

The Transfer Registration Process

Step 1. Receive Offer To Purchase

The Transferring Attorney ("Conveyancer") will receive a copy of the Deed of Sale together with an instruction to register the transfer. This instruction will usually be sent by the Estate Agent who concluded the sale, or by the Seller in the case of a private sale. Upon receipt of the transfer instruction the Conveyancer will acknowledge receipt of the instruction to all the parties and will conduct a Deeds Office search to check for any interdicts or restrictions that may impact the transaction.

The Conveyancer will then call for payment of the deposit, where applicable, and will request a copy of the Title Deed from the Deeds Office and the necessary FICA documents from both parties, in order to enable them to prepare the necessary transfer documents. The Conveyancer will then diarise the due dates for any suspensive conditions.

Step 2. Suspensive Conditions

Once the suspensive conditions (approval of mortgage bond finance or subject to the sale of the Purchaser's property) have been fulfilled, the Conveyancer will request bond cancellation instructions and the release of the original Title Deed of the property.

If it is a cash sale, the original Title Deed will be requested from the Seller. This will happen as early as possible in the transfer process so that, should there be a case of a lost original Title Deed, an application for a replacement copy will have to be submitted to the Deeds Office.

The Purchaser will be requested to make payment of the transfer and bond costs. Payment of the transfer costs is necessary to enable the Conveyancer to obtain the required Transfer Duty Receipt from SARS and the required Homeowners' Association Consent, where applicable.

It is imperative that these costs are paid timeously in order to ensure that the required clearance certificates and Transfer Duty Receipt are obtained in good time. This will aid the transaction to be lodged at the Deeds Office in order to achieve the scheduled registration date.

Step 3. Transfer Documents And Relevant Clearance Certificates

Obtain all the relevant documents and FICA from both the Seller and Purchaser(s) to enable drafting of the transfer documents, and scheduling of appointments for signature thereof.

The Conveyancer will request rates clearance figures from the Municipality in order to obtain the Rates Clearance Certificate. In the case of a Sectional Title property, the Conveyancer will contact the Body Corporate to request the necessary Levy Clearance figures for the required Levy Clearance Certificate and, where applicable, make contact with the Homeowners' Association to obtain their requirements for their consent to proceed with the transfer. (Both these sets of clearance figures need to be paid before the clearance certificate can be issued).

In the case of an existing Bond registered over the property needing to be cancelled. Your conveyancer will give the bank notice of the cancellation.

The bank will then:

- Appoint their attorney to attend to the cancellation;
- Issue bond cancellation figures to their attorney;
- The cancellation attorney requests a Guarantee from the transferring attorneys, to settle the cancellation amount.

Step 4. Guarantees

When the bond cancellation instructions/ figures have been issued by the Seller's bondholder, the Conveyancer can proceed to liaise with the Bond Attorneys to request the necessary guarantees to settle the Seller's bond directly and to secure the balance of the purchase price from the Purchaser's bond. In case of a cash transaction, these guarantees, or payment of the purchase price will be requested from the Purchaser directly.

Step 5. Certificates Of Compliance (COC)

Depending on what is required by law and has been agreed to in the Deed of Sale, the Seller may be required to deliver an Electrical, Beetle, Gas Installation and Electric Fence Compliance Certificate. The Seller will also be required to deliver a Water Installation Compliance Certificate to the City of Cape Town if the property falls within the jurisdiction of the City of Cape Town. These compliance certificates should be attended to as early as possible in the transfer process as the Purchaser's bank may insist on receiving copies thereof before they will grant the Bond Attorney permission to lodge their transaction at the Deeds Office. It is also important that these compliance certificates are issued by licensed contractors, as the bank will not accept certificates that have been issued by unlicensed contractors.

As from 1 May 2023, if there are any gas installations on the property, a new 5-page gas certificate of compliance form will be required in order to comply with the legal requirement to furnish a gas certificate, and gas compliance companies may not use any other form.

Step 6. Signature Of Documents And Payment Of Costs

Both the Seller and Purchaser will be contacted to arrange an appointment to sign the transfer documents. The Purchaser will also have to sign the bond documents if the property is purchased with a bond.

The Purchaser will pay the Transfer Duty and Transfer Costs, and the Seller will also be requested to pay the rates figures as issued by the Municipality in order to enable the Conveyancer to obtain the Rates Clearance Certificate, as well as to make payment of the Levy Figures for the required Levy Clearance Certificate, in case of a Sectional Title Property.

Once the Proforma Costs have been paid, the Conveyancer will ensure transfer duty is paid to SARS, and wait for the transfer duty receipt to be issued (which usually takes anything between 1-5 working days).

Step 7. Registration

Registration takes place from 10:00am onwards on the day of registration. Ownership of the property is now passed to the Purchaser. The Seller's existing bond over the property is settled and cancelled and the Purchaser's new bond is registered.

All of this happens at the Deeds Office. The net proceeds of the sale are paid to the Seller, the Estate Agent's commission is paid out and any refunds due to the Purchaser is paid out as soon as the guarantee payment reflects in the Conveyancer's trust account (normally the day after registration).

Step 8. Delivery Of Deeds

The original Title Deed will be returned to the Conveyancer once the Deeds Office has scanned it on to their system. This process can take between 2 to 6 weeks. The original Title Deed is handed to the bond attorneys for retention by the bank (bondholder) as security together with the original bond and a copy is given to the new owner for record purposes.

In the case of a cash sale, the Title Deed is delivered to the client.

This is a rough guide as to the time periods and processes involved in transferring a property and should not be construed as definitive. There are a number of aspects involved in the process and reliance placed on a number of third parties and stakeholders for the transaction to be successfully registered and as such these time periods are estimates and cannot be guaranteed.