

# WHO PICKS THE TITLE COMPANY?

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## Who gets to pick the title company that will issue the owner policy of title insurance?

It depends. If the seller pays for both the owner policy and the lender policy of title insurance, then the seller can pick the title company without violating the Real Estate Settlement Procedures Act (RESPA). However, if the buyer pays for the owner policy, the seller cannot condition the sale of the property on the buyer purchasing the owner policy from a particular title company. Rather, the buyer would get to pick the title company.

In situations where the seller pays for the owner policy and the buyer pays for the lender policy, RESPA application is less clear. At least one court has held that where the seller paid for the owner policy and the buyer paid for the lender policy, the seller did not violate RESPA by insisting on a

particular title company for the owner policy. The court explained that the seller did not require as a condition of sale that the buyer use that same title company to issue the lender policy. However, the Consumer Financial Protection Bureau, the government agency that enforces RESPA, has yet to take an official position on the law's application in this scenario. Therefore, if a seller wants to avoid a possible violation of RESPA, the seller should not insist on a particular title company for the transaction unless the seller is paying for both the owner policy and the lender policy of title insurance.

SOURCE:

<https://www.texasrealestate.com/members/posts/who-picks-the-title-company/>

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