



Fannie Mae®

Attorney opinion letters

Removing barriers while managing risk

An essential part of mortgage lending is confirming the lien priority of the mortgage and that the property is not subject to unacceptable title impediments, such as unpaid back taxes. Historically, our *Selling Guide* has required mortgage lenders to provide a lender's title insurance policy, in addition to making title-related representations and warranties to Fannie Mae. The cost of a lender's title insurance policy is typically passed on to the borrower as part of the closing costs.

In April 2022, we updated our *Selling Guide* to permit lenders to obtain either a lender's title insurance policy or, in some circumstances, an attorney opinion letter (AOL) as a potential way to reduce closing costs for borrowers while responsibly managing risk for Fannie Mae.

An AOL is a legal opinion prepared by an attorney that provides their professional determination of the status of title to a property and, when delivered to a lender, the priority of the mortgage lien. Fannie Mae performed a rigorous analysis to evaluate the risk and protection offered by AOLs and concluded they provide a comparable level of risk protection to Fannie Mae when coupled with a lender's representations and warranties.

In December 2023, Fannie Mae expanded the types of properties eligible for AOLs by including condos and properties subject to an HOA or restrictive covenants.



Reducing costs for borrowers

In support of Fannie Mae's Equitable Housing Finance Plan — and as part of our mission to facilitate equitable and sustainable access to homeownership and quality, affordable rental housing across America — we continually look for ways to responsibly reduce barriers to homeownership, particularly for low-income and historically underserved borrowers. First-time buyers, in particular, are more likely to pay more in closing costs than their down payment.

Percent of homebuyers who have closing costs that are greater than or equal to their down payment amount.



Source: Fannie Mae. (2021, December 2). Barriers to Entry: Closing Costs for First-Time and Low-Income Homebuyers.

The update to our *Selling Guide* gives lenders more opportunities to use AOLs, lowering the costs passed on to borrowers as closing costs — and making homeownership that much more attainable.

Note: The updated policies do not address title-related risks for the borrower, who always has the option to purchase an owner's title insurance policy or other title insurance alternative to protect against an owner's title-related risks. Our Selling Guide has no requirements regarding owner's title coverage.

On average, borrowers have saved over \$1,000 when an AOL was used. For purchase transactions, average borrower savings have been more than \$500, even when the borrower chose to obtain an owner's title insurance policy.



Managing risk responsibly

Robust risk management is at the heart of any change Fannie Mae makes to its requirements.

After reviewing the technological improvements that have been made to the title search process, alongside the widespread digitization of real estate records, we've determined AOLs can provide Fannie Mae with an assessment of title on a property with a level of risk protection comparable to traditional lender's title insurance, especially when coupled with a lender's title-related representations and warranties.

In addition, confirming the status of title through legal opinions has been a long-standing practice in U.S. real estate, predating title insurance.

As a quality check, we will continue to perform full title searches on a sample of loans to evaluate risk.

Since 2009, Fannie Mae has accepted more than 10,000 loans with AOLs, and none of those loans have been repurchased for reasons related to title defects.

Learn more

Find more details in [Section B7-2-06 of the Selling Guide](#).

