



WHAT IS ESCROW

Escrow is a process that evolved to ensure protection for all parties to a real estate transaction. A “neutral third party” or “stakeholder” was nominated to hold the funds until the purchaser received appropriate assurance that the property had been transferred. An escrow may also be created for other purchases, although it is most commonly used during the transfer of real estate. Today the escrow is overseen by an escrow officer employed by an independent escrow company or title company. All parties are protected because the escrow holder will retain funds and documents until all the instructions are fulfilled.

An escrow is created when money and/or documents are deposited with the escrow officer. The escrow officer’s authority is strictly governed by written instructions, mutually agreed upon by the parties involved. The instructions direct the escrow holder to perform duties necessary to complete the transaction. A few of the tasks which may be required are:

- Receive and deposit earnest money
- Order information for payoff of existing liens
- Calculate and/or prorate taxes, liens, interest, rents, and insurance policies
- Make arrangements for title insurance protection for the buyer and lender
- Prepare and/or receive documents relating to the escrow
- Request and receive funding from new lender when conditions have been satisfied
- Arrange for recording of the conveyance documents and any other legal instruments required to transfer title to the property pursuant to the terms of the purchase agreement
- Close the escrow and disburse funds as agreed upon in the instructions
- Prepare a closing statement for the parties showing disposition of funds

Definition of “Escrow” from Black’s Law Dictionary

A writing, deed, money, stock or other property delivered by the grantor, promissor or obligor into the hands of a third person, to be held by the latter until the happening of a contingency or performance of a condition, and then by him delivered to the grantee, promisee or obligee. A system of document transfer in which a deed, bond or funds is delivered to a third person to hold until all conditions in a contract are fulfilled.

Fun Fact

Escrow practices evolved from English common law. The word “escrow” is actually derived from the Middle English (12th to 15th century) word for “scroll”, on which all of the escrow instructions and lists of properties were recorded.

MDC ©2013 LAWYERS TITLE. Information deemed reliable, but not guaranteed.