

Guidelines for the Preparation & Use of the Pennsylvania Association of Realtors® Buyer's Estimated Costs and Deposit Money Notice (Form BEC)

General Notes on Usage of PAR Standard Forms

The Pennsylvania Association of Realtors® Standard Forms are developed by the PAR Standard Forms Committee for use in a wide variety of transactions and market areas. To provide maximum flexibility to the parties, many provisions contain blank spaces that can be filled in as appropriate. Further, it is helpful to remember that where pre-printed language is not agreeable to the parties it can be crossed out and/or modified, with the parties *dating and initialing the change in the margins*. [As a general rule, text added by the parties that changes pre-printed text, or pre-printed text altered by the parties, will prevail over pre-printed language should a dispute arise.]

As stated in the title, these are only *guidelines* for the proper use of this form. The Guidelines presented here should be used in conjunction with, and as a supplement to, your professional education, and are in no way meant to substitute for a proper professional education. Seek guidance from your Broker and/or your legal counsel if you have any questions about the proper use of this or any PAR form in a transaction.

To make these Guidelines more useful there may be helpful “extras” added to the main text. Many of the “Note” or “Practice Tip” items you will see are based, in part, on the experiences of PAR members and legal counsel, and are designed to point out some of the more practical items involved in filling out this form.

Background Information

Under Pennsylvania law, before an Agreement of Sale is signed, the licensees involved in the transaction must provide each party with a written estimate of reasonably foreseeable costs. Form BEC is used for this purpose. The form also includes a deposit money notice to buyer, which is required by law if a buyer's broker is accepting a deposit that will be transferred to the listing broker to hold in escrow.

Estimated Fees and Costs – (Left Column)

Items in this column are all fees and costs that are likely to be incurred in a transaction. Most are self-explanatory. If there is any question as to whether a fee for any specific transaction fits into one of the listed categories, best practice would be to list the fee in one of the lines provided for “Other” fees and costs.

Most of the items listed in this column are traditionally paid by buyer at settlement. Those that may be paid differently are listed below.

PRE-PAID FEES

Almost all inspection fees will be paid by buyer as the service is provided by the inspector. Similarly, mortgage lender fees based on a percentage of the loan (points) and the fees for running certain reports may also be paid up front. It is necessary to list these fees so the buyer is aware of the approximate out-of-pocket expenses for the transaction, but these items will NOT be included in the

estimated total monies due from the buyer at settlement (*see* “Summary of Total Monies Needed”). **To remind the listing agent about these fees, they have been marked with an asterisk (*).**

FINANCED FEES

Some fees are generally lumped into the principal of the buyer’s loan rather than being paid out-of-pocket at or before settlement. The most common is the fee for the Mortgage Insurance Premium; VA funding fees fall into this category as well. Like the pre-paid fees above, these items are listed to provide the buyer with a truthful estimate of their costs, but will NOT be included in the estimated total monies due from the buyer at settlement (*see* “Summary of Total Monies Needed”). **To remind the listing agent about these fees, they have been marked with a double asterisk (**).**

Estimated Mortgages Payment(s) – (Right column)

This information is provided so buyers will understand their approximate monthly mortgage obligation. Understanding that some of these will change over time, it is still important that the buyer be given as accurate information as is available.

MORTGAGE TYPE/TERM/AMOUNT

Indicate the basic assumptions being used for the estimates. Use the best information you have available about the likely mortgage product to be used by the buyer and the amount of the mortgage that would be necessary.

Practice Tip: Some practitioners may use this form at the very beginning of their relationship with a buyer to help educate the buyer about how much cash they may need to have available for the transaction. For this educational type use, it is permissible to use some “standard” assumptions about financing for the estimate. For example, in that circumstance it would be reasonable to assume a 30 year fixed-rate loan at the current interest rate for an amount close to what the buyer says they’re looking for. BUT, once a decision has been made to make an offer on a particular property, it will be necessary to provide a new set of estimated costs based on the actual mortgage amount and mortgage product.

INTEREST RATES/PAYMENT AMOUNTS

Because of the variability of interest rates, this section allows estimation of two different payments. Generally, the first would be something close to the rates in effect at the time of the offer, while the second would be the maximum acceptable interest rate as stated in the Agreement of Sale.

When estimating the other payment lines in this section, be sure to use the most reliable information that is readily available. For example, it may be worth checking past taxes on a particular property rather than relying on a statement made in the MLS. Similarly, if the agent has sold other properties in a particular homeowner’s association and is aware of the fee structure, it would be better to insert this known fee rather than an estimate based on other factors.

SECOND MORTGAGE

Where the agent is aware that the buyer will be pursuing financing involving multiple financing vehicles (e.g., a first and second mortgage, a first mortgage with a home equity loan, or other similar products), that fact should be reflected in the mortgage payment estimates. These second loan products usually carry different interest rates (often higher), of which buyer should be aware.

Summary of Total Monies Needed – (Right Column, Bottom)

The Summary of Total Monies Needed is used to calculate the estimated out-of-pocket costs due from the buyer at settlement. Starting with the total purchase price of the property, add in any additional costs that will be included in the final financed amount (the double-asterisked items in the left column and any others). This provides the total amount of money necessary to close the transaction.

Practice Tip: When a selling broker accepts a deposit on behalf of a buyer with the intent to transfer that deposit to the listing broker to be held in escrow, the selling broker is required by law to provide the Deposit Money Notice. PAR produces the Deposit Money Notice as a standalone form (Form DMN).

Note: The BEC is not a substitute for the forms and notices required under RESPA, nor do they comply with the RESPA disclosure requirements. Do not use this form in lieu of those which are required under RESPA.

From this grand total, subtract any financed amounts – including any fees – as well as any seller assists or credits, and any deposits made by the buyer. This amount is the estimated maximum amount that would be due at settlement.

Practice Tip: Any pre-paid fees (noted with a single asterisk in the left column) will be deducted from the amount due at settlement. Because the buyer will have to pay these fees at some point during the process, however, best practice would be to NOT deduct this amount on Form BEC. This way, the buyer is fully aware of the total cash that will be necessary, regardless of when it is paid.

Example: Buyer is purchasing a Property with the purchase price of \$200,000. Buyer puts down a \$5,000 deposit and finances the rest with a VA mortgage, which has a funding fee (line 6(E) of Form BEC) of \$1,000. Buyer elects to have a property inspection, which is estimated to cost \$500 and will be responsible for a prorated share of property taxes in the amount of \$750. There are no other estimated costs. The summary section would be filled out as follows:

SUMMARY OF TOTAL MONIES NEEDED	
Purchase Price	\$ 200,000
Estimated Costs (from left column, incl. MIP & VA Funding Fee, if any)	\$ 2,250
Total Cash Required (subtotal)	\$ 202,250
Less Mortgage Amt. (including MIP & VA Funding Fee, if financed)	\$ 196,000
Less Seller Assist and Credits (if any)	\$ 0
Less Deposits (if any)	\$ 5,000
Balance Due at settlement	\$ 1,250

Note: Fees from the left column paid before settlement will be subtracted from this amount.

Other Estimated Cost Forms

As with most other PAR Standard Forms, there is no requirement that Form BEC be used to provide buyers with their estimated closing costs. One common practice has been for brokers and agents to simply use an estimated cost sheet provided by a mortgage company to satisfy the requirements of the licensing law. While this is not prohibited, agents should be **VERY** careful in taking this approach. Most mortgage lender estimates may not include information about costs outside the scope of financing. For example, these forms may not include estimates for the costs of various inspections, and almost certainly won't have information about any potential broker fees. If the information provided by the lender is accurate regarding the fees that are included, the agent could consider simply copying those estimates over to Form BEC (or some other comprehensive form) where other fees and costs can be added.