

Questions to Ask When Selecting A Title Company

Consumers have a choice when it comes to selecting a title company. Because title and settlement services are a critical component of a real estate transaction, we strongly encourage you and your agent to engage in an in-depth conversation with settlement providers in order to make a well-informed decision.

Selection of a title company affects all aspects of the transaction, from the title search to the closing process, and from surety of funds to the integrity of the policy itself. There are significant risks in working with a title company that is not reputable and financially sound.

In 2012, the Division of Real Estate (DRE) reiterated its reservations about “out-of-state title companies who are not aware of local concerns.” They also expressed concerns with “title companies that have held earnest money deposits at the time they became insolvent and ceased operating” as well as with “companies issuing generic exceptions.”

While there are hundreds of critical functions a title company provides in every transaction, we believe all title companies should be able to provide satisfactory answers to the following six questions — the absolute basic standards of service that any reputable title company should meet.

We encourage you to ask these six questions of any title and escrow company prior to engaging its services for your real estate purchase or refinance.

1. Is my money safe?

Why you should ask. The news stories you read are true: People do lose money as a result of incompetent, insolvent, or dishonest title and escrow companies. The way a title or closing company handles its escrow funds is of utmost importance.

What internal controls, procedures, and segregation of duties do the title companies have in place to safeguard buyers’ and sellers’ funds? What procedures do they use to balance escrows? When was the last time they escheated funds to the state?

Just because a title company is small or new does not mean they do not have the controls in place to offer adequate protection. Make sure, however, that the company has a fully staffed escrow and accounting department that is devoted to protecting customers’ funds. Ask others, especially those in the real estate industry, whom they would recommend and trust with their own money.

A reputable title company will be happy to talk about their controls for protecting clients’ funds.

2. Is my investment protected?

Why you should ask. Not only is it important that your funds are protected, but your investment must be as well. Since a real estate transaction is the single largest purchase most people make, it is absolutely appropriate for you to inquire about the financial stability of the title underwriter.

There are several independent ratings companies that report on the financial strength of a given underwriter. Demotech, a ratings company that specializes in title insurance, makes its financial strength ratings available to the public on their website. Additionally, the financial strength of the underwriter is a good indicator of their claimspaying ability.

You’re encouraged to check the financial stability ratings for the underwriter of your title insurance policy and contact your title company with any questions.

3. Is my title company a neutral third party?

Why you should ask. Some title companies are owned by lenders, real estate firms, or builders. These arrangements are legal if properly structured and properly disclosed. The Real Estate Settlement Procedures Act (RESPA) specifies that disclosures must include the nature of the relationship (explaining the ownership and financial interest) between the provider and referrer, as well as the estimated charge or range of charges generally made by the provider.

There have been lawsuits and regulatory actions against some affiliated title companies as a result of their conflicts of interest. Therefore, when considering an affiliated title company, a good question to ask is

PorchLight release date: 11/30/2015



Questions to Ask When **Selecting A Title Company**

whether the affiliated title company is providing a level of service consistent with industry standards and similar to competing title companies charging comparable fees.

4. In addition to the premium you quoted me, what are your other fees & charges?

Why you should ask. Title insurance companies, by law, are required to file rates with the Division of Insurance and cannot discount or deviate from those rates.

You may be inclined to find and follow the lowest rate, but if a title insurance premium is notably lower than the market rate, this should be a red flag to look more closely at whether the company is providing core title and closing services in compliance with RESPA. Additionally, cut-rate premiums may indicate a lack of experience, a lack of financial and accounting controls, inferior title searches and examinations, or a substandard source for property data.

Shopping for the lowest premium alone can backfire, since many title companies more than make up the difference by charging additional fees. Electronic delivery fee, overnight courier fees, cashier's check fees, release tracking fees, wire fees, and other title company charges often add up to more than the difference between the lower premium and the market rate charged by reputable title companies.

5. Do you conduct thorough title searches and report all exceptions?

Why you should ask. Title companies are required to perform a "reasonable examination" for every transaction, which includes providing the consumer with actual recorded documents for each exception, as called for in the contract.

If you were about to purchase a property with a 30-foot public service easement along one side of your property, you would certainly expect to know about it prior to closing. Some title companies, however, are providing commitments that do not specifically disclose encumbrances similar to the one above.

National, state, and industry regulations create certain standards title insurance providers must adhere to regarding information disclosed on the commitment and policy. Still, some title companies exist solely to sell policies and pocket the premiums from the transaction but fail to perform a thorough search and examination of the property.

One out of every four transactions has a cloud on title at the time of the commitment. It is imperative that you're working with a title company that will take the necessary steps to identify, disclose, and resolve all issues prior to closing.

PorchLight release date: 11/30/2015

