SLIDE 1 – **Preliminary Steps to a Closing (Cover Sheet)**

SLIDE 2

The Closing Event

The setting

The closing event is the culmination of the real estate transaction. During this event, the buyer pays the purchase price and receives title to the purchased real estate.

At the same time, the buyer completes financing arrangements, and buyer and seller pay all required taxes, fees, and charges.

SLIDE 3

The setting – Customary Practices:

Procedures and customary practices for conducting real estate closings vary from state to state. For example, it is common in some states for sellers to pay title insurance, while in other states the buyer and seller might share this expense.

SLIDE 4

The setting – Time:

The sale contract sets the date of the closing, usually within sixty days of signing. The time period between signing and closing is expected to be sufficient for the removal of any contingencies, such as the buyer's obtaining of financing, the performance of inspections, and the correction of identified physical defects.

SLIDE 5

The setting – Time:

Failure of either buyer or seller to perform pre-closing actions specified in the contract can delay or terminate the transaction. If the contract includes a statement that "time is of the essence," all parties agree to meet the time limitations exactly as stated.

If both parties consent, however, they can re-schedule the closing date.

SLIDE 6

The setting – Location:

Closings occur at various locations, such as the office of the title company, the lender, the escrow agent, one of the attorneys, the broker, or the county recorder. The sale contract specifies the location.

SLIDE 7

The setting – Parties at closing:

The primary parties at the closing are normally buyer, seller, and a closing agent or escrow officer. Other parties who might be present include the title officer, attorneys, brokers or agents, and the lender's representative

It is not actually necessary for any of these parties to attend the meeting. The closing agent can complete the transaction, provided all documents have been duly executed in advance.

SLIDE 8

Closing Agent – In many areas, closings are handled through escrow.

Escrow - neutral third party who holds money and documents for buyer and seller

Closing agent disburses purchase price and delivers deed when conditions in agreement are satisfied

Closing agent may be:

- Independent escrow agent
- Employee of lender
- Title company
- Lawyer
- Real estate broker

SLIDE 9

Steps in the closing process –

Closing agent responsible for handling details of closing, which includes:

- Clearing liens from title
- Establishing condition of title
- Inspections and repairs
- Buyer’s funds for closing
- Preparing documents and recording

SLIDE 10

Transfer of title

The seller must produce evidence of marketable title, such as a commitment for title insurance by a title insurer. Before making a title commitment, a title company performs a title search to discover any liens, encumbrances, restrictions, conditions, or easements attaching to the title.

If there are any encumbrances or liens that damage the title, the seller is expected to remove these prior to the date specified in the contract. The most common title cloud is an unpaid lien.

SLIDE 11

Transfer of title

The seller may also be asked to execute an affidavit of title stating that, since the date of the original title search, the seller has incurred no new liens, judgments, unpaid bills for repairs or improvements, no unrecorded deeds or contracts, no bankruptcies or divorces that would affect title, or any other defects the seller is aware of.

The purchaser, purchaser's lender, or title company may require a survey to verify the location and size of the property. The survey also identifies any easements, encroachments, or flood plain hazard.

SLIDE 12

Transfer of title

The buyer should inspect the property to make certain that the property is in the condition in which the seller states that it is, and that any repairs or other required actions have been performed. A final inspection, called a buyer's walk-through, should be conducted as close to the closing date as possible.

SLIDE 13

Transfer of title

If the seller's mortgage lien(s) are to be satisfied at closing, the lender will provide a payoff statement, also called an offset statement, specifying the amount of unpaid principal and any interest due as of the closing date, plus fees that will be due the lender and any credits or penalties that may apply. The holder of a note secured by a trust deed will provide a similar statement, called a beneficiary statement, to show any unpaid balance.

Even if the buyer is assuming the seller's mortgage loan, the buyer will want to know the exact amount of the unpaid balance as of the closing date.

Finally, the seller produces and/or deposits with the escrow agent the deed that conveys the property to the buyer.

SLIDE 14

Title and Title Insurance

Owner's Title Policy - Optional - Insures owner against unexpected problems with the title on their property<click>

- Protects against title defects that:
  - Could not be found
  - Were missed during the title search
    - ❑ Errors or omissions
    - ❑ Forgery
    - ❑ Undisclosed heirs
    - ❑ Mistakes in the examination
- Some items it will not cover:
  - Violations of building and zoning ordinances
  - Restrictive covenants limiting how property can be used
  - Any conflicts with boundary lines, encroachments, etc.
- Policy is issued in the amount of the purchase price
- This is a one time fee

SLIDE 15

Lender's Title Policy - Requirement of the lender - insures the lender against unexpected problems with title on the borrower's property. This policy protects their interest in the collateral secured by the real estate. Also guarantees the lender has a legitimate first lien against the property.

- Protects the lender *up to the mortgage amount*
- Paid by borrower

  One-time fee

SLIDE 16

Transfer of purchase funds

The buyer usually produces and/or deposits with the escrow agent the following:

- Earnest money
- Loan funds and documents
- Any other cash needed to complete the purchase

SLIDE 17

Escrow procedures

If the closing occurs "in escrow" rather than face-to-face, the principal parties deposit funds and documents with the appointed escrow agent, and the escrow agent disburses funds and releases documents to the appropriate parties when all the conditions of the escrow have been met.

If for any reason the transaction cannot be completed, for instance if the buyer refuses the title as it is offered, or the buyer fails to produce the necessary cash, the escrow instructions usually provide a mechanism for reconveying title to the seller and funds to the buyer.

In such a case, both parties return to their original status as if no sale had occurred.

SLIDE 18

Lender closing requirements

A lender is concerned about the quality of the collateral a borrower is providing in return for the mortgage loan. The collateral would be endangered by defects in the title, by liens that would take precedence over the mortgage lien, such as a tax lien, and by physical damage to the property which is not repaired.

Consequently, the lender typically requires a survey; a property inspection; hazard insurance; a title insurance policy; a reserve account for taxes and insurance; and possibly, private mortgage insurance.

In some cases the lender may also require a certificate of occupancy verifying that any new construction performed complies with local building codes.

SLIDE 19

Broker's role

A broker usually continues to provide service between the signing of the sale contract and the closing by helping to make arrangements for pre-closing activities such as inspections, surveys, appraisals and repairs and generally taking steps to ensure that the closing can proceed as scheduled.

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Broker's role

A broker may conduct proceedings at the closing meeting, or may have no further role in the transaction after the sale contract is signed, depending on local practices and the transaction in question. In many states, the broker is charged with the responsibility for accuracy and timely delivery of the closing documents to the principal parties. A broker may also have the responsibility for reporting the transaction to the Internal Revenue Service.

SLIDE 21

Broker's role

Finally, if the seller of the property is a non-resident alien, U.S. law may require the broker to withhold and transmit to the Internal Revenue Service a portion of the sale proceeds to cover the alien seller's income tax liability. There are also special reporting requirements when the transaction involves a non-resident alien.