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Tolerance for Owner's Title Insurance

Jonathan Foxx

President & Managing Director
Lenders Compliance Group

Given the stringent disclosure demands of Regulation Z, the implementing regulation of the Truth in Lending Act, sometimes there is confusion around the tolerances for owner's title insurance. The confusion stems from a relatively basic feature of identifying whether it is required by the lender. That determination is operative to the effect on tolerances.

TRID continues and expands RESPA's Regulation X general rule that the charges actually paid by or imposed on a consumer for certain settlement services and transfer taxes when the loan is closed may not exceed the amounts included on the early disclosures, with several exceptions. Like Regulation X, Regulation Z establishes tolerance categories limiting the permissible variations between the estimated amounts and the actual amounts: an unlimited variation category, a 10% category, and a zero percent category.

The amount disclosed on the Loan Estimate is considered in good faith (and in compliance with the regulation) if the actual charge does not exceed the estimated amount by the amount permitted by the applicable tolerance rule. Under TRID, estimates of fees for owner's title insurance may fit into any of the three tolerance categories, according to the category's criteria.

Let's look at an outline of the tolerance categories and a chart.

Unlimited Tolerance

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An estimate of a fee for owner's title insurance for which the consumer was permitted to shop and which is paid to a provider the creditor did not identify on its written list of service providers falls within the unlimited tolerance category. A fee for owner's title insurance not required by the creditor falls in the unlimited tolerance category, even if paid to an affiliate of the creditor.

10% Tolerance

If the creditor requires owner's title insurance, allows the consumer to shop, and the provider is not the creditor or an affiliate of the creditor but is on the written list of settlement service providers, then the fee falls in the 10% tolerance category. A fee for required owner's title insurance not paid to the creditor or an affiliate of the creditor, for which the consumer is permitted to shop beyond the list of settlement service providers, as disclosed on the list, falls in the 10% tolerance category (assuming the aggregate amount of charges does not exceed the 10% tolerance).

Zero Tolerance

A fee for owner's title insurance required by the creditor for which the creditor does not allow the consumer to shop falls in the zero tolerance category.

All of the tolerance categories assume that the estimates are consistent with the best information reasonably available to the creditor at the time of disclosure.

This chart provides a brief outline of how tolerances are affected by fees:

Tolerance	Descriptions
Unlimited	<ul style="list-style-type: none"> Prepaid interest Property insurance premiums Amounts escrowed Charges paid to third-party service providers selected by the consumer (for which the consumer was permitted to shop) not on the creditor's list of settlement service providers Charges for third-party services not required by the creditor (even if paid to affiliates of the creditor)
10% Aggregate	<ul style="list-style-type: none"> Recording fees A third-party charge not paid to the creditor or an affiliate of the creditor and for which the creditor (a) permits the consumer to shop, (b) provides a list of settlement service providers, and (c) includes a disclosure that the consumer is permitted to shop (whether the consumer selects the provider from the list or does not choose the provider; if the consumer chooses a provider not on the list, then the fee would fall into the unlimited tolerance category)

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Zero	· All fees that do not fit into either of the preceding two categories
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If a particular fee appears to fit into more than one category, it is entitled to be placed in the more tolerant category. For example, if owner's title insurance is not required, and the consumer is allowed to shop and selects a third-party provider who is not the creditor or an affiliate of the creditor, the fee falls in the unlimited tolerance category whether or not the provider is on the creditor's written list of settlement service providers.



Labels: [Fee Tolerances](#), [Regulation X](#), [Regulation Z](#), [RESPA](#), [TILA](#), [TILA-RESPA Integrated Disclosure](#), [Title Insurance](#), [TRID](#)

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