Fidelity National Title

Escrow Frequently Asked Questions

WHAT IS ESCROW?

Escrow is a service which provides the public with a means of protection in the handling of funds and/or documents. Escrow enables the buyer and the seller to transact business with each other through a neutral party, thereby minimizing their risk. In the escrow, all parties involved give their instructions to this neutral intermediary, the "escrow holder" whose duty it is to assure that no funds or property will change hands until all instructions have been carried to completion.

WHAT TYPES OF TRANSACTIONS GO THROUGH ESCROW?

Most contracts that involve the transfer, lease or financing of real or personal property can be placed in escrow. You may be involved in escrow not only when you buy or sell a home, but also when you buy a mobile home, sell a business or transfer stock in a closely held business. Prizefighters have even been known to have their purses guaranteed through an escrow depository. The buyer or seller should demand the protection of escrow for any transaction which involves a substantial investment.

WHY DO I NEED ESCROW?

Whether you are the buyer or the seller, you want assurance that no funds or property will change hands until all of your instructions have been followed. With the increasing complexity of business, law and tax structures, it takes a trained professional to supervise the transaction.

WHO HANDLES THE ESCROW TRANSACTION?

The escrow officer is a trained and experienced professional. He or she can provide you with the assistance required to close your transaction quickly and effectively. This professional person may, under the terms of the instructions, make the decision that the conditions of escrow have been met, and then order the transfer of the affected real or personal property to the interested parties. Many escrow officers proudly display their professional designations of certification and show these designations on their business cards and letterhead. The designations indicate that this person has met the high standards of education and experience required for certification by the California Escrow Association.

AS A BUYER ENTERING INTO ESCROW, WHAT MUST I DO?

If the transaction is contingent upon a new loan, it is your responsibility to arrange this loan. Your real estate agent can be most helpful in obtaining a lender, since he or she is more knowledgeable about which lenders are currently active and their financing terms.

THE INSTRUCTIONS ARE READY - NOW WHAT?

When the escrow instructions have been prepared, read them carefully to determine that they are complete and properly reflect your total agreement. If you have any questions or corrections, discuss them with the escrow holder before signing. Once the instructions have been signed, they become the basis for the conduct of the escrow.

CAN I GET LEGAL ADVICE FROM THE ESCROW OFFICER?

An escrow officer is not a legal counselor and cannot give you advice. Remember, the purpose of escrow is to take, and comply with, instructions to carry out the mutual agreement of the principals. In the event of disagreement of the parties, the escrow officer must remain neutral until agreement is reached.
The transaction should not be negotiated in the escrow office, nor should an escrow officer become involved in the negotiation.

IF I STILL HAVE QUESTIONS ABOUT THE TRANSACTION, WHERE CAN I GO FOR ANSWERS?

If negotiations have been conducted through a real estate agent, that person, or his/her broker, should be your primary consultant. The role as an independent agent prohibits the escrow officer from answering many of your questions. However, a knowledgeable escrow officer, whose responsibility is giving impartial service to all the parties, will refer you to the proper source for your answers. An escrow officer will often suggest that the customer seek the advice of legal counsel or a tax consultant.

Fidelity National Title

Escrow Frequently Asked Questions

WHAT HAPPENS AT THE CLOSING?

When instructions of all parties to the escrow have been carried out, the closing can take place. All outstanding funds are collected at this time and all costs must be paid. Title to the property, whether real or personal, will then be transferred. All specified documents are recorded or filed at this time.

WHAT FEES MUST I PAY AT CLOSING?

Fees and charges are controlled by many factors and depend largely upon the type of transaction and the terms of your agreement. However, there are certain charges which are considered to be normal. These would include fees charged by a lender in connection with obtaining a new loan or in paying off the old one. They may also include recording fees, title insurance policy premium, documentary transfer taxes, prepaid taxes and insurance and escrow fees. Your escrow officer will provide your with an itemized statement. Your closing funds should be in the form of a wire transfer or a cashier's check made payable to the escrow holder in the amount requested. Do not bring a personal check to close a transaction. It will only delay the closing, since the funds must be collected before the closing can take place. An out-of-town check can cause a week to ten days delay in closing.

AS A SELLER ENTERING INTO ESCROW, WHAT MUST I DO?

To be fully prepared when you enter the transaction, you should have sufficient information relative to your ownership available. This would include information concerning any loans, taxes, insurance and, if appropriate, rental data. Items which would be the sources of this information are your original deed or title policy, fire insurance policy and a year-end statement from the existing lender. A copy of the most recent structural pest control report may be helpful, or in some cases even required, in a real estate transaction.

WHAT IS THE FEE FOR THE ESCROW SERVICE?

The escrow fee is normally based on the size and complexity of the transaction. Since there are so many types of escrows and every transaction is different, there are no set fees. Usually the escrow fee is divided in accordance with the agreement of the parties.

THE CLOSING IS COMPLETE - NOW WHAT?

Upon closing, review the closing statement to determine that the costs were allocated in accordance with your instructions. It normally takes a period of time after closing before the hazard and title insurance policies can be delivered to you. Any recorded documents to which you are entitled will be mailed to you after the escrow has closed. Frequently these documents will come to you directly from the office of the recorder or the Secretary of State in the case of personal property filing.

IF THE TRANSACTION ISN'T COMPLETED, IS MY DEPOSIT REFUNDABLE AND WHO PAYS THE FEES?

When a transaction fails to close, a cancellation agreement must be reached between the parties. This cancellation agreement must be put in the form of a written instruction, just as your contract was. Since the deposit is part of the escrow contract, both the buyer and the seller must mutually agree to its disposition. Instructions for the disposition of this deposit should include, among other things, provisions for payment of charges incurred during the escrow. This would include fees and costs incurred by the escrow holder and charges such as loan processing and title insurance fees as specified in the escrow instructions.