 laborintensive. 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?

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.