

Transaction Files and the Retention of Records

The records of licensed brokerage activity must be retained for four years per §12-61-113(1)(i), C.R.S. Rules E-4 and E-5, as well as the Commission position statement of record keeping (CP-9), control the contents of the broker's property transaction file. Rule E-3 requires any licensee to produce appropriate records concerning licensed activity and operation of the trust accounts upon the request of the Commission.

The Following is a checklist for common records to retain in both the listing and selling broker's property transaction file. Other ancillary documents and agreements executed between the parties and the closing entity or lender are not required.

Sales Files

- Lead-based paint disclosures for residential property built before 1978;
- Exclusive right-to-buy/sell, or agency or open listing agreement & amendments (listing broker only);
- Disclosure of brokerage relationships;
- Disclosure of compensation for services and income from affiliated entities;
- Disclosure of the source of residential property square footage;
- Contract to buy/sell/exchange real estate, counterproposals, amendments, and attachments;
- Current marketing/MLS information used in the transaction;
- Inspection notice;
- Seller's property disclosure statement;
- Actual closing instructions, negotiated before the actual date of closing;
- Copy of any power of attorney (show recording data if closed in-house);
- Copy of earnest money check, validated escrow bank deposit slip (or receipt below);
- Signed and dated receipt for earnest money held by third-party closing entity;
- Copy of earnest money note;
- Buyer's financial information, if "owner-carry" financing;
- Rental/occupancy agreement before closing date (have separate security deposit);
- Estimated closing costs/estimated monthly expenses prepared by licensee;
- Settlement statement (or equivalent computer form) for the party represented or assisted;
- Side agreement/amendment to revise a settlement statement;
- Promissory note (unsigned, marked "COPY");**
- Closing entity commission check remittance less earnest money amount if applicable;
- Tax reports required by government agencies (Colorado withholding tax);**
- Escrow receipts or collection agreements continuing after closing;
- Accounting for use of advance retainer fees;
- Six-column worksheet for settlement (or equivalent computer form);**
- Deed of trust (copy showing recording data if closed in-house);** and
- Other legal documents prepared by the broker.**

**Required only when the broker personally prepares the document, conducts the closing in-house without use of a title company, and/or is responsible for recording of any documents.

Management Files

- Current/past management and/or short-term reservation management agreements;
- Current/past lease or rental occupancy agreements with tenants and guests;
- Lead-based paint disclosures for residential property built before 1978;
- Disclosure of brokerage relationships and/or listing contracts to lease;
- Disclosure of compensation, service income from affiliated entities;
- Brokerage accounting records, bank reconciliation, tax and owner reports;
- Ongoing contracts, bids, invoices, service provider billings, and correspondence with client;
- Legal notices, actions, and accounting reports affecting owner/occupant/tenant funds;
- Documentation for commissions earned versus taken or charged to others;
- Prompt assessment, timely (45-90 days) collection, restitution of all money due escrow; and
- Documentation verifying reported receipts, income, and all expenses paid for another.