

## Guidelines for a Closing Attorney in a Residential Real Estate Purchase

### I. Pre-Closing

1. Determine all conflicts of interests, including but not limited to multiple representation, that need to be disclosed, consented to, and/or waived, and obtain the informed consent of such parties in accordance with the Rules of Professional Conduct
2. Send an engagement letter to the client(s)
3. Review the sales contract
4. Certify the title to the subject property
5. Order a survey of the subject property if the client has elected to have a new survey of the property performed, and if the survey has not already been ordered
6. Review the survey
7. Prepare and/or review the legal description of the subject property
8. Obtain payoff information for all liens affecting the subject property
9. Ascertain the hazard insurance carrier for the purchaser
10. Collect inspection letters for determination by the client of compliance with the sales contract
11. Review the hazard insurance declaration page to ensure the policy dates and loss payee information are satisfactory to the lender
12. Collect the termite letter / HVAC and/or other letters required by the sales contract and/or lender's instructions
13. Either prepare or review the Loan Documents for compliance with the Closing Instructions and applicable laws
14. Either prepare or review the Settlement Statement for compliance with the Contract of Sale, Closing Instructions and applicable laws
15. Either prepare or review and approve any Title Insurance Documents required by Title Insurance Company and/or the South Carolina Department of Insurance, which may include, but are not limited to the following:
  - a. Lien Affidavits
  - b. Title Insurance Disclosure Form SC-305
  - c. Survey Affidavit
  - d. Privacy Disclosure
  - e. Insured Closing Letter
16. Either prepare or review the deed prepared by the Seller's attorney for accuracy, completeness and suitability to the transaction
17. Review any Power of Attorney to be used in connection with the transaction for compliance with the Lender's and the Title Insurer's requirements and applicable laws
18. Review for compliance with the Closing Instructions and applicable laws any other applicable Closing Documents, which may include, but are not limited to the following:
  - a. Internal Revenue Service Form 1099
  - b. Non-Foreign Person Affidavit

- c. Seller's Affidavit regarding South Carolina Withholding Tax and/or South Carolina Department of Revenue Form I-290
- d. Notice of Eligibility for 4% Tax Assessment
- e. Seller's Affidavits
- f. Credit Line Closure Authorization

## II. Closing

1. Explain to the buyer/borrower the closing documents, which may include, but are not limited to the following:
  - a. Disclosure and consent to multiple representation
  - b. Deed
  - c. Loan documents, specifically noting the following provisions, as applicable:
    - i. Prepayment Penalties
    - ii. Late Payment Penalties
    - iii. Loan Assumption Rules
    - iv. Due on Sale Clause
    - v. Judicial Foreclosure
    - vi. Events of Default
    - vii. Annual Percentage Rate
    - viii. Interest Rate, and if the loan has an adjustable rate, point out that fact.
    - ix. Term of the Loan
    - x. Maturity Date
    - xi. Date the First Payment is Due
    - xii. Payment Location
    - xiii. Transfer of Loan Servicing Rights
2. Supervise the proper execution of the closing documents that are executed at the closing
3. Collect the closing funds and verify that all closing funds are properly deposited into the closing attorney's trust account in accordance with the Rules of Professional Conduct
4. Disburse all of the closing funds in accordance with the Settlement Statement
5. Supervise the recording of the recordable closing documents

## III. Post-Closing

1. Perform the final title update, which includes but is not limited to the following items:
  - a. Verify that the documents were recorded with the correct priority
  - b. Verify that the documents were indexed properly
  - c. Verify that all liens that were paid in connection with the transaction are satisfied of record
2. Issue the final title opinion
3. Transmit all applicable documents to the appropriate parties