

June 9, 2020

## Factsheet: TRID Title Insurance Disclosures

There are two forms of title insurance commonly purchased in a residential real estate transaction - lender's title insurance and owner's title insurance.

Lender's title insurance protects a creditor against problems with or challenges to the title to a property, such as someone with a legal claim against the home. Lender's title insurance only protects the creditor against problems with the title, and imposes a duty on the title insurance underwriter to defend the creditor's interest in the title of the property in certain title issues. This product is generally required by the creditor as part of the transaction. The cost of the lender's title policy is disclosed on the Loan Estimate and Closing Disclosure as discussed below.

Owner's title insurance is a product that protects the consumer's financial investment in the home from title issues. It indemnifies the consumer if there is a loss due to a title issue, but also requires the title insurance underwriter to defend the consumer's title to a property against litigation concerning certain title issues that may arise after purchasing the home. Some title companies may offer an "enhanced" owner's title insurance product, which provides additional coverage and may increase the amount of coverage as the property appreciates. Owner's title insurance is typically not required by the creditor as part of the transaction and is optional for the consumer to purchase. The cost of the owner's title policy is disclosed on the Loan Estimate and Closing Disclosure as discussed below.

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This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

# Disclosure on Loan Estimate and Closing Disclosure

## Lender's Title Insurance

If the consumer is required to pay for the lender's title insurance, the cost of the policy is disclosed in the Closing Cost Details in the Loan Costs Table under Services You Cannot Shop For or Services You Can Shop For on the Loan Estimate, depending upon whether the creditor allows the consumer to shop for lender's title insurance. 12 CFR § 1026.37(f)(2) and (f)(3).

On the Loan Estimate, the amount disclosed by the creditor for lender's title insurance is the amount of the premium. This amount can be disclosed as "Title - Premium for Lender's Coverage," or any similar language as long as it clearly indicates the amount of the premium disclosed and that the premium is for the lender's title insurance coverage. Comment 37(f)(2)-4.

Similarly, on the Closing Disclosure, the cost of lender's title insurance is disclosed in the Loan Costs Table under either Services Borrower Did Not Shop For or Services Borrower Did Shop For, depending on whether the consumer did or did not shop for the lender's title insurance, and have a similar label. 12 CFR § 1026.38(f)(2) and (f)(3); Comments 38(f)(2)-1 and 37(f)(2)-3.

## Owner's Title Insurance

In most cases, the creditor does not require the consumer to obtain owner's title insurance. If the consumer obtains owner's title insurance and the creditor does not require it, the cost of owner's title insurance is disclosed in Closing Cost Details in the Other Costs Table on the Loan Estimate and Closing Disclosure. 12 CFR §§ 1026.37(g)(4) and 38(g)(4). Generally, the amount disclosed for owner's title insurance is based on the owner's policy rate. For the Loan Estimate, the cost disclosed for the owner's title insurance policy is not based on any "enhanced" title insurance policy rate, unless the creditor knows or has reason to believe at the time the creditor is issuing the Loan Estimate that an "enhanced" owner's title insurance policy will be purchased, such as if it is required by the real estate sales contract. Comment 37(g)(4)-1.

When the consumer purchases owner's title insurance and it is not required by the creditor, this fact is noted on the Loan Estimate and Closing Disclosure through use of the term "optional". 12 CFR §§ 1026.37(g)(4)(ii) and 38(g)(4)(ii). The cost for owner's title insurance must be disclosed as "Title - Owner's Title Policy (optional)," or in any similar manner that includes the introductory description "Title -" at the beginning of the label, and include the parenthetical description "(optional)," if applicable, at the end of the label. Comments 37(g)(4)-1, -3, and 38(g)(4)-2. If the

seller pays for the owner's title insurance, the "(optional)" description is not required on the Closing Disclosure. Comment 38(g)(4)-2.

In the unlikely event that the creditor requires the consumer to obtain owner's title insurance, costs are disclosed in the same manner as costs for lender's title insurance: on the Loan Estimate under Closing Cost Details in the Loan Costs Table in Services You Cannot Shop For or Services You Can Shop For, and on the Closing Disclosure under Closing Cost Details in the Loan Costs Table in Services Borrower Did Not Shop For or Services Borrower Did Shop For, as applicable. 12 CFR §§ 1026.37(f)(2); 37(f)(3); 38(f)(2) and 38(f)(3).

## Disclosure of simultaneous title insurance on the Loan Estimate and Closing Disclosure

Title companies often offer a different rate, called a "single" or "simultaneous" rate if a consumer purchases both the lender's and owner's title insurance from the same company, rather than purchasing each policy from separate companies.

The Bureau has a formula to assist lenders in disclosing the required rates consistently, in a way that does not depend on whether the consumer purchases the owner's and lender's title insurance policies individually, or obtains the policies from the same company and gets the simultaneous rate, or buys only the required lender's title insurance. If the consumer obtains only the required lender's title insurance policy, and no owner's title insurance policy, the use of this formula by the creditor is not necessary.

The premium for an owner's title insurance policy for which there is a simultaneous issuance of a lender's and an owner's policy is calculated and disclosed on the Loan Estimate and Closing Disclosure as follows:

((full owner's policy premium) + (the simultaneous premium for the lender's policy, i.e., simultaneous amount)) – (full lender's premium).

Comments 37(g)(4)-2 and 38(g)(4)-2.

The premium disclosed for the lender's title insurance policy is the full lender's premium, not the discounted, or simultaneous, rate.

## Differences between state disclosures and TRID disclosure requirements for simultaneous rates

The disclosure of lender's and owner's title insurance on the TRID disclosures may differ from disclosures on state forms in some states when the consumer purchases policies from the same title insurance company and obtains a "simultaneous" rate. As stated above, when the consumer obtains a simultaneous rate, the cost disclosed on the TRID disclosures for the lender's title insurance is the full lender's premium, not the simultaneous rate. Instead, the cost of owner's title insurance is disclosed using the following formula: ((full owner's policy premium) + (the simultaneous premium for the lender's policy, i.e., simultaneous amount)) – (full lender's premium). Comments 37(g)(4)-2 and 38(g)(4)-2.

In most state disclosures, the cost disclosed for the lender's and owner's title insurance policy premiums is the simultaneous rate for the lender's title insurance policy and the full amount of the owner's title insurance policy. Because in some instances state disclosures reflect the pricing of the simultaneous rate as part of the disclosure for the policies or disclose the policies together as one cost, they may differ from the TRID disclosures which always disclose the full lender's policy premium and always disclose the pricing of each policy separately. In such cases, the owner's title insurance and lender's title insurance premiums listed on the TRID disclosures may be different from the title insurance rates quoted by title insurance agents in accordance with State law or the common practice in a particular geographic area.

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## Examples

For the examples below, assume lender's title insurance is required by the creditor but owner's title insurance is optional, and that the rate prices are as follows:

- **Full premium rate for lender's policy** (the amount disclosed if only lender's title insurance is purchased): \$1,175
- **Full premium rate for owner's policy** (the amount disclosed if only owner's title insurance is purchased): \$2,568
- **Simultaneous premium rate for lender's policy** (incremental cost for purchasing lender's policy (as disclosed pursuant to certain State laws), if purchased through the same company as the owner's policy): \$200

## Example 1: No Owner's Title Insurance

When the consumer does not obtain owner's title insurance, the amount disclosed on the TRID disclosures for lender's title insurance is the full amount and owner's title insurance is omitted from the TRID disclosures. The amount disclosed for lender's title insurance is the same as the amount paid.

**TABLE 1:** TRID DISCLOSURE METHOD FOR TITLE INSURANCE PREMIUM CALCULATION WITHOUT OWNER'S POLICY

Policy	Cost	Disclosure
Full owner's policy premium ( <i>not disclosed</i> )	\$ 0	---
Full lender's policy premium ( <i>disclosed in Loan Costs Table</i> )	+ (plus) \$1,175	\$1,175
<b>Total policy premium paid</b>	<b>\$1,175</b>	<b>\$1,175</b>

## Example 2: Lender's and Owner's Title Insurance, without Simultaneous Rate

When the consumer obtains lender's and owner's title insurance, but does not receive a simultaneous rate (because, for example, the two policies are purchased from different companies), the disclosure of lender's and owner's title insurance is the amount of the full policy premiums and the total for both policies is also the same as the amount paid.

**TABLE 2:** TRID DISCLOSURE METHOD FOR TITLE INSURANCE PREMIUM CALCULATION WITHOUT SIMULTANEOUS PREMIUM FOR THE LENDER'S POLICY

Policy	Cost	Disclosure
Full owner's policy premium ( <i>disclosed in the Other Costs Table</i> )	\$2,568	\$2,568
Full lender's policy premium ( <i>disclosed in the Loan Costs Table</i> )	+ (plus) \$1,175	\$1,175
<b>Total policy premium paid</b>	<b>\$3,743</b>	<b>\$3,743</b>

### Example 3: Lender’s and Owner’s Title Insurance, with Simultaneous Rate

Assume instead that the consumer purchases both policies from the same company and obtains a “simultaneous” rate for the lender’s title insurance premium, paying \$200 for lender’s title insurance.

When the consumer obtains a simultaneous rate for the lender’s policy premium, the lender’s title insurance premium is disclosed as the full premium amount (\$1,175), and not the simultaneous rate (\$200).

For the disclosure of the owner’s title insurance, as discussed above, on the TRID disclosures, the owner’s title insurance rate disclosure is calculated using the following equation: ((full owner’s policy premium) + (the simultaneous premium for the lender’s policy (i.e., simultaneous amount)) – (full lender’s premium). In the fact pattern here, the owner’s title insurance is disclosed as:

$$((\$2,568) + (\$200)) - (\$1,175) = \mathbf{\$1,593}$$

Although the owner’s title insurance policy rate quoted by the title insurance company is \$2,568, the cost of owner’s title insurance is disclosed as \$1,593 on the TRID disclosures.

The sum of the disclosed owner’s title insurance premium and lender’s title insurance premium on the TRID disclosures is \$2,768, which is \$1,593 + \$1,175, and this is the same as the total disclosed on the state disclosures.

**TABLE 3:** TRID DISCLOSURE METHOD FOR TITLE INSURANCE CALCULATION WITH SIMULTANEOUS PREMIUM FOR THE LENDER’S POLICY

Policy	Cost	Disclosure
		Full owner’s policy premium
		\$2,568
		Simultaneous lender’s policy premium
		+ (plus) \$ 200
		(Subtotal)
		\$2,768
Owner’s policy premium (disclosed in the Other Costs Table)	\$2,568	Full lender’s policy premium
		- (minus) \$1,175
		<hr/>
		\$1,593
Lender’s policy premium (disclosed in the Loan Costs Table)	+ (plus) \$ 200	\$1,175
<b>Total policy premium paid</b>	<b>\$2,768</b>	<b>\$2,768</b>

As discussed above, note that when the consumer obtains both owner's and lenders' title insurance policies from the same company and is offered a simultaneous rate for lender's title insurance as a result, the amount disclosed for each individual policy on the state or title disclosures may differ from the individual policy amounts shown on the TRID disclosures.

However, while the amounts disclosed for each individual policy may differ, the total amount disclosed on the TRID disclosures for owner's and lender's title insurance is the same as the total amount paid.

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## Simultaneous issuance if seller agrees to pay the amount of the full owner's title insurance premium

If the purchase and sales contract between consumer and seller indicates that both lender's and owner's title insurance will be purchased from the same company and the seller will pay the full owner's policy premium rate (as opposed to a discounted rate), there may be a difference between the cost of owner's title insurance disclosed and the disclosed seller's credit. Given the disclosure formula for the owner's title insurance cost when there is a simultaneous rate for lender's title insurance, in this situation there may be excess seller's credit beyond the disclosed cost of owner's title insurance. Because the seller's credit may be in excess of the disclosed owner's title insurance cost, the disclosed amount of the seller credit left over after application to the owner's title insurance cost can be disclosed in three different ways on the Closing Disclosure:

1. Shown as a credit towards the amount of the lender's premium or any other title insurance costs for premiums or endorsements in the Loan Costs Table or Other Costs Table (12 CFR §§ 1026.38(f) and (g)); or
2. Added to and shown in aggregate with other seller credits in the Summaries of Transactions tables as a general Seller Credit (12 CFR § 1026.38(k)(2)(vii)); or
3. Disclosed as a stand-alone seller credit on another blank line in the Summaries of Transactions tables (12 CFR § 1026.38(k)(2)(viii)).

## Negative Owner's Title Insurance

Generally, using the formula for disclosing simultaneous title insurance on the Loan Estimate and Closing Disclosure should not yield a negative number. When calculations yield a negative

number, the Bureau recommends checking calculations to ensure the correct owner’s rate, lender’s rate, or simultaneous rate were used.

However, in certain states the full cost of lender’s title insurance by itself could be more than the cost of both owner’s and lender’s title insurance combined, and thus, using the TRID calculation methodology, in those instances it would be correct to disclose a negative number. Comment 37(g)(4)-2

For example, assume again that lender’s title insurance is required by the creditor but owner’s title insurance is optional, and that the rate prices are as follows:

- **Full premium rate for lender’s policy** (the amount disclosed if only lender’s title insurance is purchased): \$3,175
- **Full premium rate for owner’s policy** (the amount disclosed if only owner’s title insurance is purchased): \$2,568
- **Simultaneous premium rate for lender’s policy** (incremental cost for purchasing lender’s policy, if purchased through the same company as the owner’s policy): \$200

In this example, it would be correct for the creditor to disclose a negative amount for the cost of owner’s title insurance on the TRID disclosures.

**TABLE 4:** TRID CLOSING DISCLOSURE METHOD FOR TITLE INSURANCE CALCULATION WITH NEGATIVE TITLE INSURANCE DISCLOSED

Policy	Cost	Disclosure
		Full owner’s policy premium \$2,568
		Simultaneous lender’s policy premium + (plus) \$ 200
		(Subtotal) \$2,768
Owner’s policy premium (disclosed in the Other Costs Table)	\$2,568	Full lender’s policy premium - (minus) \$3,175
Lender’s policy premium (disclosed in the Loan Costs Table)	+ (plus) \$ 200	\$3,175
<b>Total policy premium paid</b>	<b>\$2,768</b>	<b>\$2,768</b>



Again, while the amounts disclosed for each individual policy on the TRID disclosures may differ from the rates provided by the title insurance company or on state disclosures, the total amount disclosed for owner's and lender's title insurance is the same as the total amount paid.