

Escrow

Title and Escrow



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What is Escrow

How escrow works

The escrow officer is a third party—perhaps someone from the closing company, an attorney, or a title company agent (customs vary by state), says Andy Prasky, a real estate professional with Re/Max Advantage Plus in Twin Cities. The third party is there to make sure everything during the closing proceeds smoothly, including the transfers of money and documents. Escrow protects all the relevant parties by ensuring that no funds and property change hands until all conditions in the agreement have been met.

Along the way, proper documentation is filed with the escrow officer as each step toward closing is completed. Contingencies that might be part of the process could include home inspection, repairs, and other tasks that need to be accomplished by the buyer or seller. And every time one of those steps is completed, the buyer or seller signs off with a contingency release form; then the transaction moves on to the next step (and one step closer to closing).

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How Much Are Closing Costs? What Home Buyers and Sellers Can Expect

Once all conditions are met and the deal is finalized, the money due to the sellers is transferred to them.

Meanwhile an escrow officer clears (or records) the title, which means the buyer officially owns the home.

How much does escrow cost?

That varies—as well as whether the buyer or seller (or both) pays—with the fee for this service typically totaling about 1% to 2% of the cost of the home.

How escrow protects buyers and sellers

Escrow may seem like a pain, but here's how it can work in your favor. Let's say, for example, the buyer had a home inspection contingency and discovered that the roof needed repairs. The seller agrees to fix the roof. However, during the buyer's final walk-through, she finds that the roof hasn't been repaired as expected. In this case, the sellers won't see a dime of the buyer's money until they fix that roof. Talk about a nice safeguard for the buyer!

Sellers benefit from escrow, too: Let's say the buyers get cold feet at the last minute and bail on the deal. This may be disappointing to the seller, but at the very least, buyers have typically ponied up a sizable chunk of change for their earnest money deposit. This money, often totaling 1% to 2% of the purchase price of a home, has been held in escrow. When buyers back out with no legitimate reason, they forfeit that money to the seller—a decent consolation for the sale's failure.

6 Must-knows about escrow:

1. Escrow instructions should specify in writing how and under what conditions monies will be disbursed, especially if the transaction doesn't close.
2. Escrow is a fiduciary relationship but is limited to the duties involved in the escrow. The escrow agent is a trustee of both parties and is equally responsible to both parties for the proper administration of the escrow.
3. If a transaction fails to close as scheduled, monies may continue to be held in escrow provided there's no written demand from one party to cancel the contract. Monies are typically held after the closing date if the date to obtain a loan has passed but the parties still want to proceed with the transaction.
4. If the transaction is cancelled by either party, the agent holding the escrow monies shouldn't disburse any funds until all parties agree in writing how to disburse them.
5. If parties can't agree on how to disburse funds, the escrow agent may file an interpleader, which names all the parties that might have an interest in the monies and asks a court to decide how to disburse the money. Otherwise, an escrow agent may be obligated to keep funds indefinitely.
6. If a transaction is cancelled by the parties, real estate brokers and other third-party vendors may have first claim to escrow funds. That claim would depend on procuring cause. For example, if the transaction failed because the seller backed out, but the buyer's agent had produced a ready, willing, and able buyer, the buyer's agent might earn a commission.

Life of an Escrow

Receive and review purchase agreement and pertinent instructions

Need confirmation from buyer that lender has received the notice of intent to proceed, before lender or escrow may incur costs such as ordering an appraisal or other lender required items (with the exception of a credit report)

Receive and review title report and distribute

Provide lender with initial fees and charges for the transaction

Obtain name of new lender

Open title report

Request payoff information, request clarification of other titles exceptions (if any), and notify lender if there are additional requirements

Order payoff and how (if applicable) and any other payoff demands

Escrow must send the seller closing disclosure on or before the date the buyer signs their loan documents

Lender sends closing disclosure to buyer for three day review period

Communicate with lender on final title and escrow charges

Receive loan documents

Finalize escrow instructions and pertinent documents

Obtain signatures and closing funds from buyer/seller

Return loan documents to lender and request loan funds

Forward final documents to all parties (seller, buyer, lender, real estate agents, etc.)

Disburse funds

Forward documents for recording

Receive loan funds from lender

Title Insurance

WHAT IS TITLE INSURANCE

Title insurance protects the legal ownership of a purchased property. Before you purchase a property, it may have gone through several ownership changes and the land on which it stands went through many more. Title insurance coverage is designed to insure that the chain of ownership to the property is valid and free of defects.

TYPES OF OWNER'S TITLE POLICIES AVAILABLE

Generally there are two types of Owner's Title Insurance Policies available: Standard and Enhanced. Unlike other forms of insurance, Standard Title Insurance protects against events that have happened in the past. With an Enhanced Homeowner Policy you are also covered for certain future events and the amount of coverage will increase over the first five years of ownership!

STANDARD OWNER'S POLICY VS. ENHANCED HOMEOWNER POLICY

False impersonation of the true owner of the property	Yes	Yes
Forged deeds, releases or wills	Yes	Yes
Instruments executed under invalid or expired power of attorney	Yes	Yes
Mistakes in recording legal documents	Yes	Yes
Misinterpretation of wills	Yes	Yes
Deeds by minors	Yes	Yes
Deeds by persons supposedly single, but in fact married	Yes	Yes
Liens for unpaid estate, inheritance, income or gift taxes	Yes	Yes
Fraud	Yes	Yes
Post Policy Forgery Protection	No	Yes
Enhanced Access Coverage	No	Yes
Building Permit Violations	No	Yes
Subdivision Map Act Coverage	No	Yes
Restrictive Covenant Violations	No	Yes
Mineral Extraction Coverage	No	Yes
Map Inconsistencies Coverage	No	Yes
Coverage Extended to Living Trusts	No	Yes
Enhanced Encroachment Coverage	No	Yes
Automatic Inflation Protection (up to 150%)	No	Yes