



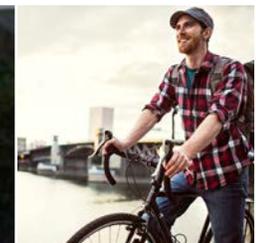
# Lawyers Title

OREGON

**"WE MAKE COMPLEX EASY."**

## TITLE & ESCROW OVERVIEW

The following materials are intended only for educational and informational purposes. They do not contain a complete analysis of the laws, regulations and procedures that are identified. They are not legal advice and are not a substitute for seeking competent legal counsel. If you are not a lawyer and have specific questions, consult a lawyer. Neither Lawyers Title nor any other company in the Fidelity National Title Group makes any representation as the application of these materials to any particular transaction or real estate.



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# WHAT IS ESCROW?

An escrow is a neutral third party depository for legal documents and funds necessary to complete a real estate transaction. The escrow agent will disburse funds and record documents for the proper recipients according to their written instructions.

As part of the purchase contract in a real estate sale, Seller agrees to purchase a title insurance policy for the Buyer and both agree to close the transaction with a licensed escrow company. Lawyers Title of Oregon offers both title insurance and escrow services to facilitate a convenient “one-stop” approach to closing real estate transactions.

## What title insurance and escrow costs are incurred in a real estate sale?

The fee for escrow services is based on the sales price of the property. This fee is typically split equally between the Seller and Buyer. However, Buyers should check with their lenders if financing is involved because some federally insured lending programs do not allow borrowers to pay this fee. The Seller typically pays for a standard owner's policy of title insurance which names the Buyer as the insured. Charges for this policy are based on the sales price of the property. The Buyer typically pays for a lender's policy of title insurance and any required endorsements if s/he is obtaining a new loan to purchase the property. Charges for this policy are based on the loan amount.

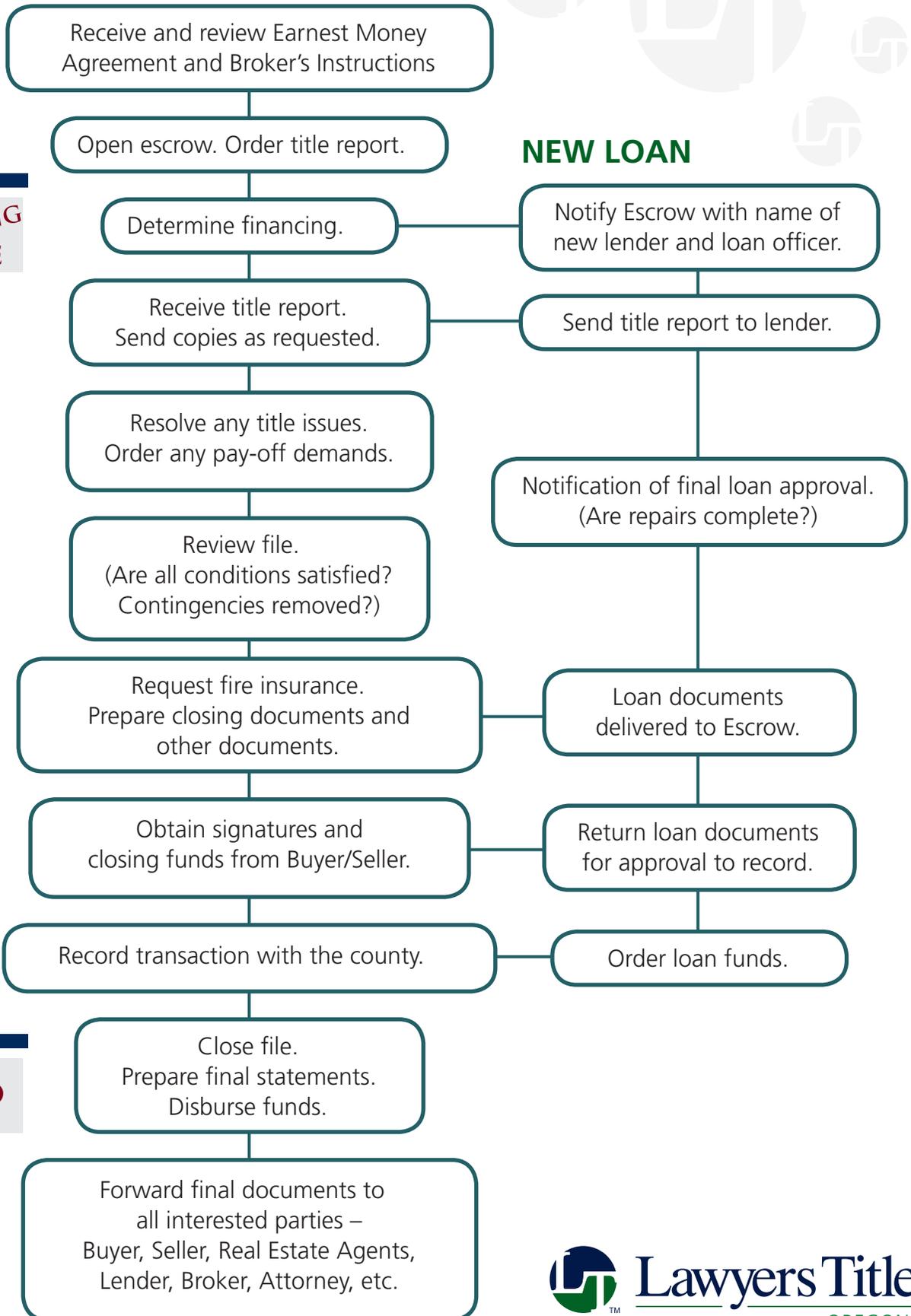
## What services does an escrow officer perform on behalf of the Seller and Buyer?

The escrow officer facilitates the closing procedures. For a typical sales transaction, these services include:

- Ordering the title insurance policies. Prior to the issuance of a policy, the title company will issue a preliminary title report which is sent to all interested parties involved in the transaction. The report will detail the current condition of the title to the property.
- Prorating taxes, insurance, etc.
- Clearing any liens, encumbrances against the property as per instruction.
- Preparing a closing statement for each party showing all credits and debits. The escrow agent will schedule appointments for all parties to sign the necessary documents to complete the transaction.
- Returning signed loan documents for the lender to review and approve and forwarding all necessary documents to recording.
- Disbursing funds as per written instructions and issuing title insurance policies to the proper parties.



# ESCROW FLOW CHART



# WHO PAYS FOR WHAT?

## CHARGES IN OREGON REAL ESTATE SALE TRANSACTIONS

### Buyer Typically Pays For:

- Lender's title insurance premiums and endorsements
- Escrow fees 50%
- Property tax proration (from date of transfer to June 30)
- Interest on new loan (charged from date of funding to 30 days prior to first payment date)
- Fire insurance premium for first year of ownership
- All new loan charges (except those required to be charged to the Seller by a lender or loan program)
- Recording charges for the new deed and loan security documents
- Any delinquent property taxes

### Seller Typically Pays For:

- Owner's title insurance premiums
- Escrow fee 50%
- Property tax proration (from July 1 to date of transfer)
- Real estate sales commission
- Loan fees required by Buyer's lender or loan program
- Any liens or judgments levied against the Seller
- Recording and release charges for anyw documents used to release liens against the property

### Note:

Lawyers Title provides this sheet to familiarize customers with typical closing costs for a normal sale transaction. Each transaction is different and may vary from this guideline. Customers are cautioned to check with their lender and escrow officer to get information on actual charges and costs.



# PROPERTY TAXES

One of the most confusing aspects of a real estate sale transaction is dealing with the property taxes. This glossary explains the different types of property tax charges you may experience with your transaction. This glossary applies to property taxes for all Oregon counties.

**CURRENT TAXES TO BE PAID** - The fiscal tax year begins July 1 and ends June 30. Taxes are “a lien, due but not yet payable” until the tax rolls are certified on or before October 15. Property taxes then become “a lien due and payable.”

Property taxes are due on or before November 15. If paid in full by that date, the homeowner qualifies for a 3% discount. Taxes may also be paid in three installments. There is a 2% discount if 2/3 of the taxes are paid on or before November 15. If a homeowner elects to pay in equal thirds, the payments are due on November 15, February 15, and May 15.

For transactions closing from July 1 through mid-October, the Seller will credit the Buyer with a prorated share of the taxes figured on the prior year’s tax amount. The Buyer will pay the taxes when they are due. From mid-October through June 30, the Seller pays the taxes and the Buyer will reimburse for a portion of the taxes based on an agreed upon date, typically the date of closing or possession.

**TAX RESERVES** - If there is a new loan for a purchase, or refinance, the lender may collect tax reserves (sometimes referred to as impounds) as a part of the monthly payment. Each month the lender will collect 1/12 of the amount necessary to pay the taxes for the next year when they are due.

At the time of closing, the lender will calculate how many additional 12ths are necessary to insure there will be a full amount to pay the taxes when due. The Buyer is required to pay this amount at closing. A Buyer/Borrower should always check with a new lender about its property tax reserve requirements.

**TAX SERVICE** - Another charge that can be passed to the Buyer/Borrower is for tax service if required by his lender. In cases where the property tax bill is mailed to the Buyer/Borrower, not the lender, the lender may contract with a tax service company. The tax service company will obtain copies of the tax bill and send them to the appropriate lender, with a reference to the correct loan number, to assure that the taxes are paid in a timely fashion.

**TAX PRORATES** - The escrow agent determines what portion of the current year’s property taxes the Seller and Buyer should pay. Depending on what time of the tax year the transaction closes, the Seller will either be credited with his unused portion if the taxes are already paid or debited for the time he had possession before the taxes were due and payable.



# OREGON PROPERTY TAX CALENDAR

## JULY

July 1 – new fiscal year begins. Tax year runs through next June 30. Taxes are a lien not yet due and payable.

## SEPTEMBER

Property tax rolls turn & are certified in September or early October.

## OCTOBER

Tax bills are mailed by October 25.

## NOVEMBER

Taxes due November 15. Pay in full for a 3% discount.  
Pay 2/3 for a 2% discount. First installment due if paying in thirds.

## FEBRUARY

February 15 - second installment due.

## APRIL

April 15 last day to file for Homeowners, Veterans or Senior Citizen exemptions.

## MAY

May 15 last installment due. The entire tax bill is considered delinquent if unpaid by this date. Three years of unpaid taxes are subject to tax foreclosure.

## JUNE

June 30 tax year ends.

## NOTE:

From July 1 through mid-October, the SELLER credits the BUYER with a prorated share of the taxes based on the previous year tax amount. BUYER is then responsible for paying the taxes when due.

From mid-October through June 30, the SELLER pays the taxes and BUYER reimburses for a portion of the taxes.



# TITLE INSURANCE

Title insurance is designed to protect an owner of real property and/or a lender against actual loss resulting from title deficiencies.

## HOW IT WORKS and WHAT DO I RECEIVE?

Generally when an owner agrees to sell real property or applies for a loan, he/she represents to a Buyer or a lender that the title is clear or will be cleared of particular encumbrances, while other acceptable encumbrances may remain.

Title insurance will confirm the status of encumbrances that may affect title to the real property. The **PRELIMINARY TITLE REPORT** states the condition of the title at the time title insurance is ordered. After the sale or loan is closed and the transaction completed, a policy is issued detailing the encumbrances that remain in effect. These encumbrances have been accepted by the Buyer and/or lender involved in the transaction and may include the new financing encumbrances as well as other exceptions like covenants, conditions and restrictions or utility easements.

**AN OWNER'S POLICY (ALTA)** is issued for the full purchase price and is typically paid for by the Seller. An Owner's policy is in effect up to the amount of the policy until the property is sold and title is passed to new purchasers.

A Lender's policy is issued to the new lender for the amount of the new loan and is typically paid by the Buyer or borrower. The Lender's policy is in effect until the loan is paid in full and the obligation is released.

## OBTAINING A CLEAR TITLE

When a seller agrees to transfer clear title to a buyer, the parties will turn to a title company. It will examine the title to identify matters that may need to be cleared as a condition of the purchase. To this end, the title company produces a preliminary report showing the status of the title. The report is preliminary to, and becomes the basis for, a policy of title insurance to the buyer and, if the buyer is financing the purchase, to the buyer's mortgage lender. The title examination is an examination of documents recorded in the county land records, of some local court records and of records of local taxing authorities. The purpose is to verify the seller's ownership and to identify liens and encumbrances of record. In general, the monetary liens will be cleared through an escrow, such that a buyer usually acquires title free of monetary liens. Other encumbrances will remain, such as planned community or condominium declarations of covenants, conditions and restrictions. Either way, the process is one of identifying matters that need to be cleared through escrow and matters that, by agreement of the parties, will remain in place.



# WHAT IS CLOSING?

For a real estate transaction placed in escrow, “closing” is the final process necessary to complete the transaction. In a typical sale transaction, “closing” takes place when:

- Both the Buyer and Seller have signed and fully executed the necessary documents.
- The Buyer’s money has been deposited into the escrow account.
- The lender has approved the signed documents and released them for recording (note: lenders typically have 24-72 hours to read and approve documents for recording).
- The lender has wired or sent loan funds that are deposited and ready to disburse.
- The new deed and financing documents have been recorded at the county.

The above steps must be accomplished before keys are released to the new Buyer (unless there are written instructions to the contrary) and the Seller’s proceeds check is disbursed.

## TIPS FOR A SMOOTH CLOSING

- Contact your insurance agent and obtain a binder showing proof of hazard (fire) insurance coverage. Please provide your escrow officer and/or your loan officer with the name and number for your insurance agent.
- The monies you are asked to deposit at time of closing must be in the form of a cashier’s check, or be wired into the escrow account by your bank.
- Bring your picture identification to the closing appointment. Your escrow officer will ask to see your identification before notarizing your signature.
- As we get closer to the contract close date, try and be as flexible with your schedule as possible in order to accommodate signatures. With many parties involved in a real estate transaction, even the best laid plans can become last minute fire drills.
- Make sure to inform your escrow officer as early as possible if you will need special accommodations for signing, such as requesting a mobile notary to come to your place of business.
- Lawyers Title will go above and beyond to make the closing experience as effortless as possible on your end. As a courtesy, you can sign your documents in any of our six branches conveniently located throughout the tri-county area.



# WHAT IS A DEED?

A deed is a legal instrument used for transferring title to real estate from one person to another. A deed identifies the grantor – the person transferring title. It identifies the grantee - the person receiving title. It contains words of conveyance. It contains the legal description of the real estate, that is, a description that identifies the boundaries of the property. It contains a statement of the consideration that passes from grantee to grantor. It is signed by the grantor and acknowledged by the grantor before a notary public. It is submitted to the county for recording in the land records. This puts third parties on notice of the grantee's title.

**There are different kinds of deeds in Oregon and different ways that two or more people may hold title. Important legal consequences follow from the choice and content of a deed. These consequences affect the grantor's and grantee's rights and obligations. A party to a deed should consult with a lawyer for answers to questions or concerns about a deed or the transaction of which it is a part.**

## CO-OWNERSHIP OF OREGON REAL ESTATE

Two or more people may choose to acquire title with or without right of survivorship. **RIGHT OF SURVIVORSHIP** means the survivor acquires the other owner's interest on the latter's death, rather than the decedent's interest passing by inheritance to his or her heirs or devisees. Co-owners also may choose to acquire title in equal or unequal fractions. Whatever their choices, these should be stated in the deed that transfers title to them.

### **How do co-owners establish that a right of survivorship does or does not apply?**

When one person owns land, the person holds an "estate" in land. Two owners hold "concurrent estates." When two owners hold concurrent estates without right of survivorship, they are **TENANTS IN COMMON**, that is, when a co-owner dies, his or her interest passes in accordance with the law of inheritance. When unmarried owners hold concurrent estates with right of survivorship, the deed must state that expressly. A married couple may hold title in a survivorship estate available only to married couples. This is a **TENANCY BY THE ENTIRETY**. A married couple will acquire title as tenants by the entirety, unless the couple specifies a different ownership, such as a **TENANCY IN COMMON**.

**Important legal consequences follow from the choice of co-ownership. Before acquiring title to real estate with co-owner, a person should consult with a lawyer for answers to questions or concerns about the kind of co-ownership the person desires and the phrasing to use in a deed.**





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## WASHINGTON COUNTY

### **SUNSET SIGNING SUITE**

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### **PORTLAND WEST OFFICE**

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## CLACKAMAS COUNTY

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