

What Is Escrow?

The three parties to a real estate transaction (buyer, seller and lender) all have certain, obvious, interests in the terms and outcome of that transaction. Escrow was developed and designed to act as an unbiased party to a real estate transaction, ensuring that all conditions of the sale have been met before the property and money exchange hands. Escrow can be defined as a procedure in which a third party (the escrow officer) acts a stakeholder for both the buyer and the seller, carrying out the instructions of both parties and assuming the responsibility for disbtributing the funds.

The escrow officer is charged with impartially carrying out the instructions given by the buyer and seller. These instructions include recieving funds and necessary paperwork, completing and/or obtaining required forms and handling final delivery of all items to the correct parties upon successful completion of the escrow.

Before closing the transaction, the escrow officer needs to obtain all necessary information. This includes the terms of the sale, any seller-assisted financing, requests for payment for services in relation to the escrow, tax statements, fire and other insurance policies, title insurance policies, loan documents and a variety of other items.

It is the buyer's responsibility to arrange for new financing and finalized documentation of the new loan agreement must be presented to the escrow officer before the property transfer can be completed.

When all instructions in have been carred out by the escrow officer, the closing can take place. This is when all outstanding funds are collected and all fees (such as title insurance premiums, pest inspection/treatment charges, real estate commissiojn, etc.) are paid. After the buyer and seller have signed all the required documentation, it's then processed through the title company and then sent to the lender for review; this usually takes a day. After the lender has reviewed and approved their documents, they will wire the funds to the title company for disbursement. It is the title companies' fiduciary responsibility to insure all money's are received and paid out accordingly. They cannot legally close the transaction until all the requirements for settlement have been met.

Under the terms of the escrow instructions, title to the property is then transferred and appropriate title insurance policies are issued.

It is important to understand the difference between settlement and closing as this will help avoide unpleasant disasters such as a moving truck loaded for an entire weekend or having sellers not able to close on their new home while waiting for the funds from the sale of their old home.

Utah State Insurance Department issues rules to title companies which regulate how monies are to be hanled and an escrow officer cannot truly close a transaction without "good funds." A wire is considered to be good funds the same day it is received, while a cashier or bank check is not considered "good funds" until the following day.