



## WELCOME!

Congratulations on your decision to sell your property! Although accepting an offer is a major step and the “beginning of the end,” there are several milestones and deadlines that must occur before you can finally convey the property to a Buyer and (hopefully) receive any sales proceeds that may be coming your way. Please look through the enclosed packet to educate yourself generally about a residential real estate transaction from the Seller’s perspective.

Before you begin, you should be aware of a few quickly approaching deadlines that are in a typical Seller transaction, all counted from the “Acceptance Date” or “Effective Date” of a contract—that is, the date that you (as the Seller) officially sign and date an identical copy of the formal written offer from the Buyer. In order to maximize your likelihood of success, please keep these very early deadlines in mind and find your professional support team as early as possible:

- **5 Business Days: Attorney Review/Modification Deadline.** Find a real estate attorney BEFORE accepting an offer, and include the attorney’s information on the signature page of the contract.
- **5 Business Days: Inspection Deadline.** Be ready to make your property available, as the Buyer has a right to send in a home inspector.
- **5 Business Days: (If Applicable) Order HOA Documents.** If you live in an HOA or other development, most contracts require that you (or your attorney) order certain documents for the Buyer.

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- Glossary of Terms

**Please be aware that this packet is for general educational purposes only, and individual situations may vary. Contact our office today if you wish to retain our services and receive specific legal counsel on your particular transaction.**

Sincerely,

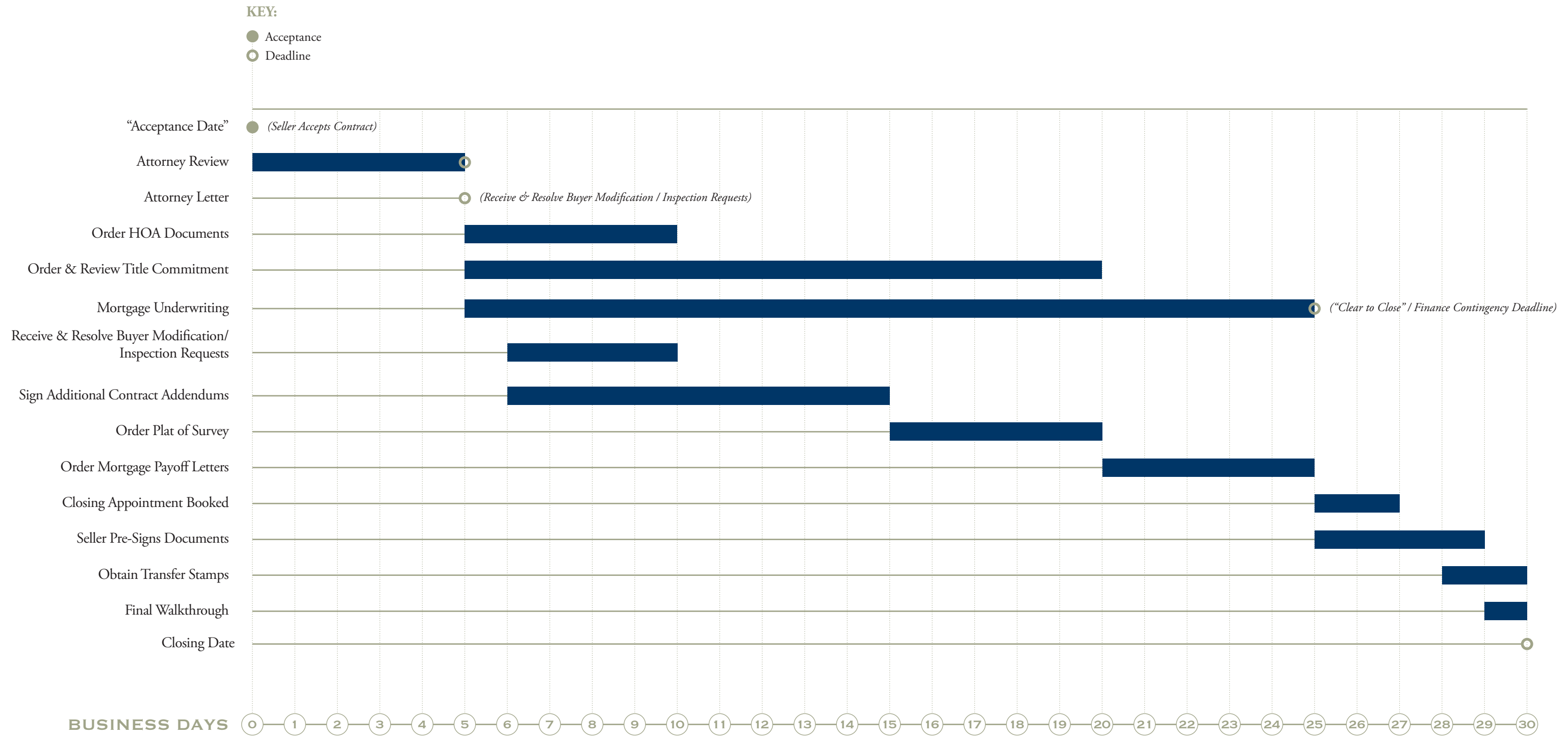
**LAWRENCE K. LAVANWAY, ESQ., OF COUNSEL**  
THE LAW OFFICE OF  
LOFGREN & WENTWORTH, P.C.



536 CRESCENT BLVD.  
SUITE 200  
GLEN ELLYN, ILLINOIS 60137

P 630.469.7100  
F 866.559.2757  
E [llavanway@elrlaw.com](mailto:llavanway@elrlaw.com)  
W [www.elrlaw.com](http://www.elrlaw.com)

WHAT HAPPENS: CONTRACT TO CLOSING FROM THE SELLER’S PERSPECTIVE





THE LAW OFFICE OF  
LOFGREN & WENTWORTH, P.C.

## ABOUT YOUR TRANSACTION SELLING A HOME



### CONGRATULATIONS!

Accepting an offer on your property is a major step, but it isn't the last. Now that you have a signed contract, the transaction has entered a new phase. Think of it as a baton passing to a new runner in a relay race—in this case, from your real estate agent to an attorney that you have hired. Although your agent will still work within the team along with other potential professionals such as home repair specialists, from now on, you will most likely be working with an attorney as your main point of contact.

Over the next several weeks, there will be additional hurdles to clear before your property is finally conveyed to the Buyer.



The different hurdles include:

#### HOME INSPECTION/ATTORNEY NEGOTIATION/ASSOCIATION DISCLOSURE PHASE

Typically in Chicagoland, the original sales contract you signed will allow for **only FIVE business days** for the Buyer to send in home inspectors, as well as send a letter over to your attorney requesting any changes to the contract language itself (other than the purchase price of the home). Similarly, as the Seller you will also have **just FIVE business days** to retain an attorney in order to send the Buyer your own contract modification requests, and to respond to their incoming Buyer attorney/inspection letter. Please note—other than purchase price, your attorney can request modifications to any other part of the contract. Therefore, when signing an offer, **please do NOT make any changes on the contract so long as you agree on the purchase price**. Your attorney will be able to make any requested changes during this phase.

Once the attorney letters are exchanged (if any), the sales contract usually allows for another five-business-day period for the parties to negotiate back and forth regarding the items requested in the original letter. This is the time to be flexible with the other side, as usually the topics covered deal with a few hundred or a few thousand dollars of cost (home repairs, etc.)—rather than the tens of thousands of dollars when you were negotiating the overall purchase price of the home. If the parties are not in WRITTEN agreement **within TEN business days** of the original Acceptance Date of the contract, typically the contract allows either party at that point to terminate the contract due to an inability to agree on home inspection or attorney modification issues.

If your property is in a homeowner or other type of association, you will also have to provide “Association Disclosure Documents” to the potential Buyers of the property. If you can get your hands on hardcopies or PDF versions of the background documents (Declarations, Bylaws, Rules & Regulations, etc.) it will save time and money. Some of the documents



required to sell your property will require fees paid to third parties, such as homeowner associations, title companies, and survey companies.

### **CLEARANCE OF TITLE ISSUES**

Once a title commitment is ordered for your property, it is possible you will have to work with your attorney to assist in clearing off clouds on the title to your property, such as liens or other ownership questions. The faster you respond to requests from your attorney, the quicker a clean title commitment can be issued to the Buyer.

### **MORTGAGE CONTINGENCY PHASE**

Most sales contracts require the Buyer to diligently apply for a mortgage within five business days of the Acceptance Date of the contract. The mortgage goes into “underwriting” and has a contractual deadline stated in the contract called the “mortgage contingency date” where—if it is not a cash deal—the Buyer will need to prove to the Seller that their mortgage company has 100% agreed to fund the transaction.

### **PRE-SIGNING DOCUMENTS, FINAL WALKTHROUGH & LINGERING ISSUES**

Once the home is deemed “clear to close” by the Buyer’s lender (if not a cash deal), and once a clean title commitment and home inspection/attorney modification issues have been addressed, a final Closing Date can be booked for the sale of the property. At this point, any final issues must be addressed, such as determining final net proceeds if any. If you are “under water” on your home, you will need to arrange to bring money to the closing table.

Sometimes there are smaller lingering issues relating to home repairs or other side transactions (sale of patio furniture, etc.) that must be addressed either immediately to or at the closing table. The Buyer will likely do a final walkthrough of the property right before the closing. You should move entirely out of the property well in advance of the final walkthrough, and perhaps have the property professionally cleaned. You should also re-examine your contract to ensure that any personal property you agreed to leave behind (appliances, window treatments, etc.), still remain in the home. This avoids any last minute arguments that could hold up an otherwise smooth closing.

If desired, you may not have to attend the closing. So long as the other outstanding issues have been satisfied, most attorneys allow the Seller to “pre-sign” documents that enable the attorney to represent the Seller at the closing.

### **POST-CLOSING ISSUES & REPRESENTATION**

Once the closing has been completed, you will receive a net proceeds check (if any), along with copies of the most important documents in the transaction. TYPICALLY, attorneys only represent you for the sales transaction itself, and not for any breach of contract or post-closing disputes. That is because if a cancelled closing becomes litigious in nature, your attorney could become a material witness in the case. If such a situation arises, your transactional attorney will be happy to refer you to a litigation specialist.

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**Call The Law Office of Lofgren & Wentworth, P.C. today to schedule a time to meet with one of our attorneys about the purchase of your new home.**

*Remember, we do not represent you until you sign an engagement letter with our firm.*



## TIPS FOR A SMOOTH TRANSACTION

There are many hurdles to clear when buying or selling real estate. Here are some tips to help speed things along and to help avoid potential pitfalls:

- **BE FLEXIBLE.** The time for hard-nosed negotiations over the price or quality of the home is before you sign the real estate contract. Once the contract is signed, usually only minor issues are negotiated. **You must be flexible in your closing dates and other logistical arrangements, as Closing Dates CAN change due to lender underwriting, logistical complications, other contingency delays.** Sales fall apart even though all parties have acted appropriately.
- **DO YOUR HOMEWORK.** Whether buying or selling real estate, it is important to “crunch the numbers” and conduct other due diligence before you enter a real state contract. If you are buying, are you aware of all the lending and closing costs? If you are selling, do you know what you still owe on your mortgage, or do you have outstanding tax bills or judicial liens on the property? Have you factored in the real estate agents’ commissions?
- **BE DECISIVE.** Once contracts are signed and home inspection/attorney review periods are over, there is only a very limited ability to change the transaction after-the-fact. If you get cold feet half way through the transaction, depending on the reason, it may be too late to turn back.
- **BE PROMPT.** Be sure to comply right away with requests from your lender (if buying) and your attorney for additional documentation. If you want the transaction to go forward, they will need the requested information eventually. The sooner you give it to them, the sooner the rest of the transaction can continue.
- **GATHER REQUIRED DOCUMENTS EARLY.** Some documents are almost always requested if you are selling a property. If you belong to a condo or homeowners association, work with your listing agent now to gather standard “22.1 Disclosure Documents”—Bylaws, Rules & Regulations, etc.—and make sure you are 100% paid up on your assessments.
- **BE HONEST.** If you are untruthful in making representations to your lender (if buying) or to the Buyer (if selling), there is a good chance that the truth will come out eventually. Being untruthful during the course of a real estate transaction is illegal and could incur severe legal consequences.
- **RELAX.** Although the experience of buying or selling a home can be a roller-coaster of emotions, breathe easy knowing that tens of thousands of properties change hands in Illinois each year. You are working with professionals who will be happy to answer any questions or address any anxieties you might have.

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## FREQUENTLY ASKED QUESTIONS

**Q Are you my lawyer right now? How do I hire you? How much do you charge?**

**A** No. This information packet is for general educational purposes only. It is not intended to be specific legal advice for your particular transaction. The information in this packet does not constitute an invitation for an attorney-client relationship. **No such relationship will be created between you and our firm until you have received and signed an engagement letter from us.** We charge a flat-fee rate for all residential real estate closings, but that fee varies with different factors, such as the anticipated complexity of the transaction.

**Q How much should I expect to pay in closing costs and other transaction fees?  
Will I have to bring money to the closing table?**

**A** Loan origination, home inspection, and attorney fees can all add up—usually into the several thousands of dollars. If you are a Buyer, the best person to answer that question is your mortgage lender. They will give you legally required disclosures, but also make sure to ask what a conservative “bottom line” estimate will be for you to bring to the closing table.

If you are a Seller, you will be responsible for paying various closing costs such as agent commissions and real estate tax pro-rations. Before listing your home, **it is strongly recommended that you go over the numbers with your listing agent to get a conservative estimate of your “net proceeds” after all the various fees are paid.**

**Q How long does this process usually last?**

**A** Real estate transactions can go from contract to closing in less than 30 days in some circumstances, or as long as 6+ months for some short sales. Much depends on whether the Buyer is borrowing money and how long the underwriting process takes. Most transactions are closed within 60 days if there are no significant complications.

**Q Is the Closing Date guaranteed?**

**A** Although both parties must put forth a good-faith effort to adhere to the contracted Closing Date, these dates can and do get modified. The most common reasons for delays in the Closing Date are complications in the lending underwriting process and federally required disclosure periods. In addition, the more additional contingencies are built into the contract (for example, a sales contingency wherein one party must first sell their existing home to purchase another), the greater the risk that one delay can create a chain reaction and delay subsequent closings.



**Q A friend of mine said they did their real estate transaction without a real estate agent or an attorney. Can I do that to save money?**

**A** In several other states, as well as in some areas outside of Chicagoland, people do transfer real estate without the help of real estate agents or attorneys. However, it is not recommended. Particularly in Chicagoland, real estate transactions are very labor intensive and involve a lot of paperwork. There are several pitfalls that could ruin a transaction if not addressed properly. In addition, going without an agent or attorney will leave you without a fiduciary professional during the transaction. Title companies, escrow agents, and lenders do not have a legal obligation to act in your best interests. Attorneys do.

**Q I am thinking of buying or selling a distressed property (foreclosure, REO, Short Sale). How is this different than a traditional transaction?**

**A** Generally speaking, when you are buying a distressed property, the seller is often a large company, bank, or governmental entity. As the Buyer, your negotiating power is very small, and the ability to modify the contract is greatly reduced. In addition, most institutional sellers force additional costs onto the buyers that are normally paid for by traditional sellers—municipal transfer taxes, plats of survey, past due HOA fees, etc. This can also include daily fees for extending deadlines.

If you are buying or selling a short sale property, be prepared for a substantially longer turn-around time. This is because the lender holding the seller's mortgage must also approve the purchase price and all other aspects of the transaction. This extra level of approval can stretch a transaction out for several additional months.

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## REAL ESTATE GLOSSARY OF TERMS

**APPRAISAL** | A written justification of the price paid for a property, primarily based on an analysis of comparable sales of similar homes nearby.

**CHAIN OF TITLE** | An analysis of the transfers of title to a piece of property over the years.

**CLEAR TITLE** | A title that is free of liens or legal questions as to ownership of the property.

**“CLEAR TO CLOSE” LETTER** | The final letter from a lender confirming that all underwriting is complete, and that the borrower is authorized to schedule the Closing.

**CLOSING** | The final meeting where all of the documents are signed and money changes hands to convey ownership of the property.

**CLOSING COSTS** | Closing costs are the associated overhead costs of conveying property, such as attorney fees, title insurance, property tax proration credits, real estate agent commissions, etc. A lender makes an attempt to estimate the amount of non-recurring closing costs and prepaid items on the Good Faith Estimate which they must issue to the borrower within three days of receiving a home loan application.

**CONTINGENCY** | A condition that must be met before a contract is legally binding. For example, Buyers often include a contingency that specifies that the contract is not binding until the purchaser obtains a satisfactory home inspection report from a qualified home inspector.

**DEED** | The legal document conveying title to a property.

**EARNEST MONEY** | A deposit made by the potential Buyer to show that he or she is serious about buying the house.

**EASEMENT** | A right of way giving persons other than the owner access to or over a property.

**ENCUMBRANCE** | Anything that affects or limits the fee simple title to a property, such as mortgages, liens, leases, easements, or other restrictions.

**ESCROW** | An item of value, money, or documents deposited with a third party to be delivered upon the fulfillment of a condition.

**FEE SIMPLE TITLE** | Owning a property with a legal right to sell or otherwise divest the property fully to another individual.

**FORECLOSURE** | The legal process by which a borrower in default under a mortgage is deprived of his or her interest in the mortgaged property. This usually involves a court-ordered sale of the property at public auction with the proceeds of the sale being applied to the mortgage debt.

**GRANTEE** | The person to whom an interest in real property is conveyed.





**GRANTOR** | The person conveying an interest in real property.

**HOME INSPECTION** | A thorough inspection by a professional that evaluates the structural and mechanical condition of a property. A satisfactory home inspection is often included as a contingency by the Buyer.

**HOMEOWNERS' ASSOCIATION** | A nonprofit association that manages the common areas of a planned unit development (PUD) or condominium project. In a condominium project, it has no ownership interest in the common elements. In a PUD project, it holds title to the common elements.

**JOINT TENANCY** | A form of ownership or taking title to property that means each party owns the whole property and that ownership is not separate. In the event of the death of one party, the survivor owns the property in its entirety.

**LIEN** | A legal claim against a property that must be paid off when the property is sold. A mortgage or first trust deed is considered a lien.

**MORTGAGE** | A legal document that pledges a property to the lender as security for payment of a debt.

**MORTGAGE INSURANCE** | Insurance that covers the lender against some of the losses incurred as a result of a default on a home loan. Often mistakenly referred to as PMI, which is actually the name of one of the larger mortgage insurers. Mortgage insurance is usually required in one form or another on all loans that have a loan-to-value higher than eighty percent.

**NOTE** | A legal document that obligates a borrower to repay a mortgage loan at a stated interest rate during a specified period of time.

**PRINCIPAL, INTEREST, TAXES, AND INSURANCE (PITI)** | The four components of a monthly mortgage payment on loans with escrow accounts. Principal refers to the part of the monthly payment that reduces the remaining balance of the mortgage. Interest is the fee charged for borrowing money. Taxes and insurance refer to the amounts that are paid into an escrow account each month for property taxes and mortgage and hazard insurance.

**RATE LOCK** | A commitment issued by a lender to a borrower or other mortgage originator guaranteeing a specified interest rate for a specified period of time at a specific cost.

**REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA)** | A consumer protection law that requires lenders to give borrowers advance notice of closing costs.

**SHORT SALE** | The sale of a property that is “under water” but is authorized by the Sellers’ lender to sell for less than the outstanding amount still due on the mortgage. Short sales often take much longer to complete because the Sellers’ lender (usually a large bank) must approve every step of the transaction.

**TENANCY IN COMMON** | As opposed to **joint tenancy** or **tenancy by the entirety**, when there are two or more individuals on title to a piece of property, this type of ownership does not pass ownership to the others in the event of death.

**TENANCY BY THE ENTIRETY** | Available only to married couples for their primary residence, this designation is similar to Joint Tenancy, but has extra protections for the non-debtor spouse from creditors of the debtor-spouse and has the added benefit of avoiding probate in the event of the death of a spouse.



**TITLE** | A legal document evidencing a person's right to or ownership of a property.

**TITLE INSURANCE** | Insurance that protects the lender (lender's policy) or the Buyer (owner's policy) against loss arising from disputes over ownership of a property.

**TITLE SEARCH** | A check of the title records to ensure that the Seller is the legal owner of the property and that there are no liens or other claims outstanding.

**TRANSFER STAMPS** | Stamps required to be purchased from the municipality where the property is located and affixed to the deed before the county will allow it to be recorded as evidence that the Transfer Tax has been paid.

**TRANSFER TAX** | State and county taxes payable when title passes from one owner to another. The Seller typically pays these taxes.

**TRUTH-IN-LENDING** | A federal law that requires lenders to fully disclose, in writing, the terms and conditions of a mortgage, including the annual percentage rate (APR) and other charges.

**UNDER WATER** | A property that has a fair market value that is lower than what the owner still owes on the mortgage.