

## So, You're Selling Your Home...

### ● Opening Escrow

#### What exactly is an escrow?

An escrow is an independent “stakeholder” account and is the vehicle by which the interests of all parties to the transaction are protected. Your escrow is created shortly after you execute your contract to purchase your home. The escrow becomes the depository for all monies, instructions and documents pertaining to the purchase of your home. Some aspects of the purchase are not part of the escrow. For example, the buyer and the seller must decide which fixtures or personal property items are included in the purchase. Similarly, loan negotiations are between the buyer and the lender. Your real estate agent can guide you in these non-escrow matters.

#### How does the escrow process work?

The escrow is a depository for all monies, instructions and documents necessary for the purchase of your home, including your funds for the down payment and your lender’s funds and documents for the new loan. The escrow officer takes instructions based on the terms of your purchase agreement and your lender’s requirements. The escrow officer can hold inspection reports and bills for work performed as required by your purchase agreement. Other elements of the escrow include hazard insurance, title insurance and the grant deed from the seller to you. Escrow cannot be completed until the instructions (requirements) have been satisfied, and all parties have signed escrow documents.

#### How is the escrow opened?

Either your real estate agent or the buyer’s agent may open the escrow. As soon as you execute the Sales Agreement, the buyer’s agent will place the initial deposit into an escrow account at First American Title or into the real estate broker’s trust account.

#### How will I know where the buyer’s money has gone?

Written evidence of the deposit is generally included in your copy of your sales contract. The funds will then be deposited in a separate escrow or trust account.

#### What information will I have to provide?

You may be asked to complete a statement of identity as part of the necessary paperwork. Because many people have the same name, the statement of identity is used to identify the specific person in the transaction through such information as date of birth, social security number, etc. This information is kept confidential. Depending on the method by which you currently hold title to the property, you may also be asked to provide copies of Trust Agreements, Partnership Agreements or corporate documents.

#### How long does it take to complete the escrow?

The length of an escrow is determined by the terms of the purchase agreement and can range from a few days to several months. An escrow often takes an average time of 30 to 45 days. Now that you have selected your home, executed your purchase agreement, made your purchase deposit and an escrow has been opened, your next step is to apply for a mortgage

loan. Your real estate agent will be able to assist you in selecting a lender.

### **What happens next?**

Unless he/she is paying cash, the next step will be that the buyer will apply for a mortgage loan. Your real estate agent will be able to keep you informed about the progress of the loan application. During the escrow process, you are still required to make your payments on existing loans so that you do not incur any late fees or damage to your credit rating.

### **● Paying off Your Existing Loans**

Unless the buyer takes over your existing loan(s) on the property, the loan(s) will be paid off during the escrow process. You will need to furnish complete information to your escrow officer and real estate agent on each loan against your property. Please be prepared to provide the name of the lender, the loan number, address and phone number of the lender. Your escrow officer will need this information to order the loan payoff demands so the loan(s) may be paid off correctly during the escrow. Homeowners' Association information may also be required if you are selling a condominium, townhouse or property located in a planned unit development (P.U.D.). All of this information will help to ensure the timely closing of the escrow.

### **● Disclosures and Contingencies**

During the process of selling your property, you will be asked to fill out a property disclosure form (known as a Transfer Disclosure Statement), which is now required by law. In this document, you will inform the buyer of any significant facts you have about the condition of the property. If you are moving out of California, other disclosures may be necessary. Your real estate agent or escrow officer will assist you with these. There will, no doubt, be various contingency dates in your real estate sales contract. You should be very aware of these and be sure that the actions required are performed in a timely manner. Such contingencies include the buyer's loan approval, approval of the Preliminary Title Report, approval of structural pest control and other inspections. Stay closely in touch with your real estate agent regarding these important dates.

### **After the buyer's loan is approved, what's next?**

When the loan is approved and the loan documents are sent to the escrow officer or the escrow assistant handling your transaction, "escrow instructions" and the Grant Deed will be prepared.

### **● Escrow Instructions**

#### **What are 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 (the title company) 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.

#### **What is a Grant Deed?**

A Grant Deed is the document which legally transfers your title of the property to the new owner. You will sign the instructions and the deed will be notarized by your escrow officer or another qualified notary public. Proper identification is needed for this procedure (see heading "Identification"). The Grant Deed is recorded at the time escrow closes.

### **When do I sign escrow instructions and where do I do this?**

Your escrow officer or real estate agent will contact you to make an appointment for you to sign your escrow instructions and Grant 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. Usually you will sign your escrow instructions at a First American office. However, you may go to your real estate agent's office or some other location agreed upon by all parties.

## **● Your Appointments**

### **What do I need to do before my appointment to sign the escrow papers?**

**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.

**Identification.** There are several acceptable forms of identification which may be used during the escrow process. These include a current driver's license, passport, or State of California Department of Motor Vehicles Identification Card. One of these forms of identification must be presented at the signing of escrow in order for the signature to be notarized. If you do not have one of these forms of identification, call your escrow officer ahead of time to discuss a solution.

**Cashier's Check.** On rare occasions, funds are insufficient to close escrow and you, as the seller, must deposit money into the escrow. Should this situation occur, you will need to obtain a cashier's check or certified check issued by a California financial institution made payable to First American Title in the amount indicated to you by your escrow officer or escrow assistant. A personal check may delay the closing since First American is required by law to have "good funds" (check clearance) before disbursing funds from escrow. Similarly, an out-of-state check could cause a delay in closing, due to delays in clearing the check.

## **● After the Sign-Off**

### **What's the next step after I've completed my 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 an "escrow closing?"**

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

### **When will I receive the proceeds from the sale?**

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 the 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 (release) 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.

## **● 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 First American Title. These arrangements should be made as early as possible in the transaction.
- Please bring appropriate identification (for example, a valid driver's license or passport) with you to the title company, so that your identity can be verified by the notary public.
- Should the funds deposited in escrow be insufficient for closing, 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 **First American Title**.

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