

IV. Writing & Presenting P & S Agreements

Page 23 of the Module II Outline

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Writing & Presenting

A. Writing the Offer to Purchase

- Idaho Association of Realtors® provides forms to members, each with a specific number
- Purchase and Sales Agreement Form (RE-21) & Purchase and Sales Agreement for New Construction (RE-22)

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Writing & Presenting

- Write or type clearly
- Use specific, unambiguous language – no abbreviations
- Fill in all blanks - never assume that everyone understands what you mean
- How will buyers take title?
- And.....

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Writing & Presenting

- Be sure any contingencies are reasonable with specific dates upon which contingency must be removed
- Complete all dates, and ensure dollar amount accuracy
- Obtain signatures from all parties
- Copies of the agreement to all parties

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1. Required Disclosures

- RE-25 [Seller's Property Condition Disclosure](#)

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◆ SELLER'S PROPERTY
CONDITION
DISCLOSURES

- What is covered?
 - Residential real estate up to four dwelling units including mixed use property

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Seller's Property Disclosure

Seller is required to disclose all known defects.
(Property Condition Disclosure Act)

Agent is required to perform all ministerial acts necessary and incidental to representing the seller.
(Brokerage Representation Act)

The two combine to create an obligation on the part of the seller's agent that the seller fully and adequately disclose everything relevant about the property's condition.

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Seller's Property Disclosure

What are the exceptions?

- Transfer under court order. Probate-Bankruptcy-Eminent Domain
- Transfers having to do with foreclosures such as Deeds in lieu.
- Transfers at foreclosures
- Transfers having to do with administration of an estate, guardianship etc
- Transfers between co-owners

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Seller's Property Disclosure

What are the exceptions?

- Transfer to a spouse or to anyone in the lineal line of consanguinity
- Transfer between spouses as a result of divorce, separation
- Transfer between government entities
- New construction never been lived in
- Transfer to someone who occupied the property for one-year prior

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Seller's Property Disclosure

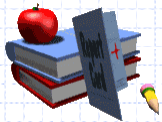
What are the exceptions?

- Transfer from someone who has acquired the property by inheritance but has not occupied the property for one-year prior
- Transfer by a Relocation Company to a transferee within one year from the previous owner's occupation
- Transfer by a decedent's estate

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Seller's Property Disclosure



- ◆ Buyer has the right to escape a transaction, within the statutory time frame, for any reason they don't like what they find on the disclosure

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Required Disclosures

- Builder's Required Disclosure of Mechanics Liens
 - A "General Contractor" must provide a Disclosure Statement (e.g. lien waivers, general liability insurance, extended policies of title insurance, surety bonds, and sub-contractor information).
- [Lead-Based Paint Disclosure](#)
- [HUD Home Inspection Form](#)
- [Adverse Material Facts](#) – Best Practice is in Writing
- Buying or Selling for Your Own Account ([IREC Guideline #24](#))
- Disclosure of Transaction Fees ([IREC Guideline #5](#))
- Additional Services (RE-28)

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2. Handling Earnest Money or Other Types of Consideration

- Cash, checks, promissory notes, personal property, love & affection
- Can you have none?
- When do you collect \$?
- Who does the check go to?
- When do you turn into Broker?
- When is it deposited? (I.C. 54-2045)
- Dishonored check?
 - Disbursement Requirement
 - Commingling

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B. Presenting Offers to Purchase

1. Listing Agent, Selling Agent
 - Contact the listing agent immediately
 - Be careful not to give details about the offer until it is presented to the seller (especially if the buyer you are working with is a client)
 - Make copies for the listing agent and seller for presentation
 - Present the offer in a professional manner to the seller and maintain buyer/client confidentiality
2. Net Sheets for Seller

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Presenting Offers

3. Handling Multiple Offers (IREC Guideline #16)

- Whenever more than one written offer is received in connection with the same property, special care must be taken to ensure that the duties owed to the parties, whether as clients or customers, are carried out by the licensees involved. (IREC Guideline #16)
- The seller is not obligated to deal with multiple offers in any particular order, and, in fact, is not obligated to accept, or counter, or formally reject any of them.

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Presenting Offers

5. If Buyer or Seller Withdraws Offer

- Offer or counter offer can be withdrawn at any time prior to acceptance
- Must be done in writing
- Timing and deliverance is crucial

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C. Handling Counter Offers Between the Buyer and Seller

- Counters, Amendments, Addendums
 - [\(IREC Guideline #19\)](#)
 - Refers to which documents should be signed
 - [Counter Offer Language RE-13](#)
 - Refers to Merging of the Documents

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D. Handling RIGHT TO CONTINUE TO MARKET FORM (RE-27)

- Typically used with a contingency such as a buyer's house sale
- "Bump clause"

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E. Amendments to Existing Contract

Addendums:

- RE-10 Home Inspection Response
- RE-11 Addendum

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F. Buyer/Seller Defaults

- Remedies in the Event of Default
- Disputed Earnest Money
- Interpleader

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G. Open Escrow w/Title Company or Others

- Normally selling agent "opens title"
- Copies of agreement to title company

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Case Studies Pgs. 33-35

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