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Doron F. Eghbali Real Estate Law

[What Does Escrow Encompass in Real Estate Transactions?](#)

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Many real estate transactions, to some extent, involve escrow. In fact, escrow is a term often used but not often delineated. Let us further educate ourselves on what escrow entails and how we could intelligently and prudently exploit it in our real estate transactions.

WHAT IS ESCROW?

Simply, escrow refers to the entire arrangement in which deed is deposited and then delivered. Therefore, escrow is a particular kind of delivering the deed. More particularly, escrow is the deed deposited to a custodian to be delivered to another party after that party has satisfied certain contractual conditions.

WHAT ARE SALES ESCROWS?

Commercial or sales escrows are the most typical type of escrows. Some of the characteristics of commercial or sales escrows are as follows:

- They are handled by a lending institution, attorney, title insurance company, or professional escrow company.
- They are used especially to settle or close all types of real estate sales.

WHAT ARE *SOME* ADVANTAGES OF SALES ESCROWS?

- The escrow agent can compute various charges and credits to each party and handle the mailing of checks, recording of documents, and other administrative aspects of transfer.
- The escrow agent may receive all the documents and payments from the parties and the parties may not necessarily meet for a formal meeting.
- The escrow agent or the escrow company, in some instances, should be working with title insurers to avoid the possibility of closing without the knowledge of some adverse recorded instrument.

WHAT ARE *SOME* DUTIES OF ESCROW AGENTS?

- The escrow agent is an agent of both parties until the close of the escrow.
- The escrow agent after the close of escrow becomes the agent of the seller in terms of providing the seller the money and the agent of the purchaser in terms of providing the deed.
- The escrow agent's FUNDAMENTAL DUTY is to strictly adhere to escrow instructions and not to violate the escrow instructions to damage either of the parties.
- The agent escrow cannot interpret parties' contracts or give consents or waivers on their behalf, generally.
- The escrow agent is a fiduciary to parties. However, the escrow agent is, generally, not required to provide legal or financial advice or even to correct errors in documents drawn by parties.
- The escrow agent may be liable to parties for damages.

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