

# WHAT IS ESCROW

# ESCROW 101

## ESCROW

The term Escrow is from the French word “escroue” which means a “scroll of writing”. Escrow companies are used in most Western States as settlement agencies, while in other parts of the country, the closing process is handled by title companies or lawyers.

## TYPES OF ESCROW HOLDERS

In the State of California, there are three main types of escrow holders that can be used, and each has its own regulatory agency.

**Title Insurance Companies:** In Northern California, the majority of escrows are handled through the escrow department of insurance companies. These companies are regulated by the Department of Insurance.

**Independent Escrow Companies:** These companies specialize in Escrow and only escrow, and therefore are held to the highest standards. They are regulated by the Department of Business Oversight (formerly the Department of Corporations), and are required to maintain a high level of liquid assets as well as hold a bond through the Escrow Agents' Fidelity Corporation.

**Real Estate Brokers:** These escrow holders are affiliated with specific real estate companies and are audited and regulated by the Department of Real Estate. They may only handle escrows in which there is at least one agent on the transaction connected to their real estate affiliate.

## REASONS FOR AN ESCROW

- Escrow serves as a neutral depository or disinterested third party for money and documents.
- Escrow holds a fiduciary role and MUST act completely impartial towards everyone involved in the transaction. By holding all money and documents, escrow acts as a form of consumer protection.
- Escrow provides clear, concise accounting of all funds involved in the transfer process.
- Escrow assures that all conditions will be met before the deed is recorded and money exchanged.
- Throughout the transaction, escrow is responsible for preparing and arranging for the safe delivery of all funds and documents to their proper recipient by the close of the escrow.

## PARTIES TO AN ESCROW

**Principals:** The principal is who the escrow holder is essentially working for and the escrow instructions are the principals' directions to the escrow holder.

### **Principals are considered any of the following:**

- Buyer & Seller in a sale
- Borrower & Lender in a mortgage
- Lessor & Lessee in a lease or rental agreement
- 1st party & 2nd party in an exchange
- Vendor & Vendee in a land contract

### **Other Parties:**

- Real Estate Brokers & Sales Agents
- Title Insurance Officers & Representatives
- Lenders
- Termite Companies
- Insurance Agents
- Homeowners Associations
- Attorneys
- Government Agencies for loans, taxes, etc.

# THE ESCROW PROCESS

## **HOW DOES THE ESCROW PROCESS WORK?**

The buyer, seller, lender and/or borrower cause escrow instructions to be created, signed and delivered to the escrow officer. The escrow officer will then process the escrow, in accordance with the escrow instructions. When all conditions required in the escrow are met, the escrow is “closed”.

Prior to close of escrow, the buyer deposits the funds required with the escrow holder. The buyer instructs the escrow holder to release the money to the seller when:

- The deed records
- A policy of title insurance will be prepared and delivered to the buyer

The escrow holder acts for both parties and protects the interests of each within the power of the escrow instructions. Escrow cannot be completed until the instructions have been fully satisfied and all parties have signed escrow documents. The escrow holder takes instructions based on the terms of the purchase agreement and the lender’s requirements. The duties of the escrow holder include:

- Managing the funds and/or documents in accordance with instructions
- Paying all bills as authorized
- Responding to requests from the principals
- Closing the escrow only when all terms and conditions have been met
- Distributing the funds accordingly

## **HOW DO I OPEN AN ESCROW?**

Generally, the buyer or seller’s real estate agent will open the escrow. As soon as you complete the purchase agreement, typically the real estate agent will forward the buyer’s initial deposit, to the Escrow company handling the transaction.

## **HOW DO I KNOW WHERE MY MONEY GOES?**

Written evidence of the deposit is generally included in your copy of the sales contract. The funds will then be deposited in a separate escrow or trust account. You will receive a receipt for the funds from the escrow company.

## **WHAT DO I NEED TO DO BEFORE MY APPOINTMENT TO SIGN ESCROW PAPERS?**

All parties signing the documents must bring proper identification. Bring a valid driver’s license, state identification card or current passport with you to the company you are working with. This item is needed to verify your identity by a notary public. This is a routine, but necessary step for your protection.

# CLOSING ESCROW

## **WHAT'S THE NEXT STEP AFTER I'VE SIGNED THE CLOSING ESCROW PAPERS?**

After both parties have signed all the necessary instructions and documents, the escrow officer will return the buyer's loan documents to the lender for final review. After the review is completed, the lender is ready to fund the buyer's loan and informs the escrow officer.

## **HOW LONG IS AN ESCROW?**

The length is determined by the terms of the purchase agreement and can range from a few days to several months.

## **WHAT IS AN "ESCROW CLOSING"?**

An escrow closing is the climax of the transaction. It signifies legal transfer of title from the seller to the buyer. Generally, the Grant Deed is recorded within one working day of the escrow holder's receipt of loan funds. This completes the transaction and signifies the "close of escrow." Once all the conditions of the escrow have been satisfied, the escrow officer informs you or your agent of the date escrow will close and takes care of the technical and financial details. The final closing papers are disbursed upon close of escrow, when the escrow officer verifies with the County Records Office that the documents have recorded and legal transfer has occurred.