



REAL ESTATE TRANSACTION GUIDE

Posted on [April 21, 2011](#) by [Steve and Mary Doane](#)

Transaction Guide

We have included this section to help answer many of the commonly asked questions, and to help demystify the transaction process. Whether or not you are a buyer or seller, it is still helpful to understand the process. We have broken it down into 2 sections: 1) The steps and parties involved from when an offer is made through to the closing
2) A brief guide to the most commonly used forms, including standard terms of most contracts

The steps and parties involved from offer to closing

Once an offer is negotiated and accepted, the executed contract, the earnest money is taken to the title company and the title company writes a receipt. The option fee is delivered to the Seller or Seller's Agent and a receipt is written. (See below for the brief guide to contract terms.)

Title Co.

The title company's job is to act as escrow agent and receive all the documentation from all parties, provide title searches and title insurance, disburse funds according to instructions, get the deed recorded, and various other details to facilitate the closing of the transaction.

The title company immediately orders the title work, which shows what all the liens are against the property. Depending on how busy they are, it can take anywhere from 2 to 14 days, but a week is about average. The buyer is given a copy of the title report to give the opportunity to object to anything. Usually there are no surprises here, but the buyer can get out of the contract if there's a problem and the seller can't fix it.

If the seller has not already done so, he must provide the buyer with a **"Seller's Disclosure Notice"**, which discloses whatever the seller is aware of concerning the property. If the home was built prior to 1978, a **"Lead Paint Disclosure"** must also be provided. If there is a mandatory membership in a homeowner's association, seller must provide an **Addendum for Property Subject to Mandatory Membership in an Owner's Association**. The buyer signs the notices evidencing receipt, and returns a copy to the seller.

Some other items the seller needs to give the title company are the loan payoff information (a mortgage payment invoice will do), an existing survey if there is one, and the Homeowner Association information if there is one. There's a pile of HOA papers that buyers get when they buy a house, which they never read and promptly file away and forget about. As the seller, it helps if you find these papers and give them to the title company. It also helps if you provide the title company with the HOA management phone number. **Timeline: The first week after the title company received the contract. (Efficient title companies will pester you and your listing agent until they get these things.)**

Buyer orders home inspection

The buyer should not waste any time ordering a home inspection. A home inspection typically costs about \$350 for an average size home, plus \$75 if it includes a termite inspection. To see what a home inspection report looks like, click [Sample Home Inspection](#). (Note that home inspections are often just about 10 sheets of paper with various boxes checked, and not always in the professional format in the sample.) The Home inspection will tell the buyer just about anything wrong with the property that is not readily apparent. **Timeline: ASAP after contract, and preferably completed 3-4 days before the end of the option period to allow time to negotiate any needed repairs.**

Repairs

Once the inspection report has been reviewed by the buyer, it's often back to the negotiation table to figure out which repairs the seller is willing to do, and what the buyer is willing to accept. Generally, the buyer can cancel the contract at this stage, and it's normally during the option period anyway.

Loan Application and Appraisal

The buyer applies for the loan if he/she has not already been approved, and the mortgage company will order the appraisal. The buyer has to pay for the appraisal, so the smart buyer has the mortgage company wait until after the home inspection to order the appraisal. This is to make sure the buyer doesn't waste money on an appraisal for a house he/she may not want to buy after getting the inspection report. **Timeline: An appraisal should be ordered right after the option period, and in no event later than 10 days before closing. The appraisal report should be in the lender's hands at least a week before closing. Delayed appraisals lead to delayed closings!**

Survey

Lenders normally require a survey. If the seller has an old survey from when he bought the home, that is usually acceptable to most lenders. If not, the buyer normally pays for a new survey, which costs an average of \$350 or more. The title company or the mortgage company arranges the survey. **Timeline: At least a week before closing. Although a survey can be done a few days after being ordered, it's best to get it ordered as soon as you know it's needed to avoid possible delays.**

Insurance

Buyer must contact an insurance company and order a homeowner's insurance policy. It is preferred that the insurance commitment is obtained during the option period. The information is given to the title company and the mortgage company. **Timeline: Insurance can be obtained in a few days, but it's best for the buyer to get this lined up a week or two before closing in case there are any problems.**

Home Warranty

Almost all contracts call for the buyer to receive a home warranty, which covers repair costs for heating and air conditioning units, major appliances, etc., usually for a period of a year after the closing. Typical cost is \$350 or more depending upon the size of the home and features included, and the title company and/or your agent can suggest some companies. The buyer selects the home warranty company, and the seller pays for it up to the amount specified in the contract. **Timeline: Not critical. Buyer should let the title company know who he wants to use at least a day before closing, preferably sooner.**

Final Walk-Through

Usually the day before the closing the buyer may want to do a "walk-through" to make sure everything is where it's supposed to be, and that there are no problems with the property. The Seller will want to obtain a walk-through acceptance form from the buyer. This is advisable, but not everybody does it.

The Closing

On the closing day, the buyer and seller go to the title company, at different times. The Buyer brings a cashier's check (if there is money due) made out to the title company, and the seller brings the keys. Each signs a pile of papers, the buyers are given the keys once the funds have been distributed and the seller gets a check. This is called "Funding". The seller may have to wait a few hours or a day to get his money, so it's often just wired to a designated account for the seller's convenience.

[A brief description of the most commonly used forms](#)

The Offer & Counteroffer

When making a counter-offer, it is customary to simply make changes to the offer presented, initial those changes, and fax it back. The proper way to make a change is to draw a single line through whatever you are changing such that what was crossed out is still visible, write in the new term or condition, and initial it. After the other side approves the changes by adding their initials, you have a valid contract. Once both parties have initialed all the changes and signed the contract on page 7, it is considered an "executed" contract.

Standard Contract Terms

Here's a quick guide to what is typical in a contract in the state of Texas. This does not constitute legal advice, and we must advise you to seek the help of a lawyer or real estate professional. If any of the following is confusing to you, don't try to do it yourself. If you are frugal and don't want to spend money for an attorney, we can tell you that title companies routinely help clients fill out contracts in order to attract business, and don't charge for the service. But they won't give you legal advice.

We will begin at the top of page one, and go through each clause by number. We will skip clauses that are self-explanatory or don't have blanks to fill in. We urge you to read the entire contract thoroughly, and ask a professional for advice if there is anything you don't understand. The numbers on the left refer to paragraph numbers in the contract.

1. Make sure the seller is really the owner if you're the buyer, or that the buyer is really the one who will be obtaining the loan and will be on title if you are the seller.
2. Don't worry about the legal description; the street address is good enough. The title company will enter the legal description on the official copy you will sign at the closing.
3. Note that "A" is the down payment; and "C" is the sales price. Everybody gets this reversed the first time.
4. Most of the time the buyer wants the contract to be contingent upon obtaining a loan. In that case, check "A" and fill in the amount of the loan, and check "(1)". You will also need to complete a "Third Party Financing Condition Addendum", which is reviewed below.
5. The earnest money amount is typically 1/2% – 1% of the sales amount. For example, \$1000 is typical for a \$175,000 home. Enter the name and address of the title company you will be using. You should look into title companies when you first put your house on the market so you don't have to figure it out when you are writing a contract. If you don't have any particular preference, it's ok to go with the title company the buyer's agent recommends. They may try harder if they know the agent and want to continue getting his/her business.
6. A. Who pays for the title policy is totally negotiable, but 98% of the time the seller pays.
6. C. Most of the time, the seller has a copy of an old survey lying around somewhere. If not, it's typically the buyer who pays for a new survey, but this is totally negotiable. The new lender specifies what is an acceptable survey.
6. D. 3-5 days is normal.
6. E. (2) Check the box regarding owner's association membership (homeowners association). Note that if membership in a homeowner's association is mandatory, you should also complete an **Addendum for Property Subject to Mandatory Membership in an Owner's Association**.
7. B. If the Seller's Disclosure Notice is provided at the time of signing the contract, check "(1)". Otherwise check "(2)". 2-3 days is a normal period of time to produce the the Notice (see notes regarding this form below) Note: We attach the Seller's Disclosure to the listing in MLS any time a seller provides us with one. If there is a buyer's agent involved, he/she should have gotten it from there even before they wrote the offer.
7. D. Enter the repairs the seller has agreed to make. An occasional annoyance is the buyer who waits until after the inspection to ask for modifications/repairs they already knew they wanted when they made the offer. This is most common with inexperienced agents with no common sense. If the buyer wants an allowance for new carpet, or wants the back door with the doggie flap replaced, it should be entered here at the time of the offer.
7. H. A Residential Service Contract (generally referred to as a Home Warranty) is like an insurance policy that covers the buyer in case something goes wrong with a built-in appliance or Heating/AC system. Policies are generally for 1 year and extra coverage can be added to include things like pool equipment, washers and dryers. It is customary for the seller to pay for a home warranty plan for the buyer, but this is totally negotiable. Cost for a basic policy is about \$350, so that's a typical amount buyers ask for in offers.

Your title company can suggest several companies. As the buyer, you may want to make your selection at least a few days before closing so you have time to compare.

9. A. Enter your anticipated closing date.

10. Check the box indicating when possession will take place.

11. If there are any other special provisions not covered elsewhere in the contract, enter them here.

12. A. (1) (b). Here's where you put what the seller will contribute to the buyer's closing costs and expenses. It is common for buyers to ask the seller to pay for some of the buyers' closing costs. A \$3000 seller contribution to buyer's expenses or a price reduction of \$3000 have the same effect, so it should make no difference to the seller. When negotiating a contract, it is wiser for the seller to counter-offer with a higher purchase price and leave the contribution to buyer's expenses as is, even if it means the purchase price needs to be increased beyond what the listing price is.

Warning: There are closing fees charged to the seller for FHA and VA loans that the buyer is not allowed to pay. These can range from \$700 to \$1000. If this space is blank, and the seller has consented to an FHA or VA loan by signing the Third Party Financing Addendum, the seller could get stuck with unanticipated closing costs. If this blank is filled in with an amount over \$1000, those fees would be included in that amount, so there wouldn't be any surprises.

16. Most people would rather have a dispute mediated than go to court, so they check "will".

21. Enter the buyer and seller contact information.

22. Check off all the addendums and disclosures that the buyer is getting at the time the contract is executed. Not giving the buyer the "Seller's Disclosure Notice" or "Addendum for Property Subject to Mandatory Membership in an Owner's Association" at the time of signing the contract is like giving the buyer 7 days to get out of the contract from the date the buyer finally receives it. Having those items checked off and part of the contract does not give the buyer that 7 day latitude. Smart sellers have these forms filled out and copies made before the first prospective buyer comes to look at the house.

23. It is customary for the buyer to have a period of time to back out of the contract for any reason, for which the buyer pays an option fee. \$100 or more for an option period of 7-10 days is typical for an average price home. **Legally, the buyer has 48 hours to get the option fee to the seller, or risk losing the option to cancel.** It's amazing how sloppy many buyer's agents are about making sure the seller gets the option fee and signs the receipt. Many will simply drop the option check in the mail to the listing agent and forget about it. As a buyer, you want to make sure you get the signed receipt from the seller within 48 hours as proof that the seller received the option fee timely.

24. Enter attorney information if either party is using one.

The "EXECUTED" date (right above the signatures) is the date that all the terms of the contract are agreed upon, all changes are initialed, both parties have signed, and both parties have received a fully executed copy. Once all this is done, the agent representing the party to agree to the terms last will enter the date. If the date is left blank, technically a buyer's option period never expires, and all the deadlines in the contract are meaningless.

Before everything is agreed upon, signed, and delivered, you are still in the "offer" stage, and the EXECUTED date is left blank.

The last page, page 8, is where the broker and agent information is entered. Buyer's Broker information is always on the left; Listing Broker information is always on the right. If we listed your property on MLS, CENTURY 21 Judge Fite's information **MUST** be entered on the right side, even if we are not receiving any commission. **NO EXCEPTIONS!** (This requirement is spelled out on page 2 of our listing agreement.) All our information is at the top of you listing agreement and also on the Contact Us page of this website.

Page 8 also serves as the receipt page for the option money received by the seller, and earnest money received by the title company.

Third Party Financing Condition Addendum

This form must be filled out if the contract is contingent upon the buyer obtaining a new loan. Enter the number of days by which the buyer is to have loan approval. Check the appropriate boxes according to the type of financing the buyer will be applying for. Note that the greater the loan amount and the lower the interest rate that is entered, the more likely it will be that the buyer will not qualify for the loan, and be able to use this as a way to get out of the contract.

Seller's Disclosure

The seller needs to fill out this form and give it to the buyer in the time specified in the contract. If you are the seller, it's wise to have it completed in advance, and give it to the buyer at the time you are signing the contract. If you give this Seller's Disclosure Notice to the buyer any time after signing the contract, the buyer has 7 days to get out of the contract for any reason from the date of receiving the Notice. If you're the buyer, and you're dealing direct with a seller who doesn't know this, you can use it to your advantage – you technically have a 7 day option period that you don't have to pay for.

Addendum for Property Subject to Mandatory Membership in an Owner's Association

It's wise to have this form completed in advance, and give it to the buyer at the time you are signing the contract. If you give this addendum to the buyer any time after the signing of the contract, the buyer has 7 days to get out of the contract for any reason from the date of receiving the addendum.

Lead Paint and other forms

If the home was built prior to 1978, the Seller's Disclosure Notice needs the additional "Lead Paint Disclosure"

Other Forms

Any other forms you may need, such as a Buyer's or Seller's Temporary Lease, amendment and addendum forms, cancellation forms, etc., are all available and will be included by us when required. you familiarize yourself with all of the forms you may be using, and ask a professional for advice if anything is not clear to you. Note: Once upon a time the Texas Association of Realtors complained about us providing their forms on our website for the public, so we had to remove a few forms. If there is a form you need that you don't see on our forms page, call us and we'll get it to you.

Loan Pre-Approval Letter

As a seller, you want to be very wary of entering into a contract with a buyer who has not gotten pre-approval for a loan. When you enter into a contract, you are effectively taking your house off the market. If you find out a month later that your buyer can't get a loan, you've wasted a month and missed other potential buyers. It's not wise to enter into a contact without obtaining a strong pre-approval letter from a reputable lender.

WARNING: There are unscrupulous lenders who routinely give pre-approval or pre-qualification letters to borrowers who they know will never get the loan. Why? Because they charge the borrower all kinds of nonrefundable fees, often thousands of dollars. They play the game, tell the unsuspecting borrower they'll get them the loan, string everybody along, and charge their outrageous fees. The day before the closing, the crooked loan officer tells the borrower how sorry he is that the underwriter didn't approve the loan, and how he (the crooked loan officer) did everything he could to fight to get an approval.

This happens most often with homes in the lower price ranges with first-time home buyers (under \$130,000) and is rampant in lower income areas and homes under \$80,000. Low income borrowers, unsophisticated buyers, minorities, and people who have difficulty obtaining financing are the most common targets. The likelihood of it happening reduces as the price of the home and the income and education level of the buyer increases.

As the seller, you want to get a Pre-Approval letter from a mortgage company name you recognize. If your home is in the lower price ranges and the buyer has a loan officer working for a rinky-dink mortgage company, you may want to ask some more questions. If you find out the buyer is also paying high nonrefundable fees to the mortgage company, you and the buyer may be in trouble.

Loan Pre-Qualification vs Pre-Approval

Generally, a Pre-qualification Letter means the mortgage company has talked to a borrower on the phone, and based on what the borrower said, he/she should be able to get a loan. They may or may not have run the borrower's credit to make this determination. Basically, a pre-qualification letter means little or nothing.

A Pre-Approval Letter carries more weight, and generally means the mortgage company has taken a complete application, considered the credit report, and received complete documentation from the borrower such as W-2, paycheck stubs, bank statements, and/or tax returns. The borrower has been approved, and the only conditions remaining are approval of the property, and that the mortgage company can refuse the loan if the borrower's situation substantially changes before the closing date, such as if the borrower loses his/her job.

This terminology will vary depending on the lender, but the most important issue is that a complete application with credit report and all of the buyer's documentation has been done and was approved.

If you are the buyer, you are wise to get a loan pre-approval letter before you start looking at houses. That letter can easily make the difference between an acceptance or rejection of your offer. Include a copy of the letter with any offer you make.