

CALIFORNIA



HOME SELLERS HANDBOOK



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An aerial photograph of a hillside in a coastal area, showing various houses with different architectural styles, including some with red-tiled roofs and others with modern designs. The hillside is covered with greenery and trees. A large red banner is overlaid on the top left of the image, containing the letter 'A' and the title 'Old Republic Title Information'.

A

Old Republic Title Information

Success on Your Terms

Old Republic Title* and its underwriter Old Republic National Title Insurance Company, herein "Old Republic," provide title and escrow products and services for individuals, businesses and governments. Our services are highly comprehensive and flexible to respond to changing market environments and to ensure your transaction is settled according to the most current industry standards. We're committed to expediting the timely close of your real estate transaction by underwriting and managing each transaction with the highest levels of technical skill, client services and professional integrity.

Certainty Matters

When real estate ownership is transferred, the stakes are high and reputations are on the line. Our products and services protect our clients from judgments and liens, forged transfers, inconsistencies within a property's title or misapplication of fiduciary funds. This is what makes title examination and insurance policies – like those provided by Old Republic – invaluable.



Reputation at Work

Old Republic is a subsidiary of Old Republic International Corporation, a multi-lined insurance corporation, which is one of America's 50 largest shareholder-owned insurance businesses. The Old Republic Title Insurance Group** of companies have been issuing title insurance and providing peace of mind to its clients for over a century. We offer residential and commercial title insurance products as well as a variety of other title insurance related services through a national network of branch offices, subsidiaries and over 8,300 independent policy-issuing agents.

(*) ORTIG underwriters are: Old Republic National Title Insurance Company and American Guaranty Title Insurance Company.

(**) Old Republic Title Company, Old Republic Title Insurance Agency, Inc., Old Republic Title of Nevada, Old Republic Title, Ltd., Old Republic Title & Escrow of Hawaii, Ltd., Old Republic Title of Oregon.



B

Escrow & Closing

WHAT IS ESCROW?

Making a very large purchase, such as a house, causes buyers, sellers and lenders to seek reassurance about all the security measures that are in place to protect the funds involved in the closing transaction. Transferring large sums of money and finalizing the details of your sale needs to be done safely and in compliance with the latest security and privacy standards. To help minimize risks during real estate transactions, the escrow/settlement process was developed to protect the buyer, seller and lender.

An escrow account is basically a temporary pass through account held by the escrow holder. The escrow holder is a neutral third party that holds funds and related documents in a secure manner while the parties work through the details of the real estate transaction. Escrow ensures the conditions of the real estate transaction have been met before the property and/or money change hands.

HOW DOES ESCROW WORK?

The escrow process starts when a party to a real estate transaction (seller, seller's agent, buyer or buyer's agent) opens the escrow after a written sale agreement is reached. Upon opening, the escrow holder should be provided with the terms of the sale and the information necessary to carry out tasks. The escrow holder's duties and the timing of key tasks vary between states.

While your real estate transaction is in escrow, your escrow officer and agent will work with you to make sure the right steps are taken at the right time. Tasks that the escrow holder may complete include:

- Coordinating communications between all parties in the transaction
- Preparing written escrow instructions
- Requesting a preliminary report or commitment
- Requesting a statement of identity (information) from the buyer or seller as needed
- Ordering demands or beneficiary statements
- Receiving bills from home warranty companies, as well as pest, roof, home and other inspection companies
- Preparing or securing the deed or other recordable documents
- Complying with lender's requirements
- Prorating taxes, interest, insurance and rents
- Receiving purchase funds required for closing
- Coordinating recording of deeds and any other necessary documents
- Closing escrow when all the instructions of the buyer, seller and lender have been carried out
- Disbursing funds as authorized, including charges for title insurance, recording fees, real estate commissions and loan payoffs
- Preparing final statements for the parties, which account for the disposition of all funds deposited in escrow

When all instructions in escrow have been carried out to the satisfaction of each party, the escrow is ready to be closed. With closing, the title to the property is transferred to the buyer, the sales proceeds are paid over to the seller, necessary documents are recorded and title insurance is issued. It is important to note that the escrow holder does not offer legal advice, negotiate the transaction or offer investment advice.

ESCROW PROCESS

Buyer/consumer must receive the Closing Disclosure (CD) at least three business days prior to the date the buyer/consumer is scheduled to sign the loan documents.

ESCROW OPENED Escrow number issued, contract and deposit received by escrow
Preliminary Report/Commitment prepared and distributed for review
Additional terms and appropriate invoices from companies such as termite companies, homeowner associations, roofers, inspection companies, home warranty companies etc. forwarded to the Escrow Officer.
CLOSING DISCLOSURE SENT BY THE LENDER OR ESCROW OFFICER TO THE BUYER FOR REVIEW Seller Closing Disclosure sent to the seller by the Escrow Officer. Estimated Settlement Statement sent to the respective buyer's and seller's agents
Escrow receives loan documents and lender instructions for scheduling the signing
SIGNING DATE IS SCHEDULED Buyer and Seller to bring valid ID to the signing appointment. Buyer to bring funds to close
Signed documents are returned to the lender and funds are requested to close
Funds are received from the lender and documents sent to the County Recorder for recording
Confirmation of recording is received, funds are disbursed, final settlement statement is prepared and final CD is sent to the buyer by the lender or Escrow Officer
CONGRATULATIONS Escrow is now closed. Keys are typically delivered by the agents or the seller to the new homeowner and the Owner's Title Policy is delivered by mail.

TERMS

Closing Disclosure – The five-page Closing Disclosure, also referred to as CD, must be provided to the consumer three business days before they sign their loan documents. The Closing Disclosure details all of the costs associated with their mortgage transaction.

Consummation – Consummation is not the same thing as closing or settlement. Consummation occurs when the consumer becomes legally obligated to the creditor on the loan, not, for example, when the consumer becomes contractually obligated to a seller on a real estate transaction.

Loan Estimate – A three-page Loan Estimate (LE) must be provided to the consumer no later than three business days after they submit a loan application for most mortgages. The Loan Estimate provides information about key features, costs and risks of the mortgage loan for which the consumer is applying.

Redisclosure – For covered transactions under the TILA-RESPA Integrated Disclosure (TRID) Rule and under very specific circumstances, the Loan Estimate and/or the Closing Disclosure may be revised and delivered to the consumer.

Three-Day Review Period – For transactions covered under the TRID Rule, the creditor is generally required to ensure that the consumer (borrower) receives the Closing Disclosure no later than three business days prior to the consummation of the loan.



C

Statement of Information

A GUIDE TO STATEMENTS OF INFORMATION

What's in a name? When a title company seeks to uncover matters affecting title to real property, the answer is, "Quite a bit."

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.

To help you better understand this sensitive subject, the California Land Association has answered some of the questions most commonly asked about Statements of Information.

What is a Statement of Information?

A Statement of Information is a form routinely requested from the buyer, seller and borrower in a transaction where title insurance is sought. The completed form provides the title company information needed to adequately examine documents so as to disregard matters which do not affect the property to be insured, matters which actually apply to some other person.

What does a Statement of Information do?

Every day documents affecting real property--liens, court decrees, bankruptcies--are recorded. Whenever a title company uncovers a recorded document in which the name is the same or similar to that of the buyer, seller or borrower in a title transaction, the title company must ask, "Does this document affect the parties we are insuring?" Because, if it does, it affects title to the property and would, therefore, be listed as an exception from coverage under the title policy. 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. This protects all parties involved and allows the title company to competently carry out its duties without unnecessary delay.

What types of information are requested in a Statement of Information?

The information requested is personal in nature, but not unnecessarily so. The information requested is essential to avoid delays in closing the transaction.

You, and if applicable, your spouse or registered domestic partner, will be asked to provide full name, social security number, year of birth, birthplace, and information of citizenship. If applicable, you will be asked the date and place of your marriage or registered domestic partnership.

Residence and employment information will be requested, as will information regarding previous marriages or registered domestic partnerships.



Will the information I supply be kept confidential?

The information you supply is completely confidential and only for title company use in completing the search of records necessary before a policy of title insurance can be issued.

What happens if a buyer, seller or borrower fails to provide the requested Statement of Information?

At best, failure to provide the requested Statement of Information will hinder the search and examination capabilities of the title company, causing delay in the production of your title policy.

At worst, failure to provide the information requested could prohibit the close of your escrow. Without a Statement of Information, it would be necessary for the title company to list as exceptions from coverage judgments, lines 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.

Conclusion?

Title companies make every attempt in issuing a policy of title insurance to identify known risks affecting your property and to efficiently and correctly transfer title so as to protect your interests as a homebuyer. By properly completing a Statement of Information, you allow the title company to provide the service you need with the assurance of confidentiality.

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D Preliminary Report

PRELIMINARY REPORTS - SOME BASICS

After months of searching, you've finally found it, your perfect dream home. But is it perfect? Will you be purchasing more than just a beautiful home? Will you also be acquiring liens placed on the property by prior owners? Have documents been recorded that will restrict your use of the property?

The preliminary report will provide you with the opportunity, prior to purchase, to review matters affecting your property which will be excluded from coverage under your title insurance policy unless removed or eliminated before your purchase.

What is a Preliminary Report?

A preliminary report is a report prepared prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land, together with the liens and encumbrances thereon which will not be covered under a subsequent title insurance policy.

What role does a Preliminary Report play in the real estate process?

A preliminary report contains the conditions under which the title company will issue a particular type of title insurance policy.

The preliminary report lists, in advance of purchase, title defects, liens and encumbrances which would be excluded from coverage if the requested title insurance policy were to be issued as of the date of the preliminary report. The report may then be reviewed and discussed by the parties to a real estate transaction and their agents.

Thus, a preliminary report provides the opportunity to seek the removal of items referenced in the report which are objectionable to the buyer prior to purchase.

When and how is the Preliminary Report produced?

Shortly after escrow is opened, an order will be placed with the title company which will then begin the process involved in producing the report.

This process calls for the assembly and review of certain recorded matters relative to both the property and the parties to the transaction. Examples of recorded matters include a deed of trust recorded against the property or a lien recorded against the buyer or seller for an unpaid court award or unpaid taxes.

These recorded matters are listed numerically as "exceptions" in the preliminary report. They will remain exceptions from title insurance coverage unless eliminated or released prior to the transfer of title.

What should I look for when reading my Preliminary Report?

A. You will be interested, primarily, in the extent of your ownership rights. This means you will want to review the ownership interest in the property you will be buying and the description of the property, as well as any claims, restrictions or interests of other people involving the property.

The report will note in a statement of vesting the degree, quantity, nature and extent of the owner's interest in the real property. The most common form of interest is "fee simple" or "fee" which is the highest type of interest an owner can have in land.

Liens, restrictions and interests of others which are being excluded from coverage will be listed numerically as "exceptions" in the preliminary report. These may be claims by creditors who have liens or liens for payment of taxes or assessments. There may also be recorded restrictions which have been placed in a prior deed or contained in what are termed CC&Rs--covenants, conditions and restrictions. Finally, interests of third parties are not uncommon and may include easements given by a prior owner which limit your use of the property. When you buy property you may not wish to have these claims or restrictions on your property. Instead, you may want to clear the unwanted items prior to purchase.

In addition to the limitations noted above, a printed list of standard exceptions and exclusions listing items not covered by your title insurance policy may be attached as an exhibit item to your report. Unlike the numbered exclusions, which are specific to the property you are buying, these are standard exceptions and exclusions appearing in title insurance policies. The review of this section is important, as it sets forth matters which will not be covered under your title insurance policy, but which you may wish to investigate, such as governmental laws or regulations governing building and zoning.

Will the Preliminary Report disclose the complete condition of the title to a property?

No. It is important to note that the preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land, but merely report the current ownership and matters that the title company will exclude from coverage if a title insurance policy should later be issued.

Is a Preliminary Report the same thing as title insurance?

Definitely not. A preliminary report is an offer to insure, it is not a report of a complete history of recorded documents relating to the property. A preliminary report is a statement of terms and conditions of the offer to issue a title insurance policy, not a representation as to the condition of title.

These distinctions are important for the following reasons: first, no contract or liability exists until the title insurance policy is issued; second, the title insurance policy is issued to a particular insured person and others cannot claim the benefit of the policy.

Can I be protected against title risks prior to the close of the real estate transaction?

Yes, you can. Title companies can protect your interest through the issuance of "binders" and "commitments."

A binder is an agreement to issue insurance giving temporary coverage until such time as a formal policy is issued. A commitment is a title insurer's contractual obligation to insure title to real property once its stated requirements have been met.

Discuss with your title insurer the best means to protect your interests.

How do I go about clearing unwanted liens and encumbrances?

You will wish to carefully review the preliminary report. Should the title to the property be clouded, you and your agents will work with the seller and the seller's agents to clear the unwanted liens and encumbrances prior to taking title.

Who can I turn to for further information regarding Preliminary Reports?

Your real estate agent and your attorney, should you choose to use one, will help explain the preliminary report to you. Your escrow and title company can also be helpful sources.

CONCLUSION: In a business which is directed at risk elimination, the efforts leading to the production of the preliminary report, which is designed to facilitate the issuance of a policy of title insurance, is perhaps the most important function undertaken.

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E

Closing Costs



The buyer and seller will pay “closing” or settlement costs, an accumulation of separate charges paid to different entities for the professional services associated with the buying and selling of property.

Some closing costs might include real estate commissions, appraisal fees, loan fees, escrow charges, advance payments like property taxes (city and county), hazard insurance, title insurance, pest inspections, etc.

Keep in mind that your closing funds should be in the form of a cashier’s check made payable to the title company or escrow office in the amount requested, or by wired funds.

Examples of Additional Closing Costs:

- Title insurance premiums
- Escrow and notary fees
- Documentation preparation fee
- Recording charges for all documents in buyer’s name
- Interest on new loan from date of funding to 30 days prior to first payment
- Inspection fees (property, roof, geological)
- All new loan charges (except those required by lender for seller to pay)
- Tax proration from date of acquisition
- Assumption/change of record fees for take over of existing loan
- Beneficiary statement fee for assumption of existing loan
- Homeowners association transfer fee
- Home warranty (according to contract)
- Any city transfer tax/conveyance tax (per custom)*
- Real estate commission
- Documentation preparation fee for transferred deed
- Fire insurance premium for first year impounds, if applicable
- Payoff of all loans in seller’s name (or existing loan balance if being assumed by buyer)
- Interest accrued to lender being paid off, statement fees, reconveyance fees and any prepayment penalties
- Termite work (according to contract)
- Natural hazard disclosure report
- Any judgments, delinquent taxes, tax liens, etc. against seller
- Tax proration (for any unpaid taxes)
- Recording charges to clear all documents of record against seller
- Any bonds or assessments
- Any unpaid homeowner’s dues, homeowner’s document and demand fees
- Documentary transfer tax

(*Based on City/County of where property is located. Check with your Real Estate Professional.)



COMMON PROPERTY TAXES

City Transfer Tax

Tax paid to the local government as a percentage of the property's value. The amount of the tax is usually based on a percentage of the property's selling price, but the exact amount is determined by the city where the property is located.

County Transfer Tax

Tax paid to the county or local government as a percentage of the property's value. The amount of the tax is usually based on a percentage of the property's selling price, but the exact amount is determined by the county where the property is located.

A Guide to California Closing Costs

Contact your local
ORT Escrow Officer
for the most up-to-
date information
regarding closing
costs in your county.

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Title | OR1591-DI-CA | Old
Republic Title is providing this
information as a free customer
service and makes no warranties
or representations as to
its accuracy.

Old Republic Title strongly
recommends that consumers
confer with their title insurer as
underwriting requirements vary
among companies and further,
obtain guidance and advice from
qualified professionals, including
attorneys specializing in Real
Property, Trusts and/or Title
Insurance to get more detailed,
and current, information as to any
particular situation affecting them.

All of the closing costs above are
allocated between the Buyer and
Seller based on custom only and
may be subject to negotiation in
the sale of Real Property. These
closing cost are deemed reliable,
but are subject to change
without notice.

★ = Old Republic Title office located
Transfer Tax varies by city. Please contact your
Old Republic Escrow Officer for more details.

County	Escrow Charges	Title Fees Owner's Policy	Documentary Transfer Tax \$1.10 per \$1,000 or \$0.55 per \$500	City Transfer Tax Amount per \$1,000
Alameda ★	Buyer Pays	Buyer Pays	Seller Pays	<div> <div> Buyer-Seller 50% Albany = \$15.00 Alameda = \$12.00 Emeryville = \$12.00 Hayward = \$8.50 Piedmont = \$13.00 San Leandro = \$11.00 </div> <div> Berkeley up to \$1,600,000 = \$15.00 \$1,600,001 or more = \$25.00 Oakland up to \$300,000 = \$10.00 \$300,001 to \$2,000,000 = \$15.00 \$2,000,001 to \$5,000,000 = \$17.50 \$5,000,001 or more = \$25.00 </div> </div>
Alpine	Buyer - Seller 50%	Buyer Pays	Seller Pays	
Amador	Buyer - Seller 50%	Buyer Pays	Seller Pays	
Butte	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Calavera	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Colusa ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Contra Costa ★	Buyer Pays	Buyer Pays	Seller Pays	<div> Buyer - Seller 50% El Cerrito = \$12.00 </div> <div> Richmond up to \$999,999.999 = \$7.00 \$1,000,000 to \$3,000,000 = \$12.50 \$3,000,001 to \$10,000,000 = \$25.00 \$10,000,001 or more = \$30.00 </div>
Del Norte	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
El Dorado ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Fresno ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Glenn ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Humboldt	Buyer - Seller 50%	Seller Pays	Seller Pays	
Imperial	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Inyo	Buyer - Seller 50%	Seller Pays	Seller Pays	
Kern ★	Buyer - Seller 50%	Seller Pays	Split: Ridgecrest	
Kings	Buyer - Seller 50%	Seller Pays	Seller Pays	
Lake	Buyer Pays	Buyer Pays	Seller Pays	
Lassen	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Los Angeles ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Madera ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Marin ★	Buyer Pays	Buyer Pays	Seller Pays	
Mariposa	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Mendocino	Buyer Pays	Buyer Pays	Seller Pays	
Merced ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Modoc	Buyer - Seller 50%	Seller Pays	Seller Pays	
Mono	Buyer - Seller 50%	Seller Pays	Seller Pays	
Monterey ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Napa ★	Buyer Pays	Buyer Pays	Seller Pays	
Nevada	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Orange County ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Placer ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Plumas	Buyer - Seller 50%	Seller Pays	Seller Pays	
Riverside ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
Sacramento ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
San Benito ★	Seller Pays	Seller Pays	Seller Pays	
San Bernardino ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
San Diego ★	Buyer - Seller 50%	Seller Pays	Seller Pays	
San Francisco ★	Buyer Pays	Buyer Pays	Included in the City Transfer Tax	
San Joaquin ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
San Luis Obispo	Buyer - Seller 50%	Seller Pays	Seller Pays	
San Mateo ★	Buyer Pays	Buyer Pays	Seller Pays	
Santa Barbara	Buyer - Seller 50%	Seller Pays	Seller Pays	
Santa Clara ★	Seller Pays	Seller Pays	Seller Pays	
Santa Cruz ★	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Shasta	Buyer - Seller 50%		Seller Pays	
Sierra	Buyer - Seller 50%		Seller Pays	
Siskiyou	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Solano ★	Buyer Pays	Buyer Pays	Seller Pays	
Sonoma ★	Buyer Pays	Buyer Pays	Seller Pays	
Stanislaus ★	Buyer - Seller 50%	Seller Pays except Turlock 50/50	Seller Pays	
Sutter ★	Seller Pays	Buyer - Seller 50%	Seller Pays	
Tehama	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Trinity	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Tulare	Buyer - Seller 50%	Seller Pays	Seller Pays	
Tuolumne	Buyer - Seller 50%	Buyer - Seller 50%	Seller Pays	
Ventura ★	Seller Pays	Seller Pays	Seller Pays	
Yolo ★	Buyer-Davis Seller - All Other	Buyer-Davis Seller - All Other	Seller Pays	
Yuba ★	Buyer - Seller 50%	Seller Pays	Seller Pays	

City
City Code
Tax Rate

Culver City
20
0.45% on amounts of \$1,499,999 or less
1.5% on amounts from \$1,500,000 to \$2,999,999
3% on amounts from \$3,000,000 to \$9,999,999
4% on amounts \$10,000,000 and above
See <https://culvercity.org/rppt> for tax calculator and details

Los Angeles
44
\$4.50 (Per \$1,000)

Pomona
57
\$2.20 (Per \$1,000)

Redondo Beach
59
\$2.20 (Per \$1,000)

Santa Monica
68
\$3.00 (Per \$1,000) on amounts \$4,999,999 or less
\$6.00 (Per \$1,000) on amounts \$5,000,000 and above

For more information:
<https://finance.smgov.net/fees-taxes/real-property-transfer-tax>

Seller Pays San Rafael = \$2.00

Seller Pays \$1.10 in city of Riverside

Buyer - Seller Pays \$2.75 in city of Sacramento

Seller Pays
Through \$250,000 = \$5.00
\$250,001 to \$999,999 = \$6.80
\$1,000,000 to \$4,999,999 = \$7.50

\$5,000,000 to \$9,999,999 = \$22.50
\$10,000,000 to \$24,999,999 = \$55.00
\$25,000,000 or more = \$60.00

Buyer-Seller 50% \$0.30 in Hillsborough
Buyer-Seller 50% \$5.00 in San Mateo

Buyer-Seller 50%
Palo Alto = \$3.30
Mountain View = \$3.30
San Jose = \$2,000,000 to \$5,000,000 x 0.75% = \$7.50
\$5,000,001 to \$10,000,000 x 1.00% = \$10.00
\$10,000,001 and above x 1.50% = \$15.00
Please keep in mind this tax is in addition to the current City transfer
tax of \$3.30/\$1,000 for San Jose

Seller Pays \$3.30 in city of Vallejo

Seller Pays Santa Rosa \$2.00 Petaluma \$2.00

CALIFORNIA PROPOSITION 19

Proposition 19 (2020) amended the California Constitution by adding sections that provide further expansion and qualifications regarding limitations on property tax increases for **persons over 55, the severely disabled, victims of wildfires or other natural disasters (collectively referred to as “eligible homeowners”)** and transfers of certain inherited properties.

These changes may affect your next escrow, if eligible. Additional forms may be required if you plan to transfer your tax basis for an eligible transaction.

Eligible Homeowners

Effective April 1, 2021, location restrictions will be removed allowing eligible homeowners to:

- **Move Anywhere in the State** - The taxable value of a primary residence may be transferred to a replacement primary residence anywhere within the state, as long as it is within two years of the sale of the original primary residence.
- **Purchase a More Expensive Home** - A home of greater market value may be purchased without incurring a substantial increase in taxable value. The property tax bill would still go up but not by as much as it would for other homebuyers.
- **Increase the Use of the Transfer** - Homeowners who are over 55 or severely disabled could transfer the property's taxable value up to three times in their lifetime.

Inherited Properties

Effective February 16, 2021, the following qualifications will apply to inherited properties:

- **Continued Use as Primary Residence or Family Farm** - The reassessment exemption on inherited properties would apply only if the property is used by the child (or grandchild under certain circumstances) as their primary residence, or if the property is a family farm. Properties used for other purposes would not qualify for the exemption.
- **Increase for High Value Inherited Homes and Farms** - If the current market value of an inherited property exceeds the parent's taxable value by more than \$1 million, then the child taxable value shall be assessed as the current market value less \$1 million*.

*The State Board of Equalization shall adjust the \$1 million amount of inflation beginning on February 16, 2023 and every two years thereafter.



F

Living Trusts - Some Basics



Estate planners often recommend “Living Trusts” as a viable option when contemplating the manner in which to hold title to real property. When a property is held in a Living Trust, title companies have particular requirements to facilitate the transaction. While not comprehensive, following are answers to many commonly asked questions. If you have questions that are not answered below, your title company representative may be able to assist you, however, one may wish to seek legal counsel.

Who are the parties to a Trust?

A typical trust is the Family Trust in which the Husband and Wife are the Trustees and, with their children, the Beneficiaries. Those who establish the trust and transfer their property into it are known as Trustors or Settlers. The settlor’s usually appoint themselves as Trustees and they are the primary beneficiaries during their lifetime. After their passing, their children and grandchildren usually become the primary beneficiaries if the trust is to survive, or the beneficiaries receive distributions directly from the trust if it is to close out.

What is a Living Trust?

Sometimes called an Inter-vivos Trust, the Living Trust is created during the lifetime of the Settlers (as opposed to being created by their Wills after death) and usually terminates after they die and the body of the Trust is distributed to their beneficiaries.

Can a Trust hold title to Real Property?

No. The Trustee holds the property on behalf of the Trust.



Is a Trust the best way to hold my property

Only your attorney or accountant can answer the question; some common reasons for holding property in a Trust are to minimize or postpone death taxes, to avoid a time consuming probate, and to shield property from attack by certain unsecured creditors.

What tax can I avoid by putting my property in trust?

Married persons can usually exempt a significant part of their assets from taxation and may postpone taxes after the first of them to die passes. You should check with your attorney or accountant before taking any action.

Can I homestead property which is held in a Trust?

Yes, if the property otherwise qualifies.

Can a Trustee borrow money against the property?

A Trustee can take any action permitted by the terms of the Trust, and the typical Trust Agreement does give the Trustee the authority to borrow and encumber real property. However, not all lenders will lend on a property held in trust, so check with your lender first.

Can Someone else hold title for me "in trust?"

Some people who do not wish their names to show as titleholders make private arrangements with a third party Trustee; however, such an arrangement may not be advisable because the Trustee of record is the only one who is empowered to convey, or borrow against, the property, and a Title Insurer cannot protect you from a Trustee who is not acting in accordance with your wishes despite the existence of a private agreement you have with the Trustee.

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Probate - Some Basics



Everyone has a will or plan, whether created or by default. Even if you have not made out a will or a trust, you still have a plan – a plan dictated by the laws of the state where you reside upon your death. Making a will is not a way to avoid “probate”, the court procedure that changes the legal ownership of your property after your death. Probate makes sure it is your last valid will, appoints the executor named in your will and supervises the executor’s work. You can do several things now that can help your executor and family later, hopefully much later on.

I AM IN POSSESSION OF A WILL THAT DISTRIBUTES THE DECEDENT’S ESTATE TO ME, ISN’T THIS ALL I NEED?

No. The will must be admitted to probate and the estate of the decedent must be “probated.”

WHAT DOES “PROBATE” ACTUALLY MEAN?

Generally, probate is a court proceeding that administers the estate of an individual.

WHAT IS THE PURPOSE OF “ESTATE ADMINISTRATION”?

Generally, there are five purposes, many of which have subsets to them:

1. To determine that the decedent is in fact dead,
2. To establish the validity of the will,
3. To identify the heirs and devisees of the decedent,
4. To settle any claims that creditors may have against the estate of the decedent, and
5. To distribute the property.

WHO IS THE PUBLIC ADMINISTRATOR?

Generally speaking, a public administrator is a person or entity appointed by the State to act when there is no will or relatives.

WHAT IS THE DIFFERENCE BETWEEN “TESTATE” AND “INTESTATE”?

When one is said to have died “Testate,” it means he or she died leaving a will. If one is said to have died “Intestate,” it means he or she died without leaving a will.

WHAT IS THE DIFFERENCE BETWEEN AN EXECUTOR AND AN ADMINISTRATOR?

An “executor” carries out the directions and requests set forth in the decedent’s will. An “administrator” is appointed by the court to manage the estate of a decedent who dies intestate.

WHAT ARE THE STEPS TO A NORMAL UNCONTESTED PROBATE?

Very generally speaking they are as follows:

1. Death of the decedent.
2. The will is delivered to the executor or Court Clerk.
3. A petition is filed for the Probate of Will or Letters of Administration.
4. A hearing is held on the petition.
5. Letters of Administration are issued by the Court.
6. Notice to creditors is given.
7. Inventory and appraisal of the estate is made by an independent probate appraiser.
8. File Federal estate tax return. Return states “No Tax Due” or specifies an amount due.
9. Final accounting and petition for distribution.
10. Final decree of distribution.
11. Discharge of personal representative.

WHILE REAL PROPERTY IS “IN PROBATE” CAN IT BE SOLD?

Yes. Without getting into too much detail it can be sold either at private sale in which the executor of the estate negotiates a transaction with a buyer or at public sale in which the property is sold at public auction.

IF THERE IS NO WILL, HOW IS THE PROPERTY OF THE ESTATE DISTRIBUTED?

Sections 6400 through 6414 of the California Probate Code addresses intestate succession and the distributions. The method and manner of intestate distributions is quite complex and therefore one should specifically discuss intestate distributions with his or her legal advisor.

It is always advisable to consult a knowledgeable Probate attorney.

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FIRPTA

FIRPTA WITHHOLDING RULE

Under the Foreign Investment in Real Property Tax Act (FIRPTA) of 1980, a foreign person who sells a real property interest located in the U.S. is subject to a tax withholding at disposition. This regulation requires the buyer in such a transaction to withhold 10-15% of the “amount realized” from the sale and remit it to the Internal Revenue Service (IRS) unless one or more exemptions apply to the seller or the transaction.

Although the requirement to withhold and remit funds to the IRS falls on the buyer, typically the closing agent does withhold and remit funds or prepare exemption affidavit forms to be delivered to the IRS at the time of closing. The seller’s real estate agent plays an important role in encouraging the seller to consult with their tax professional early in the transaction process to address any potential issues that may delay their closing. Some tax professionals may recommend submitting an early tax return application for any excess withholding. This is particularly important as the IRS has reported that refunds filed after withholding may take up to 12 months to process.

Property	Amount Realized	Withholding Rate
Not acquired to be buyer's residence	Any amount	15%
Acquired to be buyer's residence	Up to \$300,000	0%
	Over \$300,000 and up to \$1,000,000	10%
	Over \$1,000,000	15%

If a foreign person is selling a U.S. real property interest, a withholding is required as noted above, unless one or more of the following exceptions apply (this is not a complete list of exceptions):

- Buyer acquires the real property as a personal residence and the sales price does not exceed \$300,000
- Seller provides a Non-Foreign Affidavit
- Seller provides a Withholding Certificate from the IRS which excuses the withholding
- The amount realized by the seller is zero
- The property is acquired by the United States, a U.S. state or possession, a political subdivision, or the District of Columbia

This content is provided solely for informational and educational purposes and does not purport to offer tax advice or legal advice of any kind. A complete understanding of FIRPTA is critical to determining the buyer’s tax withholding and reporting obligations. Questions concerning the applicability of the provisions of any state or federal tax legislation should be directed to a licensed and qualified tax professional.

SELLER'S CHECKLIST

Prior to Escrow Signing

- Let your Escrow Officer know the best way to contact you (telephone numbers including home, cell or work and email).
- Fill out Statement of Information form, if required (provided by Escrow Officer).
- Fill out Information Request form (provided by Escrow Officer). Be sure to provide complete and accurate account numbers, social security numbers and Homeowners Association (HOA) information if any. This information is needed to help avoid delays in obtaining payoff demands.
- Let your Escrow Officer know if the property being sold is NOT your primary residence.
- Advise your Escrow Officer if someone on title is deceased.
- Notify your Escrow Officer if you will be out of town during the escrow period.
- If applicable, complete Seller's Affidavit of Non-Foreign Status.

*Note: With the receipt of the buyers' loan document your Escrow Officer will contact you to set up the signing appointment.

At Escrow Signing

- All individuals vested in title must be present at the signing. If this causes a conflict please let your Escrow Officer know as soon as possible.
- All must present valid identification in the form of a CURRENT Driver's License, Passport, Department of Motor Vehicles Identification Card, or approved identification card provided it has a photograph, description of the person, signature and an identifying number.
- If your sales proceeds will be wired into an account, you will need to provide the name of the institution, routing number, and account number. Beware of wire fraud. Wire instructions rarely change.

Side Note

If uncertain who to turn to for answers, below are the best sources for most common questions:

- **Details of your purchase agreement** - Your Real Estate Agent
- **Final Amount you will net at closing** - Your ORTC Escrow Officer
- **Property Taxes** - Your Lender or Mortgage Company
- **Income (Personal Taxes)** - Certified Public Accountant (CPA)

Seller's Checklist









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