

# An Overview of the Home Buying and Selling Process

**As members of the National Association of REALTORS®, REALTORS® are actively engaged in the real estate business; bound by a Code of Ethics to provide good advice and honest treatment; and are committed to continuing education for updating their knowledge and skills.**

*A brochure designed to acquaint prospective home Buyers and Sellers with the customs and procedures of the local real estate market. "It is important to both Buyer and Seller throughout the home buying and selling process from pre-approval through closing that all times and dates be met."*

**Agency** is for your protection. A Buyer's or Seller's first contact in the home buying or selling process should be with a REALTOR® of choice to establish a relationship. The Missouri Law requires that a REALTOR® provide a Buyer or Seller with the Missouri Broker Disclosure Form. This form explains the types of agency relationships available and will assist the Buyer and Seller in determining which agency relationship best fits their particular needs. Should a Buyer or Seller desire representation, the REALTOR® will require a signed agreement.

**Pre-approval** means that a Buyer has consulted with a lender of his choice and has provided the necessary information to complete the approval process, including social security number. The lender reviews the information, including a credit report, and then issues a pre-approval or approval letter. Some lenders even state in the letter that credit has been reviewed. Many lenders provide this service at no charge, others charge a fee. Buyer should meet with a lender of choice to be pre-approved before investing time into looking for a home.

**Pre-qualification** means that a potential Buyer has spoken to a lender of choice and the lender states that the Buyer can purchase a home within a certain price range, based upon the information provided at that point in time. This is not the same as a pre-approval, as the credit report has not been reviewed. This does not position the Buyer as well as pre-approval.

**Seller's Disclosure Statement** is the Seller's written disclosure of any defects, pertinent facts, or other known conditions regarding the subject property that could affect the buying decision. The Buyer should carefully read this statement and address any concerns within the terms of the contract.

**Lead Based Paint Disclosure** is provided by the Seller to notify the Buyer of any known lead based paint hazards in the subject property (if the home was built prior to 1978). The Disclosure also requires the Buyer to receive the pamphlet entitled, "Protect Your Family From Lead in Your Home" brochure. The Buyer has an opportunity to conduct an inspection of lead based paint or lead based paint hazards.

**The Residential Sale Contract** is a preprinted form, approved by Counsel for the St. Louis Association of REALTORS® and by the Bar Association of Metropolitan St. Louis for the exclusive use of their members. It is the controlling instrument reciting all of the terms and conditions of the purchase/sale.

***In order to become familiar with its contents, it is prudent to secure, read and understand the Residential Sale Contract at the beginning of the process.***

*Missouri law does not require the use of an attorney in a real estate transaction. You may wish to consult an attorney if you have any questions about the transaction or the forms.*

**The Earnest Money Deposit** is provided for in the Residential Sale Contract. *Earnest money is part of the cash consideration and represents a "good faith" commitment and the earnest intent to perform on the part of the Buyer. The larger the earnest deposit, the stronger the offer appears in the eyes of the Seller.* If the sale is closed, earnest money will be applied to the purchase price. If the earnest money is returned to the Buyer any expenses for services requested by Buyer may be withheld. Earnest money in dispute must be turned over to the State Treasurer within 365 days of the initial projected closing date, per Missouri Statute 339.105.4 RSMo. Please read paragraph 12 of the Residential Sale Contract for specific details.

**Inclusions and Exclusions** are to avoid any misunderstandings. The parties involved in a real estate transaction are urged to list as "included" or "excluded" any items which may be subject to question. Many of these items are already printed in the Residential Sale Contract. If there is any question whether or not an item is to convey with the property, it should be written into the Residential Sale Contract. Please read paragraph 2 of the Residential Sale Contract for details.

**Real Estate Tax**, subdivision assessments, condominium fees, flat rate utility charges, rents and interest if the Buyer assumes the loan is to be prorated as of the date of closing per the terms of the contract.

**Contingencies** are contained in the Residential Sale Contract including financing, title and survey, insurability, and inspections. These contingencies are for the benefit and protection of the Buyer, but they serve both the Buyer and the Seller. When satisfied, these contingencies serve to reduce the risk associated with the scheduled transfer of ownership and possession. Accordingly, it is important that sufficient time be allowed between the satisfaction of all contingencies and the scheduled closing date.

**The Financing Contingency** contains a provision that allows the Buyer to apply for and attempt to secure specific financing as a part of the Residential Sale Contract. This clause requires the Buyer to proceed in good faith and cooperate fully with the lender, including a timely loan application with payment of required fees to the lender. The Buyer must notify the Seller of the Buyer's inability to obtain financing by delivering written notice before the loan commitment date written on the contract. It is recommended that the Buyer who intends to borrow money for the purchase has a bona fide loan pre-approval from a reputable lender before beginning the house hunting process. Please read paragraph 4 of the Residential Sale Contract for details.

**The Title and Survey Contingency** provides the opportunity for the Buyer to investigate the condition of the title to the property. If the seller does not close at the same title company as the buyer, or the seller's choice of title company does not have a common underwriter with the buyer's title company, then the seller will be required to sign a Notice of Closing or Settlement Risk acknowledging that their settlement funds are not protected by the title insurance underwriter. Title insurance and a boundary improvement (stake) survey are always recommended in order to protect the Buyer against liens and other defects affecting the property. Please read paragraph(s) 5 and 8 of the Residential Sale Contract for details.

**Homeowner's Hazard Insurance** is typically required by the lender. The Buyer has 10 days (unless otherwise agreed) from the acceptance deadline date to notify the Seller of his or her inability to obtain such insurance. Please read paragraph 10a, of the Residential Sale Contract for specific details.

**The Inspection Contingency** provides the opportunity for the Buyer to have independent, qualified inspectors inspect the property and improvements and provide the Buyer with written reports at the Buyer's expense. Professional inspections are always recommended. An Inspection Contingency brochure describes the intended purpose and process in more detail. Please read paragraph 10 of the Residential Sale Contract for details.

**Riders** are preprinted forms approved by Counsel for the St. Louis Association of REALTORS<sup>®</sup> and by the Bar Association of Metropolitan St. Louis for the exclusive use by their members. Some examples are the Contingency for Sale & Closing of Buyer's Property, the Condominiums, Villas or Similar Lifestyle Communities, and the Appraisal Rider, which can be incorporated into the Residential Sale Contract as needed.

**Gas Appliance Inspections** are an obligation of the Seller. The Seller must provide to Buyer at closing, at the Seller's expense, unless otherwise agreed a certification from Laclede Gas or other appropriate utility or propane gas supply company that all gas appliances and systems are in safe condition and good working order. This certification must be dated not more than 30 days prior to the closing date. If the Seller has made repairs or replacements as a result of the inspection the Seller must show proof of such. The Buyer may, at Buyer's expense, order a Service Initiation Inspection. Please read paragraph 7 of the Residential Sale Contract for specific details.

**Governmental Inspections and Occupancy Requests** are required in many areas. If the property is in an area that requires such inspections the Seller agrees to immediately request and pay for the appropriate inspection(s). The Seller must notify the Buyer in writing, within 15 days (unless otherwise agreed) after the contract's acceptance deadline date, of any required repairs the Seller will not make. Buyer and Seller have 10 days to reach an agreement as to which party will satisfy the requirements. The Buyer may, at Buyer's expense be required to obtain an occupancy permit. Please read paragraph 11 of the Residential Sale Contract for specific details.

**The Walk-through Provision** provides that within 4 days prior to closing the Buyer has a right to walk-through the property to confirm the property is in the same general condition, ordinary wear and tear excepted, as it was on the date of the contract. During this time frame the buyer also has a right to verify any required repairs were completed in a workmanlike manner. This right is also extended to the original inspector of the property. The Buyer also has a right to have the utilities transferred into his or her name. The Seller should provide items integral to the property such as garage door openers, keys and alarm information. It is recommended that the Buyer have locks and codes changes after closing. Please read paragraph 21 of the Residential Sale Contract for specific details.

**The Conveyance** of a property is normally by General Warranty Deed and is subject to recorded deed restrictions, easements, rights of way, etc. Most residential properties have restrictions such as utility easements, and most subdivisions have indentures containing use restrictions and trustee assessments. Strict zoning laws such as building lines and land use restrictions are applicable in most of the metropolitan areas.

**The Deed of Trust** is the security instrument for the debt as evidenced by the Note which recites the terms of the loan. The Deed of Trust is recorded at the County/City Recorder's office immediately after the General Warranty Deed has been recorded. After recording, the Deed of Trust is held by the lender until the note is paid in full. At that time, it should be forwarded, along with a recorded Deed of Release, to the Signatory.

**Closing (Settlement, Escrow)** is the exchange of the deed for the purchase price. The closing is normally held at the office of a title insurance company. Immediately prior to the real estate closing, the Buyer will execute all of the documents required by the lender in order to close the loan on the property, either at the lender's office or at the title insurance company. Normally, the Buyer closes first and the Seller closes later in the day. All parties should close at a time that facilitates the agreed upon possession time indicated in the Residential Sale Contract. Often the Buyer and Seller close at different title companies. Buyer and Seller are each responsible for closing charges as defined in the contract.