Thank you for the opportunity to comment on the Title Insurance Shopping Tools. I appreciate the efforts that all of us have put into achieving the goal of providing useful information to consumers who are contemplating the purchase of title insurance. In this work, we have compiled information that would be valuable to consumers and the professionals who work with them.

Unfortunately, I cannot fully endorse our current product for the reasons listed below.

- I continue to disagree with the approach to write a guide about the home buying process that includes information about title insurance. There are other sources of great information about the home-buying process and specifically the closing process (see for example, http://www.youtube.com/watch?v=kTn6hSrEGZg&list=PL314D6468B074CF0E) that unfortunately include scant information about title insurance. What’s missing in general is informative, unbiased, and detailed communication to consumers about title insurance. Also, I don’t think consumers and the professionals who work with them expect a publication about the home buying process from the Department of Insurance, which may hamper marketing. And, most importantly, few consumers will have the patience to search through our proposed document for information about title insurance, when that information doesn’t even appear until about page 3. (I don’t know exactly what page it will be but I know the font size in the final document must be much larger than we have now.)

- I continue to believe that we can improve the readability of the document. The document was sent as a PDF, making assessing readability impossible with the resources I have. However, I am confident that the changes made since I last saw the document have increased the reading level above 9th grade, which is about where we were previously. Sending a PDF file also makes it difficult to provide specific comments about wording. Nevertheless, I have marked important changes in the attached.

While some of my earlier substantive concerns have been resolved in this draft, a few remain.

- The description of a home warranty is inconsistent here with the information in NAIC’s *A Consumer’s Guide to Home Insurance*, p. 6 which reads, “A home warranty covers the mechanical breakdown of individual parts of a home, such as the electrical and plumbing systems. A warranty doesn’t cover the home’s structure, may or may not cover appliances, ends at a specific point in time (for example, one year) and has exclusions and limitations that you should review. Home warranties might not be regulated as insurance in your state.” I believe
this is a better description than the one we have but at a minimum I think information in NAIC publications should be consistent.

- I think the use of a mechanic’s lien in multiple places is confusing. On page 4, in the paragraph about a basic owner’s policy, a mechanic’s lien is used as an example of why buy a policy endorsement. On page 5, it’s an example of a claim my title insurance policy wouldn’t cover. To be consistent, we would need to add to that paragraph “unless you’ve bought a policy endorsement to add that coverage” which makes this too complicated. Can you provide a different example of a claim that might occur after I buy the home that title insurance wouldn’t cover?

- In the description of an enhanced owner’s policy (page 4), I have no idea what “vehicle access rights” means – and I don’t think a typical consumer would either. In that same paragraph, it’s unclear who or what an enhanced owner’s policy covers in the last sentence.

- In the paragraph (page 4) about a lender’s policy, I would suggest adding the sentence at the end – “You may be expected to pay the premium for a lender’s policy.” I don’t think most consumers would assume that’s possibility and may not find the other section of the document that explains who pays what.

- Changes that states will be expected to make usually are identified in Drafting Notes. The document needs a thorough review to be sure all of these have been identified (see, for example, my note on page 8).

Finally, while an accurate and unbiased educational piece about title insurance has value, a disclosure given to the consumer when title insurance is first mentioned in the buying/refinancing process is even more important. We have written about this need to this committee previously.

I stand ready to continue to work with this group to improve the quality of this product. Unfortunately, I have a conflict for the call scheduled for Wednesday that I’m trying to rearrange so I can be available for at least the first part of the call.
How to Buy Title Insurance in the State of [Insert State]

This guide:
- Covers the basics of title insurance.
- Explains the need for title insurance.
- Offers tips to shop for title insurance and closing services.
- Gives you questions you should ask before you buy title insurance.

[Name]
[Superintendent of Insurance]

[DOI Website Address]
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Disclaimer:

The information included in this publication is meant to serve as a guide and is not a substitute for legal or professional advice. Please contact a professional if you have any questions.
Introduction

A real estate transaction may be one of the largest investments you’ll ever make. Because the decisions you make when you buy or refinance a home can have effects for years to come, it’s important to take time to learn about the process you’ll be going through so you can make good decisions.

You may want to hire a licensed professional to help you with the many steps to buy or refinance a home. Before you agree to do business with anyone, however, be sure the individual is qualified and licensed.

Buying or Refinancing a Property

So you’re ready to buy or refinance a home. Now what?

If you’ve found the perfect home and the seller has accepted your offer, the next steps will most likely be:

- You’ll get a loan from a mortgage lender.
- A professional will inspect and appraise the home.
- You’ll choose an individual or business, known as a closing agent, to organize and finalize your real estate transaction.
- You’ll choose a “closing date” to sign paperwork and take ownership of your new home.
- You’ll buy homeowners insurance through a licensed property and casualty insurance agent.
- You’ll decide if you need flood and/or earthquake insurance, which you can buy through a licensed property and casualty agent.
- You’ll decide if you’ll need title insurance, which you can buy through a licensed title agent or company.
- A professional may “survey” the property. A survey is a professional drawing of the property’s boundaries. It also shows where a home is located on the property.
- You may be able to buy a home warranty to protect you against future maintenance expenses for household appliances such as refrigerators, stoves, washers, dryers and air conditioning units.
- A final walk through of the home you’re buying will be scheduled.

If you’re refinancing your home or property:

- You’ll get a new loan from a mortgage lender.
- A professional may inspect and appraise your property.
- You’ll give the lender information about your homeowners, flood and/or earthquake insurance coverage.
- You’ll decide if you need title insurance, which you can buy from a licensed title agent or company.
- A closing date will be selected.
- You’ll sign legal paperwork to finalize your new loan.

When you buy or refinance a home, you’ll need to decide whether you need title insurance.

What is title insurance? Why do you need it? This guide will answer those questions and more.
What is Title Insurance, and What Does it Cover?

A title documents your legal ownership or interest in property.

Title insurance is an insurance policy that covers past title problems that come up after you buy or refinance a home.

Lost, forged or incorrectly filed deeds, property access issues and liens on a property are just a few of the title problems that could come up after you buy or refinance a home.

For example, if you receive a letter that says there’s an unpaid mortgage on the property you just bought, you could submit a claim to your title insurance company. The title insurance company would pay the legal costs to settle the dispute and/or resolve the problem.

Without title insurance, you might have to pay all of the legal costs to settle the dispute. And if you lost the dispute, you could lose money, ownership and possibly the equity you have in your home.

Two Types of Title Insurance—Lender’s and Owner’s Policies

There are two types of title insurance policies:

- An Owner’s Policy
- A Lender’s Policy

An owner’s policy protects you if a past title or ownership issue comes up after you buy your home. An owner’s policy is issued for the amount you paid to buy your home, and the policy will cover you as long as you own an interest in the property.

If a basic owner’s policy doesn’t cover a specific title issue, additional coverage, known as a policy endorsement, can be added for a fee. For example, if you’re buying a new home and the owner’s policy doesn’t cover claims (often known as a mechanic’s lien) filed by contractors, you can often add a policy endorsement to cover these claims.

An enhanced owner’s policy, which provides a much higher level of coverage than a standard owner’s policy, may also be available in your area. Enhanced owner’s policies cost approximately 20% more than a standard owner’s policy, but they cover many extra risks such as vehicle access rights and losses resulting from building permit violations. An enhanced owner’s policy may also continue to provide coverage after a property has been transferred.

If you are borrowing money from a bank to buy your home, your lender may require you to buy a lender’s policy. A lender’s policy protects the lender if a title or ownership problem comes up after you buy the home. A lender’s policy is issued for the amount of the mortgage, and the coverage goes down as you pay down your loan. Unlike an owner’s policy, the lender’s policy ends when you pay off your mortgage. You may be expected to decide if you want to buy an owner’s policy to protect yourself.

What Doesn’t Title Insurance Cover?

Before a title insurance policy is issued, you will receive a report, known as a title commitment, to show you what will and will not be covered.

Title insurance policies do not cover ownership issues that come about after you’ve bought a home.
For example, if a contractor you hired files a lien against your home for an unpaid bill, your title insurance policy will not cover the costs to settle the dispute.

Also, most title insurance policies don’t cover issues such as easements, boundary line disputes, zoning violations and air or mineral rights.

Your title insurance policy may spell out other issues that won’t be covered. And if there’s a title issue specific to the home you’re going to buy or refinance, your title policy may not cover it.

Who Sells Title Insurance?

Only licensed title insurance companies, agencies and agents can sell title insurance.

You can buy title insurance directly from a title insurance company or a title agent who sells title insurance for a company.

The Right to Choose Your Own Title Agent/Company

It’s important to know that you have the right to shop for title insurance and to choose a title agent or company.

A good time to shop for title insurance is when you choose a real estate agent, and a lender has prequalified you for a mortgage. You’ll have an idea of the price you can pay for a home, and a title insurance agent or company can use that information to estimate your title insurance costs.

There are several ways you can find a title insurance agent or company:

- You can ask the sellers whom they used when they bought the home.
- You can check the [INSERT NAME OF DOI] website; [INSERT WEB ADDRESS].
- You can look up title insurance agents, agencies and companies in the phone book.
- You can check online for title insurance agents, agencies and companies in your area.
- You can ask for recommendations from your real estate agent, attorney, mortgage lender, financial institution or builder.

If your real estate agent, attorney, builder or lender offers to arrange title insurance for you, or suggests you use a specific title agent or company, be sure to ask if they’ll make money from the referral. You also should ask if they have a business arrangement with the title company or agent they’re recommending. Federal law requires real estate professionals, title agents and lenders to tell you about any business arrangements they may have.

Also, beware of statements such as:

- “Everyone charges the same price.”
- “We’ll give you a discount on something else if you use our title agent.”
- “If you choose another title agent, your purchase may be delayed.”

These types of statements may be used to convince you to give up your right to choose a title agent or company, and you may pay more for title insurance than if you had shopped around.

Who Pays for Title Insurance?

If you’re buying a home, who pays for title insurance depends in part on local custom. It may be something, however, that you can negotiate with the seller of the property. When purchasing a home, be sure to ask your real estate agent what the custom is in your area and if you’ll likely be the one to pay for title insurance.
If you're refinancing your home, it'll be your responsibility to buy and pay for the title insurance policy.

A title insurance policy is paid for with a one-time premium payment.

**What Does Title Insurance Cost?**

The cost of title insurance is usually tied to the value of the home.

If you're buying an owner's policy, the price of your policy will depend on the selling price of the home.

The price of title insurance can also include more than just insurance. It also can include the cost to conduct a title search. When a title search is conducted, a title agent or company reviews local records, such as deeds, mortgages, wills, divorce decrees, court judgments and tax records to see if there are any title issues with the property you are looking to buy. In [INSERT STATE NAME], a title search must be done before a company can issue a title insurance policy.

If you're buying a lender's policy, the price of title insurance will depend on your loan amount.

**Ask if You're Eligible for Discounts**

When you buy title insurance, ask if you're eligible for any discounts.

If there was a previous title policy on the home (because the home changed owners or you're refinancing), you may be able to get a discount known as a "reissue rate."

If you decide to buy both an owner's and lender's policy, you may get a discount if you buy both policies together.

**The Difference Between Title and Homeowners Insurance**

Title insurance is different from homeowners insurance.

- Title insurance protects you against past title problems. Homeowners insurance protects you against future issues that cause damage to your home or personal property. Homeowners insurance also limits your personal legal responsibility (or liability) if someone is injured while they're on your property.
- Licensed title agents and companies sell title insurance. Insurance agents are licensed to sell property and casualty insurance and sell homeowners insurance.
- You pay the premium for title insurance with a one-time payment, when you buy or refinance a home. A homeowners insurance policy is paid for on an ongoing basis and is up for renewal each year.

**Questions to Ask Before You Buy Title Insurance**

When you shop for title insurance, be sure to ask the title agent or company the following questions:

- How long have you been licensed to sell title insurance in [INSERT STATE]?
- What title insurance company do you sell policies for?
- Are title insurance premiums regulated in [INSERT STATE]?
- Are any discounts available?
- Are you related or affiliated in any way with my real estate agent, mortgage lender, builder, or attorney?
- Will anyone be paid a referral fee or commission or be compensated if I buy title insurance from you or a company you represent? In addition to title insurance premiums, what other fees and charges will I pay?
- What policy endorsements are available?
- Do you charge a cancellation fee if I don't buy title insurance from you after you do a title search?
• Will I need to pay for a survey before you can sell me title insurance?

The Real Estate Closing

The last step to buy or refinance a home is widely known as the closing.

Shortly after the seller accepts your offer to buy their home or the lender approves your refinancing, a closing date will be set.

A closing can be done in person, electronically or by mail. As part of the closing, you’ll be asked to sign the legal paperwork required to finalize the real estate transaction. On the day of the closing, you (as well as the seller) will be expected to pay any money owed.

If an in-person closing is scheduled, expect the closing to last an hour or two. In addition to you, the seller, real estate agent(s), attorney, title agent and lender may attend the closing.

**Make sure you understand what you’re being asked to sign.**

During the closing, you’ll be signing documents that are legal binding contracts. Take time to understand what they mean. If you don’t understand something, ask someone to explain it to you, or ask for time to contact a trusted friend, family member, attorney or advisor for help.

One document you’ll be asked to review and sign is the settlement statement. The settlement statement shows all of the money to be paid to complete the transaction. Some of the costs listed on the settlement statement will include:

• Outstanding mortgages to be paid.
• Money to be exchanged between the buyer and seller.
• The amount of the new loan(s).
• Loan origination charges.
• Property appraisal fees.
• Credit report fees.
• Real estate agent fees.
• Tax preparation fees.
• Taxes owed.
• Escrow funds.
• Title insurance premiums.
• Courier fees.
• Settlement or closing fees.
• Closing protection fees.
• Document or recording fees.

*Federal law gives you the right to see the settlement statement at least one business day before closing. It’s highly recommended that you ask for a copy of the settlement statement ahead of time so you have a chance to review it and ask questions.*

If everything isn’t in order by your scheduled closing date, your closing date may be moved to another date.

After the closing, you’ll be given copies of all the documents you signed.

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1 On Aug. 1, 2015, the HUD-1 Truth In Lending Statement will be called a Closing Disclosure. As such, states will need to amend the term “settlement statement” to “Closing Disclosure.”
Closing Agents

*Closing agents* handle real estate closings and coordinate all of the steps required to make the real estate transaction official. They’re responsible for getting mortgage and loan pay-off amounts from the seller’s lender(s) and the amount of property taxes owed. They also give instructions to the buyer and seller, hold money until the home’s title is transferred, prepare documents for the buyer and seller to sign, pay out money owed and file documents with the county recorder, who updates records to show a property has changed owners.

Some title agents do more than just sell title insurance. They also conduct real estate closings by serving as a closing agent. Their responsibilities as a closing agent are separate from what they to do as a title agent.

Other professionals, such as attorneys, also can be closing agents.

*Just as you have the right to choose a title agent or company, you also have the right to choose your closing agent.*

Questions to Ask When You Choose a Closing Agent

When you choose a closing agent, be sure to ask the following questions:

- Can you give me a list of all the fees and charges I would pay if you were my closing agent?
- What fees and charges are negotiable?
- Are your closing staff licensed title insurance agents?
- How and when do you conduct closings?
- Who will handle my closing?
- When will you give me a copy of the settlement statement?
- Do you have references or testimonials available?
- Do you offer closing protection coverage?

Closing Protection **Letters**

Title insurance doesn’t protect the lender or buyer against mistakes made during the closing, or if money is stolen or paid to the wrong parties. For an added fee, title insurance agents and companies that conduct real estate closings offer closing protection letters. If you buy a closing protection letter, the title insurance company will reimburse you for any money you lose from negligence, fraud, theft of funds or errors the closing agent made. Without this, you’d have to sue the agent to get back any money lost.

If you buy closing protection coverage, be sure to ask for a copy of the closing protection letter for your records.

**Shop Around for Title Insurance and Closing Services**

As rates and fees for title insurance and closing services may vary, you should shop for title insurance and closing services. Use the chart that follows to learn how much you’ll be charged for certain rates, fees and services.
## Cost Comparison Chart

### Title Insurance

<table>
<thead>
<tr>
<th>Description</th>
<th>Company Name</th>
<th>Company Name</th>
<th>Company Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium Price (Lender's Title Policy)</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Premium Price (Owner's Title Policy)</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Endorsement Price</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Title Search Fee</td>
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<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Closing Protection Letter</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Deed Preparation Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
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<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

### Closing Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Company Name</th>
<th>Company Name</th>
<th>Company Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Recording Charge</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Tax &amp; Other Certifications</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Overnight Mail</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Wire Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Transfer Tax</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Notary Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Settlement Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Document Preparation Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Email/Electronic Doc Fee</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>
Final Tips to Remember

- Be sure you deal with licensed professionals who’re in good standing in [INSERT STATE].
- As soon as you make an offer on a house or choose a lender to refinance with, start shopping for title insurance.
- Decide up front who’ll pay for the title insurance policies.
- Whoever buys the title insurance policy has the right to choose the title agent or title company.
- A professional who recommends a title insurance company or agent to you may receive a commission or referral fee.
- Ask the seller which title insurance company they used.
- Ask friends or family who recently bought a home if they would recommend their title agent/company.
- If you buy an owner’s policy, be sure the coverage is equal to the price you paid for your home.
- Comparison shop, and get at least three quotes before you buy title insurance and closing services.
- Ask about available discounts.
- Ask title and closing agents for an itemized list of their fees and charges.
- Ask for a copy of the title commitment report at least three weeks before your closing date.
- Know exactly what your title insurance policy will cover.
- If your title agent will also be the closing agent, ask if closing protection coverage is available.
- Ask the closing agent for a settlement statement at least one business day before your scheduled closing.
- Knowledge is power, so don’t be afraid to ask questions!
- Read and understand all documents before signing them.

How to File a Title Insurance Claim

If an issue arises about your home’s title, contact your title insurance company as soon as possible. If you don’t know the name of your title insurance company, check the paperwork you signed when you bought or refinanced your home. You also can contact your title agent or closing agent for help.

The [INSERT DOI NAME] is Here to Help

For more information about buying insurance, please visit [INSERT DOI WEBSITE ADDRESS], or call [INSERT TELEPHONE NUMBER].

As a consumer protection agency, the [INSERT DOI NAME] also can help you if you believe an insurance agent or company acted improperly, engaged in misconduct and/or didn’t follow state insurance laws.

To file a complaint, please visit our website at [INSERT WEB ADDRECESS], or send a written complaint and any supporting documents to:

[DOI Logo]

[DOI Address]
[City, State Zip Code]

[DOI Telephone Numbers]

[DOI Website]

[DOI Facebook / Twitter Contact Information]
Other Resources Available

To verify the license status of the professionals who will be helping you with your real estate transaction, please contact:

Real Estate Agent  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Bank/Mortgage Lender  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Real Estate Appraiser  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Insurance Agent / Insurance Company  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Title Agent  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Title Insurance Company  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

Attorney  [STATE AGENCY NAME]  [STATE AGENCY ADDRESS]  [CITY, STATE & ZIP CODE]  [AGENCY WEBSITE]  [AGENCY TELEPHONE NUMBER]

To find other useful information regarding the home buying process, please contact:

U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410
202-708-1112
www.hud.gov

Consumer Financial Protection Bureau
P.O. Box 4503
Iowa City, Iowa 52244
855-411-2372
855-237-2392 (Fax)
http://www.consumerfinance.gov

National Flood Insurance Program
500 C Street SW
Washington, DC 20472
800-621-FEMA
www.FloodSmart.gov