

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.

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.

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.

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 refinance
- 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.