

2009 Property Taxes

How 2009 property taxes affect your 2010 transaction at closing

Two options for paying property taxes

There are two options available for paying real estate taxes in Colorado.

The first option is to pay the entire amount of the prior year's taxes in full on or before April 30.

It is also possible to pay the real estate taxes in two installments—the first installment on or before February 28 and the second installment on or before June 15.

Property taxes and your closing

Depending on the time of year that a property closes and which method the lender uses to pay property taxes, Land Title will follow one of several procedures for collecting taxes at closing.

If you're closing early in the year...

For closings that take place during the first couple of weeks of each year, before the counties have certified new mill levies, Land Title will normally escrow from the seller 120% of the previous year's property tax amount (or use the most recent assessed value, if higher). These are short-

term escrows, and no escrow fee is charged. Land Title can provide you with the complete escrow instructions and W-9 forms that are needed. Once the mill levies are certified and the actual tax amount is available, the prior year's (2009) taxes will be paid from the escrow, and the difference will be refunded to the seller.

The lender's procedure for handling property taxes

Lenders also play a role in how the title insurance company determines what real estate taxes to collect at closing. At this time of year, lenders typically request that we handle the payment of the prior year's (2009) real estate taxes in one of two ways.

The first option is to collect from the seller (by means of a debit entry on their Settlement Statement/HUD-1) the entire amount of taxes due and remit that amount to the appropriate county treasurer prior to April 30. The second option is for Land Title to pay only the first half of the prior year's (2009) taxes.

When paying only the first half of the prior year's taxes...

In the event that the new lender requests that Land Title pay only the

first half of last year's property taxes to the county, Land Title typically follows this procedure:

1. The seller will be debited and the buyer credited for the entire amount of 2009 taxes.
2. The buyer will be debited for the first half of the 2009 tax amount and Land Title will pay this amount to the county. The lender will collect a tax escrow and will pay the second installment when it comes due.
3. The buyer and seller will both execute a Memorandum of Understanding Regarding Payment of 2009 Real Property Taxes. This document explains to the buyer and seller that Land Title has paid the first half of the taxes in accordance with the instructions from the buyer's lender and that the lender will be remitting the second half of the taxes on or before June 15.

Taxes disbursed but not received by the treasurer

By the first part of February, parties to a real estate transaction often encounter the problem of what to do when the payoff statement indicates the prior year's (2009) taxes (either all or half) have been disbursed from the escrow account by the existing lender but have not yet been received by the treasurer. When this is the case, these options are available:

1. Land Title will accept an indemnity from the lender (who paid the taxes) stating that the taxes have been paid in full (or that the appropriate half has been paid). In this case Land Title will

close without collecting a duplicate payment from the sellers.

2. Land Title will accept an escrow of 110% or more, depending on the county, of the prior year's (2009) real estate taxes from the seller/owner until such time as payment of the taxes can be confirmed with the county treasurer. These are short-term escrows, and no escrow fee is charged. Keep in mind that by the time payments can be confirmed, taxes may be past due.

3. On streamline refinances where escrows are being transferred to the new loan to pay for 2009 taxes, an indemnity letter is required from the lender stating that the lender will be responsible for the payment of said taxes.

4. The last option is for Land Title not to pay the taxes and have this shown as an exception on Schedule B-2 of the title commitment and Schedule B-II of the policy. The title policy would be issued insuring only the previous year's (2008) taxes as being paid. New lenders requesting a mortgagee's policy will not, in most cases, accept this option.

If you have any questions regarding these procedures, please contact your Land Title Sales Representative or Closing Manager.

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