



## Frequently Asked Questions

### What Is an Escrow and Why Is It Needed?

An escrow is an arrangement in which a disinterested third party, called an escrow holder, holds legal documents and funds on behalf of a buyer and seller, and distributes them according to the buyer's and seller's instructions.

People buying and selling real estate often open an escrow for their protection and convenience. The buyer can instruct the escrow holder to disburse the purchase price only upon the satisfaction of certain prerequisites and conditions. The seller can instruct the escrow holder to retain possession of the deed to the buyer until the seller's requirements, including receipt of the purchase price, are met. Both rely on the escrow holder to carry out faithfully their mutually consistent instructions relating to the transaction and to advise them if any of their instructions are not mutually consistent or cannot be carried out.

An escrow is convenient for the buyer and seller because both can move forward separately but simultaneously in providing inspections, reports, loan commitments and funds, deeds, and many other items, using the escrow holder as the central depository point. If the instructions from all parties to an escrow are clearly drafted, fully detailed and mutually consistent, the escrow holder can take many actions on their behalf without further consultation. This saves much time and facilitates the closing of the transaction.

The escrow process was developed to help facilitate the sale or purchase of your home. The escrow holder accomplishes this by:

- Acting as the impartial stakeholder or depository of documents and funds.
- Processing and coordinating the flow of documents and funds.
- Keeping all parties informed of progress on the escrow.
- Responding to the lender's requirements.
- Securing a title insurance policy.
- Obtaining approvals of reports and documents from the parties as required.
- Prorating and adjusting insurance, taxes, rents, etc.
- Recording the deed and loan documents.
- Maintaining security and accountability of moneys owed and owing.

### What Does Each Party Do in the Escrow Process?

Although every escrow transaction is unique, the following summary details the typical responsibilities of each party to the escrow transaction:

#### The Seller

- Deposits the executed deed to the buyer with the escrow holder.
- Deposits evidence of pest inspection and any required repair work.
- Deposits other required documents such as tax receipts, addresses of mortgage holders, insurance policies, equipment warranties or home warranty contracts, etc.



## **The Buyer**

- Deposits the funds required, in addition to any borrowed funds, to pay the purchase price with the escrow holder.
- Deposits funds sufficient for home and title insurance.
- Arranges for any borrowed funds to be delivered to the escrow holder.
- Deposits any deed of trust or mortgages necessary to secure loans.
- Approves any inspection reports, title insurance commitments, etc. called for by the purchase and sale agreements.
- Fulfills any other conditions specified in the escrow instructions.

## **The Lender (If Applicable)**

- Deposits proceed of the loan to the purchaser.
- Directs the escrow holder on the conditions under which the loan funds may be used.

## **The Escrow Holder**

- Opens the order for title insurance.
- Obtains approvals from the buyer on title insurance report, pest and other inspections.
- Receives funds from the buyer and/or any lender.
- Prorates insurance, taxes, rents, etc.
- Disburses funds for title insurance, recordation fees, real estate commissions, lien clearance, etc.
- Prepares a final statement for each party, indicating amounts to be disbursed for services and any further amounts necessary to close escrow.
- Records deed and loan documents, delivers the deed to the buyer, loan documents to the lender and funds to the seller, closing the escrow.

## **What Are Escrow Instructions and why do I need to sign them?**

Escrow instructions are written documents, signed by the parties giving them, which direct the escrow officer in the specific steps to be completed so the escrow can be closed.

## **Typical instructions would include the following:**

- The method by which the escrow holder is to receive and hold the purchase price to be paid by the buyer.
- The conditions under which a lapse of time or breach of purchase contract provision will terminate the escrow without a closing.
- The instruction and authorization to the escrow holder to disburse funds for recording fees, title insurance policy, real estate commissions, and any other closing costs incurred through escrow.
- Instructions as to the proration of insurance and taxes.
- Instruction to the escrow holder on the payment of prior liens and charges against the property and distribution of the net sale proceeds.



Since the escrow holder can only follow the instructions as stated, and may not exceed them, it is extremely important that the instructions be stated clearly and be complete in all details.

### **When is Escrow ‘Closed’?**

Once all the terms and conditions of the instructions of both parties have been fulfilled, and all closing conditions satisfied, the escrow is closed with the documents being recorded in the public records, and the safe and accurate transfer of property and money has been accomplished.

### **Who Pays for the Escrow Service?**

The method of dividing the charges for the services performed through escrow or as a result of escrow varies from place to place. The fees and service charges to be divided might include, for example, the title insurance policy premium, escrow fee, any transfer taxes, recordation fees, and cost in connection with any loan being obtained. Unless there is some special agreement between the buyer and seller as to how these charges are to be paid, local custom will generally be followed in drafting the instructions to the escrow holder as to how they are to be divided.