



# SETTLEMENT AND CLOSING

## CONSUMER VERSION

### What is the Settlement?

If the buyer does not elect to terminate the contract during the Due Diligence Period, a "Settlement" will be scheduled. Settlement is the signing and delivery to the closing attorney of all documents necessary to complete the transaction (deed, settlement statement, loan documents, etc.) and the closing attorney's receipt of all funds necessary to complete the transaction.

### What is the Closing?

"Closing" is the completion of the legal process which results in the transfer of the property from the seller to the buyer. Settlement is the first step in the Closing process. Other steps include: (i) the closing attorney's completion of a satisfactory update of the title to the property, (ii) the receipt by the closing attorney of authorization to disburse all necessary funds, and (iii) recording of the deed and any deed of trust in the Register of Deeds Office.

Form 2-T allocates responsibility between the buyer and seller for the payment of costs and fees associated with closing the transaction, including but not limited to real estate taxes, attorneys' fees, loan-related costs, dues and fees charged by any owners' association or owners association management company, and any Special Assessments. Unless the parties agree otherwise, the buyer is entitled to possession upon Closing.

### When and where does Settlement take place?

Settlement takes place on a date agreed to in Form 2-T, called the "Settlement Date," at a time and place designated by the buyer. Typically, Settlement takes place at the closing attorney's office.

### Is an attorney required for a real estate closing?

The North Carolina State Bar has determined that the performance of most acts and services required for a closing constitutes the practice of law and must be performed only by an attorney licensed to practice law in North Carolina.

It is the position of the North Carolina Bar Association and the NC REALTORS® that all buyers should hire an attorney licensed in North Carolina to perform a closing.

The buyer selects and is responsible for paying the closing attorney for his or her services in handling the closing, except for charges the seller is responsible for.

The closing attorney may prepare the deed and other seller documents for the seller, or the seller may retain their own attorney to prepare them. In either case, the seller is responsible for paying for preparation of the seller's documents.

### Is it a breach of contract if a party is unable to complete Settlement and Closing on the Settlement Date?

Paragraph 12 of Form 2-T permits a party who is unable to complete Settlement on the Settlement Date (called the “Delaying Party”) up to fourteen calendar days to complete Settlement and Closing, provided they intend to complete the transaction, are acting in good faith and with reasonable diligence to proceed to Settlement, and give the other party (called the “Non-Delaying Party”) and the closing attorney as much notice as possible of the delay.

Common reasons for delay include a delay by the buyer’s lender in completing the loan process or the discovery by the closing attorney of a defect in the title to the property that requires corrective action by the seller.

### May a party seek to enforce a right they have under the contract after Closing?

Probably not. Paragraph 4(g) of Form 2-T states that “Closing constitutes acceptance of the Property in its then existing condition, unless provision is otherwise made in writing.” For this reason, it is very important for a buyer to conduct a final walk-through to confirm that the property is in substantially the same condition as on the date of the buyer’s offer, that all of the seller’s property not included as a part of the transaction has been removed, and that all property that is a part of the transaction is still there.

If any provision or other agreement between the parties will survive Closing (such as an arrangement where specified repairs will be made after Closing and paid for with funds held in escrow by the closing attorney), it is important that their understanding be described in a written document drafted by an attorney that sets forth the consideration required to make the agreement legally enforceable.

#### Settlement can be delayed by up to 14 days

1	2	3	4	5	6	7
8	9	10	11	12	13	14

Closing/Possession will not occur until after Settlement

**Possession Before Closing Agreement (Form 2A7-T)**  
allows possession of the property on specific date.