

# Paul Christian Stamm Jr., ESQ

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## **Mobile Closings & Title Services**

Post Office Box 290

Hardy VA 24101

Office (540) 650-3262 / Fax (540) 523-1900

## **Law Office**

89 North Main Street

Kilmarnock Virginia 22482

Office (804) 435-2626 / Fax (804) 435-2628

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## **CLOSING / SETTLEMENT**

### **Q. What is closing?**

**A.** Closing or 'settlement' is the process of completing a real estate transaction. During closing deeds, mortgages, leases or other required instruments are signed or delivered. Furthermore accounting between parties takes place, monies are disbursed, and documents needed for recording are obtained.

### **Q. What do I need to bring to settlement / closing?**

**A.** All parties must produce an unexpired government issued photo identification such as a driver's license or passport to the closing, since the office of Paul C. Stamm, Jr. is required to verify the identity of all parties. If you are a seller and a non-resident alien (i.e., a Foreign Person as that term is used under the IRS regulations), please **immediately** alert office of Paul C. Stamm, Jr. to this fact and also expect to have a portion of the sales proceeds withheld at closing. If you are subject to withholding and you fail to so alert us, this could delay the closing.

For sellers, in most cases, nothing else is required unless you choose to have your proceeds wired into your bank account in which case you will need to Produce specific wiring instructions for the account to which the funds will be transmitted. This is most easily accomplished through a voided check or deposit slip on that account. Homeowners who are refinancing and taking cash out and wish to have the funds wired should similarly bring wiring instructions, a voided check or deposit slip to closing.

Buyers must produce sufficient certified funds to pay the down payment called for in the sales contract. This is usually done by a cashier's or certified check. If the buyer has brought more than the amount required to the closing, the office of Paul C. Stamm, Jr. will issue the buyer a check for the excess at time of closing.

### **Q. How long will settlement take?**

**A.** A refinance closing takes approximately 30 minutes and the settlement of a sale / purchase lasts approximately one hour. If any complications arise, it could take longer.

### **Q. What if I will be unable to attend closing?**

If a seller cannot attend the closing, please notify Our office as soon as possible, since a Power of Attorney will need to be prepared. This entails formally appointing someone such as a spouse or other relative or friend to sign all the documents on your behalf. This person will need to attend the closing in your place and produce proper identification with him or her.

If a buyer cannot attend the closing, a Power of Attorney might be permitted. However, any use of a Power of Attorney must first be approved by the lender and this is sometimes difficult and time consuming. If the use of a Power of Attorney is allowed, you will need to let our office know right away who will be attending settlement and signing on your behalf so that an appropriate Power of Attorney can be prepared and/or reviewed prior to the closing.

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### **Q. What is a HUD Settlement Statement (HUD-1)?**

**A.** This is a summary of the financial portion of the real estate transaction. The HUD lists the purchase price, loan amount and closing costs for both buyer and seller and shows all pro-rations and sums to be disbursed by the title company to all parties

### **Q. What are the "miscellaneous" items on the HUD-1 form?**

Our office never shows any fees as miscellaneous on your HUD Statement.

### **Q. Who will be at the settlement/closing?**

Typically unless otherwise agreed, all buyers, sellers, and their respective real estate agents will attend the closing which is conducted by the office of Paul C. Stamm, Jr. Lender representatives and mortgage brokers are also sometimes in attendance.

## **TITLES AND TITLE SEARCHES**

### **Q. What is a title?**

**A.** A title is the owner's right(s) to possess and use a real property.

### **Q. What is a title search?**

**A.** Upon receipt of the signed sales contract, the first step is to perform a title search for the property. A title search determines based on a search of the public record, who owns a specific piece of property and what liens or other interest affect that property. Documents searched include court records, property and name indices. Additionally, the seller's right to transfer ownership is verified, along with claims, defects or other rights that may affect the property.

### **Q. Why do I need a Title Search?**

**A.** A title must be deemed "good and marketable" before the settlement process can continue. The results of the title search identify (among other things): the current owner of the property; any liens on it; and any limits on how an owner can use the property. Our Office will examine the title search report to determine what if anything must be done in order to clear the title to the property so that the buyer can obtain its (and its lender's) goal of a "good and marketable" title.

### **Q. What kinds of problems can a title search reveal?**

**A.** Examples of 'problems' would be: unpaid taxes, unsatisfied mortgages, judgments against the seller and restrictions on the land.

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## **TITLE INSURANCE**

### **Q. What is title insurance?**

**A.** Title insurance protects against a loss to the lender or the owner in the event that the title to the property is other than as insured. Title insurance is an essential part of virtually every transfer of ownership of residential or commercial real estate. It is purchased at settlement, and the title insurance policies are issued shortly thereafter. Although it can be one of the higher costs of closing, buyers should be aware that it protects them against potentially disastrous losses.

There are two (2) types of title insurance policies: lender's and owner's. Lender's title insurance is required by lenders to protect their interest in the property from possible title defects. Buyers have the option of purchasing owner's title insurance to protect the buyer's investment, which often is greater than the loan on the property. While the lender's policy expires when the loan is paid off, the owner's policy continues as long as the owner has a vested interest in the property.

It is important to realize that title insurance premiums are paid only once, at the closing. Owners title insurance cannot be purchased after the closing except in connection with another transfer or a full title search concerning the property.

### **Q. Why do I need title insurance?**

**A.** The concept of title insurance is generally misunderstood. Unlike most insurance which protects against the risk of future events, title insurance exists to eliminate losses due to defects in title which occur as a result of things that happened in the past.

Even the most careful title search will not reveal some situations or events that could cast doubt on your title to the property. Title insurance policies generally cover losses for mistakes made in researching, abstracting and examining the title as well as losses caused by items that cannot be discovered by examination of the public records, such as: mistakes in the public record;

- fraud or forged title instruments;
- undisclosed heirs;
- adverse possession and other undisclosed prescriptive rights, etc. A title insurance
- policy will financially protect the insured party by paying its legal defense fees and monetary claims, should unexpected items that are not of record arise.

### **Q. What does title insurance protect against?**

**A.** Some of the most common problems covered include:

- Unfiled or unpaid liens
- Inadequate legal descriptions
- Mistakes in legal documents
- Fraudulent deeds, mortgages, etc.
- Undisclosed or missing heirs
- Deeds by persons of unsound mind

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### **Q. Isn't a deed proof of ownership?**

**A.** No. A deed is simply a document transferring the right of ownership, whatever that right may be. For example, the property may have changed hands many times since the deed was issued. In addition, liens and claims outstanding against the title won't be shown on a deed.

### **Q. The property I want to purchase had a title search done within the past year. Do I need another one?**

**A.** Yes - Any number of events could occur in a year which could affect your title.

### **Q. What are the different types of title insurance?**

**A.** Lenders Coverage and Owners Coverage. The lenders policy is usually a condition of the loan and protects the mortgage lender's security interest in the property up to the value of the policy. The owner's policy covers the purchase price of the property and protects the interest of the real estate owner. When purchasing a property, where you are also creating a mortgage, the Owner's & Lender's Policies are issued simultaneously. The title premium is based on the greater of the purchase price or the mortgage amount.

Owners Title Insurance is optional. However, our office strongly urges its clients to purchase Owners Title Insurance.

### **Q. How long does coverage last?**

**A.** You are covered for as long as you or your heirs own the property. Even though the property may be sold, you may still have a legal obligation by virtue of the warranties in the deed conveying the property. The policy insuring you would still be in effect.

### **Q. Who is my title insurance through and how much will it cost?**

**A.** We are an approved attorney to underwrite for **Fidelity National Title Insurance Company** The following are the estimated charges or range of charges for title insurance underwritten by American Title of Lancaster, Inc. through Fidelity National Title Insurance Company on real estate transactions. These rates are filed with the Bureau of Insurance and have been provided to us Fidelity National Title Insurance Company. The fees are as follows:

**Enhanced Lender s title insurance only:** \$3.48 per \$1000 of the loan amount + binder/clerkal costs (\$35.00) and possibly endorsement fees.

**Enhanced Owner s title insurance:** \$4.68 per \$1000 of the purchase price + binder/clerkal costs (\$35.00) and Lender s insurance included for an additional \$50.00 simultaneous issuance rate, as long as the coverage does not exceed the amount of the owner s policy.

**Standard Lender s title insurance only:** \$2.90 per \$1000 of the loan amount + binder/clerkal costs (\$35.00) and possibly endorsement fees.

**Standard Owners title insurance:** \$3.90 per \$1000 of purchase price + binder/clerkal costs (\$35.00) and Lender s insurance included for an additional \$50.00 simultaneous issuance rate, as long as the

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coverage does not exceed the amount of the owner's policy. (Minimum premium on title insurance policies is \$100.00)

You are **NOT** required to use our title services as a condition for the settlement on the subject property. As a purchaser of title services you always have the right to choose your own title service provider.

## **POST CLOSING**

### **Q. What happens after settlement?**

**A.** After settlement, the buyers and sellers jobs are normally over. However, our office will continue working in order to:

- Audit the settlement sheet and review all documents
- Comply with the lender's written instructions in returning their paperwork Record the deed, mortgage and other documents with the County Disburse funds as appropriate
- Issue the title insurance policy and any endorsements required Follow up lien checks to insure that any liens paid at closing have been released.

### **Q. What if I have other questions?**

Our team is in contact with our office network (voice and email) around the clock. Please feel free to call, fax or email at any time you like.