

OREGON REAL ESTATE LAWS, CUSTOMS AND PRACTICES

Topics	Laws, Customs & Practices	Tips & Traps
Oregon Deed Forms	<p>In descending order of protection to grantee, i.e. buyer:</p> <ul style="list-style-type: none"> • General Warranty Deed See, ORS 93.850 • Special Warranty Deed See, ORS 93.855 • Bargain & Sale Deed See, ORS 93.860 • Quitclaim Deed See, ORS 93.865 	<p><i>Sellers and buyers should consider type of deed they are giving and receiving. Some deeds contain warranties to the grantee (buyer) and some do not. Seller should avoid giving a deed with more warranties than the one they received from their seller. Generally, if your seller wants to give you less than a General Warranty Deed, ask “Why?”</i></p>
Oregon Mortgage & Trust Deed Forms	<p>Trust Deeds are used almost exclusively in Oregon; they may be foreclosed judicially, i.e. through court process, or “non-judicially,” by advertisement and sale. Due to legal complications, most trust deed foreclosures today are judicial. With big banks and servicers, foreclosure process can take nearly a year.</p>	<p><i>A default under a trust deed may be cured at any time by paying the arrearages, costs and fees [governed by statute] up to five days before the foreclosure sale; no right of redemption after sale and no deficiency, although a guarantor may still be held liable. A judicial foreclosure of a non-residential trust deed may carry a risk of a deficiency. See, generally, ORS 86.705 – 86.795.</i></p>
State & Local Transfer Taxes	<p>Only assessed in Washington County - \$1.00 per \$1,000 of stated cash consideration. Oregon Constitution prohibits transfer taxes elsewhere. (Measure 79)</p>	<p><i>Several exemptions. See, Washington Co. link here. Excluding Washington County, Oregon law now prohibits counties from levying a transfer tax.</i></p>
Closing; Escrow Responsibilities	<p>In Oregon, closings performed by state-licensed escrow companies, usually affiliated with a title company; ORS 696.505 - 696.590 governs licensed escrow services; attorneys rarely perform closings in Oregon.</p>	<p><i>The title/escrow company is normally selected by buyer in the initial offer (i.e. in the Sale Agreement). Most real estate agents have a preference and make recommendations to their clients. For sample escrow fee schedule, see link here.</i></p>
Escrow Fees (Who Pays?)	<p>Customarily split equally between seller and buyer.</p>	<p><i>Escrow fees regulated by Oregon Insurance Division. Rates are generally very similar between title companies.</i></p>
Title Search	<p>Title searches performed by title officers; cost included in title insurance premium. Lawyers do not normally render title opinions in Oregon. Sample rate schedule, here.</p>	<p><i>A “preliminary title report” is issued to seller, buyer and brokers early in the transaction. Condition of title is important buyer contingency in the OREF Residential Sale Agreement used throughout Oregon.</i></p>

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Title Insurance (Types)	<p>Three main types:</p> <ul style="list-style-type: none"> • Owner’s Policy [for purchasers coming into title]; • Purchaser’s Policy [for land sale contract purchasers]; • Lender’s Policies [for lenders]. 	<p><i>A standard owner’s policy of title insurance does not generally cover matters not disclosed on public record. This means that boundary discrepancies and unrecorded construction liens are not insured against, unless buyer has extra endorsements. Without such coverage, buyer’s sole recourse depends on the warranties in their deed. See, Homeowner Protection Act.</i></p>
Owners Policy of Title Insurance (Who Pays?)	<p>Negotiable; longstanding custom is that seller pays premium for the buyer; OREF Sale Agreement form provides that seller pays for buyer’s standard policy.</p>	<p><i>If buyer wants extra coverage [“endorsements”] he/she would normally have to pay, unless it is provided free of charge by the title company. See, ALTA link, here.</i></p>
Purchaser’s Policy of Title Insurance (Who Pays?)	<p>Negotiable between seller and buyer.</p>	<p><i>A “Purchaser’s Policy” is used in land sale contract transaction where title doesn’t transfer until the contract is fully paid. The “insurance” component can be purchased at the inception of the transaction or at the end when the contract is paid off. Purchase at inception is preferred.</i></p>
Lender’s Policy of Title Insurance (Who Pays?)	<p>Buyer [i.e. borrower] normally pays as a condition of securing loan.</p>	<p><i>Note that since lender policy provides coverage against unrecorded construction liens, title company may provide buyer the same coverage at no charge. See, Oregon Homeowner Protection Act.</i></p>
Recording Fees	<p>These are the fees charged by the county recorder for filing documents. Cost usually borne by party primarily benefitted in the document recorded. Typically, lenders don’t pay recording fees, or if they do, they charge them back to the borrower.</p>	<p><i>Recording fees and practices vary with county. In some cases rules can be somewhat provincial. Be sure to know the local requirements! For an example of fees, etc., go to Washington County link here.</i></p>