

The below is proposed verbiage pursuant to a discussion I (Jeff Wiener) had with Assistant Deputy Commissioner Brett Barratt and Commissioner Todd Kiser on Friday, September 18th regarding the request by Kirk Smith of the Title & Escrow Commission to discuss the issue of correct title premium disclosure under the new Closing Disclosure Form.

Proposed Verbiage for Title Producers (ULTA to promulgate if desired)

If you, as part of your real estate purchase transaction, are providing or receiving an owner's policy of title insurance and the borrower's lender is receiving a lender's policy of title insurance, the amount listed on this form may be different than the premium listed in the Closing Disclosure. This difference is caused by a federal law that requires any title premium discount to be applied toward the owner's policy of title insurance even if the Utah state approved rates require any title premium discount to be applied toward the lender's policy of title insurance.

Proposed Verbiage for Utah Insurance Department if desired

As early as October 3, 2015, consumers will be provided a new federally required form, the Closing Disclosure, as created by the Consumer Financial Protection Bureau (CFPB) and under the direction of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Although the Closing Disclosure is designed to provide consumers with a better understanding of the costs of their real estate transactions, some of the changes conflict with the closing requirements and practices of various states, including Utah. One of the requirements may cause the owner's or lender's policy premiums on the Closing Disclosure to differ from the actual amounts charged for each policy. While the CFPB recognized this concern, it reasoned that "the clear disclosure of the required cost for the lender's title insurance alone, and the additional incremental cost to be paid by the consumer... outweighs the benefit of a technical disclosure of the owner's and lender's title insurance premiums."

The Utah Insurance Department is aware that title producers may provide a settlement statement, if necessary, in addition to the Closing Disclosure in order to provide the complete and correct disclosure of all costs related to the consumer's real estate transaction. The Utah Insurance Department will look at the complete real estate transaction file maintained by the title producer to verify that no rebates, discounts, or overcharges occurred.