



What is escrow?

A: Escrow is the process of employing an independent agent, called an escrow officer, to manage and coordinate the closing of a real estate transaction.

The escrow officer handles the deposit and exchange of documents and money between the buyer and seller.

Opening escrow simply means establishing a depository for the documents and money along with instructions controlling their use. Escrow instructions constitute an additional agreement entered into by the buyer and seller with an escrow officer. The instructions are signed by the buyer and seller authorizing escrow to conduct the necessary activities to satisfy the terms agreed to in the purchase agreement.

Escrow instructions often add the exactness and completeness needed for enforceability sometimes lacking in purchase agreements. Both the purchase agreement and the escrow instructions work in tandem to form and close a transaction.

Escrow activities to close a real estate transaction consist of:

- a seller and buyer delivering written documents or money to an escrow company for the purpose of complying with the terms and conditions of the purchase agreement; and
- an escrow officer receiving and delivering documents and money on the occurrence of specified events such as the receipt of reports, further approvals or the issuance of a title insurance policy.

The services rendered by an escrow officer typically include:

- receiving funds and collecting necessary documents such as property reports, disclosure statements and title reports called for in the escrow instructions;
- preparing documents necessary for conveyancing and mortgaging a property required for escrow to close;
- calculating prorations and adjustments; and
- disbursing funds and transferring documents when all conditions for their release have been met.

When an underlying written purchase agreement has not been prepared, the escrow instructions may function as the binding agreement documenting a sale. In this situation, in addition to providing closing instructions, the escrow instructions constitute the binding contract between the buyer and seller.

When disputes arise between the buyer and seller over a point not addressed in the purchase agreement or escrow instructions, the negotiated resolution then needs to be added to the instructions by amendment and signed by the buyer and the seller to be binding.

On the close of escrow, the buyer and seller receive a prorated credit or debit for their proportionate share of past due or prepaid income or expenses involved in the ownership or operations of the property being conveyed.