

GUARANTY FEE FREQUENTLY ASKED QUESTIONS

Updated: January 18, 2012
For Change in Guaranty Fee Amount

1. *Because the Guaranty Fee is changing, what amount do we charge for a transaction that closes in December 2011 but does not fund until January 2012?* The Guaranty Fee is determined by closing, or more significantly, what is reflected on the HUD-1. For example, if a transaction closing on December 29 but does not fund until January 1, the fee to be collected is \$5.00. If it closes January 1 or later, the fee to be collected is \$2.00.
2. *How do we remit the Guaranty Fees for closings prior to January 1, 2012, when they don't fund until after that?* Please send in two forms and one check. One form would be the current quarter's fees at the \$2.00 rate. The second form would be for the 4th Quarter of 2011 (or other period) at the \$5.00 rate. Write "Supplemental" at the top of the \$5.00 rate one to assist us in identifying it. However, submit one check for both remittances. For example, 3 transactions closed on December 14, 2011, but they are not funded until January 26, 2012. On April 7, when doing your first quarter of 2012's remittances where you have 100 policies, you would have one form dated January 1 through March 31, 2012 for the first quarter's 100 policies. You would have a second form for October 1 through December 31, 2011 for the three (3) unremitted Guaranty Fees for a total of \$15.00 with the word "Supplemental" at the top. Then submit one check for the total remittance of \$215.00, which is \$15 plus \$200 for the first quarter's 100 policies.
3. *What is TTIGA's authority for collecting the Guaranty Fee?* Texas Title Insurance Guaranty Association ("TTIGA") has the right and the responsibility to set, collect, and spend Guaranty Fees under Chapter 2602 (formerly Article 9.48) of the Texas Insurance Code (the "Code"). The Guaranty Fee is set by the TTIGA Board of Directors as necessary.
4. *For what are the funds used?* Chapter 2602 authorizes Guaranty Fees to be used only to pay covered claims resulting from shortages in the escrow accounts of an impaired agent, the salaries and expenses of the TDI's Title Division examiners.
5. *Is TDI involved with the Guaranty Fee?* The Commissioner of Insurance oversees the activities of TTIGA and appoints its Board of Directors. The proper collection and payment of the fees is part of every examination by the Title Division examiners, and TDI also enforces the reporting and payment of the Guaranty Fees.
6. *Should a separate trust account be set up for the fees?* The Guaranty Fees have to be deposited into an escrow or trust account. TDI recommends that a special escrow account be set up for the fees, but it is not required. The fees cannot be deposited into (or run through) an agency operating account.
7. *How is the Guaranty Fee reported?* Guaranty Fees are reported on the Guaranty Fee Remittance Form (TDI's Form No. T-G1) on a quarterly basis with one form and one check submitted to TTIGA. The form is approved by the TTIGA Board of Directors and promulgated by the TDI Title Division. If you need a form, please call (512) 480-5120 to request one be sent to you via email or mail, or visit TTIGA's website at www.ttiga.org.

8. *What date determines the collection date and where is it reported?* The closing date determines when the Guaranty Fee is collected. The fee should be collected at closing and disclosed on lines 1111, 1112 and 1113 of the HUD-1 Form.
9. *Can an agent just pay the fee without collecting it?* No. Administrative Rule G.1 (II.A.) from Section VI of the Basic Manual states, “Each policy guaranty fee shall be collected directly from the purchaser of each owner’s and loan policy at the closing of the transaction and such itemized charge shall be disclosed on the settlement statement...”
10. *If an agent issues both owner and loan policies in the same transaction, do they collect for both?* If a transaction involves both a loan policy and an owner policy, then the agent collects the fee for each policy.
11. *Is the Guaranty Fee to be collected from the Buyer or Seller?* Section VI of the Basic Manual states that “Each policy guaranty fee shall be collected directly from the purchaser of each owner’s and loan policy at the closing of the transaction...”
12. *Does this fee fall in the category with the allowable fees for “title insurance” under Section 342 of the Finance Code?* Yes, see Administrative Rule G.1 (II.A.).
13. *If my title agency has three offices (or three escrow accounts), can we submit three separate checks for the Guaranty Fees each quarter - one for each office (or account)?* No. Administrative Rule G-1 requires that: “Each Title Insurance Agent/Direct Operation shall report and remit the fees for all of its offices on a single remittance form and payment.”
14. *Is the Guaranty Fee collected on Interim Construction Binders?* No. Only on owner’s and loan policies.
15. *Can I submit multiple checks with the report?* No. The rule is one form, one check. There should be one reporting form for all licensed locations of the agency (See also question No. 13) and one check for all collected fees from all locations.
16. *Is there a fee if our check is returned NSF?* Yes. The fee is \$25.00 for all returned items. The payment of this NSF fee cannot be from your escrow account, but rather the operating account.
17. *Are cashier’s checks and wire transfers allowed to pay the fee?* Yes. Although we prefer if you just mail a check. If you wish to transmit your fee via wire transfer, please call (512) 480-5120 or email contact@ttiga.org for instructions. Please note, the wire transfer must be made and the original notarized form must still be postmarked on or before the due date.
18. *Why was my remittance late?* The remittance must be postmarked on or before the due date. If the due date falls on a weekend or holiday, then the postmark must be on or before the weekend or holiday because it must be BEFORE the due date.
19. *Is backup documentation required to be submitted?* No. Backup should not be submitted to TTIGA, but you should keep backup for the examiners. TDI will check the backup during your agency’s examinations. Please submit the form and one check only.