

# What is Escrow?

*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. They then distribute the funds according to the buyer’s and seller’s instructions.*

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 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 monies owed and owing

**Who may hold an escrow?** - The escrow holder may be any disinterested third party. There are important reasons for selecting an established, independent escrow firm, an attorney or an escrow officer with a bank or title insurance company. Escrow officers with established firms generally are experienced and trained in real estate procedures, title insurance, taxes, deeds and insurance.

**Impartiality**—An escrow officer must remain completely impartial throughout the entire escrow process. The officer must follow the instructions of both parties without bias.

**Escrow Instructions**—Escrow instructions are written documents, commonly known as purchase and sale agreements, 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 lapse of time or breach of purchase contract provisions 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.

## *What is Escrow? continued...*

### What Each Party Does in the Escrow Process

#### *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 holder, 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 proceeds 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 lender
- prorates insurance, taxes, rents, etc
- disburses funds for title insurance, recording fees, real estate commissions, lien clearance, etc
- prepares a final statement or each party indicating amounts to be disbursed for services and any further amount necessary to close escrow
- records deeds and loan documents, and delivers the deed to the buyer, loan documents to the lender and funds to the seller, thereby closing the escrow.

**Closing the Escrow**—Once all the terms and conditions of the instruction of both parties have been fulfilled, and all closing conditions are satisfied, the escrow is closed and the safe and accurate transfer of property and money is completed.

**It's Not Always This Simple!**—The examples and explanations described here are designed to acquaint you with the escrow process and are based on relatively simple escrows. Every escrow is unique and most are more complex than explained here. If you have questions about the escrow process, we suggest you contact an escrow officer or attorney to obtain further explanation.