



Which standard form contract should I use, residential or commercial?

Release Date: 11/17/2022

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QUESTION: I am a turkey. No really, I'm a real turkey with feathers and everything. Anyway, the entire rafter¹ is atwitter because we are about to go on a permanent, all-expense paid trip! The destination is a surprise, but it's supposed to be very, very warm. Before we go, I want to sell the roost I've been living in which also contains several units I've been renting to some squirrels who operate a nut shop. Which standard form contract should I use, residential or commercial? I would ask my agent, but they're busy making cranberry sauce for some reason.

ANSWER: Oh wow, a warm trip sounds awesome right about now! It seems like your roost is a mix of residential and commercial uses. I think you can use either the commercial or residential standard form contract.

Both the commercial Agreement for Purchase and Sale of Improved Real Property (Form 580-T) and the residential Offer to Purchase and Contract (Form 2-T) have designated periods of time for the buyer to inspect the property. In Form 2-T, it is the Due Diligence Period, and in Form 580-T, it is the Examination Period. The buyer may terminate for any or no reason during these timeframes and receive a refund of the Earnest Money.

There are several important differences between the two forms. Form 2-T has a space to insert a Due Diligence Fee, which is payable directly to the seller from the buyer. This money is not refundable even if the buyer terminates during the Due Diligence Period. Form 580-T has no similar option regarding non-refundable money. Form 2-T provides a seven-day delay period to a party who needs more time to complete Settlement, and on day eight, the non-delaying party has a right to terminate. Form 580-T has no similar provision, which means if the buyer or seller cannot complete Closing by the agreed upon date, then either party will have a reasonable amount of time to close under North Carolina law. Form 580-T is freely assignable, whereas Form 2-T is not. In 580-T and not 2-T, the seller is entitled to the buyer's inspections if the buyer terminates. And, finally, the residential forms have some addenda not found in the commercial forms. For example, if you need to stay a little longer after you close but before you leave, you can use the Seller Possession after Closing Agreement (Form 2A8-T).

Discuss these distinctions and your priorities and goals with your agent whenever he or she gets free to make your decision. I hope this helps and safe travels!

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¹ A "rafter" is a group of turkeys.