



## COLORADO

Department of  
Regulatory Agencies

Division of Real Estate  
1560 Broadway, Suite 925  
Denver, CO 80202-5111

# REAL ESTATE BROKER ADVISORY TRANSACTION FILE CHECKLIST UPDATE

To better assist Colorado licensed real estate brokers and consumers, the Division of Real Estate recently updated the Transaction File Checklist. This important document is posted on the Division's website and can be located at the hyperlink below this article. As noted on the Transaction File Checklist, and as discussed in the Colorado Real Estate Manual, records of licensed brokerage activity must be retained for four (4) years beginning from the consummation date of the transaction or the expiration date of any listing contracts that do not consummate, in accordance with **§12-10-217(1)(k), C.R.S. (Failing to Maintain Records)**, and **Commission Rule 6.20 (Transaction File Requirements)**. Additionally, **Commission Rule 5.21 (Production of Documents and Records)** requires any licensee to produce for inspection by the Commission any document or record as may be reasonably necessary for investigation or audit in the enforcement of the Commission statutes and rules.

The Transaction File Checklist is a non-exhaustive list of common records to retain in a broker's transaction file, including property management files. Not all of the documents listed in the Transaction File Checklist may be applicable to a particular transaction, but if a document was used during the transaction, it must be maintained in the transaction file. Also, there may be additional documents not included on this list that are appropriate for use in a particular transaction; such documents must be maintained if used.

### Changes to the Transaction File Checklist

In the most recent revision, the following changes were made to the Transaction File Checklist:

- The Transaction File Checklist is now a fillable .pdf
- Several Sales Files checklist items were added:
  - Definitions of Working Relationships
  - Inspection Report
  - Residential Addendum to Contract to Buy and Sell Real Estate
  - Title-Related Objection Notice
  - Appraised Value Objection Notice
  - Appraised Value Objection Notice Withdrawal
  - Personal Property Agreement
  - Extension or Termination of Contract
- Other Sales Files checklist items were removed:
  - Seller Warning (applicable to foreclosures)





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- Seller Authorization (related to short sales - if applicable)
- For Property Management checklist items, the following were added:
  - Tenant Applications for Executed Lease or Rental Occupancy Agreements
  - Radon Disclosures

### Common Questions and Issues

The following is a list of some of the common questions and issues that come up regarding transaction file records and record retention:

- **Question: What records are exempt or do not need to be retained?**
  - *Answer: The law states that a broker is not required to obtain and retain copies of existing public records, title commitments, loan applications, lender required disclosures, or related affirmations from independent third-party closing entities after the closing date.*
- **Question: Do I need to retain the settlement statement or closing statement for the party to the transaction who I did not represent?**
  - *Answer: Brokers are only required to retain the signed settlement statement or closing records from the consumer with whom they have a brokerage relationship.*
- **Question: Can transaction files be retained electronically?**
  - *Answer: Files can be retained in either hard copy or electronic format as long as they can be inspected during the four (4) year retention period.*
- **Question: What if my computer crashes and I lose my electronic transaction files?**
  - *Answer: Brokers and Brokerage Firms who choose to maintain transaction records electronically will be required to produce transaction records regardless of if a technical matter arises with the technology used to maintain the files. Backups or contingency plans are recommended.*
- **Question: What is my responsibility regarding transaction file record retention if I change brokerage firms during a four (4) year period?**
  - *Answer: Brokers are responsible for retaining transaction file records even if they switch brokerages.*
- **Question: Do I need the Source of Water Addendum if the Source of Water is disclosed in the Seller's Property Disclosure?**
  - *Answer: The Source of Water Addendum is only needed if the source of water is not identified or disclosed in the Seller's Property Disclosure.*





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- **Question: What if some of the records listed in the Transaction File Checklist do not apply to my particular transaction?**
  - *Answer: Not all of the documents listed in the Transaction File Checklist may be applicable to a particular transaction, but if a document was used during the transaction, it must be maintained in the transaction file.*
- **Question: What if I have records in my transaction file that are not included or listed on the Transaction File Checklist?**
  - *Answer: There may be additional documents not included on Transaction File Checklist that are appropriate for use in a particular transaction; such documents must be maintained if used.*
- **Question: Should I retain text messages between me and my consumer(s)?**
  - *Answer: It is recommended that text messages, emails, and any other communications be retained in the transaction file.*
- **Question: Do I need to retain listing contracts and/or property management agreements that have expired or terminated?**
  - *Answer: Record retention requirements include listing contracts and property management agreements that have expired and/or terminated.*

### Resources

Transaction File Checklist hyperlink:

<https://dre.colorado.gov/transaction-file-requirements-and>

