

# Real Estate Settlement Agent FAQs

## Registration/Licensing related questions

1. Who is required to be registered?

Any person, other than the lender, seller, purchaser or borrower, who conducts the settlement conference and receives or handles money, must be registered. See Virginia Code [§ 55-525.16](#) and [Chapter 395](#), Rules Governing Settlement Agents, Regulation 14VAC5-395-10 through 14VAC5-395-90.

2. What are the steps for becoming registered?

All registration must be completed on-line. Please review the [Licensing Procedures for Title Settlement Agents to Obtain Authority in Virginia](#).

3. I'm an attorney. Do I need to obtain a title insurance license and register with the Bureau to conduct settlements on Virginia property?

If you are admitted to the Virginia State Bar and registered with the Bar, you do not need to be registered with the Bureau; however, if you are writing title insurance you must hold a title license issued by the Bureau of Insurance.

4. Am I required to be licensed as a Title insurance agent if I am only going to conduct real estate settlements?

Yes, if you are not an attorney or real estate broker, you must be a licensed Title insurance agent and be appointed with a title insurance company as a prerequisite to registering as a real estate settlement.

5. How do I obtain a title license and company appointment?

You must take the required pre-licensing course (16 hours) and pass the Title examination and apply for the license. Once you have obtained the license, you must contact a title insurance company to appoint you. Information regarding the pre-licensing requirements and appointment process may be found in the [Virginia Insurance Licensing Candidate Handbook](#).

6. May I submit a copy of the surety bond to the Bureau in lieu of the original?

You must submit the original Surety Bond to the following address to complete the registration process:

Bureau of Insurance  
Attn: Real Estate Settlement Agent Section  
P.O. Box 1157  
Richmond, VA 23218

For overnight delivery:

1300 East Main Street, Richmond, VA 23219.

7. What happens if my company appointment is cancelled?

When your last company appointment is cancelled or not renewed your registration is automatically terminated. You will no longer be authorized to conduct closings. In order to become re-registered, you will have to obtain another company appointment, submit another registration form and verify that all insurance coverage's are current.

8. What happens if my Title license is terminated?

The termination of your Title license will automatically terminate your company appointments and your registration. You will no longer be authorized to conduct closings. If you wish to re-register, please follow the above referenced procedures in Items 2 and 5.

9. What happens to my registration when my surety bond is cancelled?

The surety company is required to notify the Bureau within 60 days of the effective date of cancellation. You must provide the Bureau of Insurance with an original surety bond replacement or the Bureau of Insurance will terminate your registration upon the effective date of cancellation.

10. What are the procedures for registering a business entity to conduct settlement/closings?

If the business entity is not licensed to sell Title insurance and appointed by a Title insurance company, please follow the [Licensing Requirements for Corporations, Limited Liability Companies and Partnerships](#), otherwise; follow [Licensing Procedures for Title Settlement Agents to Obtain Authority in Virginia](#).

12. If a business entity is registered to conduct settlement/closings, does each employee have to be individually registered?

No, if the business entity is registered to conduct closings, the salaried employees under that business entity are not required to be registered provided that the HUD-1 statements list the company's name as the settlement agent. However, if any of the employees are writing Title insurance, they must be licensed and appointed.

13. What effect does it have on a business entity's (agency) registration if the Office of the Clerk of the State Corporation Commission terminates the business entities charter?

The business entity must reinstate the charter with the Office of the Clerk within 90 days of the date of termination. If the charter is not reinstated within the 90 days, the business entity's license(s), appointment(s), and CRESPA registration will automatically terminate and the entire process must be repeated.

### Audit related questions

1. What if I'm registered to perform settlements but none are performed. Is an audit/analysis required?

No, an audit isn't required but we do require a letter from you and your underwriter that no settlements have been performed during the audit period.

2. My audit month is September; due to scheduling conflicts my underwriter completed our audit in August. When is my next audit due to be conducted?

Your next audit is due be conducted August of the following year. If however your audit was completed in November your audit due date would remain September of the following year.

### Law/Regulation related questions

1. Are we required to maintain a separate title premium account?

No, title premium may be disbursed from the agency's settlement account. Please review VA Code § 55-525.24 for further guidance.

2. We have set up a recording fee account to handle all recording fees collected for all states in which we transact business. Does this comply with Virginia law?

No, recording fees are considered settlement funds and must be treated as such. You must have a separate account for Virginia recording fees or retain the fees in the Virginia settlement account. Additionally, if you establish a Virginia only recording account it must adhere to the statutory requirements.

3. May we retain collected overages?

No, all funds must be disbursed to the applicable party, regardless of the amount.

4. My trial balance report/files with balances report shows numerous negative file balances, but I also have numerous positive file balances which offset them. Does this comply?

No, all negative file balances must be funded as they occur and all positive balances with the exception of escrowed funds held per written agreement must be disbursed timely. Negative file balances cannot be offset by positive file balances.

5. How long must I retain my settlement records?

Virginia Code Section § 55-525.27 requires you to retain records for 5 years and have them available for review during normal business hours.

6. My lender continues to wire Virginia funds to my Maryland account even though I've advised them of the correct account number. Will I be cited for this?

Each case will be reviewed on a case by case basis, but generally if you have documentation that accurate wiring instructions were forwarded and you have a procedure in place whereby corrective transfers occur within two days and prior to disbursement you would not be cited.

7. Our agency only performs settlements on commercial property. Do we have to register?

Yes, Virginia Code Section § 55-525.18 provides a lay real estate settlement agent may provide escrow, closing and settlement services for any real property located within the Commonwealth and § 55-525-30 requires registration.

8. We would like to negotiate title premium. Is this prohibited under the Code of Virginia?

No, Virginia Code Section § 38.2-4608 E allows the negotiation of rates by an agent or company. Please be advised your company/agency contract may prohibit it.

9. My competitors advertise an all inclusive price for services. Does this comply with Virginia law?

There is nothing in the code which prohibits advertising an all inclusive price as long as all fees are properly listed and disclosed on the HUD-1 settlement statement or accompanying addendum.

10. Our office provides a home warranty with each settlement, if an owner's title policy is purchased. Is this permissible?

No, Virginia Code § 38.2-509 prohibits the giving of anything of value as an inducement to purchase an insurance policy.

### RESPA Rule related questions

1. How are premiums involving simultaneous issue rates to be shown on the new Hud 1?

The actual charges should be shown on the applicable line. For example, the actual charge per underwriter provided rate charts or negotiated rate should appear on line 1103 (Owner's title insurance) of the new HUD-1. The actual charge for the loan policy per the underwriter provided rate chart or simultaneous issue rate should appear on line 1104 (outside box), (Lender's title insurance) and incorporated in line 1101 (Title services and lender's title insurance) inside the box.