

## **THE ESCROW PROCESS – FROM A TO Z**

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Ever wonder what the term “escrow” really means?

Everyone has heard the term. But for most people, it’s a somewhat nebulous word – a catch-all phrase for the period of time that elapses between the day your home purchase offer is accepted and the day you finally get the keys.

Most home sale escrows last about 30-45 days. But they can be shorter – lasting only a matter of days – or longer – lasting many months. It all depends on the terms negotiated in your purchase agreement.

Escrow officially opens once the buyer and seller have signed the final offer and the buyer deposits his earnest money with the escrow holder.

It’s important to know that once those funds are given to the escrow agent, the buyer no longer has an exclusive say-so in what happens to those monies. If the sale is canceled, the seller must first sign instructions authorizing the money to be returned to the buyer before the escrow officer can do so.

That’s because, in every real estate transaction, the escrow agent acts as the neutral third party. They have a mutual allegiance to both the buyer and seller and can only act when they receive matching instructions from both parties.

Escrow companies don’t interpret contracts. Rather, they rely on written escrow instructions from the parties involved, even if they are in conflict with conditions or terms incorporated into the purchase contract.

As the neutral third party, the escrow officer must follow the wishes of each party. She is also the clearinghouse for all documents and funds that are necessary for the sale to be completed.

Here in Northern California, title insurance companies handle both title and escrow services. In Southern California, most escrow companies are independent firms – some completely separate from title companies.

Escrow is usually opened by the buyer’s real estate agent, who provides all the specifics to the escrow company named in the contract. The agent provides the escrow officer with the anticipated closing date, the sales price, the names of the buyer and seller, the property address, and the name of the lender. The aforementioned deposit check is forwarded to the escrow officer at that time.

During that first week, the escrow officer orders a preliminary title report from her company’s title insurance division as well as any other documents (ie. homeowners association budgets & bylaws) that may the buyer may need to review.

At the same time, the seller provides the buyer with a variety of property disclosures. During the first few weeks of escrow, buyers usually have various property inspections performed, to provide a clearer idea of what they’re really buying and to determine if any significant problems need to be addressed by the seller prior to completion of the sale.

While all of this is happening, the buyer’s lender continues to process the loan. This includes verifying all the information supplied on the loan application, reviewing the title report, and performing an appraisal of the property.

In most cases, within two to four weeks, most of the key matters have been addressed and resolved. By then, the buyers have usually completed all of their inspections and reached agreement with

the seller for any necessary repairs or credits and the lender has reviewed everything and formally approved the loan.

Meanwhile, the escrow officer has reviewed the title report and ordered payoff “demands” from the holder of any liens (ie. existing loans, property taxes, etc.) which are the seller’s responsibility.

Every once in a while, an old loan that was paid off years ago shows up on a title report. Occasionally, you’ll also find unpaid court judgments, mechanics liens or income tax liens attached to the property, too.

The escrow officer also looks for items that could create a “cloud” on title. For instance, if the seller has a rather common name (ie. John Brown, Bob Smith), there very likely could be a judgment against someone with that same name. If so, the escrow officer may require a statement of identity to be completed, just to make sure it’s a different “John Brown.”

The escrow officer also looks to make sure that the people selling the home are legally the only ones on title. If someone else (ie. a relative or ex-spouse) still appears on the current deed, then the escrow officer prepares the deed necessary for them to sign. Escrow cannot not close until all parties on title sign the grant deed.

So here we are three or four weeks into the escrow period. Any issues that may have arisen during the buyer’s investigations have been settled. The escrow officer has researched the condition of title and addressed any items of concern. The lender is ready to draw loan documents.

At this point in the escrow, the deal is pretty well buttoned up in buyer’s and seller’s minds. But it’s still far from over. We’re now at the point where closing papers are ready to be signed.

Each real estate agent goes over “terms” with the escrow officer, confirming who pays for what and when title to the property will transfer. Any changes that have been negotiated since escrow opened (ie. credits for necessary repairs, interim-occupancy rents, modifications in the closing date, etc.) are given to the escrow officer at this time.

If the information hasn’t already been provided, the escrow officer also needs to know the name of the buyer’s homeowner’s insurance company, as she’ll need to obtain an evidence of insurance for the lender before the buyer’s loan can fund.

About this time, the loan documents arrive at the title company. The buyer comes in and signs them, along with the rest of the title company’s closing papers. They also find out exactly how much money they’ll need to bring in for escrow to close. Meanwhile, the sellers come into the title company separately to sign all of their final closing papers.

After the papers are signed, the loan documents go back to the lender for final review, which usually takes two to four business days.

Once that’s done, the escrow officer gets the call from the lender advising her that they’re ready to fund. If the buyer hasn’t already done so, he or she must now bring the balance of their funds into the title company.

The following day, the escrow officer records the new deed to the property, officially transferring title. All the funds are disbursed and escrow is officially closed.

And at long last, the buyers finally get the keys to their new home.

*Rod Herman is a real estate agent with Coldwell Banker Solano Pacific in Benicia as well as a long-time housing writer. You can reach him at his office (707-747-6600) or via e-mail at [rod@HomeSection.com](mailto:rod@HomeSection.com).*

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