



BUYING A HOME



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Buying a home is a big step. Whether you are buying your first home or upgrading your current home, there are many issues that you need to think about to make sure that you are ready to make such a big purchase. Buying a house is complicated, but it does not have to be overwhelming. First, you should consider seeing an attorney for legal advice. The job of your attorney is to look out for your interests. Second, if you are thinking about buying a house, and you haven't started saving money for the down payment, you should consider ways to start saving money and begin putting money aside for your down payment.

There are two major questions that you should consider right away: What can you afford? What kind of property is right for you?

What can you afford?

We have all thought about our perfect dream house. Most of us know what kind of house we want, how many rooms we want to have and the type of furniture we want in our dream house. However, your perfect house may not be perfect for your bank account. Before you even begin looking at houses, you need to establish a price range. Don't even look at houses that aren't in your price range. There are three main steps to establish a price range. You should:

- Do your homework. Gather all the basic information about your income, existing debts and credit history.
- Meet with a lender—bank, mortgage company, or credit union—to find out how much you can borrow.
- After determining how much you can borrow, add the amount of savings you will use for the down payment to determine your price range (down payment + loan = sales price). When saving money for the down payment, you want to make sure that you save a little extra than the amount you would like to put down on the house. You will need this money to go toward the closing costs of the purchase. The closing costs include, but are not limited to: discount points, inspections, a survey, fire insurance, property taxes, interest, and escrow accounts set up to pay future taxes and insurance. An attorney can explain all these costs and documents to you if you have any questions.

What kind of property is right for you?

When most people think of buying a home, their minds automatically jump to their monthly mortgage payment. However, the mortgage payment is not the only cost of the home. Based on the type of house you purchase and the location of the house, there could be additional built-in fees. You should consider the following fees: Mandatory neighborhood dues for swimming pools, tennis courts, playgrounds and



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landscaping. With condos, townhouses, and homes in subdivisions, you should find out about the association fees – how much and what is covered in the fees?

Once you have your down payment, consider your price range and property, and find your dream home, you are ready to enter into the process of purchasing your home. This home-buying process includes the following:

- Making an offer
- Signing the paper work
- Getting ready for the closing
- Attending the closing
- Signing the papers at the closing
- Owning your home

Making an Offer

You really need to think long and hard before you make an offer. You want to ensure that you are ready to purchase this house. You need to make sure you have the funds to pay for the house and that the house is the one that you truly want. In order to make an offer you or your Realtor or attorney will need to prepare a sales contract. This sales contract is a legally binding document. You need to make sure that you fill the sales contract out completely. Every blank is important. The sales contract contains a lot of important information, so it is important that you meet with an attorney to go over the sales contract if you have questions or do not understand any of the information contained in the sales contract. You will need to provide the following information in the sales contract:

- A legal description of the property you want to buy
- The sales price you are willing to pay
- The amount of earnest money and who will hold it
- The method of financing
- Amount of financing
- Who will pay the closing costs and how much
- When the seller will move out and the buyer move in
- Amount of the real estate commission
- Deadline for the closing
- Whether the buyer can back out or require repairs if an inspection reveals problems with the house
- Whether any portable items such as curtains, blinds, wing sets, grills, refrigerator, washer, dryer, etc., stay with the house
- Who will provide and pay for a termite inspection letter
- Who will pay for repairs (if any)

Signing the Paperwork

Are you really ready? When the seller signs your offer, with no changes, you have an accepted and binding contract. There's no going back without financial and legal consequences. This is why it is so important that you consult with an attorney if you do not understand the documents that you are signing.



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Getting Ready for the Closing

The closing is when the seller actually transfers the title to the name of the buyer. The buyer signs all loan papers and makes the down payment for the property. Usually the closing takes place at an attorney's office. The party paying closing costs pays the closing attorney. It is important to remember that the closing attorney typically represents the lender, NOT you or the seller.

The closing date and time will be coordinated once you have an accepted contract and an approved loan. The lender and the closing attorney will provide you with a list of documents that you need to bring to the closing; however, the following is a list of documents that you will most likely have to provide:

- Cashier's check of the down payment and other buyer costs (based on an estimate provided by the lender)
- Insurance policy and a bill or paid receipt – homeowners insurance must be purchased prior to closing
- Any paperwork required by the lender
- Photo identification (driver's license)
- All parties who must sign loan papers, such as a spouse or parents

If you want a land survey of the property, you need to let the closing attorney know at least a week before the closing. Although some lenders do not require you to have a survey, a current survey is good to have because it shows the location of the house and other improvements such as fences, garages, driveways, decks, and walkways on the property.

Attending the Closing

Usually the buyer(s), seller(s), lender and the closing attorney will attend the closing.

Before the closing, you will need to think about whether you want to purchase owner's title insurance. If you decide to purchase the insurance, you will need to do so at the closing. Owner's insurance is optional, but it guarantees that you have a marketable, insured title to the property. While optional, the title insurance is strongly encouraged. You will buy the insurance at the closing through the closing attorney.

Papers Signed at Closing

- Promissory Note – Formal "IOU" showing the loan amount, interest rate and term of the loan
- Deed of Trust (or Security Deed) – Mortgage document that is recorded in the courthouse records showing the amount and term of the loan; this document gives the lender the right to foreclose if the loan isn't paid back
- Warranty Deed – Seller signs this document to convey the title to the buyer; the warranty deed contains the exact legal description of the property and is recorded in the county courthouse where the land is located
- Closing Statement – Shows all financial terms of the transaction, including how much money both the seller and Realtor receive, as well as the exact amount the buyer must pay at closing



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- Truth in Lending Statement – Identifies the annual percentage rate (loan interest rate plus the finance charges paid by the buyer); it also shows the total amount paid back over the term of the loan
- Aggregate Escrow Disclosure – Shows the calculation of how much money you need to establish in your escrow account to pay next year's property taxes and insurance renewals
- Various Affidavits – Includes a series of documents in which the buyer promises that he is still employed, he plans to occupy the house, he agrees to sign or initial corrections or additional papers later, he promises that there are no side agreements between the buyer and the seller, and that the down payment has not been borrowed; the seller also will sign an affidavit that he is not aware of any unpaid liens or title disputes

Taking Title to the Property

If you buy the property with another person, there are several ways you can choose to own the property:

- Joint tenants with right of survivorship – upon the death of one owner, the surviving owner has 100% ownership; this means that the property cannot be left to anyone in a will and is not included in the deceased owner's transferable estate
- Tenancy in common – the owners each own part of the property, and they may designate who receives their share upon their death
- Tenancy by the entirety – a type of ownership available only to married couples in North Carolina and other states that recognize this type of conveyance; similar to joint tenancy, upon the death of one owner, the survivor has 100% ownership; however, there are additional features of this type of ownership, such as one tenant acting alone cannot pledge the property as security for a debt

The BIG Question: Why do you need an attorney when you are buying a house?

The lender considers his best interest. The seller considers his best interest. You, as the purchaser, need to consider your best interest. Having an attorney allows the attorney to consider your interests and to do what works best for you. Buying a house is a long and complex process. There are a lot of forms that are involved, there is a lot of information that you must submit and a lot of information that you will receive. When you purchase a home, you are entering into a legally binding contract. Thus, you do not want to sign any documents or forms that you do not understand. An attorney can assist you in understanding these forms and can explain the home-buying process to you.