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MARKETSPERSONAL FINANCE

Fear of Layoffs Is Changing How People Buy Homes

An employment contingency can protect buyers in the event of job losses



Employment contingencies appeal to tech and finance workers rattled by recent waves of layoffs.

PHOTO: ANDREW HARRER/BLOOMBERG

By *Veronica Dagher* [Follow](#)

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More home buyers are putting an unusual escape clause into their contracts: If they lose their job before closing, they can back out of the deal.

Known as an employment contingency, these provisions appeal to tech and finance workers rattled by recent waves of layoffs, real-estate agents and lawyers said. Fears over a recession and the fallout in the tech and banking sectors following the failure of Silicon Valley Bank, may only increase their popularity this home-buying season, they said. Like any contingency, this clause will weaken your offer in some competitive markets even if it helps settle your fears.

“Buyers are feeling anxious and want added protection,” said Michael Romer, a real estate lawyer in New York City. Employment contingencies were popular after the 2008 financial crisis but became less common in the past decade, he said.

Mr. Romer has a client who works in the tech industry and requested an employment contingency as part of his offer to buy a \$1 million co-op. If he loses his job between contract signing and closing, he will be able to back out of the deal with nominal penalties and receive a full refund of his 10% deposit. Without such a contingency, the buyer would forfeit his entire six-figure contract deposit should he need to back out of the deal, Mr. Romer said.

Contingencies can be added to contracts for many reasons. Among the most common is a financing contingency, which gives the buyer the right to cancel if they are unable to secure a mortgage. The buyer gets the deposit back without penalty, and the seller can relist their house.

Buyers feel more confident to ask for contingencies these days compared with a year ago, said Sandra Rathe, a real-estate agent in Miramar, Fla. With mortgage rates at 6.6%, there has been less competition from other buyers in many regions of the country, giving them more leverage than they had a year ago, real-estate agents said.

In the first quarter of 2023, 53% of agents report an increase in contingencies compared with 30% of agents in the second quarter of 2022, according to Homelight, a marketplace that connects home sellers with real-estate agents.

During the pandemic's home-buying frenzy, many buyers waived standard contingencies such as home inspections and financing to compete with those making cash offers. Now that sellers in certain neighborhoods may receive just one offer at their desired price, they are far more willing to accept an offer with a contingency than they were a year ago, real-estate agents said.

Buyers are less likely to find sellers willing to accept their contingencies in places where bidding wars still occur, said real-estate lawyers.

Home sellers are also asking for employment contingencies in some cases.

Sharad Gupta, a real-estate agent in San Jose, Calif., is working on a deal where the seller recently lost his tech job and is on a H1B visa. The temporary work visa determines how long the seller can maintain his residency status in the U.S.

The employment contingency the parties agreed upon states that if the seller finds a job in the U.S. within 30 days, he has the right to cancel the sale of the house without penalty, said Mr. Gupta. Without the provision, the seller would owe the buyer about \$43,000 if he needed to cancel the contract, Mr. Gupta said.

Mr. Gupta and his client used the seller's time constraint to their advantage and negotiated 16% off the seller's initial asking price. The home is under contract for \$1.45 million and is set to close soon.

The seller is now less confident he will find another tech job before the deadline as he's afraid some startups may pause hiring after being spooked by the Silicon Valley Bank failure, Mr. Gupta said. With the contingency in place, he's confident both parties could walk away from the deal without hard feelings if need be.

Write to Veronica Dagher at Veronica.Dagher@wsj.com

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