



Professional Practices

Lesson 23

**Timeline to Close:
Licensees' Responsibilities After the Purchase
Agreement Has Been Signed**

45 Hour Louisiana Post-Licensing

Timeline to Close: Licensees' Responsibilities After Purchase Agreement Has Been Signed

Let's start with the duties required of the Licensee – sales person – agent – whatever you would like to call them.

Licensee - Agent Duties:

1. Find buyers and sellers
2. Complete the Purchase Agreement
 - a. Remember Civil Law states that licensees are not allowed to take a blank sheet of paper and author a purchase agreement. License law allows real estate licensees to take a pre-printed form and "fill in" the blanks
 - b. Remember, every licensed real estate agent in the state of Louisiana must use the mandated purchase agreement provided by the Louisiana Real Estate Commission when selling residential properties: single family, duplex, triplex or four-plex.
 - c. Another reminder, when using the mandated purchase agreement, scratch outs, writing in margins, and other similar alterations are not allow. Any changes to the agreement must be made in the lines provided on the agreement or via addenda
 - d. A question asked often at this juncture is: "Do we have to use this agreement for a residential lot on which a house will be built in the future?" The answer is "no"!
3. Assure Purchase Agreement is Executed – signed by all owners or potential owners
4. Provide Copies to all parties
5. Present the Offer
6. Make copy of good faith deposit check and turn in to listing broker, if applicable
7. If member of MLS, change listing status in MLS
8. Assist Buyer - Seller with Closing Process
9. Confirm buyer made loan application
10. Provide Closer with Purchase Agreement and all addenda
11. Provide Closer with Real Estate Commission Information
12. Provide Closer with buyer or seller information as requested by closer
13. Contact lender, ask for regular updates
14. Verify appraisal has been ordered
15. Find out who is appraiser
16. If appraiser required repairs, follow up to assure repairs have been made
17. Confirm home inspection has been ordered, if applicable
18. Find out who will be performing the home inspection
19. Check on title status, early in process
20. Verify engineer's report has been ordered, if applicable

21. Assure Wood Boring Insect Report is ordered
22. Assure Home Inspection is ordered in a timely manner
23. Coordinate Closing Date with Closer
24. Verify Power of Attorney completed, if applicable. Remember if it goes out of state, need notary and 2 witnesses other than the notary to record documents in Louisiana.
25. Verify survey ordered, if applicable
26. Verify environmental studies have been ordered, if applicable
27. Inform Buyer about good “verifiable” funds
28. Notify client about closing place and time
29. Assure closer is aware of needed repairs
30. Provide closer with ALL bills
31. If corporation, need copy of bylaws or resolution
32. If LLC, need paperwork giving authority to sign
33. Verify health certificate ordered and completed, if applicable
34. Inform buyer to start “insurance shopping” early in process
 - i. In the “old” days we used to tell the buyer to stop by any insurance company on their way to closing and buy a policy. This is not the case today.
 - ii. Due to new insurance company procedures and the fact that they use the CLUE Report (Comprehensive Loss Underwriting Exchange), not all properties or homeowners are “insurable”
35. Arrange for lender to provide mortgagee clause to insurance company
36. If applicable, verify flood insurance has been obtained
37. Confirm when seller will vacate premises. If seller is not going to move out prior to closing, assure that proper paperwork has been completed
38. If applicable, order Home Owner Warranty
39. Compare HUD to Purchase Agreement upon receipt from paralegal
40. Review HUD with client (buyer/seller)
41. Schedule Final Walk-thru
42. Perform Final Walk thru. On the day prior to closing, or the morning of, the agent working with the buyer and the buyer “walk through” the house to insure that the house is in the same or better condition as it was in on the day the buyer viewed the home
43. Notify buyer of closing date, location, and time
44. Notify seller of closing date, location, and time
45. Touch base with “other agent” to confirm closing date, location, and time
46. Attend the Closing
47. Some real estate companies provide a letter to the buyers suggesting that the buyer change the locks on all exterior doors, change the combination on the garage door opener, buy flood insurance if in a flood zone, and or buy hazard insurance on the subject property.

48. Bring Keys to closing if you are the listing agent
49. Bring good faith deposit funds to closing if applicable
50. Pick up commission check for your broker
51. Deliver commission check to your broker
52. Pick up sign from yard and return it to office
53. Remove lock box from property
54. Send “thank you” to all involved.

Buyer Duties:

1. Makes offer by signing the purchase agreement
2. Selects a Lender
3. Makes a formal loan application
4. Provides lender with all underwriting information needed by lender
 - a. Including but not limited to employment history, salary, other income, liabilities, list of assets, and any other information requested by the lender
 - b. Agent should remind buyer to be truthful because lender will have to verify all the information provided to them by the buyer
5. Selects an Attorney – Closer - Title Company
6. Assures Purchase Agreement and other documents have been presented to Attorney
7. Selects Insurance Company
8. Selects Home Inspector
9. Orders home Inspection
 - a. Informs their agent of outcome of inspection
 - b. If applicable, agent guides buyer in making list of repairs requested of seller
10. Selects Wood Boring Insect (termite) Inspector
11. Orders Wood Boring Insect (termite) Report
 - a. If applicable, makes arrangements for treatment
 - b. If found, may also have to have an Engineer’s report confirming house is still structurally sound
12. Provided Corporation or LLC Documents to Closer, if applicable
13. Advises Attorney - Closer of any special instructions
14. Provides Repair Invoices to Attorney - Closer to be added to HUD
15. Confirms Closing Date, Location and time
16. Obtains “Good” funds for closing
17. Attends closing, unless being represented by Power of Attorney

Seller Duties:

1. Accept Offer by signing purchase agreement
2. Provides loan payoff information to closer – attorney
 - a. Name and address of mortgage company
 - b. Account number
 - c. Borrower's name as appears on loan documents
3. If applicable, provide Corporation or LLC Documents to Closer – Attorney
4. Advises Closer - Attorney of any special instructions
5. Moves out of house
6. Attend Closing, unless being represented by power of attorney
7. Cancels property insurance effective day after closing. Suggest that seller waits until AFTER closing to call the insurance company just in case of a glitch so that subject always has insurance coverage

Lender Duties:

1. Obtain underwriting information from Borrower such as
 - a. Name and Address (confirm buyers names are spelled correctly)
 - b. Social Security numbers
 - c. Place of Employment for all borrowers
 - d. Income information
 - e. Names, account numbers, and addresses of all outstanding bills
2. Order, obtain, and review credit report
3. Order, obtain, and review appraisal
4. "Lock in" the interest rate, if applicable
5. Process loan application
6. Submit for underwriting and loan approval
7. Assure Closer - Attorney has complete purchase agreement
8. Order title commitment – Title Exam
9. Provide Closer – Attorney – Title Company with Title Commitment due date
10. Once Title Opinion or Title Commitment is obtained, review
11. Set Closing Date with Closer – Attorney – Title Company – Real Estate Agents
12. Provide Closing Instructions to Closer – Attorney – Title Company
13. Advise buyer of "Good Funds" Requirement
14. Provide closing documents to Closer – Attorney – Title Company
15. Review Documents for Funding
16. Fund the loan by Closer - Attorney – Title Company Requirements – usually wire transfer

Appraiser Duties:

1. Upon receipt of the order, the appraiser must abide by USPAP standards (Uniform Standards of Professional Appraisal Practices) first State the Problem
2. Make a list of items needed to complete the report
3. Gather, analyze and verify the information needed to complete the report
4. Determine the highest and best use of the land structure sits on
5. Estimate value of the land
6. Estimate the value of the subject property by using all three (3) approaches to value
 - a. Cost Approach – what it would cost to rebuild the property using today’s materials, minus the depreciation, plus the cost of the land. When applying the cost approach, typically only replacement cost is used.
 - b. Market Data Approach (Also known as the Sales Comparison Approach) - this is the oldest and most widely used appraisal approach. This is when you compare the subject property to three (3) similar properties that have sold in the last 6 months to determine the value of the subject. (Typically, the appraiser can use sales up to one year old, but not over when preparing residential appraisals for lending institutions).
 - c. Income Approach – This is when you divided the annual net income by the capitalization rate to determine the value of the subject. This approach is used on income producing properties when the investor determines how much he or she is willing to pay for the property based on the income the property produces.
7. Reconciles the values choosing one of the above three approaches to be most effective for the subject property. All three approaches have to analyzed but not used if not applicable. Some types of loans (such as VA) no longer require that the cost approach be used.
8. Reports Final Value Estimate - By delivering the appraisal report to the client, which often is the lender, but not always

The next items are not duties of the Appraiser but items real estate professionals can do to help appraisers with their jobs. When licensees arm appraisers with valuable property, the public will be better served because the appraiser has the data needed to determine value.

NOTE: Help sellers, buyers, fellow licensees and yourself by supplying as much information as possible on the property profile sheets in MLS or other distribution methods. The more information licensees provide to appraisers the easier their job will be to justify values.

ADDED NOTE: Remember, the appraisal report belongs to the person who orders it, not necessarily to the person who “paid” for the report. Due to the Dodd Frank Act, the borrower has a right to receive a copy of the appraisal report. This right is not granted to the seller. Often the agent working with the buyer provides the portion of the appraisal report to the agent working with the seller. Normally those issues that address concerns the buyer wants the seller to be aware of, and often requests the seller to make correct those items. The appraisal report does NOT belong to the listing or selling agent. Should the buyer elect to cancel the contract or if the property not go to closing for any reason, the real estate agents do not have the prerogative to scan the appraisal report and put it under “attachments” in MLS, nor does either agent have the authority to provide the Appraisal Report to any other potential buyers.

REMINDER: the lending institution from which the buyer chooses to borrow money, will most likely not accept an appraisal unless they ordered it.

ANOTHER NOTE: Remember that the date of appraisal report is the day the appraiser visited the property, not the day the report was typed. The appraiser may have visited the property on a Friday, but did not get an opportunity to type up the report until Monday. The date of the report will be the Friday, not the Monday. The reason for this is that the appraiser can only attest to what he or she witnessed the day they inspected the property, they cannot attest to anything that may have happened after leaving the property.

Insurance Agent Duties:

1. Upon request to insure by potential buyer, visit the property
2. Inspect the Property
3. Takes Exterior photos of the subject and any possible hazards such as swimming pools, dangerous dogs or other animals, steps without hand rails
4. Provide an insurance binder – sometimes accepted by lenders until the “real” policy is received from their “home” office.
5. Assure that the Closer – Attorney – Title Company received the Mortgagee Clause to be inserted into the appropriate documents
6. If not prepaid, provide fee to Closer – Attorney – Title Company will collect premium at closing
7. If prepaid, provide fee to Closer – Attorney – Title Company to be added as a “POC” Paid Outside of Closing item on the HUD 1

Surveyor Duties:

1. Physically go to the property
2. Complete “field work”
3. Draw the Survey Sketch
4. Provide legal description of the property
5. Deliver the survey to appropriate party
6. If not prepaid, provide fee to Closer – Attorney – Title Company to collect fee at time of closing

Termite – Wood Boring Insect Inspector Duties:

1. Upon receipt of order, schedules appointment to go to the property
2. Conducts on-site physical inspection of the property
3. “Writes up” the Inspection Report (WDR)
4. Notify client of any problems identified
5. Deliver the report to appropriate party
6. Provide Closer – Attorney – Title Company with Paid Receipt or Invoice, if not paid at closing

Engineer Duties:

1. States the problem
2. Schedules appointment
3. Conducts on-site inspection
4. Analyses condition of property
5. Assesses environmental impact, if applicable
6. Prepares bids for repairs, if applicable
7. Delivers report to client, outlining problems identified, if any

Home Inspector Duties:

1. Upon receipt of order, schedule date and time of inspection with the owner or listing agent
2. Perform on site physical inspection of the property
3. Write up the inspection report
4. Notify client of any problems identified
5. Deliver the Report
6. ADDED NOTE: Remember, the inspection report belongs to the home inspector and his or her client. It does NOT belong to the listing or selling agent. Should the buyer elect to cancel the contract or if the property not go to closing for any reason, the real estate agents do not have the prerogative to scan that report and put it under “attachments” in MLS, nor does either agent have the authority to provide the Inspection Report to any other potential buyers UNLESS having been given the authority from both the Inspector and the inspector’s client.
7. ANOTHER NOTE: Remember that the date of the inspection report is the day the inspector visited the property, not the day the report was typed (should the inspector not type up the document the same day the property was physically inspected). The reason for this is that the inspector can only attest to what he or she witnessed the day they inspected the property, they cannot attest to anything that may have happened after leaving the property.

Abstractor Duties:

1. Upon receipt of an order, the abstractor opens a file
2. Abstractor reviews location of the property, then schedules a visit to the courthouse. If “out of parish”, schedules a trip to appropriate courthouse
3. The abstractor will then search all public records which affect the title including, but not limited to the Clerk of Court Records, Tax Assessor Records. The abstractor is working on completing the “chain of title” which shows all owners from 30 to 40 years back, or as far back as the person ordering the report has requested.
4. Some abstractors have the capability of doing a portion of their title work on line through the Clerk of Court and Tax Assessor Websites.
5. Normally the Abstractor will make a photocopy of every document that affects the subject.
6. The Abstractor normally compiles the photocopies chronologically according to date order with the newest toward the top working backwards to the oldest item at the bottom of the Chain of Title.
7. Once the Abstractor has gathered all the information, the abstractor will type a “cover sheet” or summarize the chain. This is the actual Abstract. While doing this the abstractor will make notations to make the attorney examining the title aware of any areas that should be examined further.
8. Once completed the abstractor delivers the report to the closing attorney, or whomever ordered the report.
9. If the attorney, requests additional information upon his examination of the title, the abstractor then gathers that information and types the new information into the report.
10. Provides the new information to the closing attorney. Steps 9 & 10 are repeated until the attorney is convinced that the chain and abstract are complete and correct allowing the attorney to write title insurance.

Title Insurance Company:

1. The title insurance company does not have a huge role in the closing process as in many other states.
2. The title insurance company’s role is to assist the closing attorney or title agent with underwriting decisions.

Attorney, Attorney's Staff or "Closer":

1. When the closing attorney's office gets a call from someone requesting the attorney to handle a closing, the first thing that normally happens is the attorney's staff will "Open" a file.
2. Obtain information about the buyer:
 - a. Full "legal" name(s) of all the buyers
 - b. Address or addresses
 - c. Last 4 numbers of Social Security for all buyers
 - d. Insurance company buyer will be using
 - e. Name, address, contact person, and phone number of lender buyer will be using
3. Obtain information about the seller:
 - a. Full "legal" name(s) of all sellers
 - b. Address or addresses
 - c. Last 4 numbers of Social Security for all sellers
 - d. Name, address, and account number of current Mortgagee
4. Check the current tax rolls
5. Request "Pay Off" from seller's lender
 - a. The initial contact with lender is sometimes via telephone
 - b. Some lenders require request to be authorized by seller in writing
 - c. This should be done in early stages of closing to allow for lender lag time
6. Order Abstract, one lenders give "ok"
 - a. Remember, "he who orders work...pays bill"
 - b. Most often the lender does not want the attorney to incur costs until lender feels comfortable about borrower's credit
7. Once abstract is received, attorney reviews. If necessary the attorney requests addition documents from abstractor.
8. Completes any curative work necessary, if applicable
 - a. REMINDER: When using the Louisiana Real Estate Commission mandated Residential Purchase Agreement without any modifications, the buyer is not given an opportunity to order and or pay for curative title work. The agreement on line #234 states that the contract will automatically be extended by "____" (number goes inside this blank) calendar days if a title problems shows up. It gives the seller extra days to cure the title defects, but if that section is not amended, the buyer does not enjoy the opportunity to cure the defective title.
9. Records any documents necessary to "clear" the tile
 - a. The buyer wants to be assured that the title is "clear" and "marketable" and
 - b. Wants proof that the title issues have been resolved.
10. Once satisfied that property is marketable, provides Title Commitment to lender

11. Obtains Lender's Closing instructions
 - a. Back in the "day", closing instructions were sent out 20-30 days in advance
 - b. Today, often the Closer – Attorney – Notary may get the closing instructions the day of closing, sometime mere minutes prior to the official closing
12. Prepares HUD1 (Department of Housing and Urban Development Form #1)
 - a. This is the "money page". Every penny spent in the purchase of a residential dwelling is to be accounted for on the HUD1 Settlement Statement.
 - b. If money was spent either prior to or after the closing of a residential transaction, that expense still must be accounted for on the HUD1. The cost of such an item will not be listing in the "money" column, but in the "description" column so as to not skew the numbers, the attorney's paralegal will enter "POC" (paid outside of closing) in the number column to indicate that a fee was paid, but not on the day of the act of sale.
13. Once completed (and sometimes partially completed), the paralegal will email or fax a copy of the HUD1 to the extent it is completed to both the listing agent and the selling agent for their review. If the listing agent or the selling agent find any items that need correcting, the paralegal will correct as needed and resend to both again for another review.
14. The paralegal will also send a copy of the HUD1 to the lender for their review. If the lender notices an error, the lender notifies the paralegal of the correction. The paralegal makes the correction and sends out to everyone again.
15. Confirms that the buyer is aware that any funds in excess of \$2,500 are required to be in verifiable funds. This is a Title Insurance Requirement of Attorneys. This is NOT a Louisiana Real Estate License Law or a LREC rule or regulation.
 - a. This means that the buyer should be prepared to bring a Bank Cashier's Check or Money order to closing to cover the buyer's closing costs. Many attorneys would prefer to have all of the buyer's funds in this form.
 - b. Remember banks no longer issue "certified" checks.
 - c. In the past, if someone wanted to be certain the money they were receiving was "good" and had no chance of it being deemed NSF (non-sufficient funds), they would require that the consumer go to the bank and bring a "certified" check to the closing.
 - d. The process would be that the bank teller would take the client's personal check, confirm that there was enough money in the bank to pay the funds. Then the bank teller would take a rubber stamp and stamp "Certified" on the check. That way the recipient could rest assured the money was available when the check was accepted.
 - e. That worked great until some folks figured out that they could get away with getting the check "certified", then spend the money in the account before the recipient could get to the bank.
 - f. For this reason, banks no longer issue "certified checks", but bank money orders instead.
 - g. In a bank money order, the bank teller takes the clients funds out of their account and issue a bank money order. Thus assuring that the client cannot spend the funds in the account causing an NSF issue.
16. Notifies the person holding deposit that if the deposited funds to be returned to buyer at closing is in excess of \$10,000 that those funds also be "verifiable".

17. Many attorneys prefer to have any funds delivered to them for a real estate closing to be via “wired” funds not LETTERS because those funds have been known to be recalled and then the attorney is left with a heap of paperwork to correct or bunch of NSF checks on the attorney’s account.
18. Upon receipt of the closing instructions from the lender, the closing documents are prepared.
19. Attends Closing. During the closing process the attorney is typically wearing his or her “Notary Hat”. Therefore sometimes one may arrive at closing and the attorney is not present and either a Notary that the attorney has hired or one of the attorney’s paralegals is presiding over the closing process. This is not an unusual situation for some attorney firms, or title companies. The attorney checks the title, writes their title opinion, issues the title insurance, but has a Notary to preside over and conduct the closing.
20. The Attorney or Notary “Closer” assures that all the documents are properly signed and/or initialed.
21. Once the lender has approved whichever documents they required, the attorney or closer disbursing the funds as noted on the HUD1 Settlement Statement.
22. If funds were not wired into the attorney or closer’s bank account, they immediately deposit any funds collected at the closing table.
23. Forward funds to “pay off” seller’s lender, normally via overnight delivery such as FedEx, UPS or similar carrier
24. Deliver Package to Buyer’s Lender
 - a. The Buyer’s lender has a representative at closing to assure that all the documents they require have been properly signed. That person is sometimes the loan officer who assisted the buyer at loan application. Sometimes, the attorney’s paralegal fills that role if the loan officer cannot make the closing.
 - b. In either case, the lender wants the documents sent to the ASAP after closing.
25. Mails out payments to vendors noted on the HUD1 Settlement Statement that were not present for the act of sale.
26. Records the Cash Sale and Mortgage documents in the Clerk of Court’s office of the parish where the property is located.
27. Purchases certified copies of the recorded cash sale and mortgage documents from the Clerk of Court.
28. Forwards copies of the certified copies to the buyer, seller, and buyer’s lender.
29. Forward the proper documents to the Title Insurance Company
30. When the Title Insurance Policy is received, attorney - closer forward the policies to the appropriate parties.
31. Once the entire procedure is completed, the paralegal will confirm all has been completed and “close” the file. Then and only then is the file put into a filing cabinet for storage.

Health – Sewer Inspector

1. There is no state wide law that states a Health Inspection Report is required when selling a residential property on private water or sewer. There are several local entities that have this requirement.
 - a. There is a clause in the LREC's required Residential Purchase agreement that states that the seller shall provide, at SELLER'S expense, approval of the private water or sewerage system operation, in accordance with the appropriate governmental entity or duly licensed private entity within thirty (30) days prior to Act of Sale
 - b. Should one have an occasion to sell a residential property which has its own private water and/or sewer AND both the buyer and seller agreed to the above verbiage, then the seller is obligated to do whatever the agreement says.
 - c. If you are working as the agent for the buyer, you probably represent your client the best by leaving that verbiage alone.
 - d. If you are the agent working for the seller, you may want to consider the ramifications to the seller if he or she signs the agreement as it is. Let's play what if...
 - i. What if The health inspector shows up and states that the seller will have to replace the entire system. Once the seller gets a few bids, he learns that replacing the system will cost more than the current equity in their home and they do not have enough money in savings to pay for the system.
 1. At this point, the seller is obligated to pay whatever costs involved in replacing the system.
 2. Solutions to this issues are two fold
 - a. Delete lines _____ to _____(enter the appropriate line numbers)
 - b. Or limit the seller's exposure to a dollar value
 - ii. What if.....during the course of going from contract to closing, the seller learns that what he thought was public system was indeed a private subdivision sewer system or private water system.
 1. Does this mean that the seller will be responsible to pay for repairs to these systems as well?
2. Performs and on-site physical inspection of the property.
3. Notifies the client of any problems identified
4. Prepares a report
5. Provides client with items needing attention

Review:

The real estate licensee is like the symphony conductor who guides his musicians to provide the listener with beautiful music, or like a captain on a ship who orchestrates his or her crew to steer the ship in the right direction! The real estate licensee's role is to guide the players in the real estate transaction to work in unison from the very beginning of the transaction guiding the players through every step of the way resulting in a successful real estate closing. The purchase of a home is typically the largest single financial decision Americans make in a lifetime. The licensed real estate agent plays a huge part in this process and can either make or break the deal!

Let's hope this session has given you an insight on how important it is for the real estate licensee to "stay on top of things" throughout the process.

Remember, we are helping consumers make the largest financial decision they tend to make in a lifetime. It is our responsibility to guide the clients through the steps.