



RE84RC13: Escrow / Escrow Agents / Escrow Accounts in Real Estate

Approved Aug. 2, 2014

A. Escrow: Funds held by a neutral/disinterested third party (real estate agent in most cases) until completion of the instructions by both parties (seller and buyer) has been finalized

1. Must be placed in a special bank account
2. Cannot be unilaterally revoked
3. Can only be amended, changed or revoked by agreement by both seller and buyer
4. Typically starts when "Offer" or "Purchase and Sales" Agreement which is accompanied by a deposit and is signed by both the Seller and Buyer
 - a. Escrow belongs to Consumer and not the Escrow Agent
5. Maybe a non-interest bearing account or an interest bearing account which is chosen by the Escrow Agent

B. Escrow Agents: Third Parties holding Escrow Funds accountable by law and perform their duties in a timely manner.

1. Real Estate Agents:
 - a. Only Licensees holding a Broker License may have an Escrow Account
 - b. Account is for Deposits/earnest money deposits
 - c. Since Agent may be earning a Sales Commission in the Transaction, they cannot be considered a neutral or disinterested party
 - d. Agent delivers funds to Closing Attorney at the time of the closing
 - e. Monies "held back" by Closing Attorney for unfinished work is placed in Closing Attorney's "Escrow Account" and not the Real Estate Agent Account
2. Lending Institutions:
 - a. Account is for Annual Taxes
 - b. Insurance Premium
 - c. Completion of Building/renovations
 - d. Attorneys

C. Massachusetts Law 254 CMR 3:00 Professional Standards of Practice:

1. Client Funds:
 - a. Escrow Accounts
 - b. Record Keeping
 - c. Salespersons Prohibited from Holding Funds

D. Chapter 103 of the Acts of 2000: An Act Prohibiting Certain claims against Escrow Agents:

1. Section 17A of Chapter 184 of the General Laws as amended

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2. Approved June 15, 2000

E. Escrow Companies:

1. Licensed by State in which they are located
2. Company acts as a Fiduciary for both parties (seller and buyer)
3. Follows instructions given by both parties (seller and buyer) in escrow agreement
4. Company is not required to disclose any defects in the transaction (does not act in the capacity as an attorney to the transaction)
5. Company works in a confidential manner