

dollar amounts are correct, and all charges are included.

- ◆ **Transfer Taxes.** Michigan imposes two transfer taxes upon the seller of real estate, payable when the deed is recorded. The county transfer tax is \$.55 per \$500 of value. The state transfer tax is \$3.75 per \$500 of value.
- ◆ **Real Property Taxes and Assessments.** The purchase price is usually adjusted to give the seller credit for prepaid real estate taxes, and give the buyer credit for unpaid taxes. Special assessments are either paid in full by the seller or assumed by the buyer. These adjustments should be contained in the closing statement.
- ◆ **Rent for Delayed Possession.** Many times the buyer receives possession of the home at closing. Other times, the seller may remain in the home for a period of time after closing. When this happens, the seller generally pays the buyer rent. Monthly rent usually equals the amount of the buyer's monthly mortgage payment, real property taxes and insurance premiums.
- ◆ **Recording of Deed or Land Contract.** The buyer should make sure that the deed or land contract is recorded with the local county Register of Deeds office promptly after closing.
- ◆ **Bill of Sale.** Just like a deed transfers title to the home, a bill of sale transfers title to appliances and other personal property. Unlike a deed, a bill of sale is not recorded.
- ◆ **Ordering Title Policy.** At closing, the seller usually pays the title insurance premium and orders an owner's policy of title insurance for the buyer. The policy insures that the buyer owns the property.
- ◆ **Property Transfer Affidavit.** The buyer must file a property transfer affidavit with the local assessor's office within 45 days after closing. This affidavit discloses the identity of the seller and buyer, as well as the date of transfer and the purchase price.
- ◆ **Homestead Affidavit.** If you own and occupy the property as your principal residence, you can claim it as your homestead and pay lower real

property taxes. However, to do so, you must file a homestead affidavit with your local assessor.

- ◆ **Insurance.** Everyone should have liability and property insurance on their home. The insurance policy should cover liability matters if someone gets hurt on the property and property damage in the event of a fire or other casualty.
- ◆ **Escrow.** Occasionally the buyer and/or seller cannot perform all of their obligations at the closing. Documents or money (including rent or water charges) may be placed "in escrow" (which means held by a title company, broker or lawyer and not given to the other party) until all conditions are satisfied.

**THIS BROCHURE SHOULD NOT BE  
USED IN PLACE OF LEGAL  
ASSISTANCE. BEFORE SIGNING A  
PURCHASE AGREEMENT, SEEK  
LEGAL ADVICE.**



**REAL PROPERTY LAW SECTION  
STATE BAR OF MICHIGAN**

JULY 2007

©2007 Real Property Law Section  
State Bar of Michigan

## **PURCHASE AND SALE OF A HOME**



The purchase and sale of a home may be the most significant financial decision of your life. This brochure discusses some of the more important aspects of that decision.

### **I – PURCHASE AGREEMENT**

The purchase agreement is the contract between a buyer and seller of a home. The agreement must be written and signed by the buyer and seller, identify the purchase price and describe the property. Before you sign the agreement, make sure it includes everything important to you. An oral agreement is not enforceable.

- ◆ **What You Are Buying.** When you buy a home, you are also buying the land and other structures on the land. The sale may also include household appliances or other personal property.
- ◆ **Offer and Acceptance.** In most home purchases, the buyer makes an offer by signing the agreement and giving it to the seller. The seller can then accept or reject the buyer's offer, or propose changes to the offer. If the parties agree upon all terms of an offer, and both sign

the agreement, then the parties have a binding contract. If the seller makes any changes before signing the offer, the buyer will have to re-sign it.

- ◆ **Deposit.** If the buyer makes a deposit, it is usually held by a real estate agent, title company, lawyer, or the seller. The deposit usually should be returned to the buyer if the seller cannot transfer good title to the property, the home inspection is not satisfactory, the buyer cannot obtain mortgage financing, or another condition is not satisfied.
- ◆ **Financing.** Many buyers go to a bank or mortgage broker to obtain a loan. Sometimes the seller sells the home to the buyer on land contract. With a land contract, the buyer makes a substantial down payment, and pays the seller the balance of the purchase price over time. A third option is for the buyer to sign a lease with a purchase option. This permits the buyer to rent the home for a period of time before deciding whether to buy it. The lease should state if any portion of rental payments will be applied to the purchase price.

## II – CONDITION OF HOME AND PERSONAL PROPERTY

- ◆ **Inspections.** The purchase agreement should give the buyer an opportunity to inspect the property thoroughly before deciding whether to complete the sale. Often a buyer employs a professional inspector to examine the property for structural defects, roof and basement leaks, heating, mechanical, electrical and plumbing problems, pest infestation and environmental matters such as the presence of asbestos, radon or nearby contaminated property. Any well or septic system should be checked to make sure it is in good working order. Some cities require a government inspection of the home for well, septic or possible code violations. A city inspection, however, is not a good substitute for a private inspection.

- ◆ **As Is.** Many purchase agreements provide that a used home will be sold in “as is” condition. This means that, with certain exceptions, the buyer is liable for any problems with the home that are discovered after closing.
- ◆ **Seller’s Disclosure Statement.** Michigan law requires the seller of an existing home to furnish the buyer with a Seller’s Disclosure Statement before the parties execute a binding purchase agreement. A disclosure statement reports what the seller knows about the condition of the property. If the seller provides a disclosure statement after the parties sign the purchase agreement and before closing, the buyer has the right to cancel the agreement within 72 hours.
- ◆ **Lead-Based Paint Disclosure.** If the sale involves a home built before 1978, federal law requires the seller to furnish the buyer with a lead-based paint disclosure form, stating whether the seller is aware of the presence of any lead-based paint in the home. The seller must also provide the buyer with the EPA pamphlet, “Protect Your Family From Lead in Your Home,” and allow the buyer an opportunity to inspect the home for the presence of lead-based paint.

## III – TITLE TO PROPERTY AND HOME

“Title” is the legal term for ownership of property. When you buy a home, you are acquiring title to the home and the property.

- ◆ **Reasons for Title Concerns.** When you buy a home, you want to make sure that you own clear title to the property. Examples of title problems include rights of tenants, unpaid taxes, existing mortgages and land contracts, or dower interests. Title to the property may also be affected by easements or building and use restrictions which limit how the property can be used.
- ◆ **Deed.** A deed is the legal document used to transfer title to property. By using a warranty

deed, the seller guarantees certain things regarding title to the property. A warranty deed is generally used when selling a home. If the seller is a married man his wife must also sign the deed.

- ◆ **Title Commitment.** Before closing, the buyer should receive a title insurance commitment which lists recorded easements, building and use restrictions and liens on the property. If there are any problems with title, the purchase agreement should require that the seller correct those problems before closing.
- ◆ **Survey.** A buyer should obtain a survey to confirm the exact location of the land and improvements. Better surveys will also show the roads, easements and encroachments onto or off of the property.
- ◆ **Land Division.** A land division is the right to lawfully partition or split land into 2 or more separate parcels. If the home is not part of a subdivision or condominium, the purchase agreement and deed should state the number of land divisions the seller is giving the buyer.

## IV – CLOSING

The closing occurs when the buyer pays the seller, and the seller transfers title to the property to the buyer by delivery of a deed or land contract. When the land contract is paid in full, the seller should deliver a deed to the buyer. Most closings are handled by a title company, lender or lawyer.

- ◆ **Closing Statement.** The closing statement is a summary of the amounts paid and received by the buyer, seller and third parties at closing. The closing statement contains the purchase price, adjustments for real property taxes and utilities, broker commissions, transfer taxes, title insurance premiums, mortgage and lien payoffs and other closing adjustments. Buyers and sellers should review the closing statement with particular care to make sure that all