

A romantic couple is shown in a room undergoing renovation. The woman, with her hair in a bun, is kissing the man on the cheek. They are sitting on a floor covered with cardboard boxes. A paint can and a glass of orange juice are visible in the foreground. The background features a window with wooden trim and several potted plants.

*California*  
**BUYER  
& SELLERS**  
GUIDE TO TITLE AND ESCROW



Lawyers Title®

# Welcome!

Welcome to Lawyers Title, where trust and tradition meet cutting-edge service. Established in 1925 and resilient through the Great Depression, Lawyers Title emerged as one of America's foremost title companies by World War II. With a pioneering spirit, we led the way in becoming the first nationwide title company during the post-war boom. Since then, our commitment to excellence has remained steadfast, navigating through diverse economic landscapes with stability and integrity.

As a proud member of the Fidelity National Financial, Inc. (NYSE: FNF) family—the world's largest title insurance and escrow services provider—Lawyers Title stands at the pinnacle of financial strength. This ensures our policyholders experience the safest and most secure real estate transactions possible, backed by substantial assets and reserves.

At Lawyers Title, we blend our rich history with advanced technology solutions designed to streamline your daily operations effortlessly. Whether orchestrating complex transactions or handling local details with finesse, our dedicated team delivers a personalized touch that guarantees meticulous attention to every aspect of your transaction.

We are committed to providing an outstanding customer experience, available anytime and ready to assist in any way possible. Contact our Customer Service Department directly or access our online services for 24/7 support, including order openings and property inquiries.

Thank you once again for choosing Lawyers Title. We look forward to partnering with you and ensuring your next transaction is a seamless success.



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# Important Contacts

## REAL ESTATE AGENT

NAME

COMPANY

PHONE

CELL

FAX

EMAIL

ADDRESS

NOTES

## TITLE/ESCROW

NAME

COMPANY

PHONE

CELL

FAX

EMAIL

ADDRESS

NOTES

# The Buying Process

## SUBMITTING AN OFFER

Once you have chosen a real estate professional they will guide you through the process of finding a property that fulfills your needs. When you have chosen a property the real estate professional will draft a purchase agreement for you, advising you on protective contingencies, customary practices, and local regulations. At this time you will need to provide an “earnest money” deposit, usually from 1% to 3% of the purchase price (the deposit is not cashed until your offer has been accepted by the seller). The buyer will choose the title and escrow company. Lawyers Title would love the opportunity to service your needs. The seller will then accept, counter or reject the offer.

## OPENING ESCROW

Once the offer is accepted and signed by all parties the buyers real estate professional will open escrow and the earnest money will get deposited into an escrow account. All funds associated with the transaction will be handled through escrow.

## THE CONTINGENCY PERIOD

This is the time allowed per your Purchase Agreement to obtain financing, perform inspections, and satisfy any other contingencies to which your purchase is subject.

### Typical contingencies include:

- ↳ Approval of the seller’s Transfer Disclosure Statement
- ↳ Approval of the preliminary report from the title company
- ↳ Loan approval
- ↳ Appraisal of the property
- ↳ Physical inspections of the property
- ↳ Pest inspection and certification
- ↳ Satisfaction of any purchase contingencies & specific transaction requirements



# BUYING PROCESS

## HOMEOWNERS INSURANCE

Before the close of escrow, the buyer must obtain homeowners insurance that is acceptable by the lender. The real estate professional will coordinate between your insurance agent and the escrow officer to make sure your policy is in effect at close of escrow.

## DOWN PAYMENT FUNDS

You will need a cashier's check or wire transfer several days prior to the closing date of escrow. Escrow will provide a settlement statement with the required amount of funds needed to close including down payment and closing costs.

## SIGNING LOAN DOCUMENTS

When all of the conditions of the purchase agreement have been met, you will sign your loan documents. Escrow usually sets up the appointment for your final signing.

## CLOSING ESCROW

After loan documents are signed, the buyer has deposited the remaining balance of funds needed to close and all of the purchase agreement requirements have been met the lender will review the loan documents. If everything is satisfactory the lender will fund the loan. The deed will then be recorded at the County Recorder's office and the buyer will take ownership of the home.



# The Selling Process

## ESCROW INSTRUCTIONS

Escrow instructions define all the conditions that must occur before the transaction can be finalized. The escrow instructions represent your written statement to the escrow holder protecting your interests and specify, in a debit and credit format, the disposition of the sales proceeds and the conditions under which the grant deed may be recorded in favor of the new buyer.

A grant deed is the document which legally transfers your title to the property to the new owner. You will sign the grant deed as part of the escrow instructions and the deed will be notarized by your escrow officer or another qualified notary public. Proper identification is needed for this procedure. The grant deed is recorded at the time escrow closes.

Your escrow officer or real estate agent will contact you for an appointment to sign your escrow instructions and the deed. At this time, the escrow officer will inform you of the amount of proceeds you will receive from the sale of your home. If you are also purchasing another home, arrangements can be made to transfer funds to your purchase escrow.

## YOUR APPOINTMENT

An appointment is required for the sign-off. Please call your escrow officer to arrange a convenient time and expect the process to take approximately one hour. There are several acceptable forms of identification which may be used during the escrow process. These include: a current driver's license, passport, etc. One of these forms of identification must be presented at the signing of escrow in order for the signature to be notarized.

On rare occasions, funds are insufficient to close escrow and you, the seller, must deposit money into the escrow. Should this situation occur, you will need to bring a cashier's check or certified check to the title company for the remainder of the purchase price. Either type of check should be from a California bank or savings and loan and should be issued in the exact amount of the balance due. The amount of the balance may be obtained by phoning the escrow officer prior to signing the papers. The check should be made payable to your escrow company.

## HELPFUL REMINDERS

If you wish to transfer funds to another escrow or wire transfer funds, arrangements must be made in advance with the escrow officer.

In the event that you wish to use a power of attorney, arrangements must be made one to two weeks in advance with the escrow officer and the power of attorney must be approved by the buyer's lender and your title company. These arrangements should be made as early as possible in the transaction.

Please bring appropriate identification with you to the escrow company, so that your identity can be verified by the notary public.

Should the funds deposited in escrow be insufficient for closing, you, the seller, will be responsible for the remaining amount. Your escrow officer will provide the necessary amount if the escrow funds are found insufficient.

# SELLING PROCESS

## AFTER THE SIGN-OFF

### WHAT'S NEXT AFTER COMPLETION OF THE SIGN-OFF?

After you and the buyer have signed all the necessary instructions and documents, the escrow officer will return them to the new lender for a final review. Following the review, which usually occurs within a few days, the lender is ready to fund the buyer's loan and advises the escrow officer so that the necessary work can be completed to record the documents and "close" the escrow.

### WHAT IS "ESCROW CLOSING"?

It signifies legal transfer of title to the property from the seller to the buyer and is the culmination of the transaction.

### WHEN DO I RECEIVE PROCEEDS FROM THE SALE?

Usually the grant deed and deed of trust are recorded within one working day of the escrow's receipt of loan funds. This completes the transaction and signifies the "close of escrow." Once all the conditions of the escrow have been satisfied, the escrow officer advises you of the date the escrow will close and takes care of the technical and financial details, including paying off your loan. A final settlement statement and a check for the proceeds will be available to you the day the sale is completed, documents are recorded and the escrow is closed.

## AFTER THE CLOSE

### WHAT HAPPENS AFTER ESCROW CLOSES?

After the loan has been finalized, the documents signed and recorded, and the financial settlement completed, there are still several steps which must be accomplished to complete the transaction.

Your existing loan is being paid in full from the escrow. Your lender is required by law to issue a full reconveyance of their loan. As soon as the deed of reconveyance removing the previous deed of trust is received, it should be recorded and the original returned to you. This may take several weeks. However, you need not be concerned by this delay since it is normal.

### WHAT HAPPENS TO FUNDS HELD IN ESCROW?

In some cases, the escrow holder will be instructed to hold funds in escrow to pay off obligations which may not be completed until after escrow closes. An example might be a set-aside of funds to correct a structural problem, remodeling or termite repair work. Upon completion of the project and receipt of the proper documentation and releases, the escrow officer will disburse the reserved funds.

# *All about Title Insurance*



# WHAT IS TITLE INSURANCE?

A title insurance policy protects your legal rights over the property, occupancy, use, control, and disposition of the property.

## WHY IS IT DIFFERENT TO TRANSFER TITLE TO PROPERTY THAN IT IS TO TRANSFER DIFFERENT KINDS OF ITEMS SUCH AS A CAR?

The transfer of property can be complicated due to the fact that land is permanent but its use and the rights to use it can change over the years.

## WHAT IS A TITLE SEARCH?

Before issuing a policy, the title insurance company will perform an extensive search of relevant public and historic records related to the property. The search may be performed by title company personnel using either public records or, more likely, information gathered, reorganized and indexed in the company's title "plant."

## WHO NEEDS TITLE INSURANCE?

The seller, buyer and lender all benefit from the insurance provided by title companies. Buyers and lenders in real estate transactions need title insurance. Both want to know that the property they are involved with is insured against certain title defects. Title companies provide this needed insurance coverage subject to the terms of the policy.

## WHAT DOES TITLE INSURANCE INSURE?

Title insurance offers protection against claims resulting from various defects (as set out in the policy) which may exist in the title to a specific parcel of real property, effective on the issue date of the policy. For example, a person might claim to have a deed or lease giving them ownership or the right to possess your property. Another person could claim to hold an easement giving them a right of access across your land. Yet another person may claim that they have a lien on your property securing the repayment of a debt. That property may be an empty lot or it may hold a 50-story office tower. Title companies work with all types of real property.

## HOW MUCH DOES TITLE INSURANCE COST?

Title insurance rates vary based on the liability amount of coverage. A one-time premium is paid at the close of a transaction. There are no monthly payments, as there are with other types of insurance.

## WHAT TYPES OF POLICIES ARE AVAILABLE, AND HOW LONG DOES COVERAGE LAST?

Title companies routinely issue two types of policies: An "owner's" policy which insures you, the homebuyer, for as long as you and your heirs own the home; and a "lender's" policy which insures the priority of the lender's security interest over the claims that others may have in the property.

## **WHAT PROTECTION AM I OBTAINING WITH MY TITLE POLICY?**

A title insurance policy contains provisions for the payment of the legal fees in defense of a claim against your property which is covered under your policy. It also contains provisions for indemnification against losses which result from a covered claim.

## **WHAT ARE THE CHANCES OF EVER USING MY TITLE POLICY?**

In essence, by acquiring your policy, you derive the important knowledge that recorded matters have been searched and examined so that title insurance covering your property can be issued. Because we are risk eliminators, the probability of a claim is very low. However, claims against your property may not be valid, making the continuous protection of the policy all the more important. When a title company provides a legal defense against claims covered by your title insurance policy, the savings to you for that legal defense alone will greatly exceed the one-time premium.

## **WHAT IF I AM BUYING PROPERTY FROM SOMEONE I KNOW?**

You may not know the owner as well as you think you do. People undergo changes in their personal lives that may affect title to their property. People get divorced, change their wills, engage in transactions that limit the use of the property, and have liens and judgments placed against them personally for various reasons. There may also be matters affecting the property that are not obvious or known, even by the existing owner, which a title search and examination seeks to uncover as part of the process leading up to the issuance of the title insurance policy. Just as you wouldn't make an investment based on a phone call, you shouldn't buy real property without assurances as to your title. Title insurance provides these assurances.



# WHY YOU NEED TITLE INSURANCE

## 21 Reasons

With home ownership comes the need to protect the property against the past, as well as the future. Each successive owner brings the possibility of title challenges to the property.

Title insurance protects a policyholder against challenges to rightful ownership of real property—challenges that arise from circumstances of past ownerships.

- 1 A fire destroys only the house and improvements. The ground is left. A defective title may take away not only the house but also the land on which it stands. Title insurance protects you (as specified in the policy) against such loss.
- 2 A deed or mortgage in the chain of title may be a forgery.
- 3 A deed or a mortgage may have been signed by a person under age.
- 4 A deed or a mortgage may have been made by an incapacitated person or one otherwise incompetent.
- 5 A deed or a mortgage may have been made under a power of attorney after its termination and would, therefore, be void.
- 6 A deed or a mortgage may have been made by a person other than the owner, but with the same name as the owner.
- 7 The testator of a will might have had a child born after the execution of the will, a fact that would entitle the child to claim his or her share of the property.



- 8 A deed or mortgage may have been procured by fraud or duress.
- 9 Title transferred by an heir may be subject to a federal estate tax lien.
- 10 An heir or other person presumed dead may appear and recover the property or an interest therein.
- 11 A judgment or levy upon which the title is dependent may be void or voidable on account of some defect in the proceeding.
- 12 Title insurance covers attorneys' fees and court costs.
- 13 Title insurance helps speed negotiations when you're ready to sell or obtain a loan.
- 14 A deed or mortgage may be voidable because it was signed while the grantor was in bankruptcy.
- 15 There may be a defect in the recording of a document upon which your title is dependent.
- 16 Claims constantly arise due to marital status and validity of divorces. Only title insurance protects against claims made by non-existent or divorced "wives" or "husbands."
- 17 Many lawyers, in giving an opinion on a title, protect their clients as well as themselves, by procuring title insurance.
- 18 By insuring the title, you can eliminate delays and technicalities when passing your title on to someone else.
- 19 Title insurance reimburses you for the amount of your covered losses.
- 20 Each title insurance policy we write is paid up, in full, by the first premium for as long as you or your heirs own the property.
- 21 Over the last 24 years, claims have risen dramatically.



# THE TITLE SEARCH PROCESS

CUSTOMER SERVICE VERIFIES LEGAL PROPERTY DESCRIPTION AND HOW TITLE TO REAL PROPERTY IS HELD

PRELIMINARY ORDER AND TITLE SEARCH ARE OPENED

PRELIMINARY SEARCH OF REAL PROPERTY IS DONE

TITLE SEARCH EXAMINES REAL PROPERTY RECORDS, GENERAL INDEX RECORDS AND TAX RECORDS

EXAMINER REVIEWS COMPLETE SEARCH PACKAGE AND WRITES PRELIMINARY REPORT

DATA PROCESSOR ENTERS PRELIMINARY TITLE INFORMATION INTO COMPUTER AND PREPARES PRELIMINARY REPORT

PRELIMS ARE SENT TO ESCROW AND LENDERS

NEW DOCUMENTS, DEMANDS AND STATEMENT OF INFORMATION SUBMITTED TO TITLE COMPANY

ESCROW AUTHORIZES RECORDING OF NEW DOCUMENTS IN THE TRANSACTION

DOCUMENTS ARE RECORDED, CONFIRMATION OF RECORDING IS RECEIVED AND LIENS OF RECORD ARE PAID OFF

TITLE OFFICER WRITES TITLE POLICIES

DATA PROCESSOR PREPARES FINAL TITLE POLICIES

TITLE POLICIES RELEASED TO CLIENT

# Title Policy

## COMPARISON CHART

<b>CLTA</b> <b>STANDARD</b> (ITEMS 1-7)		<b>HOMEOOWNER'S POLICY</b> <b>1-4 UNITS OWNER OCCUPIED</b> (ITEMS 1-40)
	1 Someone else owns an interest in your title	
	2 A document is not properly signed	
	3 Forgery, fraud, duress, incompetency	
	4 Defective recording of a document	
	5 Unmarketability of title	
	6 Lack of a right of access to and from the land	
	7 The priority of any lien or encumbrance over the lien of the insured mortgage	
	8 Mechanic's lien protection	
	9 Forced removal of residential structure—encroachments	
	10 Forced removal of residential structure—restrictions	
	11 Forced removal of residential structure—zoning	
	12 Cannot use land for SFR due to zoning or restrictions	
	13 Unrecorded liens by the homeowner's association	
	14 Unrecorded easements	
	15 Others have rights arising out of leases, contracts, or options	
	16 Pays rent for substitute housing	
	17 Plain language	
	18 *Building permit violations—forced removal	
	19 *Subdivision law violations	
	20 *Zoning violations—forced removal	
	21 *Boundary wall or fence encroachment	
	22 Restrictive covenant violations	
	23 Post-policy defect in title	
	24 Post-policy contract or lease rights	
	25 Post-policy forgery	
	26 Post-policy easement	
	27 Post-policy limitation on use of land	
	28 Post-policy encroachment by neighbor other than wall or fence	
	29 Enhanced access—vehicular and pedestrian	
	30 Damage to structure from use of easement	
	31 Street address is correct	
	32 Map shows correct location of the land	
	33 Exercise of mineral rights	
	34 Sale fails due to neighbor's encroachments	
	35 Living trust coverage	
	36 Coverage for spouse acquiring through divorce	
	37 Automatic policy increase up to 150%	
	38 Forced removal due to building setbacks	
	39 Discriminatory covenants	
	40 Insurance coverage forever	

Note: Items marked with an \* are subject to a deductible and maximum liability, which is less than the policy amount. This chart is intended for comparison purposes only and is not a full explanation of policy coverage. Policy coverages are subject to the terms, exclusions, exceptions, and deductibles shown in the policy.

# THE LENDER'S TITLE POLICY VS THE HOMEOWNER'S TITLE POLICY

There are two types of title insurance buyers encounter at the time of a property purchase. One is the Homeowner's Policy and the other is known as the Lender's Title Policy. Understanding the protection offered by each is critical to the decisions that are made upon closing a transaction.

## THE LENDER'S TITLE POLICY

Upon the issuing of a loan, most lenders require a lender's title policy. The lender's title policy is typically based on the dollar amount of the loan. This policy protects only the lender's interest in the property should an issue with the title arise. This policy does not protect the buyer. The policy amount decreases as the loan is paid down and eventually disappears as the loan is paid off.

## THE HOMEOWNER'S TITLE POLICY

A homeowner's policy is usually issued in the amount of the real estate purchase. It is purchased for a one-time fee at closing and lasts for as long as the owner maintains an interest in the property. Only a homeowner's policy protects the buyer should a covered title problem arise.

**Title insurance is critical to protect one of the most important investments you'll ever make: The investment in your home!**

Your title insurance policy will pay to defend the property owner against any lawsuit questioning title as the insured owner in accordance with the terms of your policy. It will either clear up title problems or incur the cost of settling the case, if it proves valid, in order to protect your title and maintain your possession of your property.

**In addition to matters shown by public records, other title problems may exist that cannot be disclosed in a search. Just a few examples include:**

- ↳ Errors or omissions in deeds
- ↳ False impersonation of the true owner of the property
- ↳ Forged deed, releases, or wills
- ↳ Instruments executed under invalid or expired power of attorney
- ↳ Mistakes in recording legal documents
- ↳ Misinterpretations of wills or deeds by persons of unsound mind
- ↳ Judgments
- ↳ Mechanic liens
- ↳ Deeds by minors
- ↳ Deeds by persons supposedly single, but in fact married
- ↳ Fraud on the part of the sellers
- ↳ Liens for unpaid estate, inheritance, income, or gift taxes
- ↳ Undisclosed easements

A homeowner's policy provides assurance that your title insurance company will stand behind you—monetarily and with legal defense if needed—if a covered title problem arises after you buy your home. Please contact us directly for more information about title insurance from the team with the expertise you can trust.

# HOMEOWNER'S POLICY OF TITLE INSURANCE

## PROVIDING THE BEST FOR HOMEOWNERS

Homeowners depend upon the strength and stability of a reputable title insurer to back their policies for years to come. We have a long and proud history of providing homeowners with the most innovative title and escrow products in the industry. Homeowners can enjoy peace of mind knowing they are insured by one of the industry's premier title insurers. And with the homeowner's policy, you'll have even more peace of mind knowing you have the best policy available.

## PROVIDING THE BEST TO REALTORS

The superior coverage of the Homeowner's Policy of title insurance, backed by the nation's strongest title insurer, provides outstanding benefits to Realtors as well.

- ↳ Reduces Realtor's exposure in a transaction regarding certain regulatory matters
- ↳ Increases the client's satisfaction and confidence by providing the finest protection available
- ↳ Helps ensure the client's ability to resell the home in the future, free of potentially damaging title problems
- ↳ Gives the Realtor and client peace of mind in the increasingly complex world of real estate

Informing clients about premium title insurance such as the Homeowner's Policy makes good business sense. With superior title coverage issued through a strong and reputable title insurer, Realtors and clients benefit from two critical layers of protection.

## SUPERIOR ALL-INCLUSIVE BENEFITS WITH THE HOMEOWNER'S POLICY

The Homeowner's Policy includes the following basic coverage:

- ↳ False impersonation of the true owner of the property
- ↳ Forged deeds, releases or wills
- ↳ Undisclosed or missing heirs
- ↳ Instruments executed under invalid or expired power of attorney
- ↳ Mistakes in recording legal documents
- ↳ Misinterpretation of wills
- ↳ Deeds by minors
- ↳ Deeds by persons supposedly single, but in fact married
- ↳ Liens for unpaid estate, inheritance, income or gift taxes
- ↳ Fraud

## COVERAGE FOR 1-4 FAMILY RESIDENCES



# TYPES OF COVERAGE

Please visit our for a complete chart showing a deeper comparison of the three forms of coverage summarized below:

## HOMEOWNER'S TITLE INSURANCE POLICY:

The homeowner's policy is only available on single family homes to fourplexes. It must be owned by a "natural person" and not an entity such as a corporation or an LLC. In addition to the protections offered in the standard policy, the homeowner's policy extends coverage beyond the issue date.

### Examples include:

- ↳ You cannot use the land because use as a single family residence violates an existing zoning law or regulation.
- ↳ You are forced to remove your existing structures which encroach onto an easement or over a building set-back line even if the easement or building set-back line is excepted in your title policy.
- ↳ You do not have both actual vehicular and pedestrian access to and from the land based upon a legal right.

## ALTA STANDARD HOMEOWNERS POLICY:

The Homeowner's Standard Policy will cover the buyer against issues that could be discovered by an examination of public record.

### Examples of these would be:

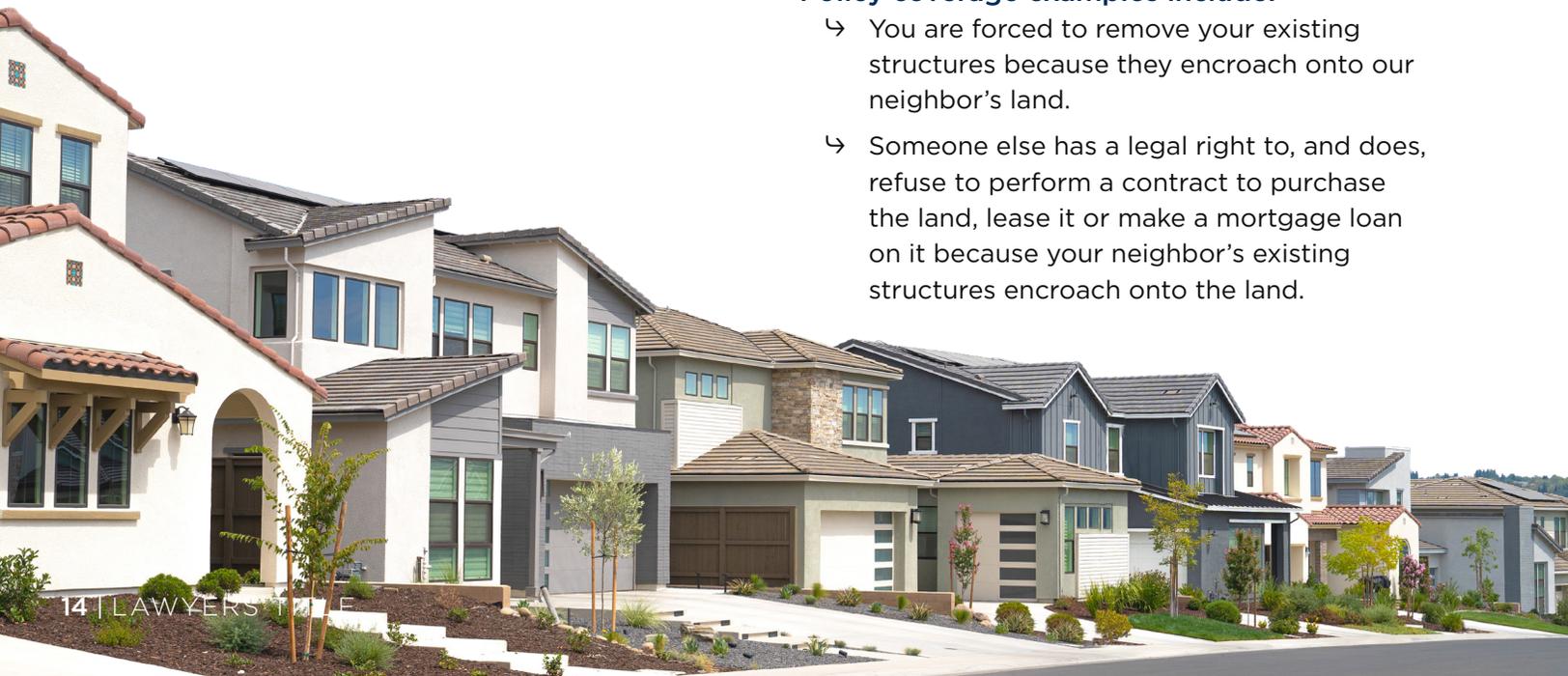
- ↳ A document upon which your title is based was not properly filed, recorded or indexed in the public records.
- ↳ Someone else has a right to limit your use of the land.
- ↳ Someone else claims to have rights affecting your title arising out of forgery or impersonation.
- ↳ Someone else owns an interest in your title.

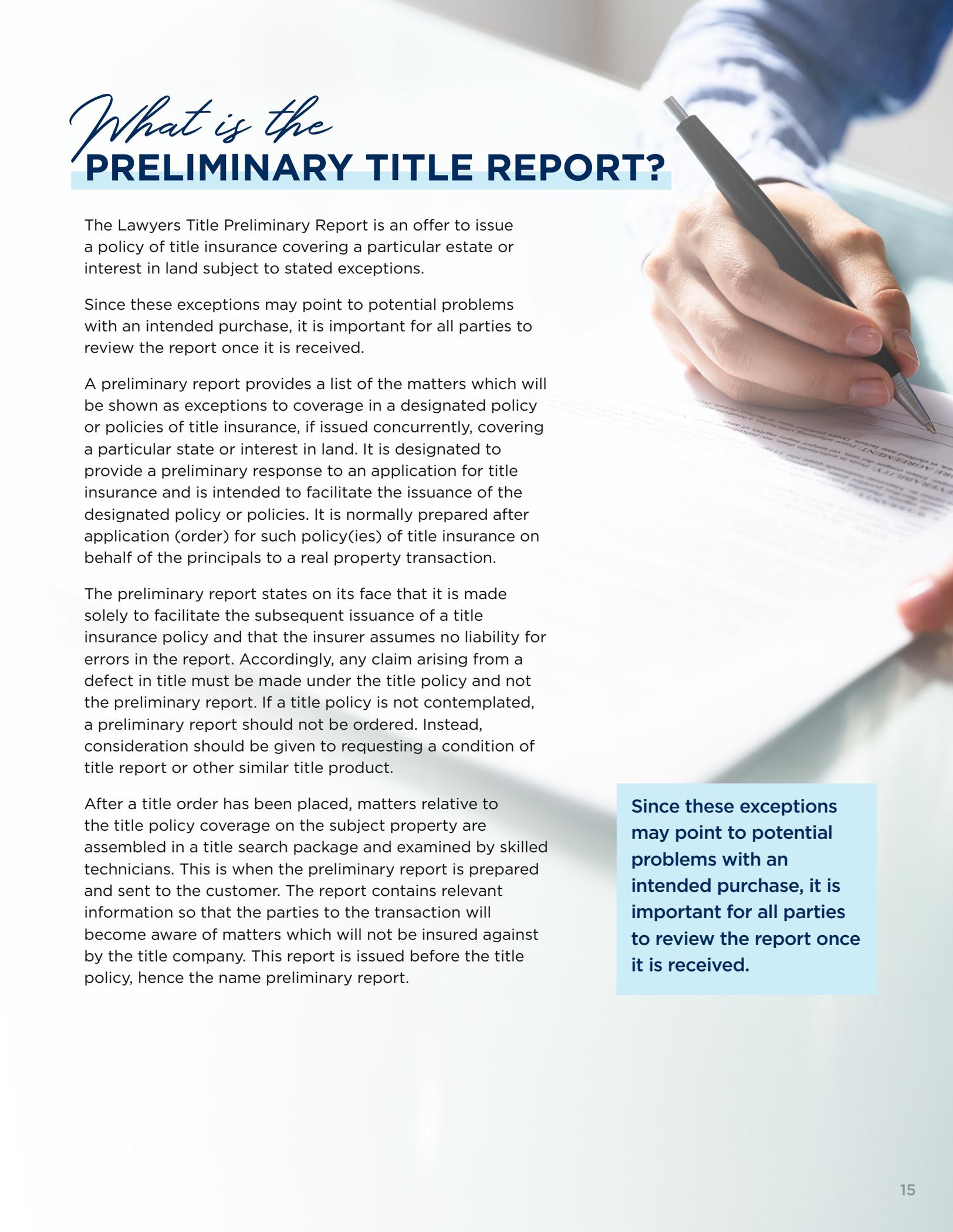
## ALTA EXTENDED HOMEOWNERS POLICY:

The Extended Homeowner's Policy offers the most extensive title insurance as it covers not only matters of public record but also insures issues that are revealed as a result of a physical inspection or survey of the property. This is commonly issued for high value residential properties, large parcels of vacant land and commercial properties.

### Policy coverage examples include:

- ↳ You are forced to remove your existing structures because they encroach onto our neighbor's land.
- ↳ Someone else has a legal right to, and does, refuse to perform a contract to purchase the land, lease it or make a mortgage loan on it because your neighbor's existing structures encroach onto the land.





# What is the **PRELIMINARY TITLE REPORT?**

The Lawyers Title Preliminary Report is an offer to issue a policy of title insurance covering a particular estate or interest in land subject to stated exceptions.

Since these exceptions may point to potential problems with an intended purchase, it is important for all parties to review the report once it is received.

A preliminary report provides a list of the matters which will be shown as exceptions to coverage in a designated policy or policies of title insurance, if issued concurrently, covering a particular state or interest in land. It is designated to provide a preliminary response to an application for title insurance and is intended to facilitate the issuance of the designated policy or policies. It is normally prepared after application (order) for such policy(ies) of title insurance on behalf of the principals to a real property transaction.

The preliminary report states on its face that it is made solely to facilitate the subsequent issuance of a title insurance policy and that the insurer assumes no liability for errors in the report. Accordingly, any claim arising from a defect in title must be made under the title policy and not the preliminary report. If a title policy is not contemplated, a preliminary report should not be ordered. Instead, consideration should be given to requesting a condition of title report or other similar title product.

After a title order has been placed, matters relative to the title policy coverage on the subject property are assembled in a title search package and examined by skilled technicians. This is when the preliminary report is prepared and sent to the customer. The report contains relevant information so that the parties to the transaction will become aware of matters which will not be insured against by the title company. This report is issued before the title policy, hence the name preliminary report.

**Since these exceptions may point to potential problems with an intended purchase, it is important for all parties to review the report once it is received.**

# The Big Three

## KEY ITEMS TO LOOK FOR ON YOUR PRELIMINARY REPORT

1

### LIENS

Are there any liens attached to the property? Types of liens that may be initiated include failure to make payments on any recorded judgments, past-due child support, unpaid homeowners association fees, or unpaid property taxes.

2

### RESTRICTIONS

Are there easements, covenants, or other restrictions on the report that can impact the way that you, the buyer, intend to use the property?

3

### UP-TO-DATE PRELIMINARY REPORT

Is the preliminary report up to date? Should the report be more than a few weeks old, please contact us to see if there are any changes or supplemental reports that have been issued.

# Preliminary TITLE REPORT RED FLAGS

Below are some of the items which may cause delays or other problems within a transaction and must be addressed well before the closing.

- ↳ Bankruptcies
- ↳ Business trusts
- ↳ Clearing liens and judgments, including child or spousal support liens
- ↳ Encroachment or off-record easements
- ↳ Establishing fact of death: joint tenancy family trusts
- ↳ Foreclosures
- ↳ Physical inspection results: encroachment, off-record easements
- ↳ Probates
- ↳ Power of attorney: use of, proper execution
- ↳ Proper execution of documents
- ↳ Proper jurats, notary seals
- ↳ Recent construction
- ↳ Transfers or loans involving corporations or partnerships
- ↳ Last minute change in buyers
- ↳ Last minute change in type of title insurance coverage

## RED FLAG EXAMPLES

### TAXES

These are usually standard, showing the status of the current tax year.

**Red Flag:** Postponed property taxes. This is a state program for senior citizens. It allows the owner to postpone the taxes until the property is sold or refinanced. The owner applies to the state, and the state provides “checks” that the owner uses to pay the taxes. The reason this is a red flag is because a demand will need to be ordered from the state by escrow in order to pay off the postponed taxes. It may take up to 2 weeks to get a demand.

### CC&RS

These are standard. The CC&Rs should be provided to the buyer by escrow. The buyer should read these thoroughly, especially if improvements to the property are contemplated.

**Red Flag:** Some CC&Rs prohibit certain types of improvements.

### EASEMENTS

These are also pretty standard. Most easements in newer subdivisions (20 years or less) are contained in the street. Some subdivisions have nonexclusive easements over portions of the property for such things as maintenance of side yards, access to common areas (like golf courses), etc.

**Red Flag:** If improvements are contemplated (such as construction of a pool or spa for example), then the buyer should request the easements be plotted on a map to determine that there will not be any interference to contemplated improvements. However, you should be aware that easements are very difficult to get removed, and your client may be better off with another property if an easement interferes with his future plans for the property.

### AGREEMENTS

These commonly take the form of road maintenance agreements, mutual easement agreements (like a shared driveway) or improvement agreements, and will bind the owner to certain actions. A copy of the agreement should be requested from title and provided to the buyer. It is the buyer’s responsibility to contact their own counsel if they do not understand how the agreement would affect them.



A “Red Flag” is a Signal  
to Pay Attention!

*More*

## RED FLAG EXAMPLES

### TRUST DEEDS

These are common. Escrow will order a demand from the lender(s) which will allow the title company to pay off the existing loan(s) using the proceeds from the new buyer's loan (or proceeds if all cash).

**Red Flag:** Watch out for old trust deeds from a previous owner (or sometimes the current owner if he has refinanced). If you find a trust deed listed that has already been paid, or that looks like it was taken out by a previous owner, call your title officer immediately. He will research the trust deed, and take the necessary steps to either remove it from the public record (by working with escrow to get release documents) or by acquiring an "indemnity" from the title company who paid off the old loan. Old trust deeds with private party beneficiaries (individual people acting as lender, such as an old seller carry-back) are difficult to get removed, especially if several years have gone by since the loan has been paid off. A bond will sometimes be necessary in order to clear title of an old trust deed. These bonds must cover twice the face value of the deed of trust, and will cost upwards of 1% of the bond amount (usually around 2 or 3 percent, more for higher risk bonds), depending on how much supporting documentation is provided to the bonding company. Note: If you have a client/buyer who is getting financing from the seller, or any individual, advise them to contact you or their title officer when the loan is being paid off. The release documents will be much easier to get now rather than in a few years when the lender may no longer be around.

### ENCROACHMENTS

We will sometimes find that a structure (commonly a fence or driveway) encroaches upon our property. This usually means that your client will have to take the property subject to the encroachment. Contact your title officer if you see encroachment language in your prelim.

**Red Flag:** The lender will usually not want to lend on a property where encroachments exist. In some circumstances, an endorsement to the lender's policy (usually with an extra charge) can allow the lender to close. These are determined on a case by case basis. Again, contact your title officer.

### NOTICE OF VIOLATION

These will sometimes be recorded by the fire department, the health department, or the local zoning enforcement division in situations where the property violates a local statute.

**Red Flag:** These are always a red flag. The lender will not accept these conditions. The violation will have to be eliminated and the local enforcement agency will have to issue a release before closing. Escrow (or the seller or the seller's representative) will usually have to deal directly with the appropriate agency to resolve these types of issues.

### COURT ORDERS/JUDGMENTS

These are not a standard item. The most common types to show on a PR are support judgments. These are issued by the courts when child/spousal support is owed by the party named. (See "Statement of Information")

**Red Flag:** Any order/judgment is a red flag. It can take up to 6 weeks to get a demand and release for support judgments from the creditor (usually the district attorney's office). If you see an order or judgment, contact escrow immediately to verify that the demand has been ordered.

### BANKRUPTCY

While not unusual, bankruptcies are not standard.

**Red Flag:** All open bankruptcies require the debtor to get permission from the court to sell or encumber an asset (the home) or to take on new debt. Chapter 7 and 13 bankruptcies against the seller are the most common we will find in a sale situation. A letter from the bankruptcy trustee will be required to close escrow.

## Continued

The trustee will sometimes require that a payment be made to the court at close. We sometimes find a Chapter 13 against a buyer, which will also require a letter from the trustee allowing the debtor to take on more debt. An open Chapter 7 against the buyer is rare, and the buyer probably cannot get a loan as long as he is in a Chapter 7. (See “Statement of Information”) Note: Chapter 7 is a complete washout of dischargeable debt. Chapter 13 is a reorganization of debt. Chapter 11 is a reorganization of debt for a company or corporation.

### NOTICE OF PENDING ACTION

This is also known as a *lis pendens*.

**Red Flag:** This is a big red flag. This means that someone has a lawsuit pending that may affect the title to the property. We often find these in acrimonious divorce situations. A demand (the aggressing party usually wants money before releasing) and withdrawal (a “withdrawal of lis pendens” is a legal document that must be recorded to release the lis pendens) will be required before closing.

### STATEMENT OF INFORMATION

Also known as a Statement of Facts, Statement of Identity, or an SI. This document will be provided to the parties by escrow. It asks for information about the parties such as social security number, residence history, marital history, job history, aliases, etc. Please have your clients fill this out as completely as possible. It allows us to eliminate things recorded in the General Index (GI) that are recorded against the name (as opposed to the property) such as tax liens, judgments, welfare liens, support liens, and lawsuits that may be filed against people that have the same name as your clients. These types of liens attach automatically to any real property owned by the debtor, and therefore make the property liable for any payment due under the lien.

**Red Flag:** If your client has a common name (for example: Smith, Johnson, Garcia, Martinez, Lee, etc) it is important that we receive the completed SI promptly in order to “clear” your client. Sometimes (rarely) the client is unaware that a lien may exist. More often, the client may have resolved the situation but has never gotten the proper release documents recorded in order to remove from the public record. We cannot close a file with unresolved liens against a seller. There are some circumstances when a deal can still be closed when there is an unresolved lien against a buyer. Contact your title officer if you find that this situation exists.

### FYI

If you ever find yourself in a situation where you need to record an abstract of judgment against someone who owes you money, it may be wise to record the abstract in any county where the debtor owns or may own property. This will help protect you if the debtor owns or purchases property out of the immediate area. Consult your attorney if you are not sure.

If you find something on your prelim that is not listed here, it is probably a red flag and you should contact your title officer. He (or she) will be happy to provide you with copies of recorded documents and advise you as to what is needed in order to remove the item (if necessary). Sometimes, though, removing an item is so time consuming, or costly, or both, that it becomes a decision on the part of your buyer. We cannot advise you or your clients as regards the risk in making such a decision. They should contact their own counsel if they have these types of concerns.

# The Benefits of the STATEMENT OF INFORMATION

## WHAT IS A STATEMENT OF INFORMATION?

Statements of Information provide title companies with the information they need to distinguish the buyers and sellers of real property from others with similar names. After identifying the true buyers and sellers, title companies may disregard the judgments, liens or other matters on the public records under similar names.

## WHAT DOES A STATEMENT OF INFORMATION DO?

A properly completed Statement of Information will allow the title company to differentiate between parties with the same or similar names when searching documents recorded by name.

## WHAT TYPE OF INFORMATION IS REQUESTED ON A STATEMENT OF INFORMATION?

Types of information include your full name, social security number, year of birth, birthplace, marital status, etc.

## WILL THE STATEMENT OF INFORMATION I SUPPLY BE KEPT CONFIDENTIAL?

Yes, your privacy is very important to us, and all the information we collect will be handled responsibly, and kept completely confidential.

## WHAT HAPPENS IF A BUYER, SELLER, OR BORROWER FAILS TO PROVIDE THE REQUESTED STATEMENT OF INFORMATION?

Per the California Association of Realtors® contract, sellers are required to provide the Statement of Information to their escrow holder within 7 days of acceptance of the contract. Without a Statement of Information, it would be necessary for the title company to list as exceptions from coverage judgments, liens or other matters which may affect the property to be insured. Such exceptions would be unacceptable to most lenders—whose interest must also be insured, and will prohibit the close of escrow.

**CONFIDENTIAL - TO BE USED ONLY IN CONNECTION WITH ORDER NO.**  
**LAWYERS TITLE STATEMENT OF INFORMATION**  
NOTE: THIS FORM IS NEEDED IN ORDER TO ELIMINATE JUDGMENTS AND LIENS AGAINST PEOPLE WITH SIMILAR NAMES  
THE STREET ADDRESS of the property in this transaction is: (IF NONE LEAVE BLANK)  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
1. IMPROVEMENTS:  SINGLE RESIDENCE  MULTIPLE RESIDENCE  COMMERCIAL  
2. OCCURRED BY:  OWNER  TENANTS  ANY CONSTRUCTION WITHIN THE LAST 6 MONTHS?  YES  NO  
3. ANY CONSTRUCTION WITHIN THE LAST 6 MONTHS?  YES  NO  
4. IF YES to No. 3, STATE NATURE OF WORK DONE: \_\_\_\_\_  
**PARTY 1**  
FIRST \_\_\_\_\_ MIDDLE \_\_\_\_\_ LAST \_\_\_\_\_  
BIRTHPLACE \_\_\_\_\_ BIRTH DATE \_\_\_\_\_  
FORMER LAST NAME(S), IF ANY \_\_\_\_\_  
SOCIAL SECURITY NUMBER \_\_\_\_\_  
 SINGLE  MARRIED  HAVE A REGISTERED DOMESTIC PARTNER  
DRIVER'S LICENSE NO. \_\_\_\_\_  
Name: \_\_\_\_\_  
CURRENT SPOUSE OR REGISTERED DOM. PARTNER (Other than Party 2):  
Name: \_\_\_\_\_  
FORMER SPOUSE / REGISTERED DOM. PARTNER:  
Name: \_\_\_\_\_  
MARRIED?  YES  NO  
**MARRIAGE OR REGISTERED DOMESTIC PARTNERSHIP BETWEEN PARTIES 1 AND 2**  
REGISTERED DOM. PARTNERSHIP? \_\_\_\_\_ DATE OF MARRIAGE/REG. DOM. PARTNERSHIP: \_\_\_\_\_  
**PARTY 1 - OCCUPATIONS FOR LAST 10 YEARS**  
PRESENT OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
PRIOR OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
NUMBER AND STREET \_\_\_\_\_ CITY AND STATE \_\_\_\_\_  
**PARTY 1 - RESIDENCES FOR LAST 10 YEARS**  
PRESENT OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
PRIOR OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
NUMBER AND STREET \_\_\_\_\_ CITY AND STATE \_\_\_\_\_  
**PARTY 2 - OCCUPATIONS FOR LAST 10 YEARS**  
PRESENT OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
PRIOR OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
NUMBER AND STREET \_\_\_\_\_ CITY AND STATE \_\_\_\_\_  
**PARTY 2 - RESIDENCES FOR LAST 10 YEARS**  
PRESENT OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
PRIOR OCCUPATION FIRM NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_ NO. OF YEARS \_\_\_\_\_  
NUMBER AND STREET \_\_\_\_\_ CITY AND STATE \_\_\_\_\_  
I/WE HEREBY AUTHORIZE LENDERS TO RELEASE PAYOFF INFORMATION, IN WRITING OR VERBALLY, TO \_\_\_\_\_  
DATE \_\_\_\_\_ HOME PHONE \_\_\_\_\_ BUSINESS PHONE \_\_\_\_\_  
SIGNATURES REV. 12/2004

# Vesting Descriptions

## COMMON WAYS OF HOLDING TITLE

	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP	JOINT TENANCY	TENANCY IN COMMON	PARTNERSHIP HOLDING TITLE	TRUST HOLDING TITLE
<b>PARTIES</b>	Spouse and spouse or domestic partners.	Spouse and spouse or domestic partners.	Any number of persons (can be spouse and spouse or domestic partners).	Any number of persons.	Any number of partners.	Any number of beneficiaries of the trust.
<b>DIVISION OF INTERESTS</b>	Equal.	Equal.	Equal.	Any number of interests, equal or unequal.	Partnership interests may be equal or unequal.	Beneficial interests under trust may be equal or unequal.
<b>TITLE</b>	In the names of the individual owners.	In the names of the individual owners.	In the names of the individual owners.	In the names of the individual owners.	In the name of the partnership.	In the name of the trustee, "as trustee."
<b>POSSESSION</b>	Equal right of possession.	Equal right of possession.	Equal right of possession.	Equal right of possession.	According to partnership agreement.	According to trust agreement.
<b>CONVEYANCE</b>	Both spouses must join in a conveyance.	Both spouses must join in a conveyance.	Conveyance by one co-owner breaks the joint tenancy.	Each co-owner's interest may be conveyed separately.	Any general partner authorized by the partnership agreement may convey.	Trustee may convey in accordance with the trust agreement.
<b>DEATH</b>	Decedent's spouse 1/2 interest passes to decedent's estate.	Decedent's 1/2 interest passes to survivor.	Decedent's interest passes to the survivor(s).	Decedent's interest passes to decedent's estate.	Partnership agreement provides for either termination or continuance of the partnership.	Trust agreement usually provides for distribution upon death of the settlor.
<b>SUCCESSOR'S STATUS</b>	Tenancy in common between devisee and survivor results.	Survivor owns entire interest.	Last survivor owns entire interest.	Devisees or heirs become tenants in common.	Heirs or devisee have rights in partnership interest but not in specific property.	Trust agreement usually provides for distribution upon death of the settlor.
<b>CREDITOR'S RIGHTS</b>	Community property is liable for the debts of either spouse incurred before or during marriage or domestic partnership.	Community property is liable for the debts of either spouse incurred before or during marriage or domestic partnership.	Co-owner's interest may be sold at an execution sale to satisfy the co-owner's judgment creditor.	Co-owner's interest may be sold at an execution sale to satisfy the co-owner's judgment creditor.	Only a partner's right to receive profits can be executed upon by the partner's judgment creditor.	Usually, a creditor cannot execute on a beneficiary's interest.
<b>PRESUMPTION</b>	Strong presumption that property acquired by married spouses is community	Must be expressly stated	Must be expressly stated	Favored in doubtful cases except married spouse cases	Arise only by virtue of partnership status in property placed in partnership	A trust is expressly created by an executed trust agreement

# *All about Escrow*



# UNDERSTANDING ESCROW

## WHAT IS AN ESCROW?

Buyers and sellers of a piece of property establish terms and conditions for the transfer of ownership of the property. These terms and conditions are given to a third party known as the escrow holder. In turn, the escrow holder has the responsibility of seeing that terms of the escrow are carried out. The escrow is an independent neutral account and the vehicle by which the mutual instructions of all parties to the transaction are complied with.

## WHY IS ESCROW NEEDED?

Whether you are the buyer or the seller, you want assurance that no funds or property will change hands until all instructions have been followed. With the increasing complexity of business, law and tax structures, it takes a trained professional to supervise the transaction.

## HOW LONG IS AN ESCROW?

The length of an escrow is determined by the terms of the purchase agreement/joint escrow instructions and can range from a few days to several months.

## WHO CHOOSES THE ESCROW?

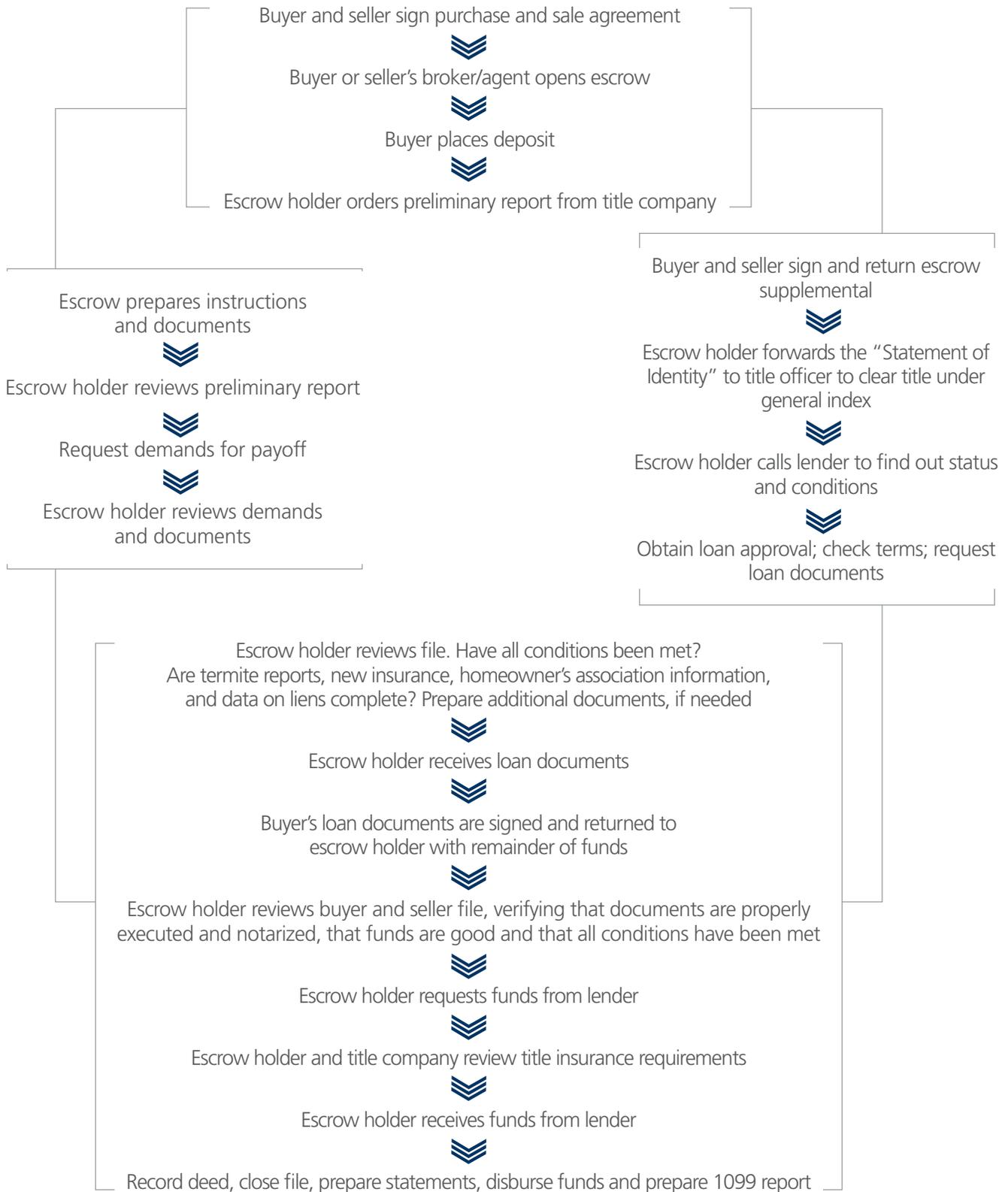
The selection of the escrow holder is normally done by agreement between the principals. If a real estate agent is involved, they may recommend an escrow holder.

## WHY LAWYERS TITLE ESCROW?

Lawyers Title Escrow has experienced and knowledgeable escrow officers waiting to assist you. We can handle your residential and commercial purchases and/or refinance escrows, from the unique to the complex. Lawyers Title has offices both locally and nationally to accommodate the most demanding buyers, sellers and borrowers. Call us today to close your next transaction.

**THE ESCROW IS AN INDEPENDENT NEUTRAL ACCOUNT AND THE VEHICLE BY WHICH THE MUTUAL INSTRUCTIONS OF ALL PARTIES TO THE TRANSACTION ARE COMPLIED WITH**

# THE ESCROW PROCESS



# OPENING ESCROW

The selection of the escrow holder is normally done by agreement between the parties to a transaction. Typically, the escrow is then opened by the real estate agent. Which agent (the “seller side” or the “buyer side”) will open the escrow is generally determined by local practice.

Escrow may be opened via telephone, email, website form, or in person, depending upon the preference of the agent and which options are available through the escrow company. An escrow file number is assigned and the appropriate information is entered into the computer. Upon issuance of the escrow file number, the escrow officer will order a preliminary report from the title company or title department.

## THE ESCROW OFFICER WILL NEED SOME BASIC INFORMATION IN ORDER TO OPEN AND PROCEED WITH THE ESCROW:

- ↳ Correct street address, and parcel # if available
- ↳ Sales price
- ↳ Full names of all parties involved and marital status
- ↳ Contact information for all parties
- ↳ Existing lender name, loan number, contact information and approximate unpaid balance
- ↳ HOA (Homeowner’s Association) information, such as address and dues
- ↳ HOA management company information (if any)
- ↳ Compensation amount and additional conditions

In general, the first item to enter the escrow is the buyer’s initial deposit. The escrow file will grow, item by item, until all of the conditions have been met and the escrow is ready to close.

## THE ESCROW OFFICER WILL ALSO NEED THE FOLLOWING FROM THE BUYER’S AGENT:

- ↳ How the buyer(s) wants to take title (see pg. 21)
- ↳ New lender information
- ↳ Fire/hazard insurance information for new policy or existing policy



# Understanding

## THE SETTLEMENT STATEMENT

Based on the terms of the Purchase and Sale Agreement and instructions from the lender (when financing is applicable), your escrow officer balances the debits and credits for both the buyer and seller for the transaction. Both parties will receive a settlement statement to review and acknowledge all of the debits & credits for their respective sides of the transaction. When financing from an institutional lender is involved, both buyer and seller will receive not only a settlement statement but also a closing disclosure, as required by the Consumer Financial Protection Bureau (CFPB).

### CLOSING DISCLOSURE

For a buyer, the closing disclosure is a form your lender provides to you, a minimum of three days before your consummation (signing of the loan documents). It outlines the final terms and costs of your mortgage as well as the costs to purchase the property. For a seller the closing disclosure is a form your escrow officer provides to you outlining the final costs of the sale. For both the buyer and seller it is one of the most important pieces of paperwork you'll receive, so be sure to take a few moments to review the details.

### NET PROCEEDS

Net proceeds refers to the amount received by the seller arising from the sale of a property. This is different from the homeowner's equity, or gross proceeds in the home, because it takes into account all costs and expenses that are due from the seller as part of the sale.

### RIGHT OF RESCISSION

The right of rescission is a right, set forth by the Truth in Lending Act (TILA) under U.S. Federal Law of a borrower to cancel a home equity loan or line of credit with a new lender, or to cancel a refinance transaction done on a primary residence, within three days of consummation.

### CLOSING COSTS

Closing costs are the expenses, over and above the price of the property that buyers and sellers incur to complete a real estate transaction. These costs can include, but are not limited to, any expenses related to obtaining a loan, governmental charges such as property taxes and real estate excise tax, homeowners insurance, title & escrow charges, agent compensations and Homeowners Association (HOA) charges, to name a few.



# Continued

BUYER SELLER

**Financial Consideration:** This section will reflect the final sales or purchase price of the home as well as any agreed upon credits. This will also reflect the amount of the earnest money deposit and the principal balance of the new loan, if applicable.



**Prorations/Adjustments:** Common types of proration and/or adjustments that may be found here would be property taxes, HOA dues, capacity charges or other assessments. The prorations adjust for items prepaid or outstanding that have to be split between the parties based on the date of ownership transfer.



**HOA Charges:** Each homeowners association specifies certain costs for the buyer and/or seller that are due upon the transfer of ownership. This can be for any property subject to an association and is not limited to condominiums. Some common charges are move-in/move-out fees, demand fees, transfer fees and prepaid dues, just to name a few.



**Agent Compensations:** Agent compensation amounts due to the real estate brokers as agreed to in the listing agreement, buyer's agency agreement or the purchase and sale agreement.



**Title & Escrow Charges:** Customary costs vary by county custom and are negotiable in PSA.



**Government Charges:** Real estate excise tax (REET) is a tax on the sale of real estate. The real estate excise tax is typically paid by the seller of the property (although some city transfer taxes are customarily split between buyer & seller), based on the sales price. Recording fees can be paid by the buyer or the seller depending on the document that is being recorded as part of the transaction. The buyer typically pays to record the deed (transfer of ownership) and the deed of trust (security document for the loan). If the seller is using a power of attorney for the sale, this is an example of a document the seller would pay to record.



**New Loan Charges:** New loan charges are all applicable charges associated with the financing. Some common line items may be an origination fee, application fee, appraisal, credit report, tax service fee, flood certification, per diem interest, homeowner's insurance or reserve account deposits for taxes, and insurance. Depending on your specific loan type, the fees may vary.



**Payoffs:** Existing loan(s) or lien(s) secured by the property will be paid off through closing. Escrow will work with the sellers to obtain the necessary account information, to order demands for any loans or liens secured by the property, and these amounts will be reflected accordingly on the settlement statement.



**Miscellaneous:** This section will reflect any costs that are not allocated to an earlier section of the statement, yet are necessary costs of the transaction. Things you may see in this section are utility estimates and mobile notary fees, or any other costs that are specific or unique to the transaction.



# ESCROW RED FLAGS

A “red flag” is a signal to pay attention! These situations may cause delays or other problems within an escrow and must be addressed well before the escrow is expected to close. The preliminary report or “Commitment of Title Insurance” will reveal many red flags, so the escrow officer will review it carefully. Agents and parties to the transaction should also review the preliminary report for situations which could cause delays. Many life changes cause a “red flag” situation, as can other outside influences. Here are a few things to watch for:

- ↳ Bankruptcies
- ↳ Business trusts
- ↳ Clearing liens and judgments, including child or spousal support liens
- ↳ Deposits made by a third party on behalf of the buyer
- ↳ Encroachment or off-record easements
- ↳ Family trusts
- ↳ Foreclosures
- ↳ Home improvement loans (HERO), including solar liens
- ↳ Last minute change in buyers
- ↳ Last minute change in type of title insurance coverage
- ↳ Probates
- ↳ Proper execution of documents
- ↳ Proper jurats, notary seals
- ↳ Recent construction
- ↳ Transfers or loans involving corporations or partnerships
- ↳ Sellers or buyers who are outside of the United States (Foreign Persons)

## RED FLAG EXAMPLES

1. **The buyer or seller has been involved in a bankruptcy:** If the bankruptcy is still pending, obtain the contact information for the attorney. Escrow cannot close until the property is released from any pending bankruptcy proceedings.
2. **The seller or buyer intends the property in question to be part of a tax-deferred exchange:** To prevent delays in closing this transaction, obtain the contact information for the tax-deferred exchange accommodator. Your escrow officer will work closely with the exchange to make sure all state and federal tax guidelines are followed.
3. **Your clients do not speak English:** Our diverse population includes many buyers, borrowers and sellers who do not speak English or for whom English is a second language. If you do not speak the language spoken by your clients, seek a qualified and reliable interpreter. If you plan to use an interpreter, inform your escrow officer so that appropriate accommodations may be made for correspondence and the signing appointment.
4. **The property is being sold because of a divorce:** Is the divorce final and are the appropriate documents available? Has one spouse deeded the property to the other? If not, both the husband and wife will be required to sign all listing and escrow documents. Will two separate checks be required for proceeds? Do you have current addresses and other contact information for both parties?

5. **Sellers are recently married:** Is the new spouse going to be a seller in this transaction, or will that spouse be required to sign a quitclaim deed conveying his or her community property interest in the property to the other spouse?
6. **One of the owners is recently deceased:** Many red flag situations arise from the death of a property owner. If this is a sale, appropriate documents must be prepared in order to close the escrow. Is there a probate proceeding on the estate of the deceased? If so, a court order confirming the sale of the property will be needed prior to the close of escrow. Was a family trust established prior to the death of the seller? If so, you need to know who the Successor Trustee is in order to obtain proper signatures. Involve your escrow officer early and save frustration for all.
7. **One of the principals is using a power of attorney:** Is the power of attorney legal and binding? The document should have been recorded in the county and state where the property is located, and should be less than two years old. Provide a copy of the document to your escrow officer as soon as possible.
8. **Buyers want to hold title in the name of a trust:** The new lender may not allow this type of vesting, so be sure to raise this issue as soon as possible.
9. **Seller lives in another state or is selling a property other than the principal residence:** Some states (such as California) require tax withholding on the sale of certain properties. Check with your escrow officer immediately to discuss special tax reporting situations.



# THE SHORT SALE ESCROW

Lawyers Title can also handle the specialized “short sale” escrow in which you need an experienced escrow officer in short sale transactions. Many of our escrow officers have received in-depth training in short sales. Your escrow officer will provide confidential, professional service throughout the transaction, assisting you and communicating between all parties. Our experienced title staff can foresee, communicate, and work to remove potential obstacles as they arise, to ensure the best possible outcome.

## WHAT IS A “SHORT SALE”?

This term refers to a transaction in which the sales price will not generate enough money to cover the payoff of the seller’s existing loan and closing costs. Working with a willing lender, a seller may be able to negotiate a payoff amount which is less than the actual amount that would ordinarily be required to pay off the loan. The lender agrees to accept the equity available in the property, and the seller receives no proceeds from the sale of the property.

## TIME IS OF THE ESSENCE

Advise your seller to execute all title and escrow documents quickly and return them to the escrow officer. If you prefer, your escrow officer would be happy to arrange for the clients to come in and sign the documents, answering any questions they may have about the escrow process.

**To ensure faster approval from the lender, provide the following information to your Lawyers Title escrow officer:**

- ↳ Purchase/list price
- ↳ Estimated closing statement
- ↳ Compensation percentage or amount of compensation
- ↳ Seller’s costs:
  - A. Termite work?
  - B. Repairs?
  - C. Is the seller paying any buyer’s closing costs?
- ↳ Payoff Information – lender(s) and approximate unpaid principal balances
- ↳ Homeowner’s Association. Current HOA balance plus collection fees
- ↳ Does the property have delinquent property taxes? Need amount.

## **GET ANY PRE-APPROVED WORK DONE AND SUBMITTED FOR PAYMENT AT ONCE**

Remember, the lender is not obligated to approve the short sale. Last minute invoices may be rejected and could jeopardize the short sale approval and closing.

## **SELLER MUST NET ZERO**

Even if there are funds left over at the close of escrow due to a reduced expense, lower tax proration, etc. any excess funds **MUST BE SENT TO THE LENDER** or disbursed as per the lender's instructions.



# *Other Participants in an* **IN AN ESCROW TRANSACTION**

In addition to the buyer, seller, lender and real estate agent(s), escrow may involve several other participants. For example: appraisal, home warranty, home inspection, termite/pest inspection and disclosure report.

## **APPRAISAL**

If the buyer is securing a new loan for the purchase, an appraisal will be required by the lender. An appraiser will:

- ↳ Research the subject property as to year built, bedrooms, baths, lot size and square footage.
- ↳ Compare data of recent sales in the subject's neighborhood, typically within a one mile radius. The appraiser usually locates at least three (and preferably more) similar homes that have sold within the past six months. These homes are considered "comparable properties" or "comps" for short.
- ↳ Field inspection is conducted in two parts: (1) the inspection of the subject property, and (2) the exterior inspection of the comparable properties.

The subject property inspection includes taking photos of the front and rear of the home (that may include portions of the yard) and photos of the street scene. The appraiser also makes an interior inspection for features and conditions which may detract from or add to the value of the home. A floor plan of the home is drawn and included while doing the inspection.



# Continued

## HOME WARRANTY

Home warranties offer advantages to both the buyer and seller. This policy protects the buyer by paying for certain repairs and costs of major mechanical systems and major appliances in the home such as heating and air conditioning. There are a variety of plans available.

### Benefits of Home Warranty Coverage to the Seller

- ↳ Home may sell faster and at a higher price
- ↳ Optional coverage during the listing period
- ↳ Protection from legal disputes that occur after the sale increases the marketability of home

### Benefits of Home Warranty Coverage to the Buyer

- ↳ Warranty coverage for major systems and built-in appliances
- ↳ Protects cash flow
- ↳ Puts a complete network of qualified service technicians at the buyer's service
- ↳ Low deductible

Most home warranty plans can be paid for at the close of escrow. A copy of the invoice is presented to the escrow company and it becomes part of the seller's closing costs. FNF offers home warranty coverage at [www.HomeWarranty.com](http://www.HomeWarranty.com) or **1.800.862.6837**.

## HOME INSPECTIONS

A home inspection is another component of the escrow process. It is a physical examination to identify material defects in the systems, structure and components of a building, such as foundations, basements and under-floor areas, exteriors, roof coverings, attic areas and roof framing, plumbing, electrical systems, heating and cooling systems, fireplaces and chimneys, and building exteriors.

## IS YOUR HOME INSPECTOR INSURED?

They should have: professional liability insurance coverage, general liability, and workers compensation.

## HOW THE SELLER SHOULD PREPARE FOR A HOME INSPECTION

The seller should have the property fully accessible, including elimination of stored objects that may prevent the inspector from accessing key components of the home. Areas of special concern are attics, crawlspaces, electric panels, closets, garages, gates/yards, furnaces and water heaters. All utilities should be on with functioning pilots lit.

## INSPECTOR'S RESPONSIBILITY TO THE HOMEOWNER

Respect the property. Leave the property as they found it. Answer questions about the report after the inspection is completed. Provide a copy of the report on site.

## TERMITE/PEST INSPECTION

This report is prepared by a state certified inspector as evidence of the existence or absence of wood destroying organisms or pests which were visible and accessible on the date the inspection was made. In almost every instance when they receive a request for an inspection the caller refers to it as a "termite" inspection. In addition to looking for subterranean termites, the inspector is also looking for signs of activity from other wood organisms such as:

- ↳ Carpenter ants
- ↳ Carpenter bees
- ↳ Wood destroying fungus
- ↳ Dry wood termites

These conditions are easy to spot and in most cases are simple and inexpensive to correct. If you aren't certain about the condition of your property, seek assistance from a state certified termite inspector.

# THE LOAN PROCESS

## STEP 1: APPLICATION

Your loan process should go smoothly if you complete your loan application properly and provide all necessary documentation to your loan consultant at the time of application.

## STEP 2: ORDERING DOCUMENTATION

Your loan consultant will order the necessary documentation for the loan as soon as it is received. Any verifications will be mailed, and the credit report and appraisal will be ordered. You will also receive a Good Faith Estimate of your costs and details of your loan.

## STEP 3: AWAITING DOCUMENTATION

Within approximately two weeks, all necessary documents should be received from your loan consultant. Each item is reviewed carefully in case additional items may be needed from you to resolve any questions or problems.

## STEP 4: LOAN SUBMISSION

Submitting your loan is a critical part of the process. All of the necessary documentation will be sent to the lender, along with your credit report and appraisal.

## STEP 5: LOAN APPROVAL

Loan approval may be obtained in stages. Usually within one to three days, your loan consultant should have pre-approval from the lender. If the loan requires mortgage insurance, or if an investor needs to review the file, final approval could take additional time. You do not have final loan approval until ALL of the necessary parties have underwritten the loan.

## STEP 6: LENDER PREPARATION OF DOCUMENTS

As soon as the loan is approved and all requirements of the lender have been met, the loan documents will be prepared. These documents will be sent to the escrow officer, and you will be asked to sign the documents. Your lender may require an impound account for tax installment payments, depending on the type of loan.

## STEP 7: FUNDING

Once you have signed the documents and they have been returned to the lender, the lender will review them and make sure that all conditions have been met and all of the documents have been signed correctly. When this is completed, they will “fund” your loan. (“Fund” means that the lender will give the title company the money by check or wire.)

## STEP 8: RECORDATION

When the loan has been funded, the title company will record the deed of trust with the county in which the property is located (usually by the next day). Upon receipt of confirmation of the deed being recorded, title or escrow will then disburse monies to the appropriate parties. At this time, in most cases, your loan is considered complete.

# LOAN FAQ

## WHEN DO I SIGN LOAN DOCUMENTS?

Generally, your escrow instructions will be mailed to you for completion and signature. Your escrow officer or real estate agent will contact you to make an appointment for you to sign your final loan papers. At this time, the escrow holder will also tell you the amount of money you will need (in addition to your loan funds) to purchase your new home. The lender will send your loan funds directly to the title company.

## WHAT DO I BRING TO MY LOAN DOCUMENT SIGNING APPOINTMENTS?

Obtain a cashier's check made payable to your escrow company or title company in the amount indicated to you by the escrow officer. You may also wire funds. A personal check will delay closing because the check must clear before funds are disbursed.

Please bring your valid state ID card, driver's license or passport with you to the escrow company. These items are needed by a Notary Public to verify your identity. It is a routine but necessary step for your protection.

Make sure you are aware of your lender's requirements and that you have satisfied those requirements before you come to the escrow company to sign your papers. Your loan officer or real estate agent can assist you.

## WHAT'S THE NEXT STEP AFTER I'VE SIGNED THE LOAN DOCUMENTS?

After you have signed all the necessary instructions and documents, the escrow holder will return them to the lender for final review. This review usually occurs within a few days. After the review is completed, the lender is ready to fund your loan and informs the escrow holder.

## WHEN WILL I RECEIVE THE DEED?

The original deed to your home will be mailed directly to you at your new home by the County Recorder's office. This service takes several weeks (sometimes longer, depending on the County Recorder's work volume).



# DISCLOSURE REPORT

## WHAT IS A DISCLOSURE REPORT?

Disclosure reports are designed to assist sellers (and their agents) in disclosing legally required information to a potential purchaser in a real estate transaction in an easy to understand, economical format. Buyers can rely on the information to make a more informed decision regarding the property being purchased.

## IT'S THE LAW!

California law requires sellers to disclose certain types of naturally occurring hazards to potential buyers. Assembly Bills 6x, 1195 and 248 created a mandatory form for these disclosures. This form is the Natural Hazard Disclosure Statement.

## REQUIRED DISCLOSURE INFORMATION

There are six types of “hazard zones.” The disclosure law requires all potential buyers to be told whether the property is in one or more of the following zones:

- ↳ Special Flood Hazard Zone as designated by the Federal Emergency Management Agency (FEMA).
- ↳ Dam Failure Inundation Zone
- ↳ Very High Fire Hazard Severity Zone
- ↳ Wildland Area That May Contain Substantial Forest Fire Risks
- ↳ Earthquake Fault Zone
- ↳ Seismic Hazard Zone

## WHERE TO ORDER A DISCLOSURE REPORT

FNF's own disclosure source is a premier provider for natural hazards, special taxes & assessments and environmental hazard information to safely comply with statutory requirements.

California real estate law gives buyers three days to cancel a transaction whenever material information is disclosed to them. It is in your best interest, as the seller, to get all disclosures in the hands of the potential buyer as soon as possible. We recommend ordering the disclosure report as soon as the property is listed. Buyers will then be able to review and accept the disclosures as part of their offer. Your agent can advise you on these issues.

For more information, please call **800.880.9123** or visit [www.DisclosureSource.com](http://www.DisclosureSource.com).



# PMI: PRIVATE MORTGAGE INSURANCE

## WHAT IS “PMI”?

Buying a home is easier than ever, thanks to the availability of private mortgage insurance, or PMI. Private mortgage insurance has made it possible for qualifying buyers to obtain mortgages with a down payment as low as 3%. Such mortgages are increasingly in demand in today’s home market because potential homeowners, especially first time home buyers, are unable to accumulate the 20 or 30% down payment that would be required without private mortgage insurance.

## DEFINITION OF PMI

PMI is a type of insurance required by the lender that helps protect lenders against losses due to foreclosure. This protection is provided by private mortgage insurance companies and enables lenders to accept lower down payments than would normally be allowed.

## WHEN DOES A LENDER REQUIRE PMI?

Typically, if you make a down payment of less than 20% of the home sales price, your lender will require you to carry PMI. This will protect the lender from a potential loss if you default on your low down payment loan.

## HOW LONG AM I REQUIRED TO CARRY PMI?

PMI can usually be canceled by the home buyer when they have at least 20% equity in the home, either due to payment of the principal or the appreciation of the property. When you believe your home has achieved 20% equity, you can contact your loan server for guidelines. Usually lenders will require an appraisal on the property to verify the equity.



# WHAT IS PAYOFF?

A loan payoff is an extremely important service provided by title companies to facilitate the handling of money in the closing of a real estate transaction. It is the receipt of funds from the buyer and the payment of the obligations of the seller (if any) in conjunction with a real estate transaction. The payoff function is performed by Lawyers Title as part of the escrow process.

## COMMONLY USED PAYOFF TERMS

**Prefigures:** Estimated payoff figures calculated and given prior to closing upon request. These figures are only valid through the date given and are based on the information provided at the time.

**Good Funds:** Lawyers Title must be in receipt of “good funds” prior to disbursing on a payoff. Types of good funds include: a) funds wired into Lawyers Title; b) a cashier’s, teller’s or certified check (provide next day availability after deposit to comply with AB51 2); c) other local checks (provide availability of funds two days after deposit), and d) out of area checks (provide availability of funds five days after deposit).

**Demands:** Demands must include specific payoff information concerning the particular property and must be signed. It is the responsibility of the escrow officer to order and provide all necessary demands, including any updates or changes on a timely basis.

**Taxes:** Outstanding property taxes can be paid out of the payoff proceeds.

**Refunds:** Any overpayment of demands will be refunded to the escrow upon receipt from the lender. Refunds typically take two to six weeks to process.

**Shortages:** Your escrow officer will contact you if there is a shortage of the necessary funds to cover the outstanding obligations. The shortages must be received prior to payoff.

**Disbursement Checks:** Checks are delivered locally to lending institutions by a contracted messenger service. Checks to individuals and to out of area lenders are typically sent via an overnight delivery company.

**Wire Transfers:** Funds can be wired into and out of Lawyers Title offices with our bank.

**Out-of-County Transactions:** Lawyers Title offices can receive and disburse payoff funds through any of our offices.



# IMPORTANT TAX INFORMATION

There are many types of tax issues which should be considered during a real estate transaction. Lawyers Title provides the following information as a resource only and always recommends that a seller and buyer consult with their legal and tax professionals for advice.

Topics we will briefly overview which may be a part of, or a result of, your escrow include:

- Capital Gains Tax
- Change of Ownership Filing
- Transfer Tax
- FIRPTA
- CAL Withholding
- Property Taxes
- Supplemental Taxes
- Mello-Roos

The I.R.S. provides free publications that explain the tax aspects of real estate transactions. A few of these include:

Publication #523: Selling Your Home

Publication #530: Tax Information for Homeowners

Publication #544: Sales and Other Dispositions of Assets

Publication #551: Basis of Assets

## Federal Requirements

The Internal Revenue Service (IRS) requires that sellers report certain information pertaining to sales of real property. Under the Tax Reform Act of 1986, reportable transactions include sales and exchanges of properties including, but not limited to, houses, townhouses and condominiums. Also reportable is stock in cooperative housing corporations and mobile homes without wheels. Specifically excluded from reporting are foreclosures and abandonment of real property, as well as financing or refinancing of properties.

The escrow officer, as the settlement agent, will ask the seller to complete a Certificate for Information Reporting for the 1099-S form, which may be required

by the IRS. The seller is required to provide their correct taxpayer identification number (Social Security Number), as well as the closing date of the transaction and gross proceeds of the transaction. Most settlement agents now transmit the reportable information electronically to the IRS at the end of the year, although a “hard copy” of the form is included in the seller’s closing documents.

## Withholding Requirements

Some states, such as California, require that certain sellers “prepay” their required state taxes through withholding of a percentage of the sale proceeds. State law requires the buyer accomplish the withholding, and the buyer may be subject to penalties for failure to withhold and send the appropriate amount to the State Franchise Tax Board. However, the buyer may delegate this responsibility to the escrow holder, and the escrow holder may charge a fee for this service. The law requires the escrow agent to give written notice of the withholding requirement to the buyer.

Most sellers will qualify for an exemption to the withholding law. Here are some of the exemption situations:

- Principal residence
- Property that is part of a like-kind exchange
- Properties under \$100,000
- Sales that result in zero gain or loss for state tax purposes
- Property owned by certain corporations and partnerships
- Property ownership by tax exempt entities

The escrow holder will provide a state withholding form to the seller to help determine if any of the exemptions apply. The withholding guidelines can seem quite complex, but your escrow officer has forms and educational materials to help your clients. Further information is also available through your local Franchise or Tax Board or from the American Land Title Association (ALTA).

# Taxes Continued

## **FIRPTA: Foreign Investors Real Property Taxation Act**

- Requires 15% of sales price be withheld for foreign ownership
- Applies to nonresident aliens of USA, including foreign partnerships, foreign trusts and foreign estates
- Buyer's responsibility to report and withhold, not the escrow officer's
- Exceptions under Internal Revenue Code (IRC 1034): Sales price not over \$300,000 and buyer will use the property as principal residence
- Seller can request a waiver or reduced withholding on Form 8288-B (tax identification number required)
- Payment and Forms 8288 and 8288-A are due within 20 days of closing (tax identification number required)
- IRS penalties are steep if forms and/or payment are received late

## **CAL Withholding: Additional California Withholding**

- Requires that 3 1/3% of sales price or the alternative withholding amount be paid to the Franchise Tax Board
- The alternative withholding amount is the amount of estimated gain from line 16 on FTB Form 593-E multiplied by 9.3% for individuals; other percentages apply to corporations
- Applies to non owner-occupied property
- Prepayment of California state income tax for sellers on the taxable gain of California real property
- Requires the buyer to withhold 3 1/3% of the total sales price or the alternative withholding amount
- Buyer's responsibility to report and withhold; it can be passed onto escrow
- Escrow must inform buyer of the responsibility (in escrow general provisions)
- Escrow must accept responsibility if buyer requests it
- Payment and Form 593 and 593-B to FTB by 20th day of month after closing
- Interest due on all late payments (FTB calculates, and interest can be substantial)
- Escrow can charge a fee for processing withholding or waiver
- Escrow cannot charge for giving written notice to parties or obtaining 593-C and 593-W Certifications

## **CAL Withholding Exemptions for INDIVIDUALS**

- Property is seller's principal residence under IRC 121
- Total sales price is \$100,000 or less
- The seller will incur a loss on the sale for California income tax purposes (must use FTB form 593-E)
- Non-recognition rules apply
- Simultaneous or delayed exchange pursuant to IRC Section 1031
- Installment sales when the buyer agrees to withhold on each principal payment
- The property is being involuntarily converted and will qualify for non-recognition of gain for California income tax purposes under IRC Section 1033

## **CAL Withholding Exemptions for NON-INDIVIDUALS ONLY**

- Corporation
- Partnership
- Limited Liability Company (LLC) with certain requirements
- Tax Exempt Entity (church, charity, school, etc.)
- Sale by estates when the property was the decedent's principal residence
- IRAs, pension funds, insurance companies
- The seller will incur a loss on the sale for California income tax purposes
- Simultaneous or delayed exchange pursuant to IRC Section 1031
- The property is being involuntarily converted and will qualify for nonrecognition of gain for California

## **Change of Ownership Filings**

When property changes hands, local government agencies require notice of change of ownership. At the local level, this would be any county office that assesses or collects taxes. Reporting a change in the ownership of the property allows the local jurisdiction to assess the tax liability for each property as the title is transferred from seller to buyer.

The reporting documents vary from state to state, but all states require at minimum the names of the seller and buyer, assessor's parcel number or other property identifying number, the property location and tax address.

# Continued

Also required is the total purchase price, terms of sale and signature of the new owner. The reporting document is recorded along with documents evidencing a change in ownership. In California, the document is called a Preliminary Change of Ownership (PCOR), and it assists the local agency in identifying situations in which a property reassessment is allowed under Proposition 13.

Penalties or fines may be assessed from the governing body for failure to file the document as required by state or local laws.

Some situations which appear to be a change of ownership are exempt from the filing of this type of document, including corrections to the record and status changes such as a change in vesting.

## Transfer Taxes

Transfer tax, often called real property transfer tax, is a tax collected by the County Recorder when an interest in real property is conveyed. It is paid at the time of recording, and is computed using the actual sales price. An amount, legislated by the state or county, is charged per \$500 or \$1,000 of the sales price. Although it is common for the seller to pay this tax, in some areas tradition dictates that the buyer and seller will split the payment.

Many cities have levied an additional tax within their jurisdictions. In some counties, these taxes are collected by the County Recorder along with county transfer tax, but in other areas a separate check will be mailed to the city. Your escrow officer is familiar with the taxes required and will coordinate payment of the appropriate amount.

## Property Taxes

*(See tax calendar example page 42)*

Homeowners pay property taxes to their appropriate assessment, collection or franchise tax department in each county. A change in ownership or the completion of new construction could result in a change in the assessed value of the property and may result in the issuance of a supplemental property tax bill. Taxes are due on predesignated dates and become delinquent when not paid. Penalties are assessed for delinquent taxes. The yearly "tax calendar" varies by state.

In addition to standard property taxes, many jurisdictions also contain special assessment districts, which may have been formed as a means of financing infrastructure. Bonds may have been sold to finance the infrastructure and the ultimate property owner continues to make payments on the principal and interest on the bond. The bond issues vary in size and term. Other special city and county districts may be assessed for a variety of purposes, including street lights and traffic signals, street maintenance, certain educational purposes, etc.



# California PROPERTY TAX CALENDAR

## FIRST INSTALLMENT: JULY 1 THROUGH DECEMBER 31

July	August	September	October	November	December
Beginning of Fiscal Tax Year			Tax Bills Mailed	1st Installment Due Nov. 1	1st Installment Delinquent <i>If not paid by Dec. 10, add 10%.</i>

## SECOND INSTALLMENT: JANUARY 1 THROUGH JUNE 30

January	February	March	April	May	June
Assessment Date, Jan. 1	2nd Installment Due Feb. 1		2nd Installment Delinquent <i>If not paid by April 10, add 10% plus \$10.00.</i>		Last Day of Fiscal Year <i>Delinquent Property Taxes become Tax Defaulted for Nonpayment of Taxes</i>

### TAX CALENDAR NOTES:

- Penalties for delinquency are 10% on date of delinquency, plus costs for delinquent 2nd Installment. Thereafter, 1.5% (may vary) per month of original tax amount plus penalties and costs until paid.
- Residential property may be sold at public auction after five years of delinquency.

## TAX IMPOUND RESERVE SCHEDULE

Closing Month	First Payment	In Escrow— Pay First Installment	In Escrow— Pay Second Installment	Estimated Number of Months Required by Lender to Impound*
January	March		Yes	2
February	April		Yes	2
March	May		Yes	3
April	June		Yes	4
May	July			5
June	August			6
July	September			7
August	October	No		8
September	November	No		9
October	December	Yes		4
November	January	Yes		5
December	February	Yes		6

\*The amount of months listed above are estimates only. Check with the lender for specific details.

Paying taxes in accordance with escrow's and lender's instructions is part of the closing process. Impound accounts requirements are managed by the lender. The information above is provided as a general example only and borrowers should confirm with their lender. Lawyers Title provides tax information on the title report.

# Who Pays What

## CLOSING COSTS

Closing costs are what the buyer and seller will pay as part of the escrow transaction. Some fees are negotiable between the seller and buyer as to “Who Pays What.” Below is an example of some typical closing costs which may vary from county to county.\*

### BUYER’S TYPICAL COSTS

#### Appraisal

One-time fee for new loan

#### Credit Report

For loan application

#### Homeowner’s Insurance

Paid by buyer for fire/hazard insurance

#### Loan Fees

Origination and processing fees charged by lender

#### PMI

Some lenders require Private Mortgage Insurance

#### Prepaid Interest

Prorated depending on time of month the loan closes

### PAID BY BOTH OR EITHER PARTY

#### Attorney Fees, Courier/ Delivery Fees, Document Preparation

For deed(s) and other legal documents required to consummate the transaction

#### Escrow Fee

Often split between buyer and seller

#### Real Estate Compensation

As specified in listing agreement or sales contract

#### Homeowner’s Association (HOA) Dues and Transfer Fees

#### Notary Fees

#### Recording Fees

To file legal documents with County Recorder

#### Property Taxes

#### Homeowner’s Title Insurance Premium

#### Lender’s Title Insurance Premium

### SELLER’S TYPICAL COSTS

#### Disclosure Report

Natural Hazard Report

#### Home Warranty, Existing Encumbrances Property Inspections, Pest Inspection/ Correction

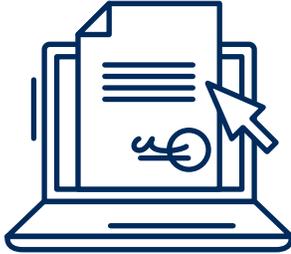
Termite report

#### Transfer Tax

City/County conveyance tax

*\*This list is only an example of typical closing costs and may not be exhaustive.*

# Top Tips for a **SMOOTH CLOSING**



Promptly complete and return escrow forms upon receipt (typically sent digitally).



Out of state buyers or sellers? Let your escrow officer know immediately to allow adequate time for delivery of appropriate documents.



Are the buyers or sellers out of the country? If so, the client must have the documents notarized at an American Consulate or Embassy. As an alternative, your client may opt to appoint another individual as their attorney in fact, but keep in mind the power of attorney would need to be notarized at an American Consulate or Embassy.

# THE SIGNING DAY

You've made it through to the end. Let's make sure you are prepared for your signing appointment. When closing documents are ready for you to sign, we will contact you to schedule an appointment with a notary. Make sure to bring the following items to your appointment:

## IDENTIFICATION

There are several forms of identification that are acceptable to use during the escrow process.

- ↳ A current driver's license
- ↳ A valid passport
- ↳ A government issued identification card

Some lenders require two forms of identification at signing. When this is the case, you will be provided with a list of additional identification options acceptable to your lender.

## DEPOSITING FUNDS TO CLOSE ESCROW

In order to prevent possible delays in the escrow closing, be prepared to deposit into escrow the amount requested by your escrow officer. Wire instructions will be provided through Lawyers Title StartInHere® platform. You will never receive wire instructions in an email.

## LENDER'S REQUIREMENTS

Make sure you have satisfied your lender's requirements before coming to the escrow company to sign papers.



*Good to Know*



# Information & Tips

## REAL ESTATE FRAUD

### SELLER IMPERSONATION FRAUD TARGETING VACANT LAND OWNERS AND ABSENTEE OWNERS

**Seller impersonation fraud is a deceptive scheme where fraudsters impersonate legitimate property owners with the intention of illegally selling properties they have no legal rights to.**

#### THE SCHEME

Seller impersonation scams often begin with a fraudster searching public records to identify real estate that is free and clear of mortgages or other liens. They typically focus on property not occupied by the owner. This can include vacant lots, out-of-state ownership, or rental properties where the owner does not live on the premises.

After obtaining the pertinent information from the public records, the fraudster, posing as the owner/seller, contacts a real estate agent to list the property for sale. They use the identity of the rightful owner, which they also obtained from the public records. Sophisticated fraudsters use the real property owner's Social Security and driver's license numbers in the transaction, as well as legitimate notary credentials, which may be applied without the notary's knowledge.

To avoid detection, they limit all communications to email and electronic channels, avoiding face-to-face interactions. They often claim that they are remote, or out-of-state sellers, which explains their virtual presence.

The fraudster often lists the property below the current market value to realize a quick sale. Once the transaction is concluded, the funds are then transferred to the criminal. The ownership discrepancies are often not identified until the documents are filed with the county.



# More Tips

## SELLER IMPERSONATION RED FLAGS

- “Seller” contacts the real estate agent through an online search or lead service, and has no prior association or connection with the real estate agent.
- “Seller” is okay with listing the property significantly below the market value.
- “Seller” appears to be eager to accept offers without negotiating terms.
- “Seller” has an overt preference for cash over other transaction methods.
- “Seller” dodges face-to-face interactions, even critical interactions like a notary signing.
- “Seller” may claim to be out of the country for some urgent emergency situation.
- “Seller” won’t provide mailing address.
- “Seller” demands a notary closing, often insisting on making those arrangements themselves with “their favorite notary.”
- “Seller” demands proceeds to be wired.

## PREVENTING SELLER IMPERSONATION

- Always follow your instincts if something seems unusual in a transaction involving vacant or unoccupied property and ask plenty of questions.
- Take note if there is a need for speed and ask pertinent questions to ascertain the reason for the rapid pace.
- Confirm the origin of the lead and verify the seller’s identity.
- Be wary of a request by a “seller” to choose their own notary.
- Ask conversational questions about the property that is not readily available in the public records.
- Contact the seller directly and embark on an intake process. Request copies of their ID for verification, ask for documents a fraudster is unlikely to possess, such as the original title commitment, closing disclosure, or recent tax payment receipts.
- Leverage technology to enhance the security of real estate transactions and streamline the verification process.

*Your Lawyers Title Team is here to assist you in thwarting any suspicious activity. Contact us if you have any questions or uncertainty about a transaction so that we can work with you to verify the facts at issue.*



# Continued

## WIRE FRAUD

### TARGETING HOMEBUYERS

Wire fraud involves a fraudster impersonating your real estate agent, escrow officer, attorney or loan officer via email, text or phone call in attempts to convince you to send your closing costs to a fraudulent account. Wire fraud relies on social engineering schemes, such as phishing or smishing, to impersonate trusted parties in a real estate transaction.

#### WIRE FRAUD RED FLAGS

- Sender states he or she is unavailable to take phone calls at that time and urges solely for email communication
- Sender places a “rush request” to assert pressure.
- Sender uses odd or incorrect words, spelling, or phrases.
- Last minute revised instructions are emailed to create confusion.

#### THE SCHEME

A wire fraud scammer might use an email address or phone number that looks like the one your real estate agent, escrow officer, or lender uses. Emails from fraudsters can look very authentic and even contain information specific to the real estate transaction.

Fraudsters use a technique known as “spoofing” to impersonate transaction participants. Through spoofing, the fraudster can email or call you pretending to be your escrow officer, lender, attorney or real estate agent. When a fraudster calls or emails you from a spoofed account, it can look exactly like you’re talking to someone you trust.

The end goal of wire fraud is to get your closing costs into an account that the fraudster has control over. They may tell you that there’s been a last-minute change in their banking procedures or wiring instructions. They might also tell you that they are having banking issues and need funds sent to a trust account.

Once you initiate a wire transfer, it’s very difficult to get your money back.

### PREVENTING WIRE FRAUD

- Confirm all wiring instructions either in person or by calling a known, trusted number for the escrow company prior to wiring funds. A known, trusted number is a number that you have independently confirmed outside of electronic communication as belonging to the escrow company.  
***Always pick up the phone: it’s important to always confirm by phone with a known number before transferring any funds.***
- Review the sending information in the header of the email for potential spoofed email addresses. It could be just one letter off from the correct email address.
- Do not use the reply option to respond to emails, instead use the forward option and type in the known email address for the sender so you can ensure you are emailing the correct party and not a fraudster.
- Be cautious about opening attachments, and downloading files from emails, regardless of who sent them, as these files can contain malware and can weaken your computer security.
- Keep your operating system browser and security software up to date.

# WEEK-BY-WEEK MOVING CHECKLIST

## 5 WEEKS OUT

- Notify landlord of intention to move in accordance with your lease.
- Explore your options for moving companies and compare prices.
- Start sorting things into categories: "Keep," "Discard," and "Donate."

## 4 WEEKS OUT

- Plan garage or yard sale, drop off any items you're donating.
- Notify children's schools of the impending move and research new schools if necessary. Organize school records for student's new school.
- Buy moving supplies: scissors, markers, packing tape, and packing materials.

## 3 WEEKS OUT

- Book moving company or reserve rental truck.
- Start packing non-essentials and labeling boxes.
- Notify utility companies of move and give them a date for when service should be shut off.

## 2 WEEKS OUT

- Arrange for pets to get to your new home, or be watched elsewhere until the move is complete.
- Be sure your car is up-to-date on service if driving a long distance and update your insurance company, if necessary.
- Notify place of work about move and new address.

## 1 WEEK OUT

- Pack, pack, pack!
- Officially update your address via USPS website.
- Make sure valuables (like expensive jewelry) are easily transferred with you, preferably in your vehicle.
- Pack a suitcase with necessities to take with you, just in case the moving truck doesn't make it.

## THE NIGHT BEFORE

- Defrost your refrigerator and freezer.
- Clear pantry and refrigerator of any open food containers.
- Do one final sweep of the house, in every room, and every closet as well as the dishwasher.
- Vacuum, dust, clean; make sure the place is left in good condition.

## AFTER THE MOVE

Once you've unpacked enough to settle in, double check that you've updated your address with:

- Your employer*
- Credit card companies, banks, and other financial institutions*
- Friends and family*
- Insurance providers*
- Utilities*
- Newspapers and magazines*
- Cable/internet providers*
- U.S. Postal Service*
- Medical and dental providers*

# MOVING TIPS

## BOXING IT ALL UP

Where to find moving boxes, maybe even for free:

- Office supply stores
- Bookstores
- Local bars or liquor stores
- Grocery stores and pharmacies
- Home improvement stores



# GLOSSARY OF TERMS

The following is a short glossary of commonly used terms during your escrow transaction.

**Adjustable Rate Mortgage (ARM):** A mortgage in which the interest rate is adjusted periodically in accordance with a market indicator, to more closely coincide with the current rates. Also sometimes known as renegotiable rate mortgage, the variable rate mortgage, or the graduated rate mortgage.

**Amortization:** Reduction of the principal of a debt in regular, periodic installments.

**Annual Percentage Rate (APR):** An interest rate reflecting the cost of a mortgage as a yearly rate. This rate is likely to be higher than the stated note rate or advertised rate on the mortgage, because it takes into account point and other credit cost. The APR allows home buyers to compare different types of mortgages based on the annual cost for each loan.

**Assumption of Mortgage:** An obligation undertaken by a new purchaser of land to be liable for payment of an existing note secured by a mortgage.

**Caps:** Consumer safeguards that limit the amount the interest rate on an adjustable rate mortgage can change at each adjustment or over the life of the loan.

**Conditions, Covenants & Restrictions (CC&Rs):** A document that controls the use, requirements and restrictions of a property.

**Certificate of Reasonable Value (CRV):** An appraisal issued by the Veterans Administration showing the property's current market value.

**Closing (also called "Settlement"):**

The completion of a real estate transfer, where the title passes from seller to buyer, or a mortgage lien is given to secure debt.

**Condominium:** A statutory form of real estate development of separately-owned units and jointly-owned common elements in a multi-unit project.

**Conventional Mortgage:** A mortgage securing a loan made by investors without governmental underwriting, i.e., a loan which is not FHA insured or VA guaranteed.

**Deed:** Written instrument which, when properly executed and delivered, conveys title.

**Discount Point:** An additional charge made by a lender at the time a loan is made. Points are measured as a percent of the loan, with each point equal to one percent.

**Earnest Money:** A deposit of funds made by a buyer of real estate as evidence of good faith.

**Easement:** A non-possessory right to use all or part of the land owned by another for a specific purpose.

**Equity:** The difference between the fair market value and current indebtedness, also referred to as the owner's interest. The value an owner has in real estate over and above the obligation against the property.

**Federal Housing Administration Loan (FHA Loan):** A loan insured by the Federal Housing Administration, open to all qualified home purchasers.

**Farmers Home Administration Loan (FMHA Loan):** A loan insured by the federal government similar to FHA loan, but usually used for residential properties in rural areas.

**Federal National Mortgage Association (FNMA):**

Also known as “Fannie Mae.” A U.S. government-sponsored corporation dealing in the purchase of first mortgages for the secondary market.

**Fee Simple Deed:** The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power disposition.

**Joint Tenancy:** An equal undivided ownership of property by two or more persons. Upon death of any owner, the survivors take the decedent’s interest in the property.

**Lien:** A claim upon a piece of property for the payment or satisfaction of a debt or obligation.

**Loan-To-Value Ratio:** The relationship between the amount of the mortgage loan and the appraised value of the property expressed as a percentage.

**Mortgage:** A conditioned pledge of property to a creditor as security for the payment of a debt.

**Negative Amortization:** Occurs when your monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan. The danger of negative amortization is that the home buyer ends up owing more than the original amount of the loan.

**Personal Property:** Any property which is not real property, e.g., money, savings accounts, appliances, cars, boats, etc.

**Points (also called “commission or discount” points):** Each point is equal to 1% of the loan amount (e.g., two points on a \$100,000 mortgage would cost \$2000).

**Principal, Interest, Taxes and Insurance (PITI):** Also called monthly housing expense.

**Private Mortgage Insurance (PMI):** In the event that a buyer does not have a 20% down payment, lenders will allow a smaller down payment—as low as 3% in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance will usually require an initial premium payment and may require an additional monthly fee, depending on the loan’s structure.

**Realtor®:** A real estate broker or an associate holding active membership in a local real estate board affiliated with the National Association of Realtors®.



## Continued

**Subdivision:** A tract of land surveyed and divided into lots for purposes of sale.

**Tenancy in Common:** An undivided ownership in real estate by two or more persons, without right of survivorship—interests need not be equal.

**Trust Account:** An account separate and apart and physically segregated from the broker's own, in which the broker is required by law to deposit all funds collected for clients.

**Trustee:** The neutral third party in the deed of trust with limited powers. When the loan is paid in full, the property is reconveyed by the trustee back to the person or persons legally entitled to the land, or if delinquent, the property will be conveyed pursuant to non-judicial foreclosure proceedings, to the highest bidder in a public sale.

**Trustor:** The borrower, owner and guarantor of the property conveyed in a deed of trust.

**Veterans Administration Loan (VA Loan):** Housing loan to veterans by banks, savings and loans, or other lenders that are guaranteed by the Veterans Administration, enabling veterans to buy a residence with little or no down payment.

**Warranty:** In a broad sense, an agreement or undertaking by a seller to be responsible for present or future losses of the purchaser occasioned by deficiency or defect in the quality, condition or quantity of the thing sold. In a stricter sense, the provision or provisions in a deed, lease or other instrument conveying or transferring an estate or interest in real estate under which the seller becomes liable to the purchaser for defect in or encumbrances on the title.







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