



## Closing Costs Information

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Closing costs are those costs incurred in the settlement of the real estate transaction. They include, but are not limited to: Deed Stamps, Intangible Tax, Note Stamps, Attorney's Fees, Recording Fees, Survey, Title Search and Title Insurance, and fees required by Lenders such as Loan Origination Fees, Discount Points, Tax Service, Flood Certification, Title Insurance Endorsements, VA Funding Fees, etc. In the State of Florida, as in much of the United States- it is customary that closing costs are prorated as follows:

***Buyer: Customary to pay all closing costs associated with taking title to the property.***

***Seller: Customary to pay all closing costs associated with delivering marketable title to the property.***

### **BUYER**

As a general rule, most of the Buyer's closing costs are related to the loan they will be procuring (if any). In many cases, if a Buyer is not getting a loan, the Buyer's closing costs may be as low as a fee of \$10.50 to record the deed in the public records. The fees charged by lenders may include the following:

1. Mortgage Origination Fee
2. Mortgage Discount Points
3. Wood Destroying Organism Report
4. Appraisal Fee
5. Tax Service
6. Document Preparation Fee
7. Mortgagee (or "Lender's") Title Insurance Policy
8. Title Insurance Endorsements
9. Flood Certification Fee.

Of course, if the Buyer is utilizing other services, such as an attorney or home inspector, the Buyer must pay those fees as well.

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### **SELLER**

The Seller customarily pays those costs associated with delivering good and marketable title to the Buyer. These costs typically include:

1. Title Search
2. Owners Title Insurance Policy

3. Survey
4. Recording fees for Seller's Satisfaction of Mortgage (if any)
5. Other costs for services chosen by the Seller such as the Seller's attorney's fee.

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**TITLE SEARCH.** The title search is necessary to determine if the Seller has the ability to convey "marketable title" to the Buyer. "Marketable Title" means that the Buyer, once he or she has purchased the property, would be able to sell or market the property, without a title defect or "cloud" hindering materially their ability to do so. The Title Search consists of a Title Abstract and Title Examination. In the Title Abstract, each document in the chain of documents leading back to the "root title" to the current owner is located and photocopied. When compiled, these documents are called "The Abstract". They include deeds, mortgages, judgements, liens, Covenants and Restrictions, Easements, and any other document affecting the subject property. Once the Abstract is complete, a qualified Title Examiner conducts the Examination by inspecting each document to make sure that it complies with formality of execution, recordation, and other requirements to insure its legal effect. So long as documentation is not found which "breaks" the chain of title, the Title Search may be utilized to obtain a Title Insurance Commitment from a State Licensed Title Insurance Underwriter.

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**TITLE INSURANCE.** Whenever title is transferred to property, there is always a risk that the Seller did not have a perfected title to the property and that the Buyer may encounter difficulty or costs associated with selling the property or curing title defects. In a worst case scenario, the Buyer could find that he or she actually has no marketable title to the property and that another person or entity has a prior claim, mortgage, lien, or even right of possession to the property. Title normally is transferred in Florida by General Warranty Deed, which means that the Seller "warrants" or guarantees good title to the Buyer. However, many times the Seller may not be around anymore to back up this "guaranty" or may no longer have the financial ability to do so. Title Insurance is protection against these types of risks. If you are borrowing money to purchase property from a bank or other institutional lender, that lender will almost always require that they be issued a "mortgagee" or "lender's" title insurance policy that insures the bank against any losses due to title problems. It is important to know that this "mortgagee" or "lender's" policy does NOT protect or insure you as the owner of the property- it is protection for the lender only. Normally, the lender's title insurance is issued simultaneously with issuance of an "Owners" or "Fee" title insurance policy which protects you as the owner of the property.

In short- in Florida, a Warranty Deed is not a guaranty that you have good or marketable title to your property. Only by purchasing an "Owners" title insurance policy can you be guaranteed and insured marketable title to the property. Therefore, it is customary in the State of Florida that the Seller pays for issuance of the Owners Title Insurance Policy that is given to the Buyer, along with the Deed at closing. These two items together insure and guaranty a new owner of property that they have clear and marketable title to the property.

Title Insurance must be purchased from a title insurance underwriter that is approved by the State of Florida Insurance Commission. Once your title search is completed, the title insurance company will issue a "commitment" to insure the property. The commitment will include any title exceptions for the property as well as any requirements that must be met for issuing the policy. Typical exceptions include Covenants and Restrictions, easements, encroachments, rights of the state or federal government to submerged lands or jurisdictional wetlands, navigational servitude rights of governments (for properties fronting a navigable waterway), and any unrecorded encumbrances or liens. Typical "requirements" include execution of affidavits by the Buyer and Seller that they have not done anything to cause a lien to be put against the property, execution of a valid deed and/or mortgage to the property, and a "Gap Affidavit" to be executed by the buyer and seller stating that they have done nothing since the title search was performed to cause a lien against the property. If there are any "clouds" or "defects" found in the title search, then the Title Commitment will require that they be cleared prior to issuance of the policy.

**HOW MUCH DOES TITLE INSURANCE COST?** The rates for title insurance are set by the State of Florida Insurance Commission. That means that title insurance costs the same- no matter where

you purchase it from- this rate is called the "Promulgated Rate". Most "Settlement Agents" are also title insurance agents. Most commonly, a "Settlement Agent" is either a Real Estate Attorney or Title Insurance Company. Many people have a misconception that title insurance or closing services are more expensive from an attorney's office vs. a title company- in most all cases, this is simply not true. A Title Agent is free to charge over and above "Promulgated Rate" for title insurance, but very few do so. All settlement agents, whether they are an attorney office or title insurance company, are required by law to charge a reasonable "settlement fee". This fee ranges from a low of \$75 to a high of \$250 for most settlement agents. As a rule of thumb, settlement fees vary more geographically than they do between attorney offices and title insurance companies- in other words, it is incorrect to say that title companies charge lower settlement fees than attorney offices as a general rule.

**Title insurance rates in the State of Florida are \$5.75 for each \$1,000 of coverage from 0 to \$100,000, \$5.00 for each \$1,000 of coverage from \$100,000 to \$1,000,000, \$2.50/\$1,100 from \$1M to \$5M, \$2.25/\$1,000 from \$5M to \$10M, and \$2.00/\$1,000 over \$10M.**

[Click Here for a Chart of Title Insurance Rates.](#)

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**Other Title-Related Charges.** A typical charge for the Title Search, which includes the abstract and examination is \$150.00. Complicated searches may require higher search fees. If you are borrowing money to purchase, the lender may require additional endorsements to the title insurance policy issued to the bank. These endorsements typically always include an ALTA 8.1 endorsement, which guarantees the bank that there are no environmental liens against the property from the federal government. Other endorsements may include an ALTA 5.0 (For Properties having a Homeowner's Association), ALTA 6.0 (for adjustable rate mortgages), a Navigational Servitude Endorsement (for properties abutting a navigable waterway), and a Florida Form 9 Endorsement (for properties located in a platted subdivision). Typically, the ALTA endorsements are approximately \$25 each, and the Navigational Servitude Endorsement and Florida Form 9 Endorsements are 10% of the Promulgated Rate for the title insurance.

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**SURVEY.** The survey is an important document that defines the boundaries of your property, locates any structures on the property, and identifies any easements, building restriction lines, or right-of-ways. If you are borrowing money to purchase property, a survey less than 90 days old must generally be provided to the lender at the loan closing. If you are paying cash, it is up to you whether or not you choose to get a survey- but doing so is highly recommended. Typically a surveyor will "flag" the corners of your property so that you may actually visit the property and identify the boundaries. You may ask the surveyor to also flag easements or other features of the property that may interest you. It is very important to know what you are buying- and the survey is your connection between what is on paper, and what exists in reality. Surveys are never required for condominium purchases, and on many refinance transactions your lender will allow you to use an old survey provided no additional improvements have been constructed on the property, or no changes have been made to the outside dimensions of the structures that existed when the old survey was done. A survey for a typical ½ acre lot with no complications should run approximately \$175 to \$250. Larger properties, or properties that make it difficult to survey the property (such as a swamp or other water body) will require much larger survey fees. When purchasing a property, ask the seller for a copy of their survey and get your new survey from the same surveyor- doing so may save you money.

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**RECORDING FEES.** Many documents associated with a real estate closing must be recorded in the Clerk of Court's office in the county where the property is located. The clerk of court usually charges a recording fee for filing these documents in the public records. Once they are filed, they become a part of the "chain of title" to the property and will appear in any future title searches on the property. Documents that must usually be recorded include the deed, mortgage, easement agreements, covenants and restrictions, and any affidavits or Power of Attorney documents

associated with the transaction. Recording fees are typically \$10.50 for the first page of the document, and \$6.00 per page thereafter.

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**NOTE STAMPS AND MORTGAGE INTANGIBLE TAX.** The Florida Statutes provide that if you borrow money when purchasing property, you must pay a note stamp tax and mortgage intangible tax. Note Stamps are \$3.50 for every \$1,000 of the loan evidenced by the Note (the document where you agree to pay back the bank money on your loan), and Mortgage Intangible Tax is \$2.00 for every \$1,000 of the loan evidenced by the Mortgage (the document which gives the bank a security interest in your property as collateral for the Note). For more information on these taxes, you may refer to Chapter 12B-4 "Documentary Stamp Tax" of the Florida Statutes. [Click here to go to the Florida Statutes.](#)

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**ATTORNEYS FEES.** In some states, the law requires that each party to a real estate transaction be represented by an attorney. In Florida- it is up to you! Considering the amount of the investment in most real estate transactions, hiring an attorney is a wise step. In the typical transaction, the Seller pays the Closing attorney's fee. If the transaction is a cash transaction, then the Attorney is deemed to be representing the Seller only in the closing. If the Buyer is getting a loan, then the Closing Attorney will be representing the Seller in preparing the real estate contract, the purchase negotiations, and all other matters leading up to the actual closing. At the closing table, however, the Closing Attorney will typically be acting as the lender's authorized representative in closing the loan for the bank. To the extent that there is any conflict between the Seller and the Buyer's Lender, the Attorney must represent the lender. If for any reason the Seller decided to pursue legal action against the Buyer's lender, the Closing Attorney would be unable to represent the Seller against the lender due to the "conflict of interest" rules of the Florida Bar. If the Buyer pays the Closing Attorney's fee, then the closing attorney is deemed to represent the Buyer up to the point of closing the loan package, at which time the Closing Attorney is then again representing the Lender in closing the loan. If for any reason a Buyer or Seller is uncomfortable with the split representation resulting in the above typical situations, they may hire a separate attorney to represent only their interest in the transaction. Therefore, it is possible to have a closing where there is an attorney representing the Buyer, an attorney representing the Seller, and an attorney representing the Lender who acts as the settlement agent and closes the loan. The typical situation in Northeast Florida is where the Seller pays the Closing Attorney's fee and the Closing Attorney then represents the Lender for the Buyer at the closing table.

Most real estate attorneys are also title agents, and subsidize their attorneys fees by earning a commission on the title insurance premiums. A Title Agent who is not an attorney (such as an independent Title or Closing Company) earns the same premiums. The consumer benefits from this arrangement in that the title insurance must usually be purchased regardless of whether an attorney or title company is acting as the settlement agent, and therefore a Seller or Buyer may gain attorney representation at a subsidized rate through the title insurance premium subsidy. Due to this arrangement, most real estate attorneys in the Northeast Florida area are able to offer the added security and protection of attorney closings for settlement fees ranging from \$175 to \$250. For transactions that are "For Sale by Owner", a higher fee may apply since the attorneys office may be asked to help with certain tasks that would normally be handled by a licensed Realtor. The attorney's office will typically prepare the sales contract for the parties, order the title insurance and examine the title search, work with the Buyer's lender in creating the loan package with all associated documents, order the survey, and coordinate most other closing issues and requirements for the settlement fee and title insurance premium subsidy. **In short, you can typically close with an attorney office for about the same (within about \$100.00) of the price to close with a title insurance company.** Utilizing an attorney gives the added insurance of professional and experienced representation at the closing table, the ability to immediately address legal issues and questions, as well as the added benefit of malpractice insurance. The Real Estate Attorney is a valuable resource to the parties in a real estate transaction, and you should not hesitate to contact one for advice if you are involved in a real estate transaction and have any legal questions or issues.

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