

NewsBrief IMC16-01: Disclosing Discounted Title Insurance Fees on the Loan Estimate and Closing Disclosure

Overview

Many title companies offer discounts on the lender's title insurance policy if an owner's policy is purchased simultaneously. TRID requires that a lender's title insurance premium ("Title - Lender's Title Policy" or similar) cannot be shown with a credit for the simultaneous purchase of an owner's policy ("Title - Owner's Title Policy (optional)" or similar). The full lender's premium must be shown on the Loan Estimate and Closing Disclosure.

See the below Q&A from the May 2015 webinar presented by the CFPB on this topic.

Q: If the owner's title policy disclosed on the Closing Disclosure is not the same amount of the premium quoted by the title underwriter, how does a creditor show that a seller has agreed to pay for the owner's title insurance?

A: **SIMULTANEOUS TITLE INSURANCE PREMIUM RATE IN PURCHASE TRANSACTIONS.** The premium for an owner's title insurance policy for which a special rate may be available based on the simultaneous issuance of a lender's and an owner's policy is calculated and disclosed as follows:

- i. The title insurance premium for a lender's title policy is based on the full premium rate,
- ii. The owner's title insurance premium is calculated by taking the full owner's title insurance premium, adding the simultaneous issuance premium for the lender's coverage, and then deducting the full premium for the lender's coverage.

For the complete regulatory guidelines, refer to the Code of Federal Regulation (CFR) sections 1026.38(f) and (g), 1026.38(k)(2)(vii) and (viii), comments 37(f)(2)-4, 37(f)(3)-3, and 37(g)(4)-2.

See the following examples for a recommendation of how to disclose the title insurance fees.

Example 1: Correct Disclosure of Title Insurance Fees

The following screenshots of a title insurance invoice display the owner's and lender's title policy fees.

Owner's Title Policy Fee

Owners Policy Information	
Policy Question(s):	
Q. Which Policy Form are you using?	
- ALTA Homeowner's Policy of Title Insurance	
Liability Amount:	\$582,500.00
Total Policy Premium (Owner's Policy Issued):	\$1,657.00
Title Charges - Owner's Policy Disclosure Amount \$609.00	
Owner's Policy - Adjustment \$1,048.00	

Lender's Title Policy Fee

Q. Which Policy Form are you using?	
- ALTA Extended Coverage Loan Policy	
Liability Amount:	\$466,000.00
Total Policy Premium (Owner's Policy Issued):	\$669.00
Title Charges - Loan Policy Disclosure Amount \$1,717.00	

The invoice reflects the following fee amounts:

- Full rate of the owner's title policy: \$1657.00
- Full rate of the lender's title policy: \$1717.00
- Discounted rate of the lender's title policy: \$669.00

The total amount due to the title company equals the full rate of the owner's title policy plus the discounted rate of the lender's title policy: **\$2326** (\$1657 + \$669)

Amounts to Disclose on the LE

In Section B or C (depending on whether the borrower is allowed to shop for the title services provider), disclose the **FULL** (undiscounted) rate of the lender's title insurance of **\$1717.00**.

C. Services You Can Shop For	\$4241
Appraisal Fee	\$480
Credit Report Fee	\$48
Title - Closing / Escrow Fee	\$1,416
Title - Endorsement	\$125
Title - Lenders Title Insurance Fee	\$1,717
Title - New Loan Fee	\$280
Title - Notary Fee	\$175

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In Section H, disclose the owner's title insurance fee using the CFPB's formula:

Owner's Policy Premium + Discounted Lender's Premium - Full Lender's Premium

$$\$1657 + \$669 - \$1717 = \textbf{\$609}$$

H. Other	\$609
Title - Owners' Title Insurance (optional)	\$609

Amounts to Disclose on the CD

Option #1:

In Section B or C, (again, depending on whether the borrower is allowed to shop for the title services provider), disclose the breakdown of the **FULL** (undiscounted) rate of the lender's title insurance of \$1717.00.

The breakdown is as follows:

- The discounted rate of the lender's title insurance: **\$669.00**, and
- The adjustment (discount) to the lender's full rate, since the seller is paying for the owner's policy (\$1717 - \$669): **\$1048.00**

B. Services Borrower Did Not Shop For	\$3,192.58		
01 Appraisal Fee to Valuation Partners		\$480.00	
02 Credit Report Fee to Informative Research c/o	\$47.58		
03 Title - Closing / Escrow Fee to Lawyers Title Company	\$1,416.00		
04 Title - Endorsement (Comprehensive) to Lawyers Title Company	\$125.00		
05 Title - Lenders Title Insurance Fee to Lawyers Title Company	\$669.00		\$1,048.00
06 Title - New Loan Fee to Lawyers Title Company	\$280.00		
07 Title - Notary Fee to Lawyers Title Company	\$175.00		

In Section H, disclose the Owner's Title Insurance fee using the same formula as above:

Owner's Policy Premium + Discounted Lender's Premium - Full Lender's Premium

$$\$1657 + \$669 - \$1717 = \textbf{\$609}$$

H. Other	\$0.00		
01 Title - Owners Title Insurance (Optional) to Lawyers Title Company		\$609.00	
02			
03			

Option #2:

In Section B or C, disclose the full (undiscounted) rate of the lender's title insurance: **\$1717.00**

B. Services Borrower Did Not Shop For	\$4,240.58		
01 Appraisal Fee to Valuation Partners		\$480.00	
02 Credit Report Fee to Informative Research c/o	\$47.58		
03 Title - Closing / Escrow Fee to Lawyers Title Company	\$1,416.00		
04 Title - Endorsement (Comprehensive) to Lawyers Title Company	\$125.00		
05 Title - Lenders Title Insurance Fee to Lawyers Title Company	\$1717.00		
06 Title - New Loan Fee to Lawyers Title Company	\$280.00		
07 Title - Notary Fee to Lawyers Title Company	\$175.00		

In Section L, disclose a credit for the adjustment (discount) to the lender's full rate, since the seller is paying for the owner's policy (\$1717 - \$669): **\$1048.00**.

L. Paid Already by or on Behalf of Borrower at Closing	\$245,375.12
01 Deposit	\$3,200.00
02 Loan Amount	\$240,000.00
03 Existing Loan(s) Assumed or Taken Subject to	
04 Seller Credit	
05	
Other Credits	
06 Other Credits	\$600.00
07	
Adjustments	
08 Title Premium Adjustment	\$1,048.00

In Section H, disclose the Owner's Title Insurance fee using the same formula as above:

Owner's Policy Premium + Discounted Lender's Premium - Full Lender's Premium

$$\$1657 + \$669 - \$1717 = \$609$$

H. Other	\$0.00		
01 Title - Owners Title Insurance (Optional) to Lawyers Title Company		\$609.00	
02			
03			

Example 2: Incorrect Disclosure of Title Insurance Fees

The following screenshot of a title insurance invoice displays the owner's and lender's title policy fees.

Title Charges	
Homeowners Policy of Title Insurance to Old Republic Title Company	1,675.00
ALTA Loan Policy to Old Republic Title Company	419.00

The invoice reflects the following fee amounts:

- Full (undiscounted) rate of the owner's title insurance: \$1675.00
- The discounted rate of the lender's title insurance: \$419.00

The invoice does NOT reflect the full (undiscounted) rate of the lender's title insurance. This figure *must* be obtained from the title insurance company to disclose fees accurately. In this example, the full (undiscounted) rate of the lender's title insurance is \$820.

Incorrect Amounts Disclosed on the LE

Section B or C should reflect the full (undiscounted) rate of \$820, not the discounted rate of \$419.

C. Services You Can Shop For	\$2,004
Title - Courier or Overnight fee	\$85
Title - Endorsement Fees	\$50
Title - Lender's Title Policy	\$419
Title - Notary Fee	\$150
Title - Recording Service Fee	\$20
Title - Settlement Agent Fee	\$1,270

E. Taxes and Other Government Fees	\$150
Recording Fees and Other Taxes	\$150
Transfer Taxes	

In Section H, the owner's title insurance fee should be disclosed according to this formula:

Owner's Policy Premium + Discounted Lender's Premium - Full Lender's Premium

$$\$1675 + \$419 - \$820 = \mathbf{\$1274}$$

However, Section H incorrectly reflects the full rate of the owner's policy of \$1,675.

H. Other	\$2,175
Home Warranty Fee	\$500
Title - Owners' Title Insurance (optional)	\$1,675

Amounts Disclosed on the CD

Section B should reflect the full (undiscounted) rate of the lender's title insurance of **\$820.00**. This is the amount IMC will disclose.

B. Services Borrower Did Not Shop For	\$2,457.00		
01 Credit Report Fee to CoreLogic c/o Tahoe Mortgage Center	\$52.00		
02 Title - Courier or Overnite fee to Old Republic Title Company	\$95.00		
03 Title - Endorsement Fees to Old Republic Title Company	\$50.00		
04 Title - Lender's Title Policy to Old Republic Title Company	\$820.00		
05 Title - Notary Fee to Old Republic Title Company	\$150.00		
06 Title - Recording Service Fee to Old Republic Title Company	\$20.00		
07 Title - Settlement Agent Fee to Old Republic Title Company	\$1,270.00		
08			
09			
10			

Other Costs			
E. Taxes and Other Government Fees	\$150.00		
01 Recording Fees Deed: \$50.00 Mortgage: \$100.00	\$150.00		
02			

Section H should reflect the owner's title insurance fee, calculated using this formula:

Owner's Policy Premium + Discounted Lender's Premium - Full Lender's Premium

$\$1675 + \$419 - \$820 = \mathbf{\$1274}$

H. Other	\$1,759.00		
01 Home Warranty Fee to Old Republic Title Company	\$485.00		
02 Title - Owners' Title Insurance (optional) to Old Republic Title Company	\$1,274.00		
03			
04			
05			
06			

Calculating the Cure for the Incorrect Disclosure of Fees on the Loan Estimate

On the Loan Estimate, Section C listed the discounted rate of the lender's title insurance of \$419 instead of the full rate of \$820. Title insurance fees are allowed to increase up to 10% if the borrower chose a title company listed on the Service Provider List. However, if the cumulative total of fees subject to a 10% tolerance increases by more than 10%, a cure is required.

To calculate the cure for the incorrect disclosure of the lender's title insurance:

1. Add the Loan Estimate fees that are subject to a 10% tolerance:
 - Total Title fees of \$2,004.00 + Recording fees of \$150.00 = \$2,154.00
2. Calculate the tolerance limit for this total. (As a reminder, the total amount of fees in this category is allowed to increase by 10%.):
 - $\$2,154.00 + 10\%(\$2,154.00) = \$2369.40$
3. Add the Closing Disclosure fees that are subject to a 10% tolerance:
 - Title fees of \$2,457.00 + Recording fees of \$150 = \$2607.00
4. Subtract the tolerance limit of the Loan Estimate fees from the total amount of Closing Disclosure fees subject to a 10% tolerance:
 - $\$2607.00 - \$2369.40 = \textbf{\$237.60 Lender Cure}$

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