

## **GUARANTY FEE FREQUENTLY ASKED QUESTIONS**

Updated January 22, 2010

1. *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 proper collection and reporting of Guaranty Fees is part of Texas Department of Insurance ("TDI") audits.
2. *When did it come into effect?* The Texas Title Insurance Guaranty Act ("Act") became effective September 1, 1975 creating TTIGA and authorizing it to collect a policy guaranty fee ("Guaranty Fee"). The Guaranty Fee is set by the TTIGA Board of Directors as necessary.
3. *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 TDI's title examiners, and other expenses.
4. *Is TDI involved with the Guaranty Fee?* The Commissioner of Insurance oversees the activities of TTIGA and appoints its Board of Directors. TDI also enforces the reporting and payment of the Guaranty Fees.
5. *Should a separate trust account be set up for the fees?* Yes, the Guaranty Fees have to be put into an escrow or trust account. TDI recommends that a special escrow account be set up for the fees, but the fees cannot be deposited into (or run through) an agency operating account.
6. *How is the Guaranty Fee reported?* The fee should be reported on the Guaranty Fee Remittance Form on a quarterly basis with one form and one check submitted to TTIGA. The form is approved by the TTIGA Board of Directors. If you need a form, please call (512) 474-1587 to request one be sent to you via email or mail, or visit TTIGA's website at [www.ttiga.org](http://www.ttiga.org). The current Title Basic Manual forms (TDI Form No. PC023 and Basic Manual No. T-G1) are both currently out of date. Please do not use these forms.
7. *What date determines the collection date?* The closing date determines when the Guaranty Fee is collected. The fee should be collected at closing.
8. *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 and mortgage policy at the closing of the transaction and such itemized charge shall be disclosed on the settlement statement..."
9. *If an agent issues both owner and mortgagee policies in the same transaction, do they collect for both?* If a transaction involves both a mortgagee policy and an owner policy, then the agent collects the fee for each policy or the number of policies multiplied by the current fee.
10. *Does TDI have rules that are consistent with Section 6(d) of Chapter 2602?* Administrative Rule G.1 (II.A.) – from Section VI of the Basic Title Manual states that, "Each policy guaranty fee shall be collected directly from the purchaser of each owner and mortgagee policy at the closing of the transaction and such itemized charge shall be disclosed on the settlement statement..."

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 and mortgagee policy at the closing of the transaction...”
12. *Where on the HUD would the Guaranty Fee be disclosed?* The Guaranty Fee should be shown on line 1111, 1112, or 1113.
13. *Does this fee fall in the category with the allowable fees for “title insurance” under Section 342 of the Finance Code?* Administrative Rule G.1 (II.A.) – from Section VI of the Basic Manual states that “Each policy guaranty fee shall be collected directly from the purchaser of each owner and mortgagee policy at the closing of the transaction and such itemized charge shall be disclosed on the settlement statement...” The fee should be shown on line 1111, 1112, or 1113.
14. *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.”
15. *Is the Guaranty Fee collected on Interim Construction Binders?* No. Only on owners and mortgagee policies.
16. *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. 14) and one check for all collected fees from all locations.
17. *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.
18. *Are cashier’s checks and wire transfers allowed to pay the fee?* Yes. Although we prefer if you just mail a check. Since we now scan the checks at our office, cashier’s checks must still be handled at our bank’s branch so it takes more time to process cashier’s checks. In addition, if you wish to transmit your fee via wire transfer, please call us for instructions. Please note, the wire transfer must be made and the original notarized form must still be received in our office on or before the due date.
19. *I mailed my remittance the day before it was due, why was it late?* The remittance is due in our office on or before the due date. The date of receipt is based on when it arrives in our reception area and stamped with our receipt stamp. The date of postmark is **not** the date of receipt. This would be the same as your credit card or utility companies charging you a late fee if received after a certain date. In this example, it does not matter when you mailed your payment, it matters when the company received it. The same is for our remittances.
20. *Is backup documentation required to be submitted?* No. Backup is not required. TDI will check the backup during your agency’s examinations. Please submit the form and one check only.