



## REO Lender **CANNOT** Require Buyer To Purchase Title Insurance From Any Particular Company

# KNOW THE LAW

Ever seen REO and Short Sale listings with the disclaimer, "Seller to choose escrow/title company." Is this legal? Actually, it's a violation of RESPA. Lenders selling properties, as well as the seller's agent representing those lenders, should be aware that while the Lender/Seller can select the escrow company, the buyer is free to use any title company he or she chooses.

If speaking up jeopardizes an offer, remember this: Buyers' agents have a responsibility to inform their clients of their right to choose a title company. Sellers' agents representing lenders have a responsibility to act in accordance with RESPA. It's that simple.

**According to the California Association of Realtors:**  
No seller can require that the buyer purchase title insurance from any particular title insurance company. This rule pertains to transactions involving a federally-related mortgage loan for one-to-four residential units as defined under the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. section 2608). Although this is a well-established rule under RESPA, it bears repeating given the recent upsurge in REO transactions.

REO transactions are not exempt from RESPA requirements. If an REO lender chooses the title insurance company, as is often the case, it cannot require directly or indirectly, as a condition to selling the property, that the buyer purchase the title insurance policy. An REO lender that violates this RESPA requirement can be, among other things, held liable to the buyer in the amount equal to three times all charges made for such title insurance. Moreover, anyone who believes that RESPA has been violated may file a complaint (and may request confidentiality) to the U.S. Department of Housing and Urban Development (HUD). For more information about filing a RESPA complaint, go to: <http://www.hud.gov/offices/hsg/sfh/res/respamor.cfm#HE2>



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