

## 1 ☐ Real Estate Principles of Georgia

### Lesson 15:

## Closing Real Estate Transactions

### 2 ☐ Closing

Closing: Final stage in real estate transaction. Also called **settlement**.

- Buyer pays seller; seller transfers title to buyer.

In Georgia, all parties involved in transaction meet in person to close transaction.

### 3 ☐ Closing

#### Face-to-face closing

Face-to-face closing: Seller and buyer meet in person to sign papers, exchange deed, and transfer funds.

- Conveyance including transfer of title is considered practice of law, so closing must be handled by an attorney.

### 4 ☐ Closing

#### Role of closing attorney

- ▶ Prior to closing, the closing attorney is responsible for:
  - examining property's title and clearing any defects;
  - ordering a survey and/or inspections,
  - paying off existing loans,
  - preparing documents such as the deed and title insurance paperwork,

### 5 ☐ Closing

#### Role of closing attorney

- receiving funds from the buyer (and seller, if necessary),
- requesting funding of buyer's loan,
- prorating expenses and allocating costs, and
- preparing a Uniform Settlement Statement.

Following closing, the attorney records the deed and issues the title insurance policy.

### 6 ☐ Closing

#### Role of parties

- ▶ The buyer must:
  - make sure good funds needed for closing are available.
  - Usually, the buyer's lender will bring check for the seller, and promissory note and mortgage for buyer to sign.

### 7 ☐ Summary

#### Closing

- ▶ Face-to-face closing
- ▶ Role of closing attorney
- ▶ Role of parties
- ▶ Role of real estate agent

## 8 ☐ **Closing Costs**

Closing costs: Fees, charges, and expenses typically paid at closing.

- May be paid by buyer or by seller, or shared by both parties.

## 9 ☐ **Settlement Statements**

Closing attorney prepares settlement statement for each party when sale is ready to close.

- For most home sales, closing attorney uses **Uniform Settlement Statement** form.

## 10 ☐ **Prorations**

Expense must be **prorated** if one party is responsible for only part of it.

- Closing attorney calculates share that must be paid by or refunded to that party.  
May need to be prorated:
  - property taxes
  - mortgage interest
  - insurance premiums
  - rent

## 11 ☐ **Prorations**

Example: If seller paid property taxes in advance, she is entitled to prorated refund of taxes paid.

- If taxes are in arrears, seller must pay a prorated share of owed taxes at closing.

## 12 ☐ **Prorations**

### **3 steps**

Three steps to prorating expense:

1. Calculate daily rate of expense (per diem rate).
2. Determine number of days party is responsible for expense.
3. Multiply number of days by per diem rate to determine that party's share of expense.

## 13 ☐ **Prorations**

### **Step 1: Per diem rate**

To find per diem rate:

- Annual expense: divide by 365 days

Alternative to simplify calculations:

- 360-day year for loans

## 14 ☐ **Prorations**

### **Steps 2 and 3**

Count number of days between closing date and beginning or end of month in

which closing will occur.

Multiply per diem rate by number of days.

- This gives you the party's prorated share.

#### 15 **Settlement Statements**

##### **Allocation of credits and debits**

Allocation of expenses depends on purchase agreement terms and local custom.

▶ Purchase price	Buyer's debit,	Seller's
credit		
▶ Earnest money deposit	Buyer's credit	
▶ Financing	Buyer's credit	

#### 16 **Settlement Statements**

##### **Allocation of credits and debits**

▶ Appraisal fee	Buyer's debit
▶ Credit report	Buyer's debit
▶ Origination fee	Buyer's debit
▶ Discount points	Buyer's debit
▶ Mortgage insurance	Buyer's debit

#### 17 **Settlement Statements**

##### **Mortgage interest**

Two types of interest usually prorated at closing:

- final interest payment on seller's loan (debit for seller) (Accrued interest)
- prepaid interest for buyer's loan (debit for buyer) (Adjusted interest)

#### 18 **Settlement Statements**

##### **Prepaid interest**

Buyer's first mortgage payment isn't due on first day of month after closing, but on first day of following month.

- First mortgage payment doesn't cover interest accruing from closing date until end of the closing month.
- Buyer must pay that interest, which is called **prepaid interest**, at closing.

#### 19 **Settlement Statements**

##### **Hazard and title insurance**

Hazard insurance is paid for in advance.

- The buyer pays for the first year's policy at closing.

The lender's title insurance premium may be a debit to either the buyer or seller.

#### 20 **Settlement Statements**

## Prorating Property Taxes

Property taxes are:

- seller's responsibility up to closing date
- buyer's responsibility from closing date forward

21  **Settlement Statements**  
**Prorating Property Taxes**

22  **Settlement Statements**  
**Property tax year**

Property tax payments may be divided into installments.

Tax years vary from county to county and are not necessarily same as calendar year.

23  **Settlement Statements**  
**Prorating rent**

When income property is sold, it may be necessary to prorate rent.

- Rent is prorated income, rather than a prorated expense.
- If rent is paid in advance, seller must give buyer a prorated share of the collected rent at closing.
- Security deposits are not prorated.

24  **Settlement Statements**  
**Allocation of credits and debits**

- ▶ Inspection fees            Debit to buyer
- ▶ Survey                      Debit to buyer
- ▶ Intangibles tax            Debit to buyer
  - \$1.50 per \$500 (round up)

(Any of these costs are negotiable between buyer and seller.)

- ▶ Transfer tax                Seller's debit
  - \$0.10 per \$100 (round up)

25  **Settlement Statements**  
**Allocation of credits and debits**

- ▶ Attorney's fees            Debit for both                      parties
- ▶ Recording fee              Debit for both                      parties
- ▶ Closing fee                 Debit for both                      parties

26  **Settlement Statements**  
**Reserves**

- ▶ The buyer may be required by the lender to keep reserves in a reserve account (or impound account).
  - The buyer will make an initial deposit into the account at closing.
- ▶ Covers recurring costs, such as property taxes, insurance, and homeowners

association fees.

27 ☐ **Settlement Statements**

**Allocation of credits and debits**

- ▶ Sales price Seller’s credit
- ▶ Hazard insurance refund Seller’s credit
- ▶ Property taxes refund Seller’s credit
  
- ▶ Seller financing Buyer’s credit  
Seller’s debit

28 ☐ **Settlement Statements**

**Allocation of credits and debits**

- ▶ Seller’s loan payoff Seller’s debit
- ▶ Prepayment penalty (if any) Seller’s debit
- ▶ Sales commission Seller’s debit
- ▶ Owner’s title insurance Buyer’s debit

29 ☐ **Prorating Interest**

**Seller’s final interest payment**

Mortgage interest is paid in arrears, so seller’s last mortgage payment did not include interest for month in which closing will take place.

- Seller must pay this interest at closing.

30 ☐ **Settlement Statements**

**Allocation of credits and debits**

- ▶ Transfer tax Seller’s debit
  
- ▶ Transfer tax is paid to clerk of county where property is located. Tax rate is \$0.10 per \$100.00 of sales price.

31 ☐ **Summary**

**Proration and cash at closing**

- ▶ Settlement statement
- ▶ Credits
- ▶ Debits
- ▶ Proration
- ▶ Per diem rate
- ▶ Prorating taxes
- ▶ Prorating hazard insurance
- ▶ Prorating interest

32 ☐ **RESPA**

**Real Estate Settlement Procedures Act** affects how closing is handled in residential transactions.

It's intended to:

- provide buyers with closing cost information to help them shop around for settlement services
- eliminate kickbacks

33  **Transactions Subject to RESPA**  
**Federally related loans**

RESPA applies to any federally related loan transaction that is not exempt.

- Loan is federally related if it meets two requirements.

34  **Transactions Subject to RESPA**  
**Federally related loans**

1. Loan is secured by mortgage or deed of trust against:

- property on which there is (or on which loan proceeds will be used to build) a dwelling with four units or less,
- condominium unit or co-op apartment, or
- mobile home,

**AND**

35  **Transactions Subject to RESPA**  
**Federally related loans**

2. Lender:

- is federally regulated,
- has federally insured accounts,
- is assisted by federal government,
- makes loans in connection with federal program,
- sells loans to Fannie Mae, Ginnie Mae, or Freddie Mac, or
- makes real estate loans totaling more than \$1,000,000 per year.

36  **Transactions Subject to RESPA**  
**Federally related loans**

Almost all institutional home loans are therefore covered by RESPA.

- RESPA doesn't apply to seller-financed transactions.

37  **RESPA**  
**Exemptions**

Loan is exempt from RESPA if it's used:

- ▶ to purchase 25 acres or more
- ▶ primarily for a business, commercial, or agricultural purpose
- ▶ to purchase vacant land (unless a 1- to 4-unit dwelling or a mobile home will be put on it)
- ▶ as temporary financing (e.g., a construction loan)
- ▶ Also exempt: assumption if lender's approval is neither required nor obtained.

38  **RESPA**  
**Requirements and prohibitions**

1. Within 3 business days of loan application, lender must give loan applicant:
  - HUD booklet that explains RESPA, closing costs, and settlement statements
  - good faith estimate of closing costs
  - mortgage servicing disclosure statement

39  **RESPA**

**Requirements and prohibitions**

2. Closing attorney must itemize closing costs on Uniform Settlement Statement.
  - Statement must be given to buyer, seller, and lender on or before closing date.
  - Buyer (borrower) must be allowed to inspect statement at least one business day before closing.

40  **RESPA**

**Requirements and prohibitions**

3. Lender may not require excessive deposits into reserve or impound account.

41  **RESPA**

**Requirements and prohibitions**

4. Lenders or providers of settlement services can't:
  - pay referral fees or kickbacks for referring customers to them
  - accept unearned fees (for services not actually provided)
  - charge fee for preparation of:
    - Uniform Settlement Statement
    - escrow account statement
    - Truth in Lending Act disclosure form

42  **RESPA**

**Requirements and prohibitions**

5. Seller may not require buyer to use a particular title company.

43  **Summary**

**Federal Laws and Closing**

- ▶ 1099 reporting
- ▶ FIRPTA
- ▶ RESPA
- ▶ Federally related loan
- ▶ RESPA exemptions
- ▶ RESPA requirements and prohibitions