



PATTEN
TITLE COMPANY



HOMEBUYER'S HANDBOOK



REAL ESTATE TRANSACTION GLOSSARY

BROKER

A broker is anyone who acts as an agent, bringing two parties together for any type of transaction and earns a fee for doing so.

CLOSING

The completion of a real estate transfer, where the title passes from seller to buyer, or a mortgage lien is given by the borrower to secure debt undertaken by the buyer to purchase the home.

DEED

The document that, when recorded with your local government, determines ownership of a property.

EASEMENT

A right to use the land of another person for a specific purpose, such as for a right-of-way or utilities.

ENCUMBRANCE

Any interest, right, lien or liability attached to a parcel of land that constitutes or represents a burden upon the property.

ESCROW

Closing a real estate transaction when all required documents and funds are placed with a third party for processing and disbursement.

FIDELITY BONDS

An insurance bond taken by a business or employer on designated employees. The bond provides insurance coverage in case of employee theft, fraud or misrepresentation.

HOMEOWNER'S INSURANCE

Real estate insurance protecting against loss caused by fire, some natural causes, vandalism, etc. Also includes coverage such as personal liability and theft.

CLOSING DISCLOSURE (CD)

A document that provides an itemized listing of the funds to be paid, or that were paid at closing. Items that appear on the statement include real estate commissions, loan fees, points and initial escrow amounts. Each type of expense goes on a specific numbered line on the sheet. The totals at the bottom of the Closing Disclosure (CD) define the seller's net proceeds and the buyer's net payment at closing. The CD is also known as the "closing statement" or "settlement sheet."

LENDER'S POLICY

A title insurance policy insuring the lender financing a parcel of real estate against loss caused by defects in the borrower's title.

REAL ESTATE TRANSACTION GLOSSARY

LIEN

A monetary charge imposed on a property, usually arising from some debt or obligation.

LOAN ORIGATION FEE

A charge imposed by the lender, payable at closing, for processing the loan.

MECHANIC'S LIEN

A lien on real estate that secures the payment of debts owed to persons who perform labor or services or furnish materials related to the construction of buildings and improvements on the real estate.

OWNER'S POLICY

A title policy insuring an owner of real estate against loss caused by defects or unmarketability of the owner's title.

POINTS

A unit of measure for charges on loans; one point is 1 percent of the loan amount.

PRIVATE MORTGAGE INSURANCE

Required on virtually all conventional loans with less than 20 percent down payment. The premiums for PMI are included in your mortgage payment, and protect the lender should you default on the loan.

REGISTRY OF DEEDS

The records of land title documents kept by the County Recorder. These are public information, but may require assistance of an employee to locate.

SETTLEMENT

The completion of a real estate transfer, where the title passes from seller to buyer, or a mortgage lien is given to secure debt undertaken to purchase the home.

SETTLEMENT AGENT

The person responsible for facilitating a closing. The settlement agent is usually either an attorney or a representative of the title company.

SURVEY

A drawing or map showing the precise legal boundaries of a property, the location of improvements, easements, right of way, encroachments and other physical features.

TITLE

A combination of all the elements that constitute the highest legal right to own, possess, use, control, enjoy, and dispose of real estate or an inheritable right or interest therein.

TITLE INSURANCE

A contract of title insurance under which a title insurance company, in keeping with the terms of the policy, agrees to indemnify the insured (the homeowner) against loss arising from claims against the insured interest (the property).



THE CLOSING PROCESS PRE - TO - POST



PRE-CLOSING

Prior to closing there are several tasks that must be taken care of. Many of these tasks can be arranged by your agent.

- Property Appraisal
- Property Survey
- Obtain Homeowner's Insurance
- Home Inspection
- Title Search
- Termite Inspection (optional)
- Final Walkthrough Inspection
- Certified Check to Cover Closing Costs

DURING YOUR CLOSING

Closing day is the day the home buyer and the seller complete the legal transfer of the house. Once the closing process has been complete, the keys to the house are given to the buyer.

- Closing Disclosure (CD)
- Present Certified Funds for Closing
- Review All Other Documents
- Establish an Escrow Account
- Execute Mortgage Documents
- Receive Title to the Property
- Receive Keys to the Property (*after funding*)
- Record Legal Documents

SIGNING DOCUMENTS BUYER & SELLER



CLOSING PARTICIPANTS

- Homebuyer
- Seller
- Realtor
- Attorney
- Escrow Officer
- Patten Law Firm
- Lender
- Servicer

SELLER DOCUMENTS TO SIGN

- Closing Disclosure
- Compliance Agreement
- Conveyance Deed
- Seller's Affidavit
- Gas and/or Pest Inspections
- Home Warranty
- Payoff Authorizations
- Name Affidavits

BUYER DOCUMENTS TO SIGN

- Closing Disclosure
- Compliance Agreement
- Mortgage
- Note
- Survey Affidavit or New Survey
- Loan Estimate
- Interest Statement
- Notice of Right to Cancel
- Name Affidavits
- Occupancy Affidavit
- Various IRS Forms
- Completed 1003-Loan Application
- Flood Insurance Notice



TITLE COMMITMENT & CLOSING DISCLOSURE

WHAT FACTS WILL A COMMITMENT FOR TITLE INSURANCE CONTAIN?

The Title Commitment will reflect the recorded ownership of the property, full legal description, and matters affecting the title (exceptions). Most exceptions standard to the Commitment document are permitted under TREC resale contracts.

Specific exceptions, those that are particular to the property examined, will also appear in the Commitment.

Examples Of Specific Exceptions:

- Easements created by the owner, or former owner, which are not part of the plat
- Items that the title insurer discovers on a current survey
- Leases filed in the real estate records
- Voluntary (purchase, home improvement, home equity) liens
- Involuntary liens (Abstract of Judgments, Mechanic's Liens, Federal, State, or Tax)

CAN I GET THE SAME TYPE OF TITLE COVERAGE IN TEXAS AS IN SAY, NEW YORK?

All title underwriters in Texas will use approved forms and offer coverage which has been authorized with coverage language approved by the Texas Department of Insurance (TDI). Commitments are prepared only on the standard forms approved by TDI, not forms which may contain different coverage options used in other states.

WHAT TO DISCUSS WITH YOUR MORTGAGE PROFESSIONAL:

- Ask if the change will alter the APR and if redisclosure will be necessary at any time there is a change in the loan program
- Find out when the appraisal will be ordered and ask if it is possible for you as the Realtor to provide additional comparable properties to the appraiser if there is a problem with the appraisal
- Ask when the closing instructions and documents will be given to Patten Law Firms so the final CD can be approved and tolerances can be checked
- Ask about rolling up fees into origination
- Ensure that the lender has all of Patten's fees and let the lender know we would be glad to work up a preliminary CD

THINGS YOU CAN DO:

- Encourage your buyers to meet with a loan officer whenever possible. There is an added benefit to working with a local loan officer to best facilitate communication
- Make sure that your buyers will be at present at the company and that their circumstance will not change between loan application and closing
- Create realistic contract deadlines
- Make sure that the buyers promptly acknowledge any disclosures from the lender
- Share any changes made to the contract after execution with the loan officer and the title company

TITLE COMMITMENT & CLOSING DISCLOSURE

WHAT DOES A COMMITMENT FOR TITLE INSURANCE LOOK LIKE?

The promulgated Texas Commitment for Title Insurance contains four schedules. Each schedule must uniformly provide basic information.

SCHEDULE A

Effective date (*date title checked through*), Date Issuance (*date prepared for distribution*), amount and type of insurance policies to be written, ownership interest in the property (*fee simple, leasehold, life estate*), record title (*found in the document purporting ownership*), and a full legal description of the property.

SCHEDULE B

Exceptions from coverage (*promulgated language*) contain standard exceptions concerning general issues such as: restrictive covenants, homestead and community property rights, taxes for subsequent years, documents creating the interest to be obtained, liens, and leases which will be subordinate (*inferior priority*) to the lien being created at close and other rights covered in the form. Specific exceptions are also contained under Schedule B.

SCHEDULE C

Schedule C requires that documents prepared in the transaction be approved by the insurer. It also lists any matters which the title insurer requires be submitted for review, remedied, or evidenced as released. Requirement for additional documentation may be listed. If the matters listed on Schedule C are not disposed of to the satisfaction of the insurer, those matters will become exceptions on the proposed title insurance policy.

SCHEDULE D

Disclosure of ownership of the title underwriter and title agent. A listing of Shareholders owning, controlling directly or indirectly 10% or more of the shares of the title insurance company and title insurance agent is required. This schedule will also estimate title premium to be collected in the transaction. Name of any person who is not a full time title insurance agent is required. This schedule will also estimate title premium to be collected in the transaction. Name of any person who is not a full time title insurance agent employee (*for example a Fee Attorney*) who receives premium and the amount of premium to be received will be disclosed.



POWER OF ATTORNEY

IF A POWER OF ATTORNEY (POA) IS TO BE USED IN THE CLOSING OF A REAL ESTATE TRANSACTION, IT MUST MEET THE FOLLOWING CRITERIA:

- Power of attorney should be specific as to the property
- Property must be described by legal description
- Principle executing the power of attorney must be 18 + years
- POA must not be more than 60 days old
- Should retain revocation language, i.e. can not be revoked unless written revocation is filed with county clerk where property is located
- It will not terminate upon disability or incapacity of principal
- Person giving the POA must communicate with the escrow officer at or near the time of closing that:
 - a. He/she ratifies the acts of the Attorney-in-Fact, giving the name of the Attorney-in-Fact; and
 - b. He/she knows what the sales/purchase price is, and if it is a loan transaction, he/she knows what the loan amount is
- POA must be acknowledged by a notary public
- POA and the acknowledgement must be in the English language
- If the POA is given by the seller, it needs to only be approved by the escrow officer or the appropriate representative of the title company. If the POA is given by the purchaser who is creating a new loan, then the POA must first be approved by the lender and then by the title company.
- Original POA must be at the title company at closing as it must be recorded with the county clerk prior to any other transaction documents being recorded.
- Section 36A of the Texas Probate Code has been amended as to "Durable Power of Attorney". The purpose of such a POA is to allow an agent appointed to act on behalf of the principal notwithstanding later disability or incompetence of the principal. Requirements for a "Durable Power of Attorney" are clearly delineated in the statute.

EXCEPTIONS & RESERVATIONS

An exception excludes from the operation of the deed some part of the land described, whereas a reservation refers to the estate retained by the grantor. Where the grantor makes a reservation in connection with the thing granted, he creates a new right in favor of himself that, until the grant, did not exist as an independent right.

On the other hand, an exception eliminates or excludes from the operation of the terms of the grant that is set out in the exception and, which would in the absence of the exception, pass by the terms of the grant.

RESTRICTIONS

A restrictive covenant is an agreement restricting the use of real property or the buildings that may be erected thereupon. Some examples of restrictive covenants imposed on suburban subdivision land might include one or several of the following:

- Operation of a business or conduction commercial activity is prohibited
- No hogs, chickens, cattle or emus may reside on the premises
- No more than 2 domesticated animals may be kept in one household
- No satellite dish for the facilitation of television reception is permitted on the premises

WHAT IS A HOMESTEAD?

WHAT IS THE PURPOSE OF THE HOMESTEAD EXEMPTION?

The homestead exemption gives you rights against debts you might incur through accident, illness, or misfortune.

HOW DOES THE HOMESTEAD EXEMPTION WORK?

Example: If the market value of your home is \$120,000 and you have a first mortgage or deeds of trust of \$65,000 and a second mortgage of \$25,000, you have an equity of \$30,000 in your home. The exemption protects this equity against creditors.

WHAT IS A JUDGEMENT LIEN?

When you owe someone money they are considered your creditor. If a creditor sues and wins a judgement against you, they can file a lien against your home. The exemption is a protection against such liens.

WHAT KIND OF PROPERTY IS COVERED?

A house, condominium, duplex, mobile home, community apartment project, or planned development.

WHO IS ELIGIBLE FOR THE HOMESTEAD EXEMPTION?

Every homeowner who resides in his/her home is entitled to this protection.

WHO MAY FILE A DECLARATION OF HOMESTEAD?

Every homeowner may file.

ARE THERE LIMITS TO THE AMOUNT OF EQUITY PROTECTED?

Yes, for married couples, or single parents with dependents living at home the homestead exemption is \$75,000; unmarried individuals, \$50,000. For persons 65 years or older, or for persons physically or mentally disabled, the exemption limit is \$100,000.

CAN I REMOVE THE HOMESTEAD EXEMPTION IF I WANT TO?

Yes. You can remove the homestead exemption at any time by filing a form called Abandonment of Homestead. Also, if you were to record a homestead on another property, it would remove the homestead on the first property. When you sell your home, the homestead is automatically removed.



CLOSING ON YOUR HOME

ENSURE A SMOOTH CLOSING

- Verify date, time, and closing location with Buyer/Seller
- Verify that Buyer/Seller understand what “Good Funds” are and have them make arrangements with the title company for transfer of funds at closing
- Remind Buyer/Seller of who MUST attend the closing and that all parties must bring 2 forms of ID to the closing
- Discuss the Delivery of Proceeds requirements for Seller with the title company
- Verify that the commission breakdown is correct and sent to the title company
- Verify with Lender/Borrower that underwriting requirements need to be fulfilled and specify items that must be delivered to the title company at
- Verify that Lender’s loan documents are delivered on time for the scheduled closing
- Notify title company of any lease agreements/rents to be collected at closing
- Provide the name of the Home Warranty being used
- Provide the original Power of Attorney, if necessary
- Provide title company with repair invoices
- Discuss potential for a delay in funding with Buyer/Seller

POSSIBLE CLOSING DELAYS

The following items require added clearance and processing time for escrow and title. Avoid delays by providing as much information as you can as soon as possible.

- Bankruptcies
- Probates
- Foreclosures
- Establishing Fact of Death
- Use of Property Execution of Power of Attorney
- Family Trust
- Business Trust
- Recent Construction
- Clearing liens, judgments
- Proper Execution of Documents
- Proper Jurist & Notary Seals
- Clearing Child/Spousal Support
- Encroachments/Off-record Easements
- Transfers/Loans Involving Corporations/Partnerships
- Last Minute Changes in Buyers or Coverage

CLOSING ON YOUR HOME



AFTER YOUR CLOSING

- The county clerk's office will send you the original recorded warranty deed that transferred title to the property to you. Store this document for safekeeping as you may need to refer to it in the future. A deed is not like a car title - you do not need the original to the property.
- The title company will send you an owner policy of title insurance. This document should also be stored for safekeeping with your other important papers. You should be certain to verify the name and address shown on the policy.
- You will receive a coupon book or other instructions about making your monthly loan payments from your lender. If you do not receive the coupon book or instructions in time to make your first payment, call your lender for assistance.
- Make certain to file your homestead exemption with the various tax authorities that collect taxes on your property. You must be the owner of the property on Jan. 1 to file for any exemptions, and can do so anytime between Jan. 1 and April 30.
- If your property taxes are being escrowed/impounded by your mortgage company, forward any tax notices you may receive in the mail to your lender so they can pay the taxes in a timely manner.
- It is the taxpayer's responsibility to be certain that the property is rendered in the taxpayer's name for the upcoming tax year.



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