

AN INTRODUCTORY NOTE TO THE BUYER

Congratulations on your pending purchase of real estate. This is surely an exciting time for you! This can also be a confusing time, as much of the tasks necessary to complete the real estate transaction may seem “foreign” to you. Add to that a time restriction, and you may feel slightly overwhelmed. The explanation below is provided to help you understand the overall process and relationship between the parties to this transaction, as well as any requirements we may have of you as buyer.

HOW THE TITLE AND ESCROW PROCESS WORKS

Generally speaking, most title orders come to us via the lender or realtor of either the buyer/borrower or seller, depending on which area of the state you live in. As title agent, we will commence an examination of the title of the property and order the necessary information to complete the closing. The lender will provide to us what’s called “closing instructions” which we will review carefully. If special conditions are required by the lender to close the loan, we will make sure the proper steps are taken to fulfill those obligations.

When these matters are completed and reviewed by our staff, we will notify the buyer, either directly or via the realtor or lender who placed the title order, to arrange a time to close the loan. We will also advise the buyer of any funds he or she may need to complete the transaction. The buyer must bring **CERTIFIED or BANK CASHIER’S CHECKS** made payable to **Midland Title West** for these funds. In addition, **the buyer must bring a valid, government-issued picture I.D. with him or her to closing for proper identification.** We cannot close a transaction without this I.D.

TITLE INSURANCE AND ITS IMPORTANCE IN YOUR TRANSACTION

Real estate title insurance, very simply, is an insured statement of the conditions of one's title or ownership rights to a certain piece of real estate. The policy guarantees that the property being purchased or mortgaged is free from undisclosed liens or rights and it guarantees additionally that any confusion as to rights of ownership will be resolved in favor of the party owning the real estate or the title insurance company will be liable for loss in value to the policyholder up to the policy limits

A buyer purchasing real estate is offered the opportunity to purchase an owner's policy of title insurance by the settlement agent, attorney, escrow company or title agent conducting the real estate closing. For example, you decide to purchase a house in Columbus and are obtaining a mortgage to help you finance the purchase from a bank or mortgage company. That institution will require an examination of the title to the property and have the party reviewing the title issue to them a lender's policy of title insurance insuring that the property is or will be owned by the purchaser and that there are no defects, liens or encumbrances on the property which would adversely affect the marketability of its mortgage.

Since the settlement agent, attorney, escrow agent or title agent is already issuing a lender's policy of title insurance, the buyer has the opportunity at that time to obtain an owner's policy of title insurance at a cost substantially less than the buyer would pay if the policy was not written simultaneously with the lender's policy.

The owner's policy of title insurance insures that the owner has good marketable title to the property free of any encumbrances or liens that would adversely affect the property, except those made known to the buyer, and insures to the owner that if any such liens, encumbrances, defects or other title problems become known the title insurer will defend the buyer's title to the property.

In many instances we are asked whether or not title insurance is necessary or advisable for the owner to purchase. We recommend the purchase of the title insurance for some very simple reasons. First, the premium for purchase of

the title insurance policy is a one-time charge. Since the purchaser is usually borrowing money to finance the purchase, the majority of the cost of the title insurance policy that the owner would receive has been paid through the premiums for the lender's policy which is required by the loan. Usually for a few hundred dollars or less, the owner can insure against a variety of problems which could occur in the future. These items include forged documents in the chain of title, signatures of mentally incompetent persons or minors which are unknown to the party reviewing the title, mistakes or inaccuracies in recording of legal documents of title at the appropriate place or recording or registration of title, fraud in the execution or in the handling of the recording or indexing of recorded documents, undisclosed or missing heirs, fraud in the execution or in the handling of a transaction in the prior chain of title, invalid divorces or misrepresentation of marital status of the parties signing the documents, and most importantly clerical errors in the public records and claims of parties unknown because their claims have not been filed in any indices of public record. Enhanced policies exist that go well beyond these simple coverages and provide coverage for a host of issues that can affect property both prior to and after you purchase it.

Even though the buyer may be asked to pay for the lender's title insurance protection, the lender's policy of title insurance does not protect the buyer and a claim can only be made if the lender suffers a financial loss because of a title defect that adversely affects a foreclosure of the buyer's mortgage. There have been many of defects in titles which could not be revealed by an examination of the public records. These defects usually arise at a time after the transaction has taken place and purchasers can suffer significant losses as a result of them. That is why owner's title insurance makes a great deal of sense.

WHAT YOU SHOULD KNOW ABOUT YOUR CLOSING (BUYERS/BORROWERS)

The following will likely be required by your lender on or before closing:

1. **HOMEOWNER'S INSURANCE.** A homeowner fire and extended coverage insurance policy or binder for such insurance either in an amount at least equal to the total of all new mortgages on the property or 100% of the replacement cost most likely be required by your lender.
2. **FLOOD INSURANCE.** If the premises is located within a specially designated federal flood hazard area, then flood insurance will be a mandatory requirement and you'll be required to purchase a flood insurance policy. Your lender will notify you if this requirement pertains to you and your property before closing.
3. **TITLE INSURANCE.** The lender usually requires that they be provided with a lender's title insurance policy (loan policy) to protect their interest in your property up to the amount of the mortgage. While the premium for the loan policy is included in your closing costs, it does not protect you. Your ownership interests are insured only by an owner's title insurance policy (owner's policy). While the lender's coverage under the loan policy decreases as the mortgage is paid down and terminates when the final payment is made, your owner's policy remains in effect for as long as you and your heirs own the property. The owner's policy is available for a one-time premium and at a discounted rate if purchased simultaneously with the loan policy at the time of closing.

The owner's policy provides coverage for numerous matters which are not covered by the standard attorney's opinion of title and which are not discoverable by searching the land records. Typical examples of such matters include forged documents, the incapacity of a grantor, undisclosed or missing heirs, missing signatures, mistakes in recording, unknown creditors and problems involving access to the land. There is also an upgraded owner's policy that provides additional protection for problems such as zoning and building permit violations, restrictive covenant violations, encroachments and defects in title.

4. MANNER IN WHICH TITLE WILL BE HELD. Generally speaking, there are two ways to hold title in Ohio. Please read the section below entitled "Ways to Hold Title in Ohio" to familiarize yourself with these concepts.

5. WATER, SEWER AND ELECTRICITY. You should follow up with your sellers to make sure all parties are in agreement and fulfilling their obligations with regard to final water, sewer and electricity readings, if applicable.

6. OTHER REQUIREMENTS. If the mortgage involves a condominium unit or a property that is not a one-to-four-family dwelling, you may be required to fulfill other requirements.

7. In the State of Ohio, dower rights are still recognized. Your spouse must attend closing, even if you they are not in title.

WAYS TO HOLD TITLE IN OHIO

The following information is intended only to give a brief description of the two most common ways of holding title in Ohio and is not provided for the purpose of advising how to take title. If further information is desired you should seek legal counsel from your attorney or retain an attorney for advice on these matters.

In order to properly prepare the mortgage documents we require information from you as to how you intend to take title to the real estate. The two most common ways two or more persons may hold title to real estate are: (1) TENANTS IN COMMON, and (2) JOINT TENANTS WITH RIGHT OF SURVIVORSHIP (also known as "Survivorship Tenancy.") A third common form of ownership called "TENANTS BY THE ENTIRETY," which is only available for married couples, no longer exists in Ohio.

1. Tenants in Common: Each owner has an undivided, fractional share of the property, the shares of which may be equal or unequal. Regardless of the size of an individual's share, each tenant in common enjoys full ownership of his or her share, and can sell, mortgage, use, or dispose of it as a full owner. On his or her death, the tenancy passes to heirs or to those named in the tenant-in-common's will. If partition is ordered, the property may be physically divided and a fee simple portion given to each tenant in common, or the property may be sold as a unit and the proceeds divided among the tenants in proportion to their respective shares.
2. Survivorship Tenancy: A survivorship tenancy is similar to tenancy in common, except that joint tenants have a right of survivorship. That is, when one joint tenant dies still owning his or her share, the share passes automatically to the surviving tenant(s). Thus, a survivorship tenancy cannot be transferred by will, as the nature of this form of ownership is that it automatically passes to the survivor(s). The right of survivorship also may be ended where, for example, all joint tenants transfer or convey their interest. In most states, the right of survivorship is automatically created when a joint tenancy is created. In Ohio, however, the right of survivorship must be specifically described in the document that creates it.

Source: *The Law and You*, © The Ohio State Bar Association and The Ohio State Bar Foundation.

OUR FIRM'S PRIVACY POLICY NOTICE

This notice is provided to you pursuant to the Privacy of Consumer Financial Information Act and the Federal Trade Commission's implementing regulation thereunder, 16 CFR Part 313.

1. We collect nonpublic personal information about you from the following sources: Information we receive from you on applications or other forms either directly from you or from lenders and their affiliates or agents;

2. We do not disclose any nonpublic personal information about our clients, borrowers, or sellers to anyone, except as is necessary in the mortgage loan transaction as may be necessary to effectuate the transaction with the lender that you have requested; to prevent fraud or unauthorized transactions; as otherwise required or permitted by law.

3. We restrict access to nonpublic personal information about you to those clients, lenders, third parties and employees who need to know that information to provide the requested settlement services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.