



**Cleveland Home Title**

## Insuring a clear past *for your future*

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# What is title insurance?

**When you purchase property**, there's always a chance that someone other than the seller has a legal right to the property you are purchasing. Title insurance with Cleveland Home Title provides in-depth research regarding the status of the title, efforts to correct or clear the title, and an insurance policy to protect against future claims.

## Why do I need title insurance?

A title insurance policy can protect you from:

- False impersonation of the true owner of the property
- Forged deeds, releases or wills, instruments executed under invalid or expired power of attorney
- Undisclosed or missing heirs
- Mistakes in recording legal documents
- Misinterpretations of a will
- Deeds by persons of an unsound mind
- Deeds by minors
- Fraud
- Liens for unpaid estate, inheritance, income, or gift taxes

## What does Cleveland Home Title do?

We have sophisticated real estate title search and review procedures that review the history of individual properties, based on public records. Our escrow agents act as a neutral third party to prepare and collect all of the documents for your Owner's Policy, purchase agreement, and any documents from your lender. The escrow agent assigned to your transaction presents all of these documents to you for your signature when you close on the property.

## How many kinds of title insurance policies are there?

There are two types of policies: An owner's policy (overall owner protection), and a mortgagee's policy (also called a lender or loan policy).

## Owners Policy (prepared by Cleveland Home Title)

Protect your investment, and the ownership rights that come with it. Owners insurance protects against loss by virtue of defects, liens, encumbrances, and other matters of **public records**. This type of policy will pay for defending against any lawsuit attacking your title as insured, and will either clear up title problems or pay the insured's losses. For a one-time premium, an owner's title insurance policy remains in effect as long as you, or your heirs, retain an interest in the property.

## Mortgagee's Policy (prepared by your lender)

If you have ever mortgaged a home, chances are you were required to purchase this type of title insurance policy. This policy ensures the lender's mortgage is the first and best lien on the subject property. This practice protects the bank or other lending institution for as long as they maintain an interest in the property (typically until your mortgage is paid off).

**More questions?** For additional information about title insurance or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100.



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# What are the types of deeds?

**When you think about deeds**, it's helpful to understand that there is a difference between a deed and title. Title (or property title) is the legal way of saying you have ownership, but it is not a document. Rather, it's a concept that gives you legal rights. The deed is the legal document used to convey the ownership rights to a property. The deed is a physical document signed by seller(s).

## Types of deeds

There are different types of deeds used in Ohio real estate transactions, providing buyers with differing levels of assurance of title quality from the seller and differing levels of liability, and potentially continuing liability, for the seller.

### General Warranty Deed

This is the most common form of deed in Ohio. The seller warrants title to be free and clear except as stated in the deed. The seller takes on responsibility for soundness of the entire chain of title. Although the seller's warranties are desirable, title insurance has reduced their importance. Buyers and lenders generally rely on title insurance to protect investments. Therefore, title insurance is also a benefit to the seller as it may reduce actual exposure if old title defects arise.

### Limited Warranty Deed

In special circumstances, the seller may only desire to warrant title as to the period that he or she held title and is not responsible for matters previous to the seller's acquisition. A Limited Warranty Deed is often used on a commercial transaction where the seller and buyer agree to rely on title insurance for protection but require the seller to account, if necessary, for matters occurring during the seller's ownership. This form of deed may also be used when the seller is not in a position to make warranties as to the entire history of the title.

### Quit Claim Deed

This form of deed only conveys whatever interest the seller owns or may own. No warranties are expressed or implied. The buyer may not have recourse against the seller for defects in the title; therefore title insurance is advisable whenever a buyer accepts a Quit Claim Deed. This form of deed is used often in Divorce Cases or to clear gaps or issues with the chain of title. It is not recommended to be used when there is a transaction where a buyer is acquiring property for value.

### Special Purpose Deed

Other types of deeds are necessary under particular situations, but since their application is limited, no description needs to be given here. Such special purpose deeds include Sheriff's Deed (foreclosure), Executor's Deed, Administrator's Deed and Guardian's Deed (Probate Court), Trustee's Deed (Bankruptcy) and Auditor's Deed (tax sale).

**More questions?** *For further explanation or advice as to types of deeds, it is suggested that you consult an attorney.*

# What are the forms of ownership?

**When you transfer Ohio property**, there are four different ways a property can be owned. The form of ownership chosen is used to determine rights to the property upon transfer.

## Tenants in Common

A form for taking title when two or more people buy property and own it together with either equal or unequal shares. If any one of the tenants in common dies, the interest passes to the heirs, not to the remaining tenants.

## Joint Tenants with the Right of Survivorship (Survivorship Tenancies)

Two or more persons may acquire title to real estate. Each has an undivided percentage interest in the property. Upon death of one of the joint tenants, their particular interest automatically passes to the surviving tenants.

## Tenancy by the Entireties

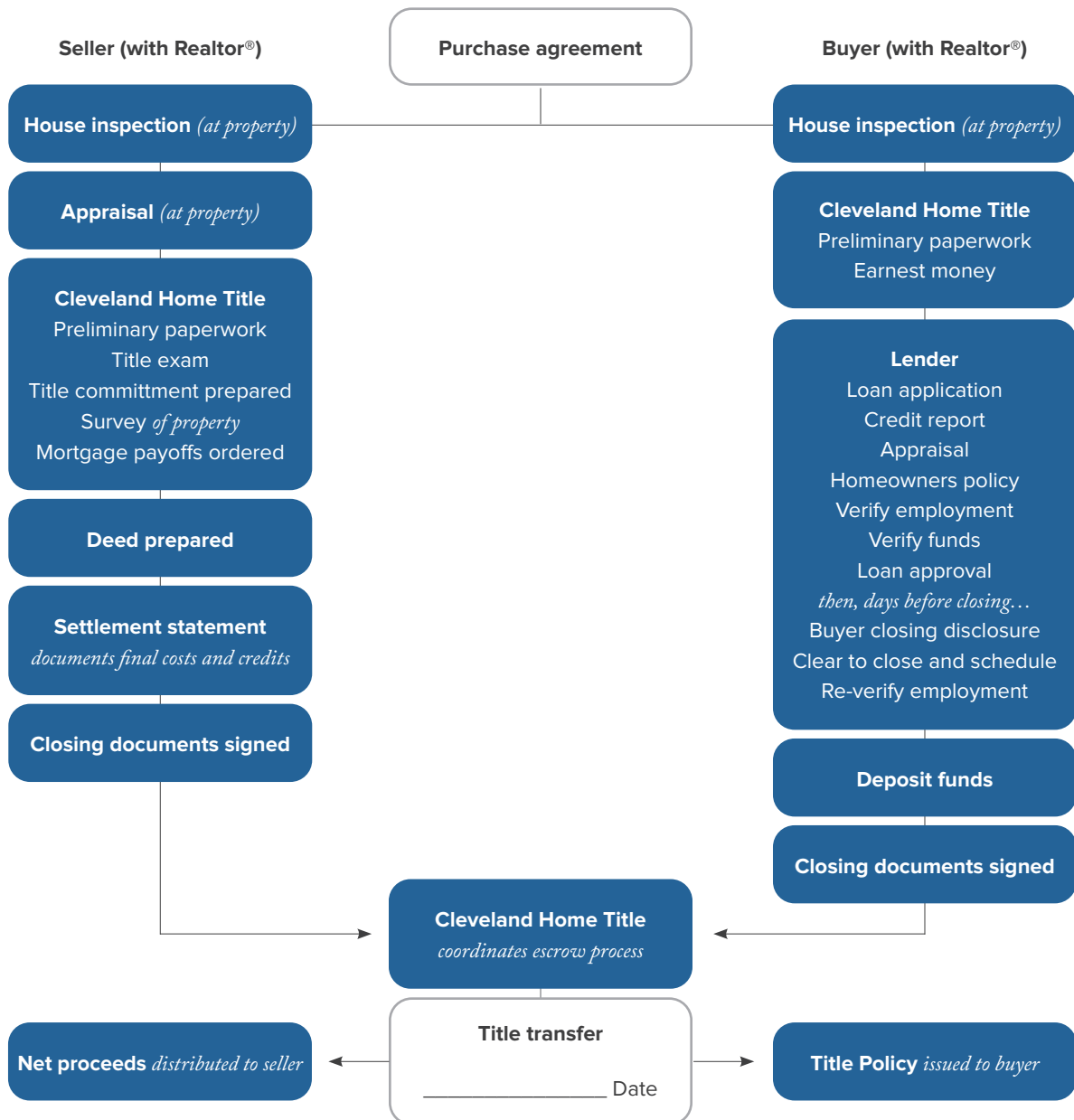
A husband and wife could acquire title to real estate. Each has full ownership to the real estate. Their individual creditors cannot foreclose on their interest in the real estate. Upon death of one, the other is the owner of the entire fee. Note: Tenancies by the Entireties were replaced by Survivorship Tenancies on April 4, 1985 and are no longer available in Ohio.

## Transfer on Death Designation

As of December 28, 2009, Ohio eliminated the Transfer on Death Deed and replaced it with the Transfer on Death Designation Affidavit. A property owner may designate on the affidavit the party or parties who are to receive title after the property owner dies. The affidavit does not create a present interest in the real estate for the beneficiary or beneficiaries; yet it avoids probate and the property transfers immediately upon the death of the property owner. The affidavit must be recorded prior to the death of the property owner to be effective. (Transfer on Death Deeds filed prior to December 28, 2009 are still recognized.)

**More questions?** For further explanation or advice as to types of forms of ownership, it is suggested that you consult an attorney.

# How does the transfer process work?



# What is escrow and what does it ensure?

**Escrow is an agreement in which a neutral third party**, called an escrow agent, holds legal documents and funds on behalf of a buyer and seller, and distributes them according to written instructions. The escrow agent ensures the buyer and seller perform all required obligations before the transaction is finalized.

## Why do I need a Cleveland Home Title escrow agent?

Our neutral third-party escrow agents ensure that:

- The transaction will close properly and on time.
- All terms and conditions of the agreement between the buyer and seller are met prior to the sale being finalized.
- All required forms have been completed, release documents for any loans or liens have been obtained, and all outstanding fees are collected so that title to the property can be transferred from the seller to the buyer.

## The duties of escrow agents

Our escrow agents perform the following functions:

- Prepare escrow instructions
- Request title search
- Prorate insurance, tax, and interest
- Record deeds and other documents
- Request title insurance policy
- Close escrow

## How is escrow opened?

Once you have completed the contract, or Purchase Agreement, and the Seller has accepted the offer, your real estate agent or lender will open the escrow. The earnest money deposit and the contract are placed in escrow. As a neutral party to the transaction, Cleveland Home Title must follow only those written instructions agreed to mutually by all “interested” parties (Seller and Buyer); Cleveland Home Title cannot otherwise alter the contract or create instructions, which protects all interested parties.

## What are your responsibilities?

When Cleveland Home Title is chosen as your title company and escrow is opened, a closing agent will contact you to answer any questions you may have and schedule your closing appointment. We request that you respond in a timely manner so please make sure your preferred way to be contacted is clear to us.

**More questions?** *For additional information about escrow or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100.*

# Who pays for what services?

Service covered by <b>Seller</b>	Cash	Conv	VA	FHA
Payoff Current Mortgages	✓	✓	✓	✓
Real Estate Commission	✓	✓	✓	✓
Title Examination	✓	✓	✓	✓
Owners Fee (one half)	✓	✓	✓	✓
County Transfer Tax	✓	✓	✓	✓
Deed Preparation	✓	✓	✓	✓
Recording Cancelled Mortgage	✓	✓	✓	✓
Hold Signature Fee	✓	✓	✓	✓
Transfer Service Fee	✓	✓	✓	✓
Escrow Fee (one half)	✓	✓		✓
Escrow Fee Entire			✓	
Termite Inspection			✓	✓
Mortgage Document Preparation			✓	✓
Tax Service Fee			✓	
Tax Proration	✓	✓	✓	✓
Payoff of Special Assessments			✓	✓
Special Tax Search			✓	✓
Commitment to Insure			✓	
Flood Certification			✓	
Real Estate Commissions	✓	✓	✓	✓

Service covered by <b>Buyer</b>	Cash	Conv	VA	FHA
Mortgage Origination Fee		✓		✓
Mortgage Discount Points		✓		✓
Interim Mortgage Interest		✓	✓	✓
Appraisal		✓	✓	✓
Credit Report		✓	✓	✓
Escrow Fee (one half)	✓	✓		✓
Survey	✓ *	✓	✓	✓
Termite Inspection	✓ *	✓		✓
Mortgage Document Prep		✓		
Special Tax Search		✓		
Commitment to Insure	✓	✓	✓	✓
Assignment		✓	✓	✓
Recording Deed and/or Mortgage	✓	✓	✓	✓
Tax and/or Insurance Reserves		✓	✓	✓
PMI Reserves (one year)		✓	✓	✓
Insurance Premium (one year)		✓	✓	✓
Owners Fees (one half)	✓	✓	✓	✓
ALTA Loan Policy Premium		✓	✓	✓
Title Endorsements		✓	✓	✓

\* Optional



# How am I protected against fraud?

**Ohio Good Funds Law** protects consumers against fraud by preserving the integrity of funds that are held and disbursed in real estate transactions. The law outlines acceptable formats that ensure a high level of security during a residential real estate closing.

## What are Good Funds?

For transactions involving residential real estate, settlement agents may disburse only when the funds for the transaction qualify as Good Funds, as defined by Ohio statute.

## What are acceptable forms of Good Funds under the Ohio statute?

Effective September 29, 2017, the following are the only form of funds a settlement agent may collect and disburse on in connection with a residential real estate transaction:

### 1. Wire transfer

### 2. Funds from a real estate broker's escrow/trust account

### 3. Personal or business checks under \$500

The combined dollar amount cannot exceed \$500.00.

#### Acceptable example:

Personal/Business Check for \$485

Total dollar amount is less than \$500.00

### 4. ACH transfer

the ACH transfer can ONLY be done by choosing "Deposit Earnest Money" at [ClevelandHomeTitle.com](http://ClevelandHomeTitle.com).

### 5. Certified or cashier's check/s under \$10,000

The combined dollar amount cannot exceed \$10,000.00.

#### Acceptable example:

Certified or Cashier's check for \$8,790.00

Total dollar amount is less than \$10,000.00

## What are NOT acceptable forms of Good Funds?

Per Ohio Good Funds law and ALTA best practices, Cleveland Home Title:

- **Cannot accept a personal or business check/s (combined amount) over \$500.**

#### NOT Acceptable example:

Personal or business check for \$500.75, exceeds limit

- **Cannot accept certified or cashier's check/s (combined amount) over \$10,000.**

#### NOT Acceptable example:

Certified check for \$10,000.05, exceeds limit

- **Does not accept money orders.**

This policy is per ALTA best practices.

## Are there any other conditions for Good funds?

Yes, the funds must be immediately available for withdrawal and disbursement by the agent for the transaction.

**More questions?** For additional information about the Ohio Good Funds Law or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100

# How do I defer payment on capital gains taxes?

**1031 Exchanges** allow you to defer payment of capital gains taxes when you sell an investment property and reinvest the proceeds from the sale within certain time limits in a property or properties of like kind and equal or greater value. Any real property can be exchanged.

## Investment requirement

Properties must be held for investment or in connection with a trade or business but do not have to be similar use (e.g. exchange raw land for an apartment building).

## Exchange transaction

There are two parts to the transaction: “transfer” of relinquished property and “acquisition” of replacement property.

## Fully deferred exchange

Many criteria must be met in order to have a fully deferred exchange. Generally:

1. Taxpayer must buy replacement property(ies) of greater or equal value.
2. Taxpayer must reinvest all proceeds from the sale of the relinquished property(ies).
3. Taxpayer must re-acquire debt equal or greater to debt paid off from the relinquished property (or replace the debt with additional cash) .

## Same taxpayer requirement

The taxpayer must acquire title to the replacement property in the same manner as title was held in the relinquished property. There are some exceptions to this rule such as entities that are disregarded for tax purposes.

## Deadlines

There are two deadlines, both of which begin on the date of transfer of the first relinquished property:

1. Replacement property(ies) must be identified within 45 days.
2. The exchange must be completed by the earlier of:
  - 180 days from the date of the first relinquished property closing; or
  - The due date of the taxpayer’s federal income tax return, together with all extensions.

## Identifications rules

Replacement property must be unambiguously described, made in writing, and signed by the taxpayer. The two most common identification rules are:

1. 3-Property Rule-up to three (3) properties can be identified without regard to their fair market value.
2. 200% Rule-any number of properties can be identified, as long as their combined fair marketing value does not exceed 200% of the fair market value of all relinquished property.

**More questions?** For additional information about 1031 exchange requirements or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100.

# What is an insured closing?

**Closing Protection Coverage** has garnered a lot of attention the last few years, and Realtors® are often asked by their clients if it is worth the cost. We would like to take a minute and briefly describe what this coverage is, who should purchase it, and why it's offered.

## What is Closing Protection Coverage?

As defined by Ohio statute in 2007, title company insurance underwriters are required to offer insurance that protects customers against the mishandling of funds or documents by the Licensed Agent. This coverage contains two components:

### 1. Protection against fraud

Theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing or escrow fund.

### 2. Protection against non compliance

Failure to comply with any applicable written closing instructions, when agreed to by the Licensed Agent.

## Who is this offered to?

If a Policy of Title Insurance is being issued in connection with the closing, Closing Protection Coverage is offered to all parties: the seller, the buyer and the lender. For a nominal cost, you may elect to buy closing protection coverage for yourself.

## How much does this coverage cost?

Costs as defined by the 2007 legislation are as follows. "The premium for the Closing Protection Coverage is \$40.00 for Lender; \$55.00 for Seller; \$20.00 for Buyer/Borrower; and \$20.00 for any other applicant for title insurance, and in no case shall the premium be less than \$40.00 for this coverage in any transaction." Put another way, the total fee for either buyer or seller in an Ohio transaction is generally around \$60.

## Why is this offered to me?

In the 2007 case Horvath vs. Fidelity National Title Insurance, Ms. Horvath sued Fidelity after an independent agent absconded with funds during closing. A particular focus of the case was on whether the title company provided any coverage in the event of defalcations by independent agents who are entrusted with the public's money. The facts of the case show that not only had Ms. Horvath claimed she had not been offered the coverage, but that her claims were not factually contested by the insurance company for the Agent. Horvath, Executor to her mothers estate, lost \$98,166.89 when the "net proceeds check" bounced in the course of defalcation by Fidelity's agent, Portage Title Agency.<sup>1</sup> Legislation was drafted to ensure that customers are always offered protections when a Policy of Title Insurance is being issued in connection with a real estate transaction.

<sup>1</sup> A PDF of the Ohio Supreme Court docket can be found at [http://www.sconet.state.oh.us/pdf\\_viewer/pdf\\_viewer.aspx?pdf=727163.pdf](http://www.sconet.state.oh.us/pdf_viewer/pdf_viewer.aspx?pdf=727163.pdf)

## Do I have to pay this?

Most lawyers recommend this additional coverage, however it is not a required cost to selling or purchasing property in Ohio.

**More questions?** For additional information about Closing Protection Coverage or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100

# Are there any additional coverage options?

The Enhanced Owner's Policy provides broader title protection for owners of one-to-four family residences, including condominiums. It includes coverage for structure violations, title transfers, and automatic yearly increases in the insured amount. These enhancements offer more than just safeguards for the title to your property; they also provide you with peace of mind.

Comparison of the Enhanced Policy for single-family residence or condominium and the Standard Owners Policy for any property type	Enhanced Policy (after policy issued)	Standard Policy
The insurance coverage amount increases automatically by 10% each year during the first five years after issuance, without requiring any additional premium.	✓	<i>not included</i>
Coverage if someone fakes your signature on a deed or mortgage.	✓	<i>not included</i>
Coverage if a neighbor constructs something that crosses your property line.	✓	<i>not included</i>
Coverage if a new or improved structure on your property extends beyond the property line and needs to be removed.	✓	<i>not included</i>
Coverage if a structure on your land was built without a proper permit and needs to be either removed or rectified.*	✓	<i>not included</i>
Coverage if a structure on your land was built with a valid permit but violates zoning laws, and you need to either remove it or make corrections.*	✓	<i>not included</i>
Coverage continues for the benefit of your spouse who receives title upon a divorce.	✓	<i>not included</i>
Coverage if you transfer title to the trustee of your trust.	✓	<i>not included</i>
Coverage if someone else claims to own the property.	✓	✓
Coverage if someone else claims to have a lien against the property.	✓	✓

\* The coverages marked with an (\*) come with deductibles and maximum liability limits. The premium charge for the Owner-Occupied Policy, available exclusively for natural persons who are owner occupants, is generally 10-20% higher than that of the Standard Owner's Policy. The Enhanced Policy is offered through Cleveland Home Title agents and is available for issuance only in the following states: KY, OH.

**More questions?** For additional information about the Enhanced Owner's Policy or to discuss your particular circumstances, please contact your sales representative or the office at 440.788.7100.



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# Working with Cleveland Home Title

**When you work with us**, you'll quickly see the difference. Our staff of professionals have the expertise and customer commitment that it takes to ensure a smooth process from start to finish. We take great pride in the relationship we have with our customers, our early adoption of the Consumer Finance Protection Bureau's seven pillars for best practices, and consistently going the extra mile to protect your interests.

## Remaining compliant

In an industry where regulations change so quickly, remaining compliant is more important than ever. We believe compliance is more than just documentation; it's the way business should be transacted because our client's security depends on it. While many organizations are racing to implement these new compliance requirements, we're focused on maintaining ours while delivering superior service.

## Applying our principles

Title agencies and service providers, like us, must adopt and utilize these principles to ensure protection of client and customer private information. In addition, these Best Practices enhance the quality of services provided, improve employee performance, and meet all mandated requirements.

## Staying ahead of the curve

Cleveland Home Title remains at the forefront of the title industry by having implemented the Best Practice compliance process prior to guidelines being mandated. We work diligently to provide a secure, quality driven experience with both residential and commercial transactions. Our diligence and early implementation ensures that our clients are protected now and in the future.

## Seven pillars

The Consumer Finance Protection Bureau (CFPB) has mandated the following Best Practices for Title Insurance Agents and Settlement Service providers.

1. Maintain current licenses
2. Adopt and maintain written policies for escrow account reconciliation
3. Adopt and maintain written policies for protection against cyber crime
4. Establish settlement procedures to ensure regulatory compliance
5. Adopt and maintain written procedures for policy production
6. Maintain professional liability insurance
7. Adopt and maintain written policies for resolving consumer complaints

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