



TRID | DISCLOSING SIMULTANEOUS ISSUE TITLE INSURANCE

There is still considerable confusion around how to disclose lender's title policy and owner's title policy premiums when there is a simultaneous purchase discount in play. Having reviewed Closing Disclosures from various settlement agents at this point, we are seeing inconsistencies in how the premiums are being disclosed. Further complicating matters is whether the seller or the buyer will pay for owner's title.

The **lender's title policy** must be disclosed **at the full premium rate without deducting any discount** for simultaneous purchase of owner's title. Owner's Title, if paid by the seller, will have a corresponding credit in the Calculating Cash to Close table. Here's how the regulation reads in §1026.37(g)(4):

The premium for an owner's title insurance policy for which a special rate may be available based on the simultaneous issuance of a lender's and an owner's policy is calculated and disclosed pursuant to § 1026.37(g)(4) as follows:

- a) The title insurance premium for a **lender's title** policy is based on the full premium rate, consistent with § 1026.37(f)(2) or (f)(3).
- b) The **owner's title** insurance premium is calculated by taking the full owner's title insurance premium, adding the simultaneous issuance premium for the lender's coverage, and then deducting the full premium for lender's coverage." §1026.37(g)(4)-2.

The CFPB acknowledges that the calculation of cash to close will produce inaccurate "cash to close" results using the required method of disclosing simultaneous purchase of owner's title when the seller pays the premium. In the Bureau's May 26, 2015 webinar, the fifth in a series of webinars on the new integrated disclosures, they outlined three permissible ways to reconcile the cash to close:

1. The remaining credit could be applied to any other title insurance cost, including the lender's title insurance cost. (§1026.38(f)&(g))
2. The remaining credit may be treated as a general seller credit and disclosed as such in the Summaries of Transactions table on page 3 of the Closing Disclosure. (§1026.38(k)(2)(vii))
3. Use of a credit for the remaining amount of the owner's title insurance cost in the Summaries of Transactions table on page 3 of the Closing Disclosure. (§1026.38(k)(2)(viii)). This credit could be disclosed as a "simultaneous issue credit" in the Summaries of Transactions.

Let's assume the Owner's Title Policy premium is \$1,235, Lender's Title is \$100 for Simultaneous Issue and \$1,052 for full Lender's Title Premium. Let's also assume the seller pays for the owner's policy. In its most simplistic form, the calculation is as follows:

Owner's Title Policy	\$	1,235.00
+ Simultaneous Issue Rate	\$	100.00
- Lender's Title Policy (Section B or C)	\$	1,052.00
Owner's Title Premium (Section H)	\$	283.00

Lender's Title Policy is disclosed in Section B or C, depending on whether the consumer is permitted to shop for the service (LE) and who they ultimately select (CD). Owner's Title is disclosed in Section H on Page 2 of the Loan Estimate (LE) and the Closing Disclosure (CD) as "Title – Owner's Title Policy (optional)", because it is generally not required by the lender. You have the option of leaving Owner's Title out of Section H on the LE if you know it will be paid by the seller, but would still need to show a seller credit to reconcile cash to close.

In the example above, the following would appear on the **Loan Estimate**:

Section B or C:	Title – Lender's Title Insurance	\$1,052
Section H:	Title – Owner's Title Insurance (optional)	\$ 283
Calculating Cash to Close	Seller Credits	\$1,235*

*This amount is the full owner's title policy cost, which will be paid by the seller. The credit will bring the cash to close back to the \$100 cost for the Lender's Title Policy that will be paid by the Consumer.

Note: *If you opt not to disclose the owner's title in Section H of the LE in situations where it is paid by the seller, you would disclose \$952 as the Seller Credit in the Calculating Cash to Close table. We recommend showing it as a Seller Credit, primarily due to the distinction in the commentary to the rule which states: Only credits from persons other than the creditor or seller can be disclosed as "Adjustments and Other Credits".*

The **Closing Disclosure** would only reflect a seller credit of **\$952** because the Owner's Title premium of \$283.00 would already be shown in Section H as Seller Paid at Closing