

9 fundamental steps in the property transfer process

The property transfer process – it's the one thing standing between you and moving into a place you can call your own home. It can seem like a nightmare and never-ending, but all in all it can be smooth sailing if you understand the basics and know what to expect.

What is it?

The property transfer process is the common term for the transfer of immovable property from one owner to another. In legal terms, it's called **conveyancing**.

How long does the whole process take?

The time from start to finish depends on the collaboration between all parties and the prompt fulfilment of their contractual obligations. The usual time taken by the Deeds Office to examine the transfer, bond and bond cancellation documents lodged by the different conveyancers for a specific transaction can be anywhere between 7 and 14 days.

What are the steps involved?

1 Offer to purchase

The first step to buying a property is **signing an offer to purchase**. The transfer process officially gets underway once the offer to purchase is signed by both buyer and seller and is presented to the transferring attorney.



Side note

An offer to purchase is a legally binding document that indicates the buyer's intention to purchase the seller's property. It also stipulates the terms and conditions for the sale and purchase of the property.

2 Application and approval of home loan

The buyer or a bond originator on his/her behalf applies to the bank for finance in the form of a home loan to be secured by a mortgage bond. Once the buyer's application is approved by the bank, a bond registration attorney is appointed and a mortgage bond will be registered for the property as security, simultaneous with transfer.



3 Cancellation of seller's bond

The seller's bank instructs the cancellation attorney to **cancel the seller's existing bond**. The bank provides their cancellation attorneys with the original title deed, which will be **lodged with the consent to cancellation**. The cancellation attorneys will provide guarantee requirements from their instructing bank to the transferring attorneys who will then call for guarantees from the buyer's bond attorneys.



Side note

If the seller does not have a bond, he/she must provide the original title deed to the conveyancers, who will lodge this together with the transfer documents.

4 Rates clearance certificate

The transferring attorney requests **rates clearance** figures and provides these to the seller, who makes the payment into the transferring attorney's trust account. The attorney then makes the payment to council and council issues a **rates clearance certificate**. The certificate is valid for two months only.



Side note

South African law stipulates that a property can only be transferred once all municipal charges, rates and taxes, and any other associated costs have been paid in full.

5 Signing of documents

The seller and buyer are contacted by the transferring attorney to sign the documents. The seller will be required to **sign a power of attorney** and both the seller and buyer must provide **several affidavits** to verify their identity, marital status, financial information, etc.



Side note

A buyer can prepare in advance for this step by collating the following:

- Proof of physical address (not older than three months)
- A certified ID copy
- Income tax number
- Particulars concerning the identity of the attorney undertaking the transfer of the buyer's property (if the buyer is utilising the proceeds to pay for his or her purchase)
- Information on the approved bond

6 Payment of transfer costs

The buyer pays the transfer costs and the seller pays for the rates and taxes as provided by the council. The buyer will be given a pro forma account for the costs. The sooner this is paid, the sooner the transfer can proceed. On registration, both parties will receive **final accounts** showing a full recon of the finances in the transfer.



Side note

Transfer duty is a property tax levied by SARS based on the value of the property. It is only payable for properties of R1m and more. Transfer duty will be paid by the buyer.

7 Documents lodged at the Deeds Office

The transferring, bond and bond cancellation attorneys make **documents** as a set, as they must be lodged simultaneously.



8 Passing of documents

All the relevant documentation associated with the transfer is **examined** by junior and senior examiners working for the registrar of deeds.

Once the documents have been examined and passed, they enter the preparation or **prep stage** in the Deeds Office, where they will normally be put forward for registration. The documents will be black booked and registered 1-3 days after prep.

The documents can be rejected after being examined. In this event, corrections will need to be made and it must be lodged again and go through the steps of examination, prep and being put forward for registration.



Side note

The Deeds Office can be extremely busy, so don't expect this step to go quickly. It can take anywhere between 7 - 14 working days for the documents to be ready for registration.

9 Registration of documents

Once the documents are registered, the buyer **officially becomes the registered owner** of the property. The net proceeds from the sale are paid to the seller and the commission to the estate agent. The bond attorney sends the original title deed to the buyer's bank or directly to the buyer if the buyer did not require financing.



Understanding the property transfer process thoroughly and having all the necessary documentation on hand will help the transfer of the property to run smoothly.

Advice for the buyer

- Conduct a thorough check of the property
- Pay the transfer costs as soon as possible
- Confirm you can acquire a sufficient home loan amount that covers the selling price (better yet - be pre-approved by your bank)
- Submit all relevant documentation in full and on time
- Be sure to purchase within the specified time frame

Advice for the seller

- Accept or reject the offer to purchase within the specified time frame
- Give the buyer sufficient time to get funding if there is a shortfall in the loan amount
- Be sure to disclose any property defects
- Obtain certified compliance certificates on time
- Give the required notice to any tenants renting your property
- Settle, as soon as possible, any outstanding municipal rates and taxes and property levies provided by the council

WE'RE HERE TO GUIDE YOU EVERY STEP OF THE WAY

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