



Understanding Your Real Estate Purchase Agreement

What are the key factors to know?

A real estate purchase agreement is a legally binding agreement that governs the purchase and sale of a property. Made between a buyer and seller, it defines the terms of the transaction and the conditions under which a sale will occur.

Whether you're planning to buy a new home, apartment or condo, or looking to sell a primary residence or investment property, it's important to make sure your contract is ironclad.

Taking time upfront to spell out the terms under which a property transaction will occur and safeguarding against potential hiccups or unexpected events is important because it can help you avoid legal or financial hurdles on the back end.

What Is A Purchase Agreement?

A real estate purchase agreement spells out the terms under which a buyer and seller agree to engage in a real estate transaction. Signing a purchase agreement effectively places both the buyer and seller (as well as the property in question) "under contract."

A binding legal agreement outlining key details of the home sale transaction, a real estate purchase agreement for a house may also be referred to as a real estate sales contract, home purchase agreement, real estate purchase contract or house purchase agreement.

In effect, when a potential buyer makes an offer to purchase a new home, the buyer will propose conditions for the sale and spell out important financial details such as their offer price. A home seller will then have the opportunity to accept, reject or negotiate the terms of this offer.

Following any ongoing negotiations, which may occur in the form of counteroffers, both parties will sign the home purchase agreement when they're satisfied with the terms of the agreement. At this time, both the for-sale property and any parties to the agreement (for example, the home buyer and seller) will be deemed "under contract."

This contract signals the intent of all parties to engage in a home sale transaction and explains which conditions must be met for the sale to close and ownership of the property to transfer to the new buyer.





Who Prepares The Purchase Contract?

Most often, the buyer's real estate agent will write up and prepare the purchase agreement for a house. Note that agents (not being practicing attorneys themselves) can't create their own contracts. Rather, for consistency's sake and the protection of all parties, they typically fill in pre-existing documents promulgated by the state in which they are licensed.

In other words, a prepared purchase agreement template will be adopted for the purchase of the individual home, with the agent filling in any blanks with information on the property's specific details.

Components Of A Real Estate Sales Contract

A real estate sales contract and purchase agreement is a detailed document breaking down the specifics of the property transaction. Within its pages, you'll find several common elements, such as:

- ☐ Buyer and Seller Information: Full names and contact information for all buyers and sellers involved in the transaction.
- ☐ Property Details: Information on the property's address, the location and legal description of the property and any other pertinent details about it.
- ☐ Purchase Price: The total agreed-upon selling price for the property, including any deposits or additional costs associated with the transaction.
- ☐ Representations, Warranties and Property Condition Disclosures: Statements of facts made by the seller about the condition, structure and composition of the property being sold (this information can be disclosed by the seller in a warranty deed).
- ☐ Financing: Specific details explaining how the buyer will be paying for the property, whether by borrowing a mortgage loan from a lender or assuming the seller's existing mortgage.
- ☐ Fixtures and appliances: Any household appliances or wall-mounted items and fixtures that will be included or excluded in the sale of the real estate.
- ☐ Title Insurance & Property Survey: A note specifying whether the buyer or seller will be responsible for purchasing title insurance to protect against potential discoverable defects in the property.
- ☐ Property Taxes: Citations regarding any property taxes that will be imposed on the property being purchased.



- ☐ Closing Date: As specified on your purchase agreement, the exact date on which the official transfer of title will occur – and the date and time the buyer will receive the keys to the property.
- ☐ Contingencies: Any conditions (such as repairs that have to be done by a certain date, or inspections that must be performed) that must be met before a sale of the property can go through.
- ☐ Earnest Money: Think of earnest money as a good-faith, security deposit showing that the buyer is serious about their offer to purchase a home. Except in the case where the seller fails to meet certain contingencies, a buyer will lose this earnest money deposit if they choose to back out of this transaction. The earnest money is typically held in escrow by a third party to avoid any potential issues with it and ensure it's properly distributed at the appropriate time. Any sums paid in escrow will be credited toward your down payment or closing costs when you close on the property. Typically 1% of the purchase price.
- ☐ Option Fee & Due Diligence Period (Known as Option Period to terminate): A designated period of time in the initial days after contract execution allows the Buyer to have inspections performed that identify material defects to the property and identify potential risk and extent of necessary repairs. This time period allows for the potential “option” for the buyer to back out of the deal and terminate and retain their earnest money deposit. Option fee remains with the Seller as payment for holding the property off-market while due diligence takes place.
- ☐ Signatures: Required of each party to finalize every purchase agreement. Once all parties have signed, the contract will be **fully executed and binding!**

What are Contingencies?

A contingency is a condition that must be satisfied before the deal is complete. Some common contingencies that you might encounter when buying or selling a home include:

Inspection contingency: Allows a buyer to walk away from a home purchase deal if a subsequent home inspection uncovers any defects on the property.

Appraisal contingency: Designed to ensure a home's appraised value is equal to or higher than the agreed-upon purchase price.

Financing contingency: A mortgage contingency that protects the buyer if they can't obtain a mortgage and ensures they get their earnest money deposit back.

Title contingency: A title report, or chain of title, that seeks to assure the buyer that the property has no liens or other problems.

Home sale contingency: A form of insurance, of sorts, stating that the buyer's purchase of the property depends on whether they can sell their current home.



Closing Costs

What are closing costs? Put simply, they're processing fees and operating expenses you'll pay your lender when you close on a home.

Contained within closing costs are amounts designed to cover common needs such as home appraisals, title searches, property taxes, homeowners insurance, lender's fees and transfers of ownership. Whose responsibility it is to pay these closing costs (portions of which may be split between the buyer and seller) should be defined in your purchase agreement.

Ultimately, closing costs may total 3% – 6% of a home's purchase price.

Real Estate Purchase Agreement FAQs

Below are some of the most common questions regarding real estate purchase agreements.

Q: Does a real estate purchase agreement need to be notarized?

A: No, a real estate purchase agreement does not require notarization to be valid as it is not filed with county records.

Q: Can a real estate contract be terminated?

A: A real estate contract can be terminated either when the option is included within the contract, or when your state's regulations allow you to do so. Typically, state laws allow a contract to be terminated when a seller fails to disclose any major issues on the property.

The Bottom Line

A real estate purchase agreement is a definitive legal document spelling out the terms and conditions under which a property will be sold. Built to protect both buyers and sellers as well as ensure a smooth transaction, it's designed to help you avoid hiccups by accounting for variables associated with a home purchase and sale. Understanding the basics of this document can help you steer clear of potential pitfalls as you go about securing or selling a residence.