

# A CONSUMER GUIDE TO **TITLE** **INSURANCE**





A CONSUMER GUIDE TO  
**TITLE  
INSURANCE**



**INSURANCE  
ADMINISTRATION**

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## INTRODUCTION

The Maryland Insurance Administration (MIA) is an independent state agency that regulates Maryland's insurance marketplace and protects consumers by ensuring that insurers and insurance producers (agents) act in accordance with insurance laws. We produced this guide to help educate Maryland residents about title insurance.

The Insurance Administration is also responsible for investigating and resolving complaints and questions concerning insurers that do business in Maryland.

## WHAT IS TITLE INSURANCE?

Title insurance protects real estate purchasers and/or lenders from losses that arise after a real estate settlement, but result from unknown liens, encumbrances or other defects upon the title that existed prior to settlement. Examples of title defects include outstanding property taxes not paid by a previous owner, fraud or forgery of a prior deed or transfer, or a spouse or unknown heir who steps forward to make a claim against the title. If a claim were made, defending the claim could cost thousands of dollars in attorney fees and, if the claim were valid, could even cause you to lose the property itself. A title insurance policy provides coverage for legal defense, as well as the coverage amount listed in the policy, which usually equals the purchase price of the real property.

## WHO IS PROTECTED BY TITLE INSURANCE?

For most Americans, purchasing real estate represents the largest single investment we will make. Given the cost of real estate, very few of us can purchase our homes, vacation or investment properties by paying cash. Instead, we borrow the funds from banks, saving and loans, mortgage companies or other lenders, granting them a secured interest in the property. One of the conditions that lenders place on the buyer is that a lender's title insurance policy be purchased in an amount equal to the mortgage loan. A lender's policy only protects the financial institution in the event that a valid title claim arises. In a worst case scenario, a buyer could make mortgage payments for 20 years when an unknown title defect comes to light, creating a valid claim that causes the buyer to lose the title. The lender would be covered, to the extent of the outstanding mortgage, and the owner could lose the property and all equity acquired over the 20 years that he "owned" the property.

There is an option available to the buyer to avoid the scenario outlined above – the purchase of an owner's title insurance policy to protect your interest in the real property. If the decision is made to purchase an owner's policy and a lender's policy at the same time, there may be considerable premium savings. In the title insurance business, this is known as a "simultaneous issue" and the

premium rates charged for the owner's policy will be calculated on the difference between the amount of coverage provided to the lender (amount borrowed) and the amount of coverage provided to the owner (purchase price).

## HOW IS A TITLE INSURANCE POLICY DIFFERENT FROM OTHER TYPES OF INSURANCE?

Before real property is transferred from the seller to the buyer, a title search must be conducted. Title searches are usually conducted by an attorney who researches the land records in the county court house and documents the chain of ownership of the property. The purpose of a title search is to identify all prior owners, outstanding liens, encumbrances, encroachments, rights of way, easements and the like associated with the real property, so that the buyer is aware of them prior to settling on the property. As such, the title search can eliminate most of the risk from the transaction. Anything that is identified during the search will generally be excluded from coverage under the title insurance policy, since these liens, encumbrances, etc. are now known and should be satisfied at the time of settlement so legal title can be transferred.

However, something may be missed during the search process, which could result in a claim being presented at a later date. Since the defect was not known at the time title was transferred, coverage would be provided by the title insurance policy. In this respect, title insurance is different from all other types of insurance coverage. It protects you against events that occurred before the policy was purchased as long as the title defect was not discovered at the time of the title search, whereas property, casualty, life and health insurance policies protect you against events that occur after you purchase the policy.

## HOW DO I PURCHASE A TITLE INSURANCE POLICY?

Title insurance policies are paid for at the time of closing through a one time premium charge that will be listed on the settlement sheet, commonly known as the HUD-1.

In Maryland, all insurance companies must possess a certificate of authority from the MIA to conduct insurance business lawfully in the state. Title insurance companies are subject to all capital and surplus requirements, as well as laws that require them to submit their policy forms and rates for approval by the MIA prior to issuing a policy in the state. Most title insurance companies appoint producers (agents) to underwrite the risks, collect the premiums and issue the title insurance policies. These producers also conduct the settlements or closings, and escrow funds for mortgage payoffs, taxes, closing costs, realtor commissions, etc. The producers must be licensed by the MIA as well.

Some title insurance companies also will provide escrow or closing services directly, as well as underwrite and issue the title insurance policy.

The buyer decides who will conduct the closing and issue the title insurance policy. While the real estate agent or broker may suggest or recommend a title insurance producer, the buyer is under no obligation to retain the services of that company. Additionally, some real estate firms or mortgage companies have “affiliated business arrangements” with certain title insurance producers or insurance companies. If one of these arrangements exists, it must be disclosed to the buyer in writing so that the buyer can make an informed decision. The federal Real Estate Settlement Procedures Act (RESPA) prohibits kickbacks and referral fees among persons involved in real estate settlements.

Before choosing any firm to conduct the settlement, the buyer should contact the Maryland Insurance Administration to verify that the firm and/or insurer is licensed to conduct business in the state. Only licensed producers can conduct settlements, so the buyer can also check to see if the individual settlement officer possesses a valid license, as well. This information is available on our website, [www.insurance.maryland.gov](http://www.insurance.maryland.gov) or you can also call us at 410-468-2000 or 1-800-492-6116 to check the licensing status of a producer or insurance company.

Please understand that the premiums charged for the title insurance policy must be on file and approved by the Maryland Insurance Administration; however, many of the fees, such as courier fees and document preparation fees charged by the title insurance producer or insurer at closing are not regulated by law or regulation. As such, the companies are free to charge whatever fees the market will bear. So, it may pay to contact more than one title insurance company or producer to ask what the fees will be for the services provided and whether any fees can be waived. In the Appendix of this Guide is a sample HUD-1, or settlement sheet.

Additionally, the buyer should always ask the seller if he or she purchased a title insurance policy when the property was purchased, and if so, the name of the company issuing that policy. Many title insurance companies include in their rate filings premium discounts commonly referred to as “reissue rates.” If the same insurance company has already underwritten the risk and has issued the prior policy, the title search can be shortened, since the chain of title has previously been researched and documented. In that case, the attorney would only need to “bring to date” or search the title from the current owner through the date of settlement. Since most of the work was done previously, the cost to underwrite and issue a new policy for the buyer and/or lender is much less and will be reflected by discounting the premium.

If you are refinancing your principal mortgage, reissue rates on the lender’s policy may also be available provided you purchased an owner’s title insurance policy when you purchased your property. (Please note: When refinancing, title agents may use a HUD-1A form to itemize your charges. A copy of this form may be found on the Department of Housing and Urban Development’s (HUD) web site at [www.hud.gov/RESPA](http://www.hud.gov/RESPA).)

THE TITLE INSURANCE CONSUMER'S BILL  
OF RIGHTS - 9 THINGS YOU SHOULD KNOW  
BEFORE SIGNING A CONTRACT OF SALE OR  
REFINANCING YOUR PROPERTY

1. You have the RIGHT to choose your settlement agent and title insurer.
2. You have the RIGHT to receive settlement cost information early in the real estate settlement process, allowing you to shop for the settlement services that best meet your needs.
3. You have the RIGHT to receive an itemized settlement statement from the settlement agent detailing all fees paid to the settlement agent before you agree to use that settlement agent.
4. You have the RIGHT to be informed about the total cost being paid by you to the settlement agent.
5. You have the RIGHT to ask and receive accurate information from your settlement agent about whether there is a ground rent, lien, judgment, or any other impediment to outright ownership of the property.
6. You have the RIGHT to request and receive from your settlement agent the Settlement Statement (HUD-1) the business day before the date of settlement.
7. You have the RIGHT, before you sign, to ask the settlement agent questions and receive clear and complete answers about charges and documents that you do not understand.
8. You have the RIGHT to receive copies from the settlement agent of all documents you signed at the time of closing.
9. You have the RIGHT to have all funds disbursed timely and properly by the settlement agent in accordance with the Settlement Statement (HUD-1) you signed at closing.<sup>1</sup>

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<sup>1</sup> Source: The Real Estate Settlement Procedures Act (RESPA) of 1974, 12 U.S.C. §2601 et seq.



## OTHER INFORMATION THAT YOU NEED TO KNOW ABOUT THE SETTLEMENT PROCESS

Under federal law, a borrower must be given a copy of the HUD-1 settlement statement at or before the settlement. Federal law also gives the borrower the right to request that a copy of the HUD-1 settlement statement be given to him one business day before closing. We encourage you to exercise this right so that you will have time to look over the numbers and make sure that everything is in order before you appear at the settlement table. You should advise your title insurance producer or insurance company that you want a copy the day before your settlement early in the process so that they are able to comply with the request.

As of January 1, 2010, new RESPA regulations take effect. The regulations require a more “user friendly” good faith estimate (GFE) of costs associated with the loan and closing be provided to the borrower by the lender or loan originator. In addition, certain costs once itemized on the GFE cannot be increased, while others may only rise within a certain, specified tolerance level when they appear later on the HUD-1 settlement sheet at closing. The MIA encourages everyone to read the GFE in its entirety, then compare the charges contained therein to those listed on the HUD-1 settlement sheet to ensure they comply with the new RESPA regulations. Both the GFE and HUD-1 forms contain identifiers for borrowers/buyers to determine which fees fall into which category.

Finally, additional information regarding buying a house and settlement procedures can be found on the United States Department of Housing and Urban Development’s web site, [www.hud.gov/respa](http://www.hud.gov/respa). On this web site, you will find many brochures that HUD publishes, including *Shopping for your Home Loan*, *HUD’s Settlement Cost Booklet*. This guide provides more detailed information on the GFE, as well as the HUD-1 as a result of the new RESPA regulations.

The Maryland Insurance Administration only has authority to regulate the business practices of the title insurance producers and title insurance companies. The majority of producers and insurers strive to comply with the insurance laws and regulations; however, from time to time, problems arise after a settlement is conducted. Examples include the failure to payoff a prior mortgage, other lien or encumbrance; record the deed, deed of trust, mortgage or mortgage release; charge and collect the appropriate premiums; issue the title insurance policies; and provide copies of legal documents to the buyer. In other cases, there may be a misappropriation of escrow funds or a falsification, or forgery of closing documents. If you believe that anything like this has occurred, please contact the Maryland Insurance Administration at 410-468-2000 or toll free at 1-800-492-6116 and ask to speak to a property and casualty insurance investigator. You may be asked to send a letter detailing your concerns and to attach all documents that support your position. You can also file a complaint online at [www.insurance.maryland.gov](http://www.insurance.maryland.gov) and then forward any documentation to support your position by mail.

There are many other players in any real estate transaction, such as real estate agents or brokers, buyer's agents, attorneys, mortgage brokers, banks, lenders, loan officers (mortgage originators) and sellers. If you encounter any problems with those entities, there may be other state and federal agencies that can assist you.

The Department of Labor, Licensing and Regulation regulates the financial services industry, as well as the real estate industry. For information on, or to file a complaint against state chartered banks, credit unions, mortgage brokers, lenders and loan officers (mortgage originators) you can contact:

**Department of Labor, Licensing and Regulation**

Commissioner of Financial Regulation

500 North Calvert Street, Suite 402

Baltimore, MD 21202

(410) 230-6100

Fax: (410) 333-3866 or (410) 333-0475

E-mail Address: [finreg@dllr.state.md.us](mailto:finreg@dllr.state.md.us)

[www.dllr.state.md.us/finance](http://www.dllr.state.md.us/finance)

For information on, or to file a complaint against real estate agents or brokers, you can contact:

**The Maryland Real Estate Commission**

500 North Calvert Street

Baltimore, MD 21202-3651

(410) 230-6230

Fax (410) 333-0023

E-mail Address: [mrec@dllr.state.md.us](mailto:mrec@dllr.state.md.us)

[www.dllr.state.md.us/license/mrec](http://www.dllr.state.md.us/license/mrec)

If your problem involves a federally-licensed lender, you must determine which agency has jurisdiction. If the lender is a national bank or a federal savings association, you may contact:

**Office of the Comptroller of the Currency**

Consumer Assistance Group

1301 McKinney Street, Suite 3450

Houston, TX 77010

1-800-613-6743

Fax: (713) 336-4301

[www.occ.treas.gov](http://www.occ.treas.gov) or [www.HelpWithMyBank.gov](http://www.HelpWithMyBank.gov)

If the lender is a federal credit union, you may contact:

**National Credit Union Administration**

Consumer Assistance Hotline

1755 Duke Street, Suite 6043

Alexandria, VA 22314-3428

(800) 755-1030

*www.ncua.gov* or *www.MyCreditUnion.gov*

If you are unsure which agency regulates your lender, you may be able to determine this by going to the Federal Deposit Insurance Corporation's web site at *www2.fdic.gov/idaspl/main.asp* and entering the name of the institution into its bank finder search. You can also contact one of the above agencies, and a staffer may be able to direct you to the proper agency.

## FILING A COMPLAINT

The Maryland Insurance Administration's primary role is to protect consumers from illegal insurance practices by making certain that insurers and producers doing business in Maryland act in accordance with State insurance laws. You may contact the Insurance Administration to file a complaint against an insurer or producer who you believe is not acting in accordance with Maryland law.

Maryland's insurance laws not only govern insurers' conduct – they also protect Maryland consumers. Insurers are prohibited from settling claims in an arbitrary and capricious manner. This means that insurers' claim settlement practices must be fair, nondiscriminatory and adhere to Maryland insurance laws.

If you feel that your insurer has acted improperly, you have the right to take action by filing a complaint with the Maryland Insurance Administration. However, some disputes may be governed by your policy's terms and may not be a problem the Insurance Administration can resolve for you.

Complaints must be received in writing. Please provide as much detail as possible, including copies of pertinent documents. A trained, professional investigator will handle your complaint. The investigator will contact the insurer/producer to try to resolve the issue. Meanwhile you will be advised of the steps being taken on your behalf. Complaint files are not closed until the Insurance Administration has made a determination regarding the complaint.

To request additional information or to file a complaint, please contact the Maryland Insurance Administration's Consumer Complaint Investigation Division at 410-468-2000 or toll-free at 800-492-6116. Consumers also may file their written complaint in person, by mail or on-line at *www.insurance.maryland.gov*. Under "For Consumers," click on "File a Complaint."

APPENDIX:  
HUD-1  
FORM



A. Settlement Statement (HUD-1)

**B. Type of Loan**

1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> RHS	3. <input type="checkbox"/> Conv. Unins.	6. File Number:	7. Loan Number:	8. Mortgage Insurance Case Number:
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.				
<p><b>C. Note:</b> This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.*)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.</p>					
D. Name & Address of Borrower:			E. Name & Address of Seller:		F. Name & Address of Lender:
G. Property Location:			H. Settlement Agent:		I. Settlement Date:
			Place of Settlement:		

**J. Summary of Borrower's Transaction**

<b>100. Gross Amount Due from Borrower</b>	
101. Contract sales price	
102. Personal property	
103. Settlement charges to borrower (line 1400)	
104.	
105.	
<b>Adjustment for items paid by seller in advance</b>	
106. City/town taxes	to
107. County taxes	to
108. Assessments	to
109.	
110.	
111.	
112.	
<b>120. Gross Amount Due from Borrower</b>	
<b>200. Amount Paid by or in Behalf of Borrower</b>	
201. Deposit or earnest money	
202. Principal amount of new loan(s)	
203. Existing loan(s) taken subject to	
204.	
205.	
206.	
207.	
208.	
209.	
<b>Adjustments for items unpaid by seller</b>	
210. City/town taxes	to
211. County taxes	to
212. Assessments	to
213.	
214.	
215.	
216.	
217.	
218.	
219.	
<b>220. Total Paid by/for Borrower</b>	
<b>300. Cash at Settlement from/to Borrower</b>	
301. Gross amount due from borrower (line 120)	
302. Less amounts paid by/for borrower (line 220)	( )
303. Cash <input type="checkbox"/> From <input type="checkbox"/> To Borrower	

**K. Summary of Seller's Transaction**

<b>400. Gross Amount Due to Seller</b>	
401. Contract sales price	
402. Personal property	
403.	
404.	
405.	
<b>Adjustment for items paid by seller in advance</b>	
406. City/town taxes	to
407. County taxes	to
408. Assessments	to
409.	
410.	
411.	
412.	
<b>420. Gross Amount Due to Seller</b>	
<b>500. Reductions in Amount Due to seller</b>	
501. Excess deposit (see instructions)	
502. Settlement charges to seller (line 1400)	
503. Existing loan(s) taken subject to	
504. Payoff of first mortgage loan	
505. Payoff of second mortgage loan	
506.	
507.	
508.	
509.	
<b>Adjustments for items unpaid by seller</b>	
510. City/town taxes	to
511. County taxes	to
512. Assessments	to
513.	
514.	
515.	
516.	
517.	
518.	
519.	
<b>520. Total Reduction Amount Due Seller</b>	
<b>600. Cash at Settlement to/from Seller</b>	
601. Gross amount due to seller (line 420)	
602. Less reductions in amounts due seller (line 520)	( )
603. Cash <input type="checkbox"/> To <input type="checkbox"/> From Seller	

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

<b>L. Settlement Charges</b>							
<b>700. Total Real Estate Broker Fees</b>						Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
Division of commission (line 700) as follows :							
701. \$		to					
702. \$		to					
703. Commission paid at settlement							
704.							
<b>800. Items Payable in Connection with Loan</b>							
801. Our origination charge	\$		(from GFE #1)				
802. Your credit or charge (points) for the specific interest rate chosen	\$		(from GFE #2)				
803. Your adjusted origination charges			(from GFE #A)				
804. Appraisal fee to			(from GFE #3)				
805. Credit report to			(from GFE #3)				
806. Tax service to			(from GFE #3)				
807. Flood certification to			(from GFE #3)				
808.							
809.							
810.							
811.							
<b>900. Items Required by Lender to be Paid in Advance</b>							
901. Daily interest charges from	to	@ \$	/day	(from GFE #10)			
902. Mortgage insurance premium for	months to			(from GFE #3)			
903. Homeowner's insurance for	years to			(from GFE #11)			
904.							
<b>1000. Reserves Deposited with Lender</b>							
1001. Initial deposit for your escrow account				(from GFE #9)			
1002. Homeowner's insurance	months @ \$		per month \$				
1003. Mortgage insurance	months @ \$		per month \$				
1004. Property Taxes	months @ \$		per month \$				
1005.	months @ \$		per month \$				
1006.	months @ \$		per month \$				
1007. Aggregate Adjustment			-\$				
<b>1100. Title Charges</b>							
1101. Title services and lender's title insurance				(from GFE #4)			
1102. Settlement or closing fee	\$						
1103. Owner's title insurance				(from GFE #5)			
1104. Lender's title insurance	\$						
1105. Lender's title policy limit \$							
1106. Owner's title policy limit \$							
1107. Agent's portion of the total title insurance premium to	\$						
1108. Underwriter's portion of the total title insurance premium to	\$						
1109.							
1110.							
1111.							
<b>1200. Government Recording and Transfer Charges</b>							
1201. Government recording charges				(from GFE #7)			
1202. Deed \$	Mortgage \$		Release \$				
1203. Transfer taxes				(from GFE #8)			
1204. City/County tax/stamps	Deed \$		Mortgage \$				
1205. State tax/stamps	Deed \$		Mortgage \$				
1206.							
<b>1300. Additional Settlement Charges</b>							
1301. Required services that you can shop for				(from GFE #6)			
1302.	\$						
1303.	\$						
1304.							
1305.							
<b>1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)</b>							





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