Questions and Answers on: Real Estate Closings

The closing attorney is asking me to remit funds via wire transfer. How can I protect myself from this wire transfer fraud?

A: Before transferring any funds via wire transfer, contact the closing attorney or a member of his/her staff. Such persons may be able to route funds via wire transfer. If you are using a lender to assist with the mortgage, contact the closing attorney of your lender to verify the closing attorney’s identity. If you are unsure about any document you are asked to sign, ask the closing attorney for an explanation of the document before you sign it.

Q: May a real estate agent sign closing documents for me?

A: No, not unless you have given the agent your written authorization, preferably in the form of a limited power of attorney, to sign documents for you. However, the best policy is for you to review and sign all documents yourself. If you have a question about any document you are asked to sign, ask the closing attorney for an explanation of the document before you sign it.

Q: What is a closing disclosure?

A: A closing or settlement statement is a document that summarizes all funds received by you and the seller at closing. It includes any documents you are asked to sign, including the deed of trust, note, mortgage insurance, attorney fees, title insurance, and recording fees. You will normally receive the closing disclosure 3 business days prior to closing. The closing disclosure will come from your lender. Contact your lender (or loan officer) at least 3 business days before closing to find out when you will receive your closing disclosure. Ask whether your closing disclosure will be sent to you via email, postal mail, or if you can pick it up from your lender. After you receive your closing disclosure, you should immediately review it carefully. If you find any errors or omissions, immediately contact the closing attorney or a member of his/her staff.

Q: What if I can’t close by the time stated on the contract?

A: If the closing you are using has funds immediately after closing has been completed, the time stated in the contract and any documents recorded. Often, time may not permit the closing attorney to record the deeds, update title, and deliver the funds at the time stated in the contract. However, under the Closing Settlement Disclosure, the closing attorney is sometimes able to borrow the funds necessary to complete the closing. If you are a seller, you may wish to borrow the funds necessary to complete the closing. If you are a buyer, you may wish to borrow the funds necessary to complete the closing. If you are a seller, you may wish to borrow the funds necessary to complete the closing.

Q: Do I have to pay closing costs?

A: You may be asked to pay closing costs as part of the purchase of your home. By law, you must receive a written statement describing all costs you must pay at closing. This statement will come from your lender. Contact your lender (or loan officer) at least 3 business days before closing to find out when you will receive your closing disclosure. Ask whether your closing disclosure will be sent to you via email, postal mail, or if you can pick it up from your lender. After you receive your closing disclosure, you should immediately review it carefully. If you find any errors or omissions, immediately contact the closing attorney or a member of his/her staff.

Q: What is the due diligence period?

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Q: I’m being asked to put something on the statement that is different than what I agreed to. Is it okay to do so?

A: Probably not. All sales contracts and closing disclosure statements should reflect the agreement between the parties and match the terms set out in the purchase contract. You must be committing loan fraud if you make a false representation to a lender on a loan application or elsewhere in order to obtain a larger loan amount or on more favorable terms than you are otherwise qualified for under the lender’s guidelines. Loan fraud is a federal crime punishable by imprisonment for a term of not more than 14 years, and a fine of not more than $1,000,000 or twice the amount of any proceeds gained as a result of the offense. If you are found to be committing loan fraud, you may be committing fraud and/or could be committing loan fraud.

Q: When will I receive the Closing Disclosure?

A: When closing is complete, the closing attorney will send you a Closing Disclosure. Ask whether your Closing Disclosure will be sent to you via email, postal mail, or if you can pick it up from your lender. The Closing Disclosure will come from your lender. Contact your lender (or loan officer) at least 3 business days before closing to find out when you will receive your closing disclosure. Ask whether your closing disclosure will be sent to you via email, postal mail, or if you can pick it up from your lender. After you receive your closing disclosure, you should immediately review it carefully. If you find any errors or omissions, immediately contact the closing attorney or a member of his/her staff.

Q: What if I’m a seller, when should I get my proceeds from the sale of my property?

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Q: When can I close on my property?

A: You may be asked to sign closing documents for me. It is your responsibility to verify the identity of the closing attorney and review the closing disclosure to ensure that all payment of fees and costs are accurate.

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Questions and Answers on: REAL ESTATE CLOSINGS

In the typical residential real estate sales transaction, the buyer offers to purchase property from the seller. After negotiating the price and terms, the buyer and seller sign an offer in purchase and contract, and the buyer gives the seller (or the seller's broker) an earnest money deposit to show good faith.

Under the standard form Offer to Purchase and Contract, the buyer may have a due diligence period during which the buyer may terminate the contract for any reason. After the expiration of the due diligence period, the contract is considered to be sealed, and the buyer has a limited warranty under the law.

If you are a buyer obtaining a new loan, you should carefully consider having an attorney assist you throughout the process and provide services in connection with the transaction.

A “closing” is the final step in the transaction. Under the standard form Offer to Purchase and Contract, “settlement” is the point in time when the buyer signs final closing documents, pays the purchase price to the seller (usually with the proceeds from a loan), and the seller gives the buyer a deed transferring title to the property. In certain cases, a buyer may choose to hire his or her own attorney to represent him or her in a real estate transaction.

Who closes the transaction? The closing will probably be handled by an attorney chosen by you. In most cases, the attorney also represents the lender and the seller. The seller may have his or her own attorney to review the documents and prepare the deed to give to you. If you are not sure how to proceed, you should consult with your attorney.

What is a Certificate of Occupancy? What is a Certificate of Occupancy? A Certificate of Occupancy is a document issued by a building department of a city or county government which certifies that a newly-constructed home or a home that has been significantly remodeled or repaired has passed a final inspection, has satisfied the terms of the building permit(s) and is safe for occupancy. The buyer of a newly-constructed, remodeled or fixed-up home should obtain a copy of the Certificate of Occupancy from the seller before closing.

Who would handle the closing? The closing will probably be handled by an attorney chosen by you. In most cases, the attorney also represents the lender and the seller. The seller may have his or her own attorney to review the documents and prepare the deed to give to you. If you are not sure how to proceed, you should consult with your attorney.

What is a loan commitment letter? A loan commitment letter guarantees that a loan to buy the property will be approved. A loan commitment letter is not a guarantee that the lender will make the loan. It simply means that, based on an initial review, your application appears sufficient to qualify you for the requested loan amount. After negotiating the price and terms of a contract, the buyer may need the services of one or more appraisers or a credit report to determine if the buyer's credit is suitable for the loan. If approved, the lender's commitment letter will allow the buyer to move forward with the purchase.

A “due diligence” period is a time during which the buyer may terminate the contract for any reason. After the expiration of the due diligence period, the contract is considered to be sealed, and the buyer has a limited warranty under the law.

What are special assessments? Local governmental units can assess property owners for certain improvements to their property such as sidewalks, sewers, street repairs, and drainage systems. Since these assessments run with the property, they are prorated at closing.

What is a title insurance policy? The title insurance policy is the insurance policy that the closing attorney will issue to the buyer to protect the buyer against any risks of defective title or other defects in the chain of title to the property. Problems found during the title search (such as unpaid judgments, taxes, mortgages, etc.) must be corrected before closing. A title insurance policy is a “one-time” policy that the closing attorney will issue to the buyer to protect the buyer against any risks of defective title or other defects in the chain of title to the property. Problems found during the title search (such as unpaid judgments, taxes, mortgages, etc.) must be corrected before closing.

Is there a settlement statement? The settlement statement is a document that shows a settlement of the funds that will be exchanged at the closing. It is usually prepared by the closing attorney.

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What are loan origination fees? Loan origination fees are fees paid to the lender for the lender’s services in making the loan. These fees cover the cost of processing the loan and other administrative costs.