

Insurance

Title Agents and Title Insurance

What You Need to Know When Buying,
Selling or Refinancing a Home



STATE OF FLORIDA

Florida Department of Financial Services



Buying a home is the largest purchase most of us will ever make.

Indeed, home ownership also represents the biggest financial obligation most people will incur. In fact, home ownership is considered a fundamental part of wealth building.

During the home buying process—and particularly during closing—many of us are faced with a barrage of terms and procedures we have never heard of, especially if we are first-time buyers.

The closing process is often shrouded in mystery, and many home buyers face it with only a minimal understanding of what will happen, or what their rights and obligations are.

In Florida, your closing transaction typically will be handled by a title insurance agent, attorney or notary. In addition to ensuring that title insurance is purchased, your title insurance agent or attorney will facilitate the entire closing process. They hold any funds, such as earnest money, in escrow

until they are disbursed. But who are these professionals, and what exactly are their responsibilities? What is your role as the home buyer or seller? And, most importantly, how can you save money in this process?

By providing an overview of the closing process, it is hoped that this publication will help demystify the process for you.

Your Closing

During closing, the title to real estate is transferred from the seller to the buyer. This process generally includes the collection of all necessary funds and the completion of all required paperwork.

For many years, closings took place in a title agency or in an attorney's office. Today, however, closings may take place in any location, as long as a notary is present. In Florida, an attorney or a licensed title agent may facilitate real estate closings.



For buyers, the following activities are included in a typical closing:

- You will sign a mortgage note—your pledge to repay the loan;
- You will sign the mortgage, which gives the bank an interest in your home as collateral for the loan;
- You will receive inspection reports and warranties;
- You will receive a commitment to issue a title policy. Be sure to review and check any exceptions listed on the commitment under Schedule B.

Once the funds and documents have been distributed to the buyer, the seller and the lender, the deed will be recorded with the County Clerk of Court, who maintains the official county records. When the recorded documents are later returned to the title agency or attorney's office, the title policies will be delivered.



Title Insurance

Title is the foundation of real estate ownership, and refers to your legal right to own, use, control, possess or dispose of the home.

Before issuing a title insurance policy, a title agent will check for any defects in your title. Your free and clear ownership could be jeopardized if there are any problems with the title, such as a lien filed by someone who worked on the property, unpaid taxes, an easement, an undisclosed claim from an heir of a previous owner, or any number of other possible title defects.

Title insurance helps protect you or your lender from prior rights or claims that other parties may have to the property, as well as from any outstanding debts of previous property owners. Title insurance is based upon a public records search, which is evaluated to determine the state of the title at the time of your purchase. In the event that someone challenges your title, the title

insurance underwriter (not the title agent or agency) will defend your title and pay all related costs and loss in property value that might ensue, up to the limit of your policy.

There are two primary types of title insurance—a lender's policy and an owner's policy.

Your lender may require its own title insurance as a condition of your mortgage loan.

A **lender's** policy insures the lender's interest in the title to your home.

An **owner's** policy will insure you as the property owner against the specific kinds of claims listed in the policy.

In Florida, the buyer or seller may purchase both the lender's policy and the owner's policy. Title agents, attorneys and title insurance companies may all sell title insurance.

Unlike other types of insurance, you pay a one-time premium for your title policy, which remains in effect for as long as you, or any heirs, own the property.

Title Agents

You have the right to choose your title agent or attorney—you are not obligated to use the services of any title agency suggested by your real estate agent, mortgage lender or attorney, though you may certainly choose to do so. A title agent may represent one company, or several.

Because they may:

- Prepare and obtain title searches;
- Examine title;
- Prepare closing documents;
- Prepare and issue title insurance;
- Conduct closings; and
- Disburse funds,

the role of the title agency is obviously pivotal to your home purchase. But how should you go about selecting one?



How to Select a Title Agency

- Ask people you know who have recently purchased property if they were satisfied with their title agency, and get a referral.
- Your real estate agent or lender may recommend one or more title agencies they are familiar with (though they cannot require you to use any particular title agency).
- Contact more than one title agency to compare costs and services. The title insurance premium is set by the state of Florida. However, the agent's portion of the premium, as well as title agency fees, may be negotiated. Compare these costs among various title agencies.
- Contact the Department of Financial Services and/or the Better Business Bureau to find out whether any complaints have been filed against the agency.



Title Insurance Tips

- Shop around. Negotiate the fees, which may vary by title agency. Closing costs are negotiable. You may ask your agent for a rebate on their portion of the premium. Also, ask whether you qualify for any discounts.
 - Make sure you know what your policy covers and does not cover before you purchase it. After closing, it is too late.
 - If your real estate agent, mortgage broker, etc., recommends a title agency to you, ask whether they have a financial interest in the agency.
 - Be sure that you read and understand all the documents you sign at closing.
 - Insurance underwriters providing both lender's and owner's policies in the same transaction may offer concurrent reduced rates.
 - Be sure that the policy describes all the property and interests you are acquiring.
- Make sure any title agency you are considering is licensed. You can check by visiting our website MyFloridaCFO.com, or by calling the Florida Department of Financial Services Consumer Helpline toll-free at 1-877-MY-FL-CFO (1-877-693-5236). If you are dealing with an attorney, contact the Florida Bar Association to determine whether they are a member at (800) 342-8060 or www.floridabar.org.
 - Be sure to consider the experience of the agency you choose, and its reputation for fairness. If possible, talk to other consumers about their experience with the agency, and be sure the agency professionals are able to answer all your questions about the policy you are buying and about all fees for the closing transaction.

For More Information

**Florida Department of Business &
Professional Regulation**

(850) 487-1395

www.myflorida.com/dbpr

Florida Department of Financial Services

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MyFloridaCFO.com

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Please note: This publication is not a substitute for legal advice. If you believe you need an attorney, please contact the Florida Bar Association at (800) 342-8060 or www.floridabar.org.