

IOWA BUYER'S GUIDE

INFORMATION BUYERS SHOULD BE AWARE WHEN PURCHASING PROPERTY FURNISHED BY THE IOWA ASSOCIATION OF REALTORS®

A real estate licensee is vital to the home buying process and can provide a variety of services in locating property, negotiating the sale and advising the buyer. A real estate agent is generally not qualified to discover defects or evaluate the physical condition of property; however, a real estate agent can assist a buyer in finding qualified inspectors and provide the buyer with documents and other resources containing information about a prospective new home.

This guide is designed to assist home buyers to satisfy themselves to the condition and desirability of property they are interested in purchasing. Common issues in real property transactions that home buyers often decide to investigate or verify are summarized in this guide. In addition to investigating or verifying these common issues, the buyer should tell the licensee with whom they are working about any special concerns or issues the buyer may have regarding the condition of the property or surrounding area. Such special concerns are not addressed in this guide.

Not all real estate licensees are REALTORS®. Only real estate agents that are members of the National Association of REALTORS® are called REALTORS®. Only REALTORS® subscribe to the strict code of ethics of the National Association of REALTORS®, pledge to cooperate with other REALTORS®, and belong to an organized Multiple Listing System (MLS) which exposes more properties to buyers.

PROPERTY CONDITION INSPECTION AND INVESTIGATION

Professional Home Inspections

OBTAINING A PROFESSIONAL HOME INSPECTION IS THE SINGLE MOST IMPORTANT THING A BUYER CAN DO FOR THEIR PROTECTION. A professional home inspection report will provide the buyer with detailed information about the home's physical condition, its systems and fixtures and usually note any potential future problems. The buyer should carefully review an inspector's proposal to determine the scope of the inspection. Some home inspectors may not inspect heating and cooling systems, the roof or other systems or components. A home inspection should be done by a certified home inspector or bonded contractor.

Inspection of property is beyond the scope of expertise of a real estate licensee, but real estate licensees can provide buyers with a list of local inspectors. Licensees ordinarily will not recommend a specific inspector. Before hiring an inspector, the buyer should check with all available resources and references regarding the quality and professionalism of the inspector and what (reports, advisories, summary, recommendations) will be provided to the potential homeowner.

Buyers should not rely upon reports done for others (previous buyers and/or sellers), because the report may not be accurate and buyers may have no recourse against an inspector they have not retained. Most residential sale contracts contain a clause that **may** allow the buyer to withdraw from the agreement if a professional inspection they have done shows defects in the property. Do not lose this important right. Obtain your own professional home inspection report from a professional inspector within the time frame specified in the sale contract.

Pest (wood pest) Inspection

Pest inspections are done in many residential real estate transactions and may be required by the lender or local government entity. A pest inspection may or may not be included in a whole home inspection. If a pest inspection is desired or required and the buyer is obtaining a whole home inspection, the buyer should verify that the inspection obtained covers pests and the inspector is properly licensed. The license status of pest inspectors can be checked at: Iowa department of public health are licensed by the Iowa Department of Agriculture. Buyers can check on licensing and certification of pest control operators and applicators by calling the Iowa Department of Agriculture at (515) 281-5601 or online at www.agricultural.state.ia.us/pesticidebureau.html. Real estate licensees do not have the training or expertise to inspect property for pests. **Like any property condition report, buyers should not rely on the report of an inspector they did not hire.** A pest inspection is a limited inspection and is not a substitute for a complete whole home inspection by a licensed home inspector.

Defective Products and Materials

Some materials used in home construction are, or have been, subject to a recall, class action suit, settlement or litigation. These materials are typically, but not limited to, modern engineered construction materials used for siding, roofing, insulation or other building purposes. It is critical that a buyer carefully review any disclosures or representations of the seller regarding such materials. A real estate licensee may assist the buyer in that review, but inspection of property for defective products, systems, fixtures or materials is beyond the scope of expertise of a real estate licensee. The buyer, therefore, should make certain inspection for such materials is within the scope of any home inspection ordered by the buyer. **Like any property condition report, buyers should not rely on the report of an inspector they did not hire.**

Similarly, homes may contain products in their systems or fixtures that are, or have been, subject to a recall, class action suit, settlement or litigation. Plumbing, heating and electrical systems, among others, may contain such products. It is critical that a buyer carefully review any disclosures or representations of the seller regarding such products. The buyer should, therefore, make certain inspection for such products is within the scope of any home inspection ordered by the buyer. A real estate licensee may be able to help the buyer find a suitable inspector.

Repairs and Remodels

Buyers should look for signs of repairs or remodeling when viewing property. If repairs or remodeling have been done, the buyer will want to make certain the work was properly done. Buyers can ask the seller for any invoices or other documentation for the work but, as with other questions of property condition, there is no substitute for professional inspection. A real estate licensee may help the buyer find or obtain building codes, but do not themselves have the training or expertise to evaluate building code compliance. If building permits were required for work done on the property (such permits are typically required for structural changes, new additions, and new plumbing and electrical work), the buyer should check with the city or county building department to make sure the permits are in order. If permits were not properly obtained, the new property owner could be held responsible. Ask your agent for assistance or you can find the website for the county in which the property is located by visiting: www.iowacounties.org 515-244-7181. Websites for cities can be found at: <http://www.iowaleague.org> 515-244-7282. If repairs or remodels have been completed very recently, the buyer should take steps to determine if there is any possibility of construction liens being filed against the property after the sale has closed. This can be done by the buyer raising the issue with their abstractor, attorney, or title insurance provider. Iowa law generally allows contractors 90 days to file a lien.

If any repairs are being required during the transaction, the buyer should insure a competent construction contractor is doing the repairs. After the repairs have been done, the buyer should consider having a re-inspection done to assure the repairs were done properly.

Sewer and Septic Systems

Whether the property is connected to a city sewer, septic system or other on-site wastewater treatment system is significant. Even if the MLS data sheet or Seller's Property Disclosure Statement indicate that the home is connected to the city sewer, the buyer should have their home inspector, or a licensed plumber, verify the connection and its condition. Real estate licensees are not licensed to do plumbing or septic inspections. **If the property has a septic system or other on-site wastewater treatment system, the system must be (unless exempt) inspected by a licensed & certified septic system installer or other on-site wastewater treatment system professional hired by the buyer.** Information about on-site wastewater treatment systems, and licensed installers and pumpers, can be found on the website Iowa Department of Public Health <http://www.idph.state.ia.us> 515-281-7689 or the Iowa Department of Natural Resources www.iowadnr.com 515-725-0337 or the Iowa Wastewater Director at 515-281-8263. Also, buyers should check with the appropriate county department for specific information on a particular property.

Wells

If domestic water for the property is supplied by a private well, the seller may be required by county ordinance to test the well for total coliform bacteria and nitrates. Buyers may also want to have the well tested for contaminants and other health risks other than bacteria and nitrates. Buyers should verify the procedures when having the well tested are standardized and meet at least the minimum health criteria. More information on this state law requirement can be found at the Iowa Department of Public Health Iowa Department of Public Health <http://www.idph.state.ia.us> 515-281-7689 or the Iowa Department of Natural Resources www.iowadnr.com 515-281-5385. State law also requires a ground water hazard statement for all transfers of real property, which included information regarding private wells, solid waste disposal sites, hazardous waste disposal sites, underground storage tanks, and private burial ground. Links to your county recorder's offices should be able to provide sellers the form, or agents may access a form online www.iowarealtors.com.

Well Flow Tests: If domestic water is supplied by a private well, the buyer should verify to the extent possible whether the well provides adequate water for domestic needs. It is strongly recommended that a well flow test be conducted prior to the purchase of any property that depends on a well for domestic water. Careful attention should be paid to any disclosures or representations by the seller and buyers should review all available well records. More information on well logs is available at: <http://www.iowadnr.com>. Buyers are advised to have well flow tested by a professional. Even when wells are inspected and tested, it is impossible to guarantee a continued supply of water. Events can and do occur that can change the well quality virtually overnight. Other events, such as development and drought, can affect the quality of an aquifer over time. Any test of a well is merely a snapshot in time and is not an indication of a well's future performance. All well reports should be viewed in this light. While real estate licensees are not trained and do not have the expertise to test wells, they may be able to direct you to the appropriate well professionals. **PROFESSIONAL INSPECTION, WELL LOG REVIEW AND FLOW TESTS ARE CRITICAL IN DETERMINING THE CONDITION OF A PRIVATE WELL.**

Underground Oil Storage Tanks

Buyers should be aware of potential problems associated with underground oil storage tanks. Although home heating oil tanks need only be registered, such tanks can cause serious problems if they have leaked oil. Advice on home heating oil tanks and the problems associated with them can be found at the Iowa Department of Natural Resources 515-281-8135 or 515-281-8879 <http://www.iowadnr.com>. A buyer who knows or suspects that property has an underground storage tank should take appropriate steps to protect his own interests, including seeking information from the Iowa Department of Natural Resources and, if necessary, consulting with an environmental hazards specialist or attorney. **BUYERS ARE ADVISED TO HIRE APPROPRIATELY TRAINED ENVIRONMENTAL PROFESSIONALS TO INSPECT THE PROPERTY IF AN UNDERGROUND OIL STORAGE TANK IS FOUND OR SUSPECTED.**

Environmental Hazards

Buyers should carefully review the Seller's Property Disclosure Statement and any inspection reports available to determine if any of a number of potential environmental hazards may require further investigation. Environmental hazards include everything from expansive soils, landslides, fires (grass, prairie and forest), floods and earthquakes. Environmental hazards can also include indoor air quality (e.g., radon or carbon monoxide) and hazardous materials, like asbestos and lead. Buyers concerned about external environmental hazards should check with the county in which the property is located. Iowa counties can be located at: <http://www.iowacounties.org>. Flood plain maps and information are available from the Federal Emergency Management Agency (FEMA) at: <http://www.fema.gov/fhm/>. The Environmental Protection Agency (EPA) provides a great deal of information about indoor hazards on its website at: www.epa.gov/iaq/iaqinfo.html. Superfund sites are areas that have been listed by the federal government as contaminated. A wealth of information on superfund sites, including their locations, is available by visiting the EPA's website at: <http://www.epa.gov/superfund/sites/>.

Real estate licensees are not trained, and do not have the expertise, to discover and evaluate environmental hazards. Buyers, therefore, are advised to hire appropriately trained environmental professionals to inspect the property and its systems or fixtures for environmental hazards.

Woodstoves

Various Iowa governmental entities may have various publications to promote the use of cleaner-burning woodstoves and to help homeowners to burn wood more efficiently and with less pollution. Local communities may have additional rules governing the use of woodstoves and fireplaces. Check with your city or county government to ask about local wood smoke ordinances. Buyers should contact their insurer early in the home buying process to determine what, if any, effect, a fireplace or woodstove may have on the availability or cost of fire insurance. For more information on woodstoves, visit: www.iowadnr.com/air/citizen/health/seasonal.html. Inspection of fireplaces and woodstoves requires special training and expertise. Although a real estate licensee may be able to help you find a local woodstove professional, they cannot themselves inspect or evaluate a woodstove.

Mold

Molds are one of a variety of biological contaminants which can be present in human structures, including residential housing. Mildew is perhaps the most common and best known of the molds. Less well known, and far less common, are certain molds identified as possible contributors to illness, particularly in people with allergies. Such cases usually involve property with defective siding, poor construction, water penetration problems, improper ventilation or leaking plumbing. In a few cases, these problems have led to the growth of molds which caused medical conditions in some people. Buyers, if concerned about potentially harmful molds, should arrange for inspection by a qualified professional. Information on moisture intrusion and mold problems associated with human structures can be found at: <http://www.epa.gov/iaq/molds/moldresources.html>. Inspection, discovery and evaluation of specific water intrusion or mold problems requires specialized training and is beyond the scope of a real estate licensee's expertise. Buyers are, therefore, advised to hire appropriately trained professionals to inspect the property if the buyer is concerned about the possibility of harmful molds.

Smoke Alarms

In Iowa, homes constructed after July 1, 1991 shall include the installation of smoke detectors in compliance with the rules established by the state fire marshal. A person who files for a homestead credit shall certify the home has a smoke detector. All dwellings must have the proper type, number and placement of alarms as required by the building codes at the time the dwelling was constructed but not less than one alarm adjacent to each sleeping area and at least one alarm on each level of the dwelling. (Additional rules apply to rented property.) For information

about smoke alarm and detector requirements in Iowa, you should visit the State Fire Marshall's web site at: www.state.ia.us/government/dps/fm.

Real estate licensees are not trained in building code compliance, therefore, if there is doubt about whether a smoke alarm or detector system complies with building and fire code requirements, a licensed home inspector, or the home alarm or detector company that installed the system, should be able assist you. Your real estate agent may be able to assist you in finding the right code compliance professional.

Deaths, Crimes and External Conditions

In Iowa, certain social conditions that may be of concern to buyers are considered not to be "material" by state law. Iowa Code 543B.5(14). Ordinarily, "material facts" must be disclosed by the seller or the seller's agent. Because state law declares certain facts that may be important to a buyer to be not material, buyers cannot rely on the seller disclosing this kind of information. Buyers should undertake their own investigation if concerned that the property or a neighboring property has been the site of a death, crime, political activity, religious activity, or any other act or occurrence that does not adversely affect the physical condition of, or title to, real property, including that a convicted sex offender resides in the area. Concerned buyers can contact their local county sheriff's office for more information regarding sex offenders.

Websites for Iowa county sheriffs can be found at: www.issda.org/. Or <http://www.iowacounties.org>. Websites for cities can be found at: <http://www.iowaleague.org>. Some large cities may have crime statistics and maps available – seek the individual city website. Information about registered sex offenders can be found by visit <http://www.iowasexoffender.com/>. Under federal and Iowa law, neither the seller nor their agent is allowed to disclose that an owner or occupant of the real property has or had human immunodeficiency virus or acquired immune deficiency syndrome (AIDS).

Neighborhoods

Neighborhoods change over time so a buyer cannot expect the area surrounding their home to stay as is. Buyers concerned about potential development in the surrounding area should check with governmental authorities to determine if any large scale building projects are scheduled for the area. Building permits, zoning applications and other planning actions are a matter of public record. In Iowa, most local governments must develop comprehensive plans that guide development over long periods of time. These plans may include "overlay zones" that can have a significant effect upon development. If concerned about development, buyers should check with local government planning departments. Information about planning departments can be found on the county or city website: <http://www.iowacounties.org> or <http://www.iowaleague.org>. For information on state road building projects, check with the Iowa Department of Transportation at: www.dot.state.ia.us/. Location within a school district can be an important attribute of a neighborhood. School boundaries, however, are subject to change. If location within a particular school district is material to the purchase of real property, the buyer should investigate the boundaries and the likelihood of change by directly contacting the school district.

DOCUMENT INSPECTION AND INVESTIGATION

Information Generally

Information from third parties contained in the many documents associated with a real property transaction is not independently verified by real estate licensees. It is the responsibility of the buyer to read the documents provided and ask questions if uncertain or concerned. Interpretation of many real property transaction documents involves the practice of law and is, therefore, beyond the scope of a real estate licensee's expertise. **BUYERS UNCERTAIN ABOUT THE LEGAL EFFECT OF DOCUMENTS SHOULD CONSULT AN ATTORNEY.**

MLS Information

Most properties marketed for sale by real estate licensees are listed in a Multiple Listing Service (MLS). Information about the listing, provided to the MLS by the listing broker, is made available to all subscribing members of the MLS. This information is typically contained in what is called an MLS “printout” or “data sheet.” Most of the information contained in an MLS data sheet or printout is obtained from the seller or third-parties like the county assessor’s office or other governmental entity. MLS data may be incomplete, an approximation or otherwise inaccurate. Personal property cited on the MLS data sheet should be included in the purchase agreement if the buyer wishes to have the personal property included in the sale. **BUYERS SHOULD NOT RELY ON MLS PROVIDED INFORMATION IF THAT INFORMATION IS CONSIDERED IMPORTANT UNLESS THE BUYER INDEPENDENTLY VERIFIES THE INFORMATION.**

Seller’s Property Disclosure Statement

In most cases, residential property sellers in Iowa must provide a Seller’s Property Disclosure Statement to each residential buyer who makes a written offer. Minimum requirements for disclosure within the form are mandated by state law. The seller’s representations regarding the property are based upon the seller’s actual knowledge at the time the disclosure statement is made. The disclosures are NOT the representations of any real estate licensee engaged by the seller or financial institution that may have made or may make a loan pertaining to the property or that may have a security interest in the property. Licensees are not responsible for misrepresentations by the seller unless they know of the misrepresentation and fail to disclose it. A buyer should carefully review the seller disclosures and verify any statements of concern. **REVIEW OF THE SELLER’S PROPERTY DISCLOSURE STATEMENT IS NO SUBSTITUTE FOR PROFESSIONAL INSPECTIONS.**

Real Estate Sale Form

A contract for the sale of real property must be in writing to be enforceable in court. **A VERBAL OFFER OR ACCEPTANCE SHOULD NOT BE MADE OR RELIED UPON.** Purchase Agreements or Offers For Real Estate are legally binding contracts and buyers and sellers should seek competent legal advice before signing any contract they do not fully understand. Purchase agreements usually include provisions concerning who will hold the earnest money and under what conditions it may be refunded to the buyer or forfeited to the seller. The amount of earnest money pledged and the conditions under which it may be refunded or forfeited are matters that should be carefully negotiated between the buyer and the seller.

BUYERS AND SELLERS ARE RESPONSIBLE FOR SELECTING THE TERMS AND CONDITIONS OF THEIR AGREEMENT. REAL ESTATE LICENSEES CAN GIVE BUYERS IMPORTANT MARKETING, BUSINESS AND NEGOTIATING ADVICE AND INFORMATION AND CAN ASSIST IN PREPARATION OF THE SALE AGREEMENT BUT ONLY PURSUANT TO THE CLIENT’S INSTRUCTIONS. REAL ESTATE LICENSEES ARE NOT ATTORNEYS AND ARE PROHIBITED BY LAW FROM GIVING LEGAL ADVICE. To obtain a referral for a real estate attorney, visit the county bar association or the Iowa State Bar a www.iowabar.org or contact by phone at 515-243-3179.

Financing

The buyer’s ability to finance the property is an important contingency in most residential transactions. Buyers must act in good faith and use best efforts to obtain a loan if the sale is contingent upon obtaining a loan. Buyers often seek pre-approval from a lender prior to writing an offer. A pre-approval letter should state that the lender has reviewed the buyer’s credit report, income requirements and cash to close and pre-approves the buyer for the loan, subject to an acceptable appraisal of the property. The appraiser will normally work for the lender, not the buyer. Appraisers are not mandated to be certified, but most quality appraiser do so. To check the status of an appraiser,

visit the Appraiser Certification and Licensure Board at: <http://www.state.ia.us/iapp> 515-281-7468. Once the appraisal has been received, the underwriter authorizes final loan approval. **Only** when the underwriting process is completed will an actual loan be secured. The entire financing process normally takes approximately 30-45 days. If the seller is asked to finance any part of the transaction, the buyer's financial status will become material to the transaction. Any material defect in the buyer's financial status must be fully disclosed to the seller. Because of the risks involved for the seller, the buyer should anticipate that the seller will fully investigate the buyer's credit worthiness prior to agreeing to carry financing for the buyer. A real estate licensee cannot hide material information from any party to a real estate transaction and should not be asked to do so by the buyer or seller.

Title Report and Commitment

In Iowa, the state of Iowa operates a private title insurance company, called the title guarantee division or the Iowa Finance Authority. The title guarantee division issues a policy after an abstract on the property has been brought up to date by a local abstracting company, and an opinion has been rendered by a participating attorney. However, many buyers do not opt for the quicker policy issuance, less expensive and better coverage offered through a title insurance company incorporated outside the state of Iowa.

The title report, or commitment to insure, produced by a title insurance company or the state run title guarantee division contains important information that must be reviewed by the buyer. In particular, the report will list certain "exceptions" to the policy the company will issue. Buyers should request copies of any documents mentioned in the report that are not understood or raise concerns about the state of the title. General information about title issues can be found at: <http://www.titlelawannotated.com>. **Questions about the title report, title opinion, abstract, and associated documents can be directed to the title or escrow officer issuing the report or to the buyer's attorney or surveyor.** Review of title reports for legal deficiencies involves the practice of law.

Homeowners' Insurance

The insurance claims history for a home may affect the cost of homeowners' insurance, or even its insurability. Most insurance companies use a database service called the Comprehensive Loss Underwriting Exchange (CLUE) to track claims made. Depending on the content of the CLUE report and the insurance company's policy, home insurance may prove more difficult to get than expected. The buyer's claims history and credit report may also be used to determine insurability. Insurers have used CLUE reports and other information, coupled with termination provisions in the policy, to cancel coverage after closing. **IT IS CRITICAL THAT BUYERS ARRANGE FOR HOMEOWNERS' INSURANCE EARLY IN THE PROCESS OF PURCHASING PROPERTY RATHER THAN WAITING UNTIL CLOSING TO GET INSURANCE.** If difficulty is experienced in obtaining the insurance, the buyer can ask the seller to furnish them with a copy of the CLUE report on the property. Homeowners can obtain a copy of the report for their property online at: <http://www.choicetrust.com>. Buyers may want to talk to the licensee they are working with about whether obtaining suitable homeowners' insurance should be made a contingency of the sale. More information on homeowners insurance in Iowa can be found at: <http://www.iid.state.ia.us>.

Square Footage and Acreage

The square footage of structures and acreage data found in MLS printouts, assessor records and the like are usually just estimates and should not be relied upon. Many Iowa properties have not been surveyed and their exact boundaries are not known. **If square footage or land size is a material consideration in a purchase, all structures and land should be measured by the buyer or a licensed surveyor prior to entering into a sale agreement, or should be made an express contingency of the agreement.** You can find a licensed surveyor in your area by searching the internet or calling your county recorders office

Homeowners' Association Documents, Covenants, Conditions and Restrictions

Covenants, conditions and restrictions, called "CC&Rs," are formally recorded private limitations on the right to use real property. Often, but not always, CC&Rs are enforced by a homeowners' association. Review of the CC&Rs is typically part of a real estate sale. Although real estate licensees are familiar with common CC&R provisions, determining the legal effect of specific provisions may be considered the practice of law in Iowa and, therefore, beyond the expertise of a real estate licensee. If the subdivision in which the property is located is governed by a homeowners' association, the CC&Rs may be very restrictive. Homeowners' associations are often governed by their own articles of incorporation, bylaws, rules and regulations. Association rules and regulations can significantly impact a buyer's plans for a property. Planned Unit Developments (PUD's) and condominiums are very likely to have detailed homeowners' association governing documents, mandatory fees and ongoing homeowner obligations. Governing documents, fees and homeowner obligations should be reviewed by the buyer during the transaction. If you have questions about CC&Rs or your legal rights and remedies under a homeowners' association governing documents, you should have your attorney review the documents. A real estate licensee is prohibited by law from giving legal advice. For more information on homeowners' associations and CC&Rs, visit <http://www.realtor.com/BASICS/condos/ccr.asp>.

Lead-Based Paint Disclosure Form

Residential property built before 1978 (called "target" housing) is subject to the Residential Lead-Based Paint Disclosure Program administered by the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD). The Act requires sellers of target housing to provide the buyer with a lead-based paint disclosure and approved pamphlet such as *Protect Your Family from Lead in Your Home*. Information about the requirements and samples of the forms can be found on EPA's website at: <http://www.epa.gov/opptintr/lead/leadbase.htm> If you make an offer on a home built before 1978 and do not receive the disclosure and pamphlet, you should ask your real estate licensee about lead-based paint disclosures. For more information and to locate companies certified and licensed to conduct lead-based paint testing or perform abatement, call 515-242-6340 or visit <http://www.idph.state.ia.us> for the Iowa Department of Public Health.

For Additional Information, Visit:

Iowa Real Estate Commission: <http://www.state.ia.us/irec>

Iowa State Government: <http://www.iowa.gov/>

Association of Iowa Counties: <http://www.iowacounties.org>

League of Iowa Cities: <http://www.iowaleague.org>

Iowa Association of REALTORS®: www.iowarealtors.com