

TITLE FAST FACTS

64 FACTS TO HELP MAKE
YOU ANYONE EXPERT ON
TITLE INSURANCE.



PACIFIC COAST
TITLE COMPANY



What Is Title Insurance?

A title insurance policy protects a real estate owner or lender against any loss or damage they might experience because of liens, encumbrances, or defects in the title to said property, or the incorrectness of the related search.

How Does Title Insurance Differ From Casualty Insurance?

Casualty Insurers (car, life, health, etc.) assume risk for future events, collecting monthly or annual premiums. A title policy insures the past of the real property and the people who owned it, for a onetime premium paid at the close of escrow.

Your Ownership of Real Estate

Real estate has always been considered man's most valuable possession. It is so basic a form of wealth that many special laws have been enacted to protect ownership of land and the buildings which stand on the land. You should realize whenever you buy property that the owner who is selling it to you has extremely strong rights as do his family and heirs. Also, there may be others - in addition to the owner - who have "rights" in the property you are going to buy, perhaps governmental bodies, or contractors, for example.

Some of the things a title search uncovers are any unpaid taxes or mortgages judgments against previous owners, easements, and many other court actions or recorded documents which can affect title to real estate. We find and report such defects in the title to the real estate you wish to buy, so that these matters can be corrected and cleared up. It is the first benefit you receive when title insurance is ordered.

How Is A Title Policy Created?

After the escrow officer or lender opens the title order, Pacific Coast Title begins a search of the public records including the County Recorder, Federal and State Agencies, and County and City Offices. A Preliminary Report is issued to the customer for review and approval. All closing documents are recorded upon escrow's instruction. When recording has been confirmed, demands are paid, funds are disbursed, and the actual title policy is typed and sent to the insured.

Protecting You Against Hidden Risks

Protection against loss from claims on real estate which cannot be discovered by examination of the public records is the second part of the two-fold benefit provided by Pacific Coast Title.

How Does a Title Insurance Policy Protect Against These Dangers?

If a claim is made against your title as covered by your policy, Pacific Coast Title protects you by:

1. Defending your title, in court if necessary, at our expense.
2. Bearing the cost of settling the claim if it proves to be valid, in order to perfect your title and keep you in possession of your property.

What Types Of Policies Are Available?

A standard CLTA 'Owners' policy insures the new owner, the home buyer and an ALTA or CLTA 'Lenders' policy insures the priority of the lender's security interest. An extended coverage ALTA-R (residential) policy to owners of 1-4 unit property is also offered. The ALTA Homeowner's Policy is for owners of 1-4 unit properties as well and expands the number of covered title risks to 29, including certain specified risks that may arise in the future. Fidelity issues this extended coverage automatically on qualifying properties. Special Binders, Guarantees and Endorsements are also available.

Who Needs It?

Purchasers and lenders need title insurance to know the property they are involved with is insured against various possible title defects. Whether it's a sale, refinance, construction loan...the seller, buyer and lender all benefit.

Pay Only Once

Unlike other forms of insurance, the original premium is your only cost as long as you own the property. There are no annual payments to keep your Owners Title Insurance Policy in force.



METHODS OF HOLDING TITLE

FAST FACT

#2

	Community Property	Joint Tenancy	Tennancy Common	Tenancy In Partnership	Title Holding Trust	Community Right of Survivorship	Registered Domestic Partners
PARTIES	Only husband and wife.	Any number of persons. Can be husband and wife or registered domestic partners.	Any number of persons. Can be husband and wife or registered domestic partners.	Only partners (any number)	Individuals, groups of persons, or corporations, a living trust.	Only husband and wife.	Only partners that are registered with the California Secretary of State's Domestic Partners Registry.
DIVISION OF INTERESTS	Ownership and managerial interests are equal (except control of business is solely with managing spouse)	Ownership interest must be equal	Ownership can be divided into any number of interests equal or unequal	Ownership interest is in relation to interest in partnership	Ownership is a personal property interest and can be divided into any number of interests	Ownership and managerial interests are equal	Ownership and managerial interests are equal (except control of business is solely with managing domestic partner)
TITLE	Title is in the "community." Each interest is separate but management is unified	Sale or encumbrance by joint tenant severs joint tenancy	Each co-owner has a separate legal title to his/her undivided interest	Title is in partnership	Legal title is held by the trustee; beneficiary has equitable title	Title is in the "community." Management is unified	Title is in the "community." Each interest is separate but management is unified
POSSESSION	Both co-owners have equal management and control	Equal right of possession	Equal right of possession	Equal right of possession but only for partnership purposes	Right of possession as specified in the trust provisions	Both co-owners have equal management and control	Both co-owners have equal management and control
CONVEYANCE	Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse; real property requires written consent of other spouse; separate interest cannot be conveyed except upon death	Conveyance by one co-owner without the others breaks the joint tenancy	Each co-owner's interest may be conveyed separately by its owner	Any authorized partner may convey whole partnership property for partnership purposes	Designated parties within the trust agreement authorize the trustee to convey property. Also, a beneficiary's interest in the trust may be transferred	Right of survivorship may be terminated pursuant to the same procedures by which a joint tenancy may be severed	Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other partner; real property requires written consent of other partner; separate interest cannot be conveyed except upon death
PURCHASERS STATUS	Purchaser can only acquire whole title of community; cannot acquire a part of it	Purchaser will become a tenant in common with the other co-owners in the property	Purchaser will become a tenant in common with the other co-owners in the property	Purchaser can only acquire whole title	A purchaser may obtain a beneficiaries interest by assignment or may obtain legal and equitable title from the trust	Purchaser can only acquire whole title of community; cannot acquire a part of it	Purchaser can only acquire whole title of community; cannot acquire a part of it
DEATH	On co-owner's death, 1/2 belongs to survivor in severality. 1/2 goes by will to descendant's devisee or by succession to survivor	On co-owner's death, his/her interest ends and cannot be disposed of by will. Survivor owns property by survivorship	On co-owner's death, his/her interest passes by will to devisee or heirs. No survivorship rights	On partner's death, his/her partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his/her estate	Successor beneficiaries may be named in the trust agreement, eliminating the need for probate	Upon the death of a spouse, his/her interest passes to the surviving spouse, without administration, subject to the same procedures as property held in joint tenancy	On co-owner's death, 1/2 belongs to survivor in severality. 1/2 goes by will to descendant's devisee or by succession to survivor
SUCCESSORS STATUS	If passing by will, tenancy in common between devisee and survivor results	Last survivor owns property	Devisee or heirs become tenants in common	Heirs or devisees have rights in partnership interest but not specific property	Defined by the trust agreement, generally the successor becomes the beneficiary and the trust continues	Surviving spouse owns property	If passing by will, tenancy in common between devisee and survivor results
CREDITORS RIGHTS	Property of the community is liable for debts of either spouse, which are made before or after marriage. Whole property may be sold on execution sale to satisfy creditor	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Joint tenancy is broken. Creditor becomes a tenant in common	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Creditor becomes a tenant in common	Partner's interest may be sold separately by "Charging Order" by his/her personal creditor, or his/her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor	Creditor may seek an order for execution sale of the beneficial interest or may seek an order that the trust estate be liquidated and the proceeds distributed	Property of the community is liable for debts of either which are made before or after marriage. Whole property may be sold on execution sale to satisfy creditor	Property of the community is liable for debts of either partner, which are made before or after registration as domestic partners. Whole property may be sold on execution sale to satisfy creditor
PRESUMPTION	Strong presumption that property acquired by husband and wife is community	Must be expressly stated	Favored in doubtful cases except husband and wife	Arise only by virtue of partnership status in property placed in partnership	A trust is expressly created by an executed trust agreement	Must be expressly stated	Must be expressly stated

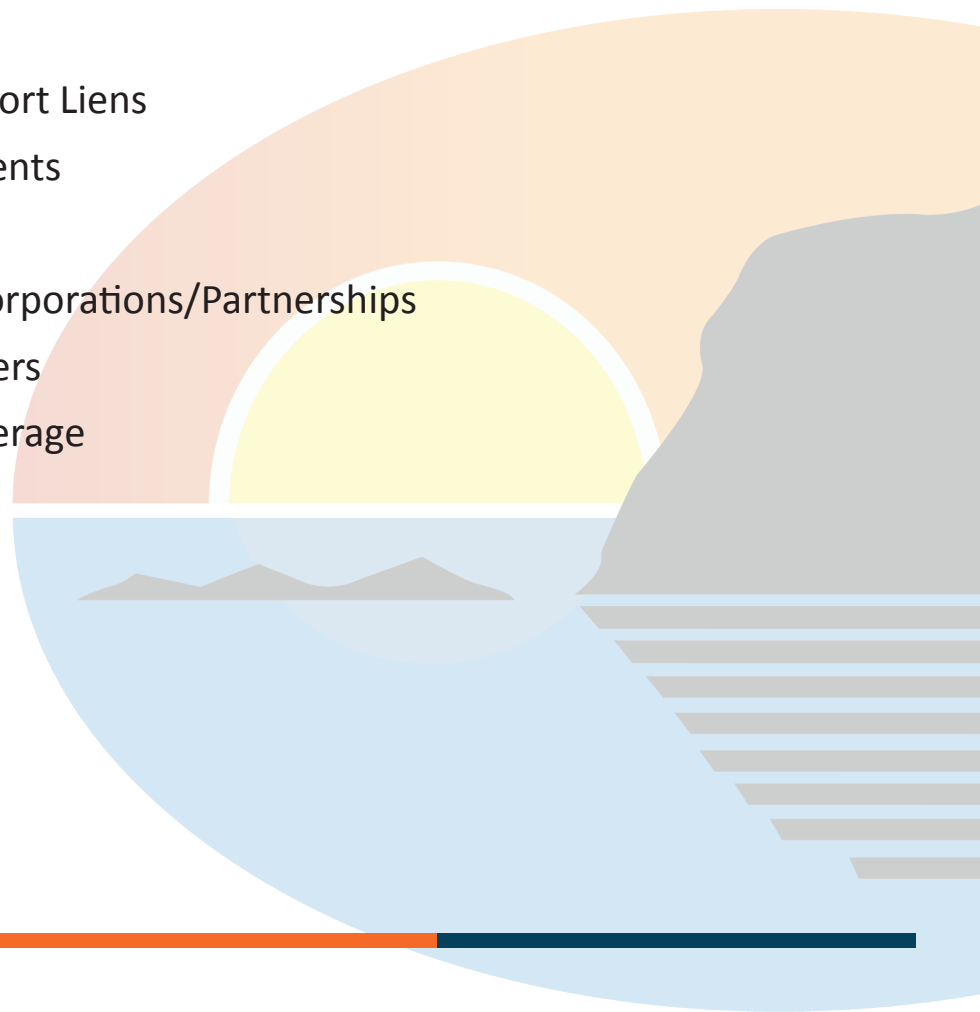


- 1) Title Insurance will protect you against a loss on your home or land due to a title defect.
- 2) A deed or mortgage in the chain of title may be a forgery.
- 3) Claims constantly arise due to marital status and validity of divorces.
- 4) A deed or mortgage may have been made by an incompetent or under aged person.
- 5) A deed or mortgage made under an expired power of attorney may be void.
- 6) A deed or mortgage may have been made by a person with the same name as the owner.
- 7) A child born after the execution of a will may have interest in the property.
- 8) Title transferred by an heir may be subject to a federal estate tax lien.
- 9) An heir or other person presumed dead may appear and recover the property or an interest.
- 10) A judgment regarding the title may be voidable because of some defect in the proceeding.
- 11) By insuring the title, you can eliminate delays when passing your title on to someone else.
- 12) Title Insurance reimburses you for the amount of your covered loss.
- 13) Title Insurance helps speed negotiations when you're ready to sell or obtain a loan.
- 14) A deed or mortgage may be voidable if signed while the grantor was in bankruptcy.
- 15) Claims have risen dramatically over the last 30 years.
- 16) There may be a defect in the recording of a document upon which your title is dependent.
- 17) Title Insurance covers attorney fees and court costs.
- 18) Many lawyers protect their clients as well as themselves by procuring title insurance.
- 19) A deed or mortgage may have been procured by fraud or duress.
- 20) A title policy is paid in full by the first premium for as long as you own the property.



The following items require added clearance and processing time for escrow and title. Avoid delays by providing as much information as you can as soon as possible.

- Bankruptcies
- Probates
- Foreclosures
- Establishing Fact of Death-Joint Tenancy
- Use of, Proper Execution of Power of Attorney
- Family Trust
- Business Trust
- Recent Construction
- Physical Inspection Findings-Encroachments, Off-Record Easements
- Clearing Liens, Judgments
- Clearing Child/Spousal Support Liens
- Proper Execution of Documents
- Proper Jurats, Notary Seals
- Transfers/Loans Involving Corporations/Partnerships
- Last Minute Changes in Buyers
- Last Minute Changes in Coverage





CLTA Standard Coverage Policy (1990):

Provides title insurance coverage to owners and/or lenders with insurable interests in real property. Basically insures against loss or damage by reason of matters appearing in the public records, as defined.

ALTA Owners Policy (1/17/92):

Provides title insurance coverage to owners with insurable interests in real property. This is usually requested as an “extended coverage” policy, but may be issued as a “standard coverage” policy as well.

ALTA Residential Title Insurance Company (6/2/87) (ALTA-R):

Provides title insurance coverage, written in “plain language.” Limited to owners of a one-to-four family residential lot or condominium unit. Includes limited coverage for certain matters such as encroachments, mechanic’s liens and violations of restrictions or zoning.

ALTA Homeowner’s Policy of Title Insurance for a One-to-Four Family

Residence (10/17/98):

Provides title insurance coverage to owners of improved one-to four family residential property. Expands the number of covered title risks to 29, including certain specified risks that may arise in the future. Provides for payment of a “deductible” in some instances. Our maximum coverage policy (ALTA Homeowners Policy of Title Insurance) can be had for the applicable premium plus an additional 10% of that premium.



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 Title 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 with 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 someone other person.

What does a Statement of Information Do?

Everyday documents affecting real property- liens, court decrees, bankruptcies, etc.--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 necessarily so. The information requested is essential to avoid delays in closing the transaction.

You will be asked to provide full name, social security number, year of birth, birthplace, and information on citizenship. If you are married, you will be asked the date and place of your marriage. Residence and employment information will be requested, as will information regarding previous marriages if you are divorced.

Will the information I supply be kept confidential?

The information you supply is completely confidential and only for the title company to 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 the 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, liens 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.

In 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.

Originally published by the California Land Title Association.



A preliminary report is designed to facilitate the issuance of a particular type of policy. The preliminary report identifies the title to the estate or interest in the described land. It also contains a list of defects, liens and encumbrances and restrictions which would be excluded from coverage if the requested policy were to be issued as of the date of the report, together with a disclosure of selected policy boilerplate provisions attached as an exhibit to each report.

A realtor will often obtain a copy of the preliminary report in order to discuss the matters set forth in it with his or her clients. Thus, a preliminary report provides the opportunity to seek the removal of items referred in the report which are objectionable to the prospective insured. Such arrangements can be made with the assistance of the escrow Preliminary reports are furnished in connection with an application for title insurance and are offers to issue a title policy subject to the stated exceptions set forth in the reports and such other matters as may be incorporated by reference therein.

The reports are not abstracts of title, nor are any of the rights, duties or responsibilities applicable to the preparation and issuance of an abstract of title applicable to the issuance of any report. Any such report shall not be construed as, or constitute a representation as to the condition of title to real property, but shall constitute a statement of the terms and conditions upon which the issuer is willing to issue its title policy, if such offer is accepted.

Based on this definition, a preliminary report does not necessarily show the condition of the title, but merely reports the current vesting of title and the items the title company will exclude from coverage is a policy should later be issued. The elements of this definition are threefold. First, a preliminary report is an offer. Second, it is not an abstract of title reporting a complete chain of title. Lastly, it is a statement of the terms and conditions of the offer to issue a title policy.

THE PURPOSE OF A PRELIMINARY REPORT

1. To show in written form the following:

- Ownership
- Estate
- Legal Description
- Tax and Bond Information
- Easements and CC&R's
- Defects in title and requirements
- Trust Deeds (loans)
- Personal recorded liens on buyers & sellers

2. Used by buyers and sellers to consummate an escrow

3. Used as a preview of our Title Policy

THE PROCESSING OF A PRELIMINARY REPORT

1. *Searching of Title (gathering information)*

- Verify legal and address to make sure we are searching the correct property.
- Start at the last point of insurance we have (starter.)
- Run a complete chain of title on P.I.Q. (property in question) from our last starter date to today. The items covered by this part of the search are items 1,2,3,5,7 in category #1.
- Use of our back up system (Grantor/Grantee) when any flaws or breaks appear in the chain of title.
- Run the buyers, sellers and former owners on the General Index for recorded personal liens.
- Attach a map identifying our property.

2. *Examination of Title*

- Review everything in title search
- Examine the documents in chain of title for:
 - Execution and signatures
 - Possible forgeries
- Prepare the items to be shown in the report by using our computer coding system.
- Set for the any conditions which will need to be met before we can issue a policy of title insurance.
- Send to typist with complete write-up (instructions) as to what is to be shown in the report.

3. *Typing and Proofing*

The report is typed in to our disc retrieval system. This will store information on a memory system for use in producing our title policy at a later date. The typed report is then reviewed by another person for accuracy and returned to the title unit.



In today's world of busy probate courts and exorbitant death taxes, the living trust has become a common manner of holding title to real property. The following may help you understand a few of the requirements of the title insurance industry if title to property is conveyed to the trustee of a living trust.

What Is A Trust?

An agreement between a trustor and trustee for the trustee to hold title to and administer designated assets of the trustor for the use and benefit of one or more beneficiaries.

Can A Trust Itself Acquire And Convey Interest In Real Property?

No. The trust is an arrangement between a trustee and the trustor only. The trustee, on behalf of the trust, may own and convey any interest in real property so long as the trustee acts within the powers granted by the trust to the trustee.

Can The Trustee Give Someone A Power-Of-Attorney?

Only if the trust specially provides for the appointment of an attorney in fact.

What Will The Title Company Require If A Trustee Holds The Title To The Property Which Is Part Of The Trust?

First, a full copy of the trust and any amendments. Second, a certification that the copy of the trust and amendments (if any) are complete and true copies, and the names of the present trustees of the trust.

My Trust Contains A Certain Amount Of Money To Be Given To Various Charities Which Is None Of Your Business. Can I Omit These Pages?

Because many provisions may be on the same page, the answer must be no - but the companies may accept a copy of the trust with those amounts blacked out.

If There Is More Than One Trustee, Can Just One Sign?

Maybe. The trust must specifically provide for less than all to sign.

What Will The Title Company Require If All The Trustees Have Died Or Are Unwilling To Act?

If the trustor is not able to, or the trust provisions prohibit the trustor from appointing a new trustee, the court must do so.

Who Can Be A Trustee?

Any individual not under a legal disability or a corporation that has qualified to do a trust business in California.

How Does A Notary Acknowledge The Signature Of The Trustee?

Title is vested in the trustee. Hence, if the trustee is an individual or corporation, then the new general form of acknowledgement will be prepared to reflect the intrinsic nature of the trustee.

How Would The Deed To The Trustee Ordinarily Be Worded To Transfer Title To The Trustee?

"John Doe and Mary Doe, as trustees of the Doe family trust, under declaration of trust deed dated January 1, 1992."

Are There Any Limitations On What A Trustee May Do?

Yes, the trustee is limited principally and most importantly by the provisions of the trust and, thus, may only act within the terms of the trust. The probate code contains general powers which, unless limited by the trust agreement, are sufficient for title insurers to rely on for sale, conveyance and refinance purposes.



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An agreement between a trustor and trustee for the trustee to hold title to and administer designated assets of the trustor for the use and benefit of one or more beneficiaries.

Can a trust itself acquire and convey interests in real property?

No. The living trust is an arrangement between a trustee and a trustor. Only the trustee, on behalf of the trust, may own and convey any interest in real property. The trustee may only exercise the powers granted in the trust.

What will the title company require if a trustee holds the title to the property which is part of the trust?

A certification of trust containing the following information: 1) date of execution of the trust instrument, 2) identity of the trustor and trustee, 3) powers of the trustee, 4) identity of person with power to revoke trust, if any, 5) signature authority of the trustees, 6) manner in which title to the trust assets should be taken, 7) legal description of any interest in the property held by the trust, and 8) a statement that the trust has not been revoked, modified, or amended in any manner which would cause the certification to be incorrect and that the certification is being signed by all currently acting trustees of the trust.

If there is more than one trustee, can just one join?

Maybe. The trust must specifically provide for less than all to sign.

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If the trustor is not able to do so, or the trust provisions prohibit the trustor from appointing a new trustee, the court may do so.

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Any individual not under a legal disability or a corporation that has qualified to do a trust business in the state of California.

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Understanding Living Trusts

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 taxes can I avoid by putting my property in a 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 be illegal, and is always inadvisable 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.





The purpose of a quiet title action is to establish title against adverse claims to real property or any interest in the property. [Code Civ. Proc. §760.020] The remedy of quiet title can be combined with other causes of action or other remedies. In an action or proceeding in which establishing or quieting title to property is in issue, the court may, in its discretion and on the motion of any party, require that the issue be resolved pursuant to the Code Civ. Proc. provisions relating to quiet title actions. [Code Civ. Proc. §760.030]

Jurisdiction

A quiet title action must be brought in the superior court of the county in which the real property is located. Once the action is before the court, the court has complete power to determine title issues. [Code Civ. Proc. §§760.040, 760.050]

Requirements

A complaint to quiet title must be verified and must contain all of the following information [Code Civ. Proc. §761.020]:

1. a description of the property that is the subject of the action. This must include both the legal description and the street address or common designation, if any.
2. the title of the plaintiff as to which a determination of quiet title is sought. If the complaint is based on adverse possession, the complaint must allege the specific facts constituting the adverse possession.
3. the adverse claims to plaintiff's title.
4. the date as of which the determination is sought. If the determination is sought as of a date other than the date the complaint is filed, the complaint must include a statement of the reasons why a determination as of that date is sought.
5. a prayer for the determination of plaintiff's title against the adverse claims.

The plaintiff must name as defendants all persons known or unknown claiming an interest in the property. [Code Civ. Proc. §§762.010, 762.020] Any person who claims an interest in the property can join in the action, whether or not named as a defendant. [Code Civ. Proc. §762.050]

Notice Of Pending Action (Lis Pendens)

A notice of pendency of action is required in any quiet title action. [Code Civ. Proc. §761.010] A "notice of pendency of action" or "notice" is a notice of the pendency of an action in which a real property claim is alleged. [Code Civ. Proc. §405.2] Formerly known as a "lis pendens", a notice of pendency of action provides constructive notice to purchasers or encumbrancers of real property of any pending actions affecting title to or possession of the real property and enables those parties to find notice of pending litigation in the recorder's office in which the real property is located. It furnishes the most certain means of notifying all persons of the pendency of the action and to warn them against any attempt to acquire a legal or equitable interest in the real property.

Proof Requirements

A plaintiff seeking to quiet title against a person with legal title to property has the burden of proving title by clear and convincing proof, rather than by the preponderance of evidence usually used in civil cases. [Evid. Code §662] Evidence Code §662 does not apply when legal title itself is disputed. In that case, factual issues are determined by the preponderance of the evidence standard of proof.

Trial

An action to quiet title is an equitable action; there is no right to a jury trial. Quiet title is generally an equitable claim, and equitable defenses may be asserted against it. However, if the plaintiff is out of possession and seeks to recover possession by a quiet title action, the action is legal. [Medeiros v. Medeiros (1960, 3rd Dist) 177 Cal App 2d 69, 1 Cal Rptr 696]

Judgment

A judgment in an action to quiet title is binding and conclusive on all persons known or unknown who were parties to the litigation and who have a claim to the property. [Code Civ. Proc. §764.030] The judgment will not affect title of a person who was not a party to the action if their claim was of record or if the claim was actually known, or should reasonably have been known, to the plaintiff. [Code Civ. Proc. §764.045]



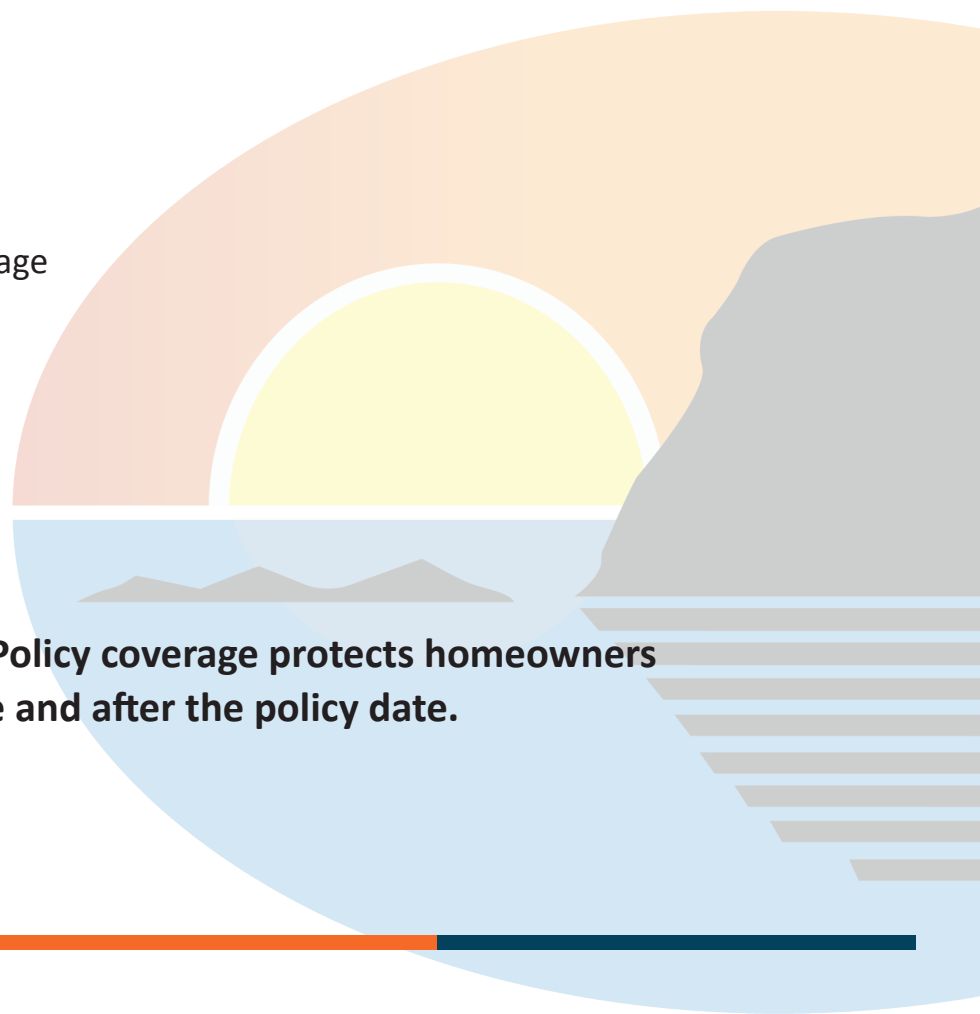
Pacific Coast Title Homeowner's Policy includes the following basic coverage:

- False impersonation of the true owner of the property
- Forged deeds, releases or wills
- Undisclosed or missing heirs
- Instruments executed under invalid or expired power of attorney

Pacific Coast Title Homeowner's Policy also Provides Additional Benefits

- Pre and Post Policy Protections
- Expanded Access Coverage
- Restrictive Covenant Violations
- Building Permit Violations
- Subdivision Law Violations
- Zoning Law Violations
- Encroachment Protection
- Water and Mineral Rights Damage
- Supplemental Tax Lien
- Map Inconsistencies
- Continuous Coverage
- Value-Added Protection

Pacific Coast Title Homeowner's Policy coverage protects homeowners against claims arising both before and after the policy date.





PACIFIC COAST TITLE COMPANY

ALTA POLICY COMPARISON

FAST FACT

#14

	COVERAGE	ALTA STANDARD CLTA	ALTA RESIDENTIAL	ALTA HOMEOWNER
1	Someone else owns an interest in your title.	X	X	X
2	Someone else has rights affecting your title from leases, contracts, or options.	X	X	X
3	Someone claims title rights arising out of forgery or impersonation.	X	X	X
4	Someone else has easement on the land.		X	X
5	Someone else can limit your use of land.		X	X
6	Your title is defective.		X	X
7	Any of covered Items 1 through 6 occurring after policy date.			X
8	Someone has lien on your title including:		X	X
	a) Mortgage;	X	X	X
	b) Judgments, state or federal tax lien, or special assessment;	X	X	X
	c) Charge by homeowners or condominium association; or	X	X	X
	d) Mechanic's Lien, occurring before or after policy date.		X	X
9	Someone has an encumbrance on your title.			X
10	Someone else claims rights based on fraud, duress, incompetence, incapacity affecting your title.	X	X	X
11	Lack of both actual vehicular and pedestrian access to and from the land based on a legal right			X
12	You must correct or remove any existing violation of any covenant, condition, restrictions even if these matters are excepted in Schedule B			X
13	Your title is lost or taken because of the violation of a covenant, condition, or restriction which occurred before you acquired your title even if the exception appears in Schedule B as an exception			X
14	An existing violation of a subdivision law or regulation affecting the land and as a consequence:			X
	a) You cannot obtain a building permit			X
	b) You are forced to correct or remove the violation; or			X
	c) Someone has a legal right to, and does refuse to perform a contract to purchase, lease or make a mortgage loan on the land			X
15	You must remove or remedy any existing structures other than boundary walls or fences because of the failure to obtain a building permit.			X
16	You must remove or remedy existing structure because of a violation of existing zoning law or regulation.			X



PACIFIC COAST TITLE COMPANY

ALTA POLICY COMPARISON

FAST FACT

#14

	COVERAGE	ALTA STANDARD CLTA	ALTA RESIDENTIAL	ALTA HOMEOWNER
17	Land cannot be used as single-family residence because of the violation of an existing zoning law or regulation.			X
18	You must remove existing structures because of an encroachment onto your neighbor's land. If structures are boundary walls and fences, coverage is limited by a deductible.			X
19	Someone has a legal right to purchase, lease, or make a mortgage on the land and refuses because neighbor's existing structures encroach on the land.			X
20	Forced removal of existing structures because of encroachment on to easement or over building set back line even if shown as a Schedule B exception.			X
21	Damage to existing structures by exercise of any right to use or to maintain any easement affecting land even if shown as a Schedule B exception.			X
22	Damage to existing improvements including lawn, shrubbery, and trees resulting from, right to use surface of land to extract water, minerals or any other substance even if shown as a Schedule B exception.			X
23	Someone tries to enforce a discriminatory covenant, condition, or restriction that they claim affects your title			X
24	Assessment of supplemental real estate taxes not previously assessed against the land for any period prior to the policy date because of construction or a change of ownership or use occurring before policy date.	X	X	X
25	Neighbor builds structures after policy date-except boundary walls or fences which encroach on land.			X
26	An unmarketable title which allows someone else to refuse to purchase the land, lease it, or make a mortgage on it.			X
27	A document on which your title is based is invalid because it was not properly signed, sealed, acknowledged, delivered, or recorded.	X	X	X
28	The residence with the address shown in Schedule A is not located on the land.			X
29	The map, if any, attached to this policy does not show the correct location of the land according to the public record.			X

Subject to deductible and a maximum indemnity liability, which may be less than indemnity amount.

The charge for this policy is an additional 10% based on the applicable rate. It applies only to a 1-4 unit family residence and only if each insured is a natural person.

Because of the nature or location of certain properties, an inspection of the property may be necessary to determine if additional exceptions from coverage need to be shown in Schedule B of the ALTA Residential Policy or ALTA Homeowner's Policy, which will be noted in the preliminary report. The foregoing table is intended to highlight only some important aspects of coverage and is not to be construed as expanding or limiting the coverage as set forth in the before mentioned policies. Copies of these policies are available upon request. Decisions on coverage should be made only after review of the policies themselves.



THE INTERM BINDER THE KEY TO SUBSTANTIAL TITLE INSURANCE SAVINGS

FAST FACT

#15

Investors who plan to “turn over” their properties within a short period of time should consider the Interim Binder to save on title insurance premiums.

The interim binder is not, in itself, a policy of title insurance. When issued, however, it binds the insurer to issue a policy of title insurance within three years. The fee is a mere 10% of the basic policy fee to the requesting party.

When the deed of the final purchaser is recorded, the binder is exercised and a policy of title insurance is issued to the final purchaser. The only additional fee at the time would be an additional liability charge based upon the difference between the original selling price and the selling price to the final buyer. Let’s look at some examples, assuming that the seller is paying for the owner’s insurance in favor of the buyer in both cases:

EXAMPLES: FACTS

Property was last insured 6 years ago Mr. A sells property to Mr. B for \$200,000
In 2 years, Mr. B sells to Mr. C for \$250,000

<i>Without a Binder</i>		<i>With a Binder</i>	
Original Sales Price:	\$200,000	Original Sales Price:	\$200,000.00
Basic Title Rate:	\$957.00	Basic Title Rate:	\$957.00
Resale Within 3 Years	\$250,000.00	Buyer Pays Additional 10	\$95.70
Short Term Title Rate	\$880.00	Resale Within 3 Years	\$250,000.00
Mr. B Pays \$800.00 to Resell Property		Basic Title Rate	\$1,100.00
		Less the Original Rate	\$957.00
		Binder Rate on Conversion:	\$143.00
		Mr. B pays \$238.70 to resell property (95.70+143.00)	

QUESTIONS:

Q. May I extend my binder for a period longer than 3 years?

A. Yes, if you inform us, prior to the time it expires. Call your Fidelity Title Officer for details; you can extend it for a fourth year for an additional 10%.

Q. Can the binder be used by only by investors?

A. No. Suppose you have a client who may be transferring out of the area within three or four years. The binder could save your client a significant amount of money at the time of sale.

Q. What if I suffer a title claim during the binder period? May claim under the binder?

A. In the unlikely event that there is a claim, the binder would be surrendered and converted to a policy and handled like any other policy claim.

Q. May I use my binder for future issuance of a policy of title insurance to a lender should I decide to refinance rather than sell?

A. There is a method to exercise the binder at the time of refinance which could save you hundreds of dollars. Call your Fidelity Title Officer for an explanation.

Q. May I use the binder on any type of property?

A. Generally speaking, yes. For example, suppose you purchase a piece of vacant land and subsequently develop it. You could purchase a binder at the time of acquisition and exercise it once construction is completed and you sell it.

Q. What if my property resells for the same or less than original price?

A. There would be no additional title insurance cost at the time of sale.



WHY LENDERS REQUIRE TITLE INSURANCE WHEN REFINANCING YOUR HOME

FAST FACT

#16

Lower interest rates have motivated you to refinance your home loan. The lower rate may save you a tremendous amount of money over the life of the loan, but you should also expect to pay the lender the typical closing costs associated with any new loan, including service fees, points, title insurance protection and other expenses.

Why do I need to purchase a new title insurance policy on a refinanced loan?

To the lender, a refinance loan is no different than any other home loan. So, your lender will want to insure that its new loan is protected by title insurance, just as the original lender required. Therefore, when you refinance you are buying a title policy to protect your lender.

Why does a Lender need title insurance?

Most lenders generate loans and then immediately sell those loans to secondary market investors, such as FannieMae. FannieMae, in order to protect its security interest in the loan, requires title insurance coverage. Even those lenders who keep original loans in their portfolio are wise to get a lender's policy to protect its investment against title related defects.

When I purchased my home, didn't I also buy a lender's policy?

Perhaps. Who pays for the lender's policy on a purchase loan varies regionally and by the terms of individual contracts. However, even if you did buy a lender's policy when you purchased your home, the lender's policy remains in force only during the life of the loan that was insured. If you refinance, the old loan is paid off (the "life" of the loan expires) and a new loan is issued for which the lender will require a new title insurance policy.

What about my original title insurance policy?

When you bought your home, you purchased a homeowner's title policy. The homeowner's policy stays in force as long as you or your heirs own the home. When you refinance, your lender will often require that you purchase a new lender's policy to protect its new security interest in the property. Thus, you are buying a policy to protect your lender, not a new homeowner's policy.

What could possibly have happened since I purchased my home which warrants a new lender's policy?

Since the time that the original loan was made, you may have taken out a second trust deed on the house or had mechanic's liens, child support liens or legal judgments recorded against you – events that could result in serious financial losses to an unprotected lender. Regardless if it has been only 6 months or less since you purchased or refinanced your home, a myriad of title defects could have occurred. While you may not have any title defects, many homeowners do. The only way for a lender to adequately protect itself is to get a new lender's policy each time you purchase or refinance your home.

Are there any discounts available for title insurance on a refinance transaction?

Yes. Title companies offer a refinance transaction discount or a short term rate. Discounts may also be available if you use the same lender for your refinance loan and your original loan. Be sure to ask your title company how it can save you money.



Title Insurance. It's a term we hear and see frequently -- we see reference to it in the Sunday real estate section, in advertisements and in conversations with real estate brokers. If you've purchased a home before, you're probably familiar with the benefits and procedures of title insurance. But if this is your first home, you may wonder, "Why do I need another insurance policy? It's just one more bill to pay."

The answer is simple: The purchase of a home is most likely one of the most expensive and important purchases you will ever make. You, and your mortgage lender, want to make sure that the property is indeed yours —lock, stock and barrel —and that no individual or government entity has any right, lien, claim to your property.

Title insurance companies are in business to make sure your rights and interests to the property are clear, that transfer of title takes place efficiently and correctly and that your interests as a homebuyer are protected to the maximum degree.

Title insurance companies provide services to buyers, sellers, real estate developers, builders, mortgage lenders and others who have an interest in a real estate transfer. Title companies routinely issue two types of policies -- "owner's," which cover you, the homebuyer; and "lender's," which covers the bank, savings and loan or other lending institution over the life of the loan. Both are issued at the time of purchase for a modest, one-time premium.

Before issuing a policy, however, the title company performs an extensive search of relevant public records to determine if anyone other than you has an interest in the property. The search may be performed by title company personnel using either public records or more likely, information gathered, reorganized and indexed in the company's title "plant."

With such a thorough examination of records, any title problems usually can be found and cleared up prior to your purchase of the property. Once a title policy is issued, if for some reason any claim which is covered under your title policy is ever filed against your property, the title company will pay the legal fee involved in defense of your rights, as well as any covered loss arising from a valid claim. That protection, which is in effect as long as you or your heirs own the property, is yours for a one-time premium paid at the time of purchase.

The fact that title companies work to eliminate risks before they develop makes the title insurance decidedly different from other types of insurance you may have purchased. Most forms of insurance assume risks by providing financial protection through a pooling of risks for losses arising from an unforeseen event, say a fire, theft or accident. The purpose of title insurance, on the other hand, is to eliminate risks and prevent losses caused by defects in title that happened in the past. Risks are examined and mitigated before property changes hands.

This risk elimination has benefits to both you, the homebuyer, and the title company: it minimizes the chances adverse claims might be raised, and by so doing reduces the number of claims that have to be defended or satisfied. This keeps costs down for the title company and your title premiums low.

Buying a home is a big step emotionally and financially. With title insurance you are assured that any valid claim against your property will be borne by the title company, and that the odds of a claim being filed are slim indeed. Isn't sleeping well at night, knowing your home is yours, reason enough for title insurance?



What is title insurance? Newspapers refer to it in the weekly real estate sections and you hear about it in conversations with real estate brokers. If you've purchased a home you may be familiar with the benefits of title insurance. However, if this is your first home, you may wonder, "Why do I need yet another insurance policy?" While a number of issues can be raised by that question, we will start with a general answer. The purchase of a home is one of the most expensive and important purchases you will ever make. You and your mortgage lender will want to make sure the property is indeed yours and that no one else has any lien, claim or encumbrance on your property. The following Q&A answers some questions frequently asked about an often misunderstood line of insurance, title insurance.

What is the difference between title insurance and casualty insurance? Title insurers work to identify and eliminate risk before issuing a title insurance policy. Casualty insurers assume risks. Casualty insurance companies realize that a certain number of losses will occur each year in a given category (auto, fire, etc.). The insurers collect premiums monthly or annually from the policy holders to establish reserve funds in order to pay for expected losses. Title companies work in a very different manner. Title insurance will indemnify you against loss under the terms of your policy, but title companies work in advance of issuing your policy to identify and eliminate potential risks and therefore prevent losses caused by title defects that may have been created in the past. Title insurance also differs from casualty insurance in that the greatest part of the title insurance premium dollar goes towards risk elimination. Title companies maintain "title plants" which contain information regarding property transfers and liens reaching back many years. Maintaining these title plants, along with the searching and examining of title, is where most of your premium dollar goes.

Who needs title insurance? Buyers and lenders in real estate transactions need title insurance. Both want to know that the property they are involved with is insured against certain title defects. Title companies provide this needed insurance coverage subject to the terms of the policy. The seller, buyer and lender all benefit from the insurance provided by title companies.

What does title insurance insure? Title insurance offers protection against claims resulting from various defects (as set out in the policy) which may exist in the title to a specific parcel of real property, effective on the issue date of the policy. For example, a person might claim to have a deed or lease giving them ownership or the right to possess your property. Another person could claim to hold an easement giving them a right of access across your land. Yet another person may claim that they have a lien on your property securing the repayment of a debt. That property may be an empty lot or it may hold a 50-story office tower. Title companies work with all types of real property.

What types of policies are available? Title companies routinely issue two types of policies: An "owner's" policy which insures you, the homebuyer for as long as you and your heirs own the home; and a "lender's" policy which insures the priority of the lender's security interest over the claims that others may have in the property.

What protection am I obtaining with my title policy? A title insurance policy contains provisions for the payment of the legal fees in defense of a claim against your property which is covered under your policy. It also contains provisions for indemnification against losses which result from a covered claim. A premium is paid at the close of a transaction. There are no continuing premiums due, as there are with other types of insurance.

What are my chances of ever using my title policy? In essence, by acquiring your policy, you derive the important knowledge that recorded matters have been searched and examined so that title insurance covering your property can be issued. Because we are risk eliminators, the probability of exercising your right to make a claim is very low. However, claims against your property may not be valid, making the continuous protection of the policy all the more important. When a title company provides a legal defense against claims covered by your title insurance policy, the savings to you for that legal defense alone will greatly exceed the one-time premium.

What if I am buying property from someone I know? You may not know the owner as well as you think you do. People undergo changes in their personal lives that may affect title to their property. People get divorced, change their wills, engage in transactions that limit the use of the property and have liens and judgments placed against them personally for various reasons. There may also be matters affecting the property that are not obvious or known, even by the existing owner, which a title search and examination seeks to uncover as part of the process leading up to the issuance of the title insurance policy. Just as you wouldn't make an investment based on a phone call, you shouldn't buy real property without assurances as to your title. Title insurance provides these assurances. The process of risk identification and elimination performed by the title companies, prior to the issuance of a title policy, benefits all parties in the property transaction. It minimizes the chances that adverse claims might be raised, and by doing so reduces the number of claims that need to be defended or satisfied. This process keeps costs and expenses down for the title company and maintains the traditional low cost of title insurance.

**When did withholding start for California residents?**

The withholding law applies to dispositions of California real estate by both residents and non-residents which close on and after January 1, 2003. Previously, withholding was only required of non-resident sellers.

Why was this withholding law enacted? As part of attempting to balance the state budget, this withholding provision was added to legislation on the last day of the Legislative session in 2002. It was estimated to accelerate collection of \$285 million in additional state revenue.

Who is responsible for withholding? The law requires the buyer (called the transferee) to withhold from what would otherwise be paid to the seller.

What unit at the Franchise Tax Board handles the withholding? The Withholding Services and Compliance Section handles the withholding. The phone number is (888) 792-4900 and information can be found on their website at: <http://www.ftb.ca.gov/individuals/index.html#wh>. *You may check the Franchise Tax Board website both to see how the process currently works and for any updates. The Franchise Tax Board website currently has guidelines which include over 100 questions and answers. See FTB Pub. 1016.*

How much is the withholding? The withholding is 3 1/3% of the gross sale price. It does not take into account costs of the sale such as real estate commissions or other settlement costs. Withholding is currently due by the 20th day of the calendar month following the date title is transferred or may be remitted on a monthly basis in combination with other transactions closed during that month. California Forms 593 and 593B are used to report and a remit copy must be provided to the seller to attach to their tax return.

What exemptions apply? If you are an individual selling property, the buyer will not have to withhold from your proceeds if the sale price is less than \$100,000, or you are selling your principal residence or if you are selling at a loss. Other exemptions are for tax deferred exchanges and involuntary conversions of property.

Does the seller have to do anything to qualify for exemptions? Yes. The seller will be required to sign a statement under penalty of perjury to establish eligibility for the exemption.

Does the seller have to do anything to qualify for exemptions? Yes. The seller will be required to sign a statement under penalty of perjury to establish eligibility for the exemption.

Can the seller apply to the Franchise Tax Board for an exemption? The law allows applications for reduced withholding and waivers but not by individuals, only by corporations and other entities.

What happens if there are several sellers on title? If the total purchase price exceeds \$100,000.00, withholding rules apply. To determine the amount of withholding, each owner is considered separately and the withholding is calculated on each owner's pro-rata share of sales proceeds. It is possible for the transaction to be exempt for one seller but not for the other part owners.

How do I know if the property qualifies as my principal residence? The rules incorporate Internal Revenue Code Section 121 to determine whether the property qualifies as a principal residence. There are two separate exemptions under California law which relate to the use and ownership tests under Section 121. Generally, the seller will either have had to have owned and lived in the property for two of the previous five years or the last use will have to have been as the seller's principal residence. Note that the two year period may be made up of different blocks of time which add up to two years over the five year period. A seller who lived in the property for one year, then rented it out for a period of time followed by another year of residency in the property would qualify for the exemption.

What is the role of the escrow holder regarding withholding? The law requires the escrow holder to provide a notice of the requirements. The escrow holder cannot make a legal determination as to whether any exemption applies.

Will the escrow agent do the withholding of the seller's money on behalf of the buyer? The escrow agent may withhold and remit to the Franchise Tax Board if the parties agree. The fee for this service may not exceed \$45.00.

How will a seller get the withholding returned? The only way to recover the withholding is by filing a California State Income Tax Return for the year in which the sale occurred. The seller will be entitled to a refund in the amount that the withholding exceeds the amount of capital gains tax due by reason of the sale.

Does it matter if the seller lost money on other real estate or non-real estate transactions? No. Each transaction is considered separately.

What happens if the property is held in trust? If the trust is revocable, then the rules apply as if the seller was the individual who has the power to revoke the trust. If the trust is irrevocable then the trust itself is treated as the seller and withholding may be required if there are no exceptions.

What type of real estate is covered by the law? All real estate interests are covered unless one of the exemptions applies. This means the sale of fee title or easements or other interests may be subject to withholding.



After July 1, 2001 husbands and wives owning real property in California can opt to take title in the form of Community Property with Right of Survivorship.

Community Property with Right of Survivorship has the same attributes as the traditional community property form of title but, like joint tenancy, has the additional attribute of the right of survivorship.

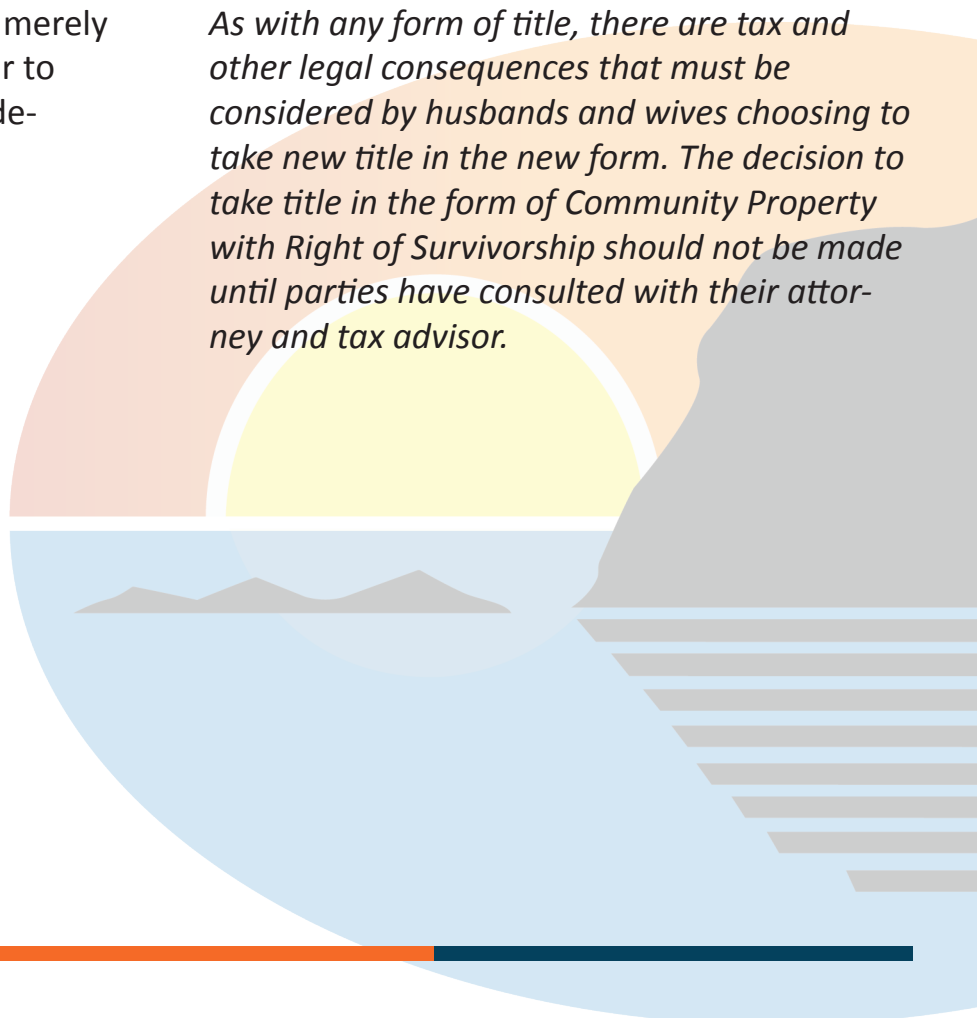
When a husband and wife hold title as Community Property with Right of Survivorship, the full interest in the property will vest, by law, in the surviving spouse immediately upon the death of the first spouse.

Title insurers will be able to vest title free and clear of the deceased spouse's interest merely by the recordation of an affidavit similar to the one used to clear the interest of a deceased joint tenant.

The survivorship feature will, in most instances, avoid the lengthy escrow delays caused by probate proceedings and other legal action—often associated with the traditional community property form of title.

Spouses will also have the ability to unilaterally sever the right of survivorship in the same manner that a joint tenancy is severed. Severance of the right of survivorship may result in the property being vested in the traditional community property form.

As with any form of title, there are tax and other legal consequences that must be considered by husbands and wives choosing to take new title in the new form. The decision to take title in the form of Community Property with Right of Survivorship should not be made until parties have consulted with their attorney and tax advisor.





To the unfamiliar, it can often confuse and bewilder. Fannie Mae and Freddie Mac. ARMS and APR. Clear title and Clouded title. Though these terms have special meaning to real estate professionals, they may often be meaningless to the consumer. To help you better understand the language of real estate, the California Land Title Association has defined some of today's most common title, escrow, real estate and lending terms.

Abstract of Judgement: A summary of the essential provisions of a court judgement. When recorded, an abstract of judgement creates a general lien on all of the real property of the judgement debtor in the county in which it is recorded.

Acknowledgement: A formal declaration made before a duly authorized officer (usually a notary public) by a person who has executed an instrument that such execution is his or her act and deed.

Adjustable Rate Mortgage (ARM): A mortgage in which the interest rate is adjusted periodically according to a preselected index. The terms, adjustment schedule and index to be used can vary based on the particular lender.

Agency: A relationship created when one person (the principal) delegates to another (the agent) the right to act on his or her behalf in business transactions.

All-inclusive Trust Deed (wrap-around mortgage): A financing technique which involves the creation of a new trust deed which includes the balance due on the existing note plus any new funds advanced.

American Land Title Association (ALTA): A national association of title insurance companies, abstractors, and agents. The association adopts standard title policy forms.

Amortization: The process of paying off a debt in installments over a given period of time without a final balloon payment.

Annual Percentage Rate (APR): An expression of the percentage relationship of the total finance charges to the total amount to be financed, as required under the federal Truth-in-Lending Act.

Appraisal: An opinion of the value of property resulting from an analysis of facts affecting market value.

Assessed Valuation: The value that a taxing authority places upon real or personal property for the purpose of taxation.

Assumable: A mortgage loan which can be transferred to another person without a change in the terms of the loan.

Balloon Payment: The unpaid principal amount of a loan due on a specific date in the future. Usually the amount that must be paid in a lump sum at the end of the term.

Beneficiary: The person who is entitled to receive funds or property under the terms and provisions of a will, trust, insurance policy or security instrument. In connection with a mortgage loan the beneficiary is the lender.

Beneficiary's Statement: The statement of a lender which gives the remaining principal balance due on a note and other information concerning the loan. It is usually obtained in escrow when the owner wishes to sell or refinance.

Bill of Sale: An instrument by which title to personal property is transferred or conveyed.

Bona Fide Purchaser (BFP): One who buys property in good faith, for fair value, and without notice of any adverse claim or right of third parties. Broker: A person licensed to act as an agent for another in negotiating the sale, purchase, of real property in return for a fee or commission.

Buydown: A financing technique used to reduce the monthly payment for the home buying borrower during the initial years of ownership. Under some buydown plans, a residential developer, builder, or the seller will make subsidy payments (in form the of points) to the lender that "buydown," or lower, the effective interest rate paid by the home buyer, thus reducing monthly payments for a set period of time.

California Land Title Association (CLTA): A statewide association of title insurers and underwritten title companies. The association adopts standard title policy forms.

CC and Rs (Covenants, Conditions and Restrictions): Limitations placed on the use and enjoyment of real property. These are found most often in condominiums and planned unit developments.

Chain of Title: A chronological list of recorded instruments tracing title to land, from the original owner to the present owner.

Cap: The maximum which an adjustable rate mortgage may increase, regardless of index changes.

Clear Title: Title to property which is free from liens, defects of other encumbrances.

Closing: The process of completing a real estate transaction during which the seller delivers title to the buyer in exchange for payment of the purchase price. Called a "settlement" in some areas.

Closing Costs: Expenses, beyond the selling price, such as loan fees, title fees, etc. Paid when documents are executed and/or recorded and the sale is complete.

Closing Statement: A summary, in the form of a balance sheet, showing the amounts of debits and credits to which each party to a real estate transaction is entitled upon closing.

Cloud on Title: Any document, claim, unreleased lien or encumbrance, which, if valid, would affect or impair title to a property.

Commission: Compensation due a real estate broker for acting on behalf of the principal.

Community Property: Property acquired during a marriage by either a husband or wife, or both, which is not separate property. Comparables (comps): An abbreviation for comparable properties used for comparative purposes in the appraisal process.

Consideration: A required element in all contracts by which something of value, including a promise, is exchanged for the act or promise of another.

Contingency: Action conditioned upon a certain event. Acceptance of the terms of a contract based on something else happening or certain conditions being met.

Conveyance: The transfer of title or an interest in real property by means of a written instrument such as a deed of trust.

Deed of Trust: A security agreement creating a lien by which title to real property is transferred to a third-party trustee as security for an obligation owed by the trustor (borrower) to the beneficiary (lender).

Demand: The lender's statement of the amount due to pay off a loan.

Documentary Transfer Tax: The tax, based on sales price, less loans which are being assumed, which is charged by the city and/or county on the transfer of real property.

Due-on-Sale-Clause: A clause in a mortgage loan which gives the lender the right to demand payment in full when the property changes ownership. Not applicable to FHA or VA loans.

Earnest Money: The cash deposit paid by a prospective buyer as evidence of good faith to bind a sale of real estate.

Easement: A limited right or interest in land of another that entitles the holder of the right to some use, privilege or benefit over the land.

Encumbrance: A claim, right or lien upon real property, held by someone other than the owner.

Endorsement: A rider attached to an insurance policy to expand or limit coverage. Also spelled indorsement.

Equity: The value of a person's interest in real property after all liens and charges have been deducted.

Escrow: The process in which a disinterested third party holds money and documents for delivery to the respective parties in a transaction on performance of established conditions.

Exception: A provision in a title insurance binder or policy which excludes liability for a specified title defect or an outstanding lien or encumbrance.

Fair Market Value: An appraisal term for the price which a property would bring in a competitive market given a willing seller and willing buyer, each of whom has a reasonable knowledge of all pertinent facts, with neither being under any compulsion to buy or sell.



Fee Simple: An estate under which the owner owns a complete interest in the property and is entitled to the unrestricted use and enjoyment of the property, including the right to dispose of the property.

Federal Home Loan Mortgage Corporation (FHLMC, Freddie Mac): A quasi-governmental agency that purchases conventional mortgages in the secondary mortgage market from depository institutions and Department of Housing and Urban Development (HUD) approved mortgage bankers.

Federal Housing Administration (FHA): A division of the Department of Housing and Urban Development (HUD). Its main activity is the insuring of residential mortgage loans by private lenders.

Federal National Mortgage Association (FNMA, Fannie Mae): A tax paying corporation created by Congress to support the secondary mortgage market. It purchases and sells residential mortgages insured by FHA or guaranteed by VA as well as conventional home mortgages.

Finance Charge: A total of all costs imposed directly or indirectly by the creditor and payable either directly or indirectly by the customer, as defined by the federal Truth-in-Lending laws.

First Mortgage: A mortgage on property that is superior in right to any other mortgage.

Fixed Rate Loan: A loan on which the same rate of interest is charged for the life of the loan.

Fixture: Personal property which is permanently attached to real property, and, as such, becomes part of the real property.

Grantee: One to whom a grant is made. The purchaser of real property.

Grantor: One who has made a grant. The seller of real property.

Hidden Defect: An encumbrance on a title that is not apparent in the public records; for example, unknown heirs, secret marriages and forged instruments.

Impound Account: An account held by a lender for the payment of taxes, insurance or other periodic debts against real property.

Joint Tenancy: A means of ownership in which two or more persons own equal shares in real property. Upon the death of one tenant, his/her share passes to the remaining tenant(s) until title is vested in the last survivor.

Legal Description: A description by which property can be definitely located by reference to surveys or recorded maps. Sometimes referred to simply as the legal.

Lien: A recorded document which claims an interest in real property as security for a debt owed. Such liability may be created by contract, such as a deed of trust, or by a court judgement.

Lis Pendens: Legal notice that a lawsuit is pending. Also called a notice of action.

Loan-to-Value Ratio: The ratio of the mortgage loan's principal to the property's appraised value or its sales price, whichever is lower.

Marketable Title: Title which is free from defects which would allow a purchaser to be released from his obligation to purchase.

Market Value: An appraisal term denoting the highest price that a buyer, willing but not compelled to buy, would pay, and the lowest a seller, willing but not compelled to sell, would accept.

Mechanic's Lien: A lien on real estate which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvement on real estate.

Metes and Bounds: A form of land description in which boundaries are described by courses, directions, distances and monuments.

Mortgage: A legal document used to secure the performance of an obligation.

Notarization: The certification by a Notary Public that a person signing a document has been properly identified. Notarization does not certify the content of a document, only validity of signature.

Perfecting Title: Process involving the elimination of any adverse claims against a title.

PITI: Refers to principal, interest, taxes and insurance, the four major components of a usual monthly mortgage payment.

PITI Ratio: The principal, interest, tax and insurance payment to income ratio. Used in mortgage lending decisions.

Points: A fee charged by the lender to fund a loan, in addition to and separate from other fees charged. One point equals one percent of the amount of the loan.

Principal: The sum of money outstanding upon which interest is payable. Also refers to one who is served by an agent.

Private Mortgage Insurance (PMI): Insurance written by a private mortgage insurance company protecting the mortgage lender against loss occasioned by a mortgage default and foreclosure.

Proration: The method used in dividing charges into that portion which applies only to a party's ownership up to a particular date.

Qualification: The process of reviewing a prospective borrower's credit and payment capacity prior to approving a loan.

Quitclaim Deed: A deed relinquishing all interest, title or claim in a property by a grantor. Accomplished without representing that such title is valid, nor containing any warranty or covenants of title.

Real Estate Settlement Procedures Act (RESPA): A federal statute requiring disclosure of certain costs in the sale of residential, improved property which is to be financed by a federally insured lender.

Reconveyance: The conveyance to the landowner of the title, held by a trustee under a deed of trust, when the performance of the debt is satisfied.

Recordation: Involves filing for record in the office of the county recorder for the purpose of giving constructive notice of title, claim or interest in real property.

Record Owner: The owner of property as shown by an examination of the public record.

Statement of Information (SI): A confidential information statement completed by the buyer, seller and borrower in every transaction where a policy or policies of title insurance are requested. Allows the title company to competently search documents affecting the property to be insured, documents which may not refer to said property. Allows title companies to differentiate between parties with similar names when searching matters such as liens and court decrees.

"Subject To" Clause: A clause in a contract of sale setting forth any contingencies or special conditions of purchase and sale, such as an offer made and accepted subject to financing, securing certain zoning or similar requirements.

Subordination Agreement: An agreement under which a prior or superior lien is made inferior or subject to an otherwise junior lien.

Tax Lien: A statutory lien imposed against real property for nonpayment of taxes.

Tenancy in Common: Co-ownership in a property by two or more persons, each of whom has an undivided interest in the whole property.

Title Plant: The information warehouse of a title company in which it has accumulated and is constantly updating title records of properties in its area which it can use to search title to real property.

Trustee: A person who holds title in trust for the benefit of another. In a deed of trust, the trustee is the person named to hold title in trust for the benefit of the lender until the loan is paid off.

Trustor: The borrower under a deed of trust. One who deeds their property to a trustee as security for repayment of a loan.

Uniform Settlement Statement: The standard HUD Form 1 required to be given to the borrower, lender and seller at, or prior to, settlement.

Unmarkable Title: Title which contains defects that would allow a purchaser to be released from his obligation to purchase.

Vesting: Denotes the manner in which title is held. Examples of common vestings are: Community Property, Joint Tenancy and Tenancy in Common.

Veterans Administration (VA): VA has power and authority to guarantee or insure payment of loans made to veterans by private lending institutions. This function is similar to that of FHA. VA also makes direct loans to veterans in non-urban areas where private loan funds are not available.



Sub-escrow (loan payoff) is an extremely important service provided by title companies to facilitate the handling of money in the closing of a real estate transaction. The performance of the payoff function, exclusive of escrow services, is unique to Southern California. This is because the majority of our customers are independent escrow companies, and the majority of our title orders require payoff service.

The sub-escrow department does not draw escrow instructions or documents (i.e. Grant Deeds, Trust Deeds, etc.) They do not order demands for payoff, but do make the payoffs at the close of escrow.

A subescrow fee is a fee charged by the Title Company for the following services:

- Coordinating with the escrow company or lender for recording
- Verifying and updating pay-off demand figures with the lender
- Verifying payment of property taxes
- Calculating the pay-offs on the day of closing
- Disbursing all pay-offs and net proceeds per instructions
- Upon confirmation of recording, notifying the escrow company
- Process refunds

Sub-escrow has a language of its own—note the following brief definitions of commonly used terms, intended to answer some of the questions you may have regarding the sub-escrow (payoff) function.

Payoff - The receipt of funds from the buyer and the payment of the obligations of the seller in conjunction with a real estate transaction. The payoff function is performed by the title company.

Payoff Fees - Pacific Coast Title fees for handling a payoff vary slightly from county to county. The fee is strictly a processing charge and does not cover special handling charges or potential shortages.

Prefigures - Estimated payoff figures are calculated and given prior to closing upon request. These figures are only valid through the date given and are based on the information provided at the time.

Good Funds - Pacific Coast Title must be in receipt of "Good Funds" prior to disbursing on a payoff.

Types of "Good Funds" include:

1. Funds wired into Pacific Coast Title sub-escrow account
2. A cashier's, teller's or certified check will provide next day availability after deposit, to comply with AB512.
3. All other local checks will provide availability of funds two (2) days after deposit.
4. Out of area checks will provide availability of funds five (5) days after deposit.

Taxes - Outstanding property taxes can be paid out of the payoff process.

Demands - Demands must include specific payoff information concerning the particular property and must be signed. It is the responsibility of the escrow to order and provide all necessary demands including any updates or changes on a timely basis.

Refunds - Any overpayments of demands will be refunded to the escrow upon receipt from the lender. Refunds typically take two to six weeks to process.

Shortages - Pacific Coast Title will be refunded to the escrow if there is a shortage of the necessary funds to cover the outstanding obligations. The shortages must be received prior to payoff.

Disbursement Checks - Checks are delivered locally to lending institutions by a contracted messenger service. Checks to individuals and to out of area lenders are typically sent via an overnight delivery company.

Wire Transfers - Funds can be wired in to or out of the Pacific Coast Title account.

Out of County Transactions - Pacific Coast Title offices can receive and disburse payoff funds through any of our Pacific Coast Title offices.

Drafts - Pacific Coast Title drafts are used to disburse the payoff proceeds to the escrow companies.



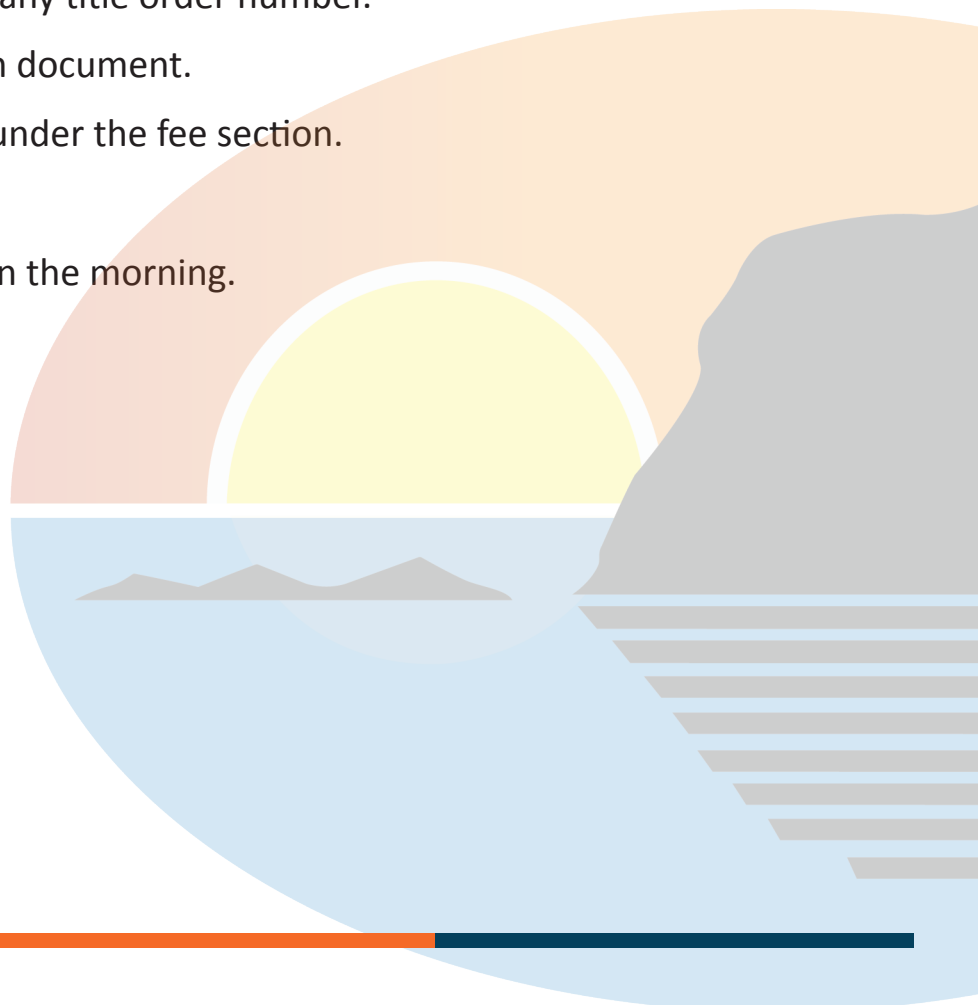
Most common problems from Uninsured Deed's come from Quitclaim deeds between family members, especially husband and wife. When a person is added to title, it is a window of opportunity for matters against him/her to attach to the property.

Why Should it be of Concern to you when taking a listing?

- Is it a divorce situation?
- Was it signed in distress?
- Possible bankruptcy?

How can you spot an uninsured deed when you order a profile from Pacific Coast Title Company Title and look at the deed?

- Look for accommodation stamp.
- No title company or title company title order number.
- No escrow number showing on document.
- No document stamp showing under the fee section.
- Handwritten document.
- Time recorded is not 8:00 am in the morning.





Grant Deed, Quit Claim Deed

A deed is a written instrument by which title to or an interest in real property is transferred from an individual or legal entity (the grantor) to another (the grantee). There are basically two kinds of deeds in general use in California. The Grant Deed, and the Quit Claim Deed. The primary difference between the Grant Deed and the Quitclaim Deed lies in the operative words of conveyance if any warranties are being conveyed. The word "Grants" is expressly designated by statute in the Grant Deed, whereas, the operative words of conveyance, "remise, release and forever quitclaim" are associated with Quitclaim Deed types.

Trust Deed

A Deed of Trust is a security instrument used by the borrower (also called the trustor) to convey "bare legal" title to the property, to a neutral party (called Trustee), for the purposes of securing an obligation (usually of a promissory note) payable to the lender (called the beneficiary). The trustee is authorized under "power of sale" to "nonjudicially" foreclose in the event of a default on the obligation by the trustor, or his/her successors in interest. The proceeds of the trustee's sale (non-judicial foreclosure) of the secured real property will apply as payment toward the defaulted obligation.

When the debt or obligation secured by the deed of trust has been satisfied, the beneficiary must execute a request for full reconveyance and any other documentation necessary to cause the deed of trust to be reconveyed. The trustee will then execute and record a "Full Reconveyance" in the county wherein the deed of trust was recorded.

All Inclusive Deed of Trust With Assignments of Rents

An "All-Inclusive Deed of Trust", called an AITD, is a security instrument designed to meet special financial requirements. The Formalities contained therein are parallel to the "conventional form" of deed of trust, i.e., the borrower (called the trustor) conveys "bare legal title to the property to a neutral party (called the trustee for the purpose of securing an obligation (usually of a promissory note) payable to the lender (called beneficiary). The primary difference between the all-inclusive deed of trust and the "conventional form" deed of trust, is that the all-inclusive type not only secures indebtedness for its own obligation but also includes the balance due on one or more senior encumbrances.

Full Reconveyance

Whenever the trustor (borrower) executes a deed of trust he/she conveys "bare legal" title to the property described therein to a party called the trustee. The trustee holds the property in trust (for the benefit of the beneficiary-lender) until a recorded "Full Reconveyance" (sometimes referred to as a deed of reconveyance) reconveys the bare legal title back to the person(s) entitled to said title. Therefore, when the debt or obligation secured by a deed of trust has been satisfied, the beneficiary, or successor must, within 30 days, deliver the original note (promissory note) and deed of trust, together with a request for full reconveyance, to the trustee. The trustee, then, within 21 calendar days, must secure the fee that may be charged for the reconveyance, and the recorder's fees, to responsibly fulfill the execution and recordation of the "Full Reconveyance" in the county wherein the deed of trust was recorded.

Affidavit - Death of Joint Tenant

Upon the death of a person, holding title to real property as a joint tenant, the surviving joint tenant(s) should have an "Affidavit - Death of Joint Tenant" recorded in the county where the property is located. This document imparts "constructive notice" on the public record that at the time of death of the deceased in interest held in the real property vested (passed ownership) immediately in the surviving joint tenant(s). In order to be recorded, the affidavit must be attached to a certified copy of the death certificate of the deceased joint tenant.

Request For Partial Reconveyance

It is common practice among subdividers/developers to provide a "Partial Reconveyance" on property covered by "blanket" deeds of trust, which encumber several lots within a subdivision or numerous parcels destined to be separated for project purposes. Partial reconveyance provisions must be expressly imposed and the exact terms and conditions should be specified with certainty. When executing a partial reconveyance, the trustee normally requires that the note (promissory note) be submitted by the beneficiary, for the purpose of issuing an endorsement as evidence that a partial reconveyance has been issued. Upon recordation, only the specific property described in said partial reconveyance will be "re-conveyed" while the remaining parcels will be unaffected.

Assignment of Deed of Trust

An "Assignment of Deed of Trust" is utilized to transfer the beneficial interest (tender's interest) in a specific deed of trust. The lender assigning (executing) the beneficial interest under the deed of trust is called the "assignor", and the party acquiring the interest is called the "assignee". When recorded, the assignment operates as constructive notice to all persons that the beneficial interests, together with the obligation secured by said deed of trust (usually a promissory note), has been transferred to the assignee named in the assignment.

Substitution of Trustee

The "Substitution of Trustee" document is utilized when the beneficiary (lender) determines a need to change the trustee under a recorded deed of trust. The trustee, if a corporation, may be "winding up" its affairs and ceasing to carry on its business; or if an individual, may become incapacitated or deceased, which would necessitate the substitution of a new trustee. In some instances, the substitution may be made by the beneficiary when the trustee declines to act in its fiduciary capacity. Regardless of the circumstances, the trustee does not have to agree to step aside.

Substitution of Trustee and Full Reconveyance

A "Substitution of Trustee and Full Reconveyance" is a document that combines the functions of a "Substitution of Trustee" document and a "Full Reconveyance" document. A Substitution of Trustee and Full Reconveyance is normally used when a deed of trust is assigned to a new beneficiary who wishes to substitute itself as trustee and at the same time record a full reconveyance.



Subordination Agreement

A “Subordination Agreement,” when recorded effects a change in the normal priority of liens, encumbrances, and interests affecting the real property. The priority between different documents is generally (but not always) determined by the dates on which they were recorded (first to record - first in priority). Quite often, for one reason or another, it becomes necessary to subordinate (lower in position) the lien, encumbrance or interest(s) of one document to another. The most common occurrence is when a deed of trust already existing on the public record, is subordinated (made junior to a new deed of trust), by the concurrent recording of the “Subordination Agreement”.

Trust Deed

A “Notice of Lis Pendens” should be recorded in the office of the county recorder of the county in which the real property is located, whenever there is court action pending. The legal term “Lis Pendens” means “litigation pending”. The recorded “Notice of Lis Pendens” imparts constructive notice (knowledge) of the existence of the pending court action and the rights established thereby. A “Notice of Lis Pendens” is effective only during the time that the action is pending, which is the period for the time of its commencement until final determination upon appeal, or until the time for appeal has passed. Therefore, the effect of the “Notice of Lis Pendens” ceases when the action is dismissed and a withdrawal of Lis Pendens is recorded, or when a judgment is rendered that has become final.

Mechanics Liens

A “Mechanics Lien” is a statutory lien imposed and enforced (judicial foreclosure proceedings) upon real property to secure the compensation of persons (“contractors”) whose labor and/or materials have contributed to the improvement of the property. To be effective, a claimant must record a “Mechanic’s Lien” in the office of the county recorder of the county in which the real property is located, pursuant to the prescribed conditions and time periods dictated by statute. A “Mechanic’s Lien” is binding on the real property for a duration of time defined in Civil Code Section 3144.

Full Reconveyance

When a claim of “Mechanic’s Lien” has been satisfied (paid in full), a “Release of Mechanic’s Lien” should be recorded in the office of the county recorder of the county where the property is located. This will eliminate the effect of the “Mechanic’s Lien” from the public record. The release must be signed (executed) by the same person or company (claimant), who signed (executed) the “Mechanic’s Lien”. The “Release of Mechanic’s Lien” acts like a recorded receipt to evidence (prove) that the owner has paid the claim of the mechanic’s lien.

Notice of Default

Non Judicial foreclosure proceedings under the power of sale contained in the deed of trust is commenced when the trustee or beneficiary executes and records a “Notice of Default.” The notice of default when recorded provides “Constructive Notice” of a default in the terms and provisions of said deed of trust. The notice of default identifies the deed of trust by giving the recording information; the names(s) of the trustor(s); that a default has occurred and the details thereof; plus, it must state that the beneficiary has elected to proceed to sale (foreclose), to satisfy the obligation secured by the deed of trust. Note: Any material discrepancies could void the entire trustee’s sale proceedings.

Notice of Trustee Sale

On any non-judicial foreclosure proceeding of a deed of trust, a “Notice of Trustee’s Sale” must be recorded in the office of the county recorder of the county in which the property is located at least 14 days prior to the date of the trustee’s sale. The “Notice of Trustee’s Sale” provides constructive notice of the intention to proceed to foreclose and, in addition to other matters, provides: information relating to the trustee conducting the sale; the reasonable estimation of the amount necessary to pay the obligation; and the location, time and place of the sale. The “Notice of Trustee’s Sale” must also be posted, published and mailed in accordance with the State of California Civil Code Section 2924.

Notice of Rescission

When a default on the obligation secured by a deed of trust has occurred, the beneficiary (lender) will cause a “Notice of Default” to be recorded as evidence of the default. This signals the commencement of the non-judicial foreclosure proceedings. Following the recording of said notice, the trustor (borrower) may cure the default by paying to the beneficiary all past due payments, together with costs, interest and fees, until five business days prior to the date of the trustee’s sale. In the event all amounts are paid, the beneficiary and/or the trustee will execute and record a “Notice of Rescission; thereby canceling the effect of the “Notice of Default” and termination of the foreclosure proceedings.

Trustees Deed Upon Sale

This Deed is used at a public sale which has resulted from the nonjudicial foreclosure by the trustee under the power of sale provisions of a deed of trust. The “Trustee’s Deed Upon sale: should contain full recitals in regard to all matters connected with the sale.



What is a Concurrent Closing?

A Concurrent Closing is the term used to define two or more properties dependent on each other to close. For example, the first property funds and records and the proceeds from that transaction are used to fund or partially fund the second transaction so it can then record. Sometimes concurrent recordings exist in which the second transaction is not dependent on funds from the first transaction. In this case the two record back to back without any delay.

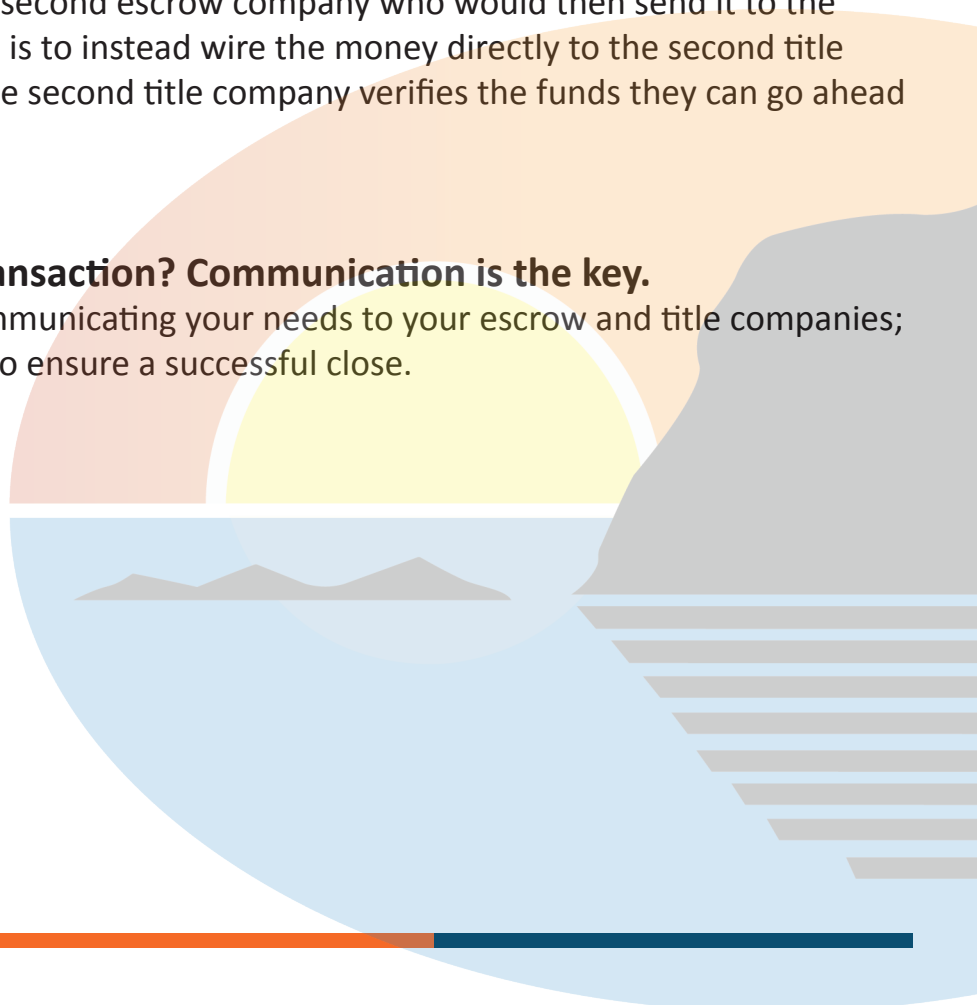
Do you have to use the same Title and Escrow Companies on all transactions?

No you don't, although it can make things easier. The normal procedures on a single transaction is to fund the new loan, record the documents and then send the proceeds via wire or check to the escrow company.

When a concurrent closing is involved time is of the essence. If both transactions use the same title and escrow companies then no money needs to move locations. If different title and escrow companies are used, then those companies need to communicate with each other. At the close of the first transaction instead of sending the money back to the first escrow company and have them send it to the second escrow company who would then send it to the second title company all that is needed is to instead wire the money directly to the second title company saving valuable time. Once the second title company verifies the funds they can go ahead with the second transaction.

What is the key to a successful transaction? Communication is the key.

Our goal is to help you succeed. By communicating your needs to your escrow and title companies; all parties involved can work together to ensure a successful close.





The Homestead Law is technical in nature and complex in its application. A Declaration of Homestead, which is not properly prepared, may be invalid. The following is for general informational purposes only and should not be considered legal advice. We therefore suggest that you contact an attorney for any legal advice on your specific situation.

What is the purpose of the homestead exemption?

The homestead exemption gives you rights against many debts you might incur through accident, illness or misfortune. However, there are limitations and exceptions. The policy underlying homestead laws is to provide a place for the family where they may live free from the anxiety that it may be taken from them.

How does the homestead exemption work?

Example: If the market value of your home is \$120,000 and you have a first mortgage or deed of trust of \$65,000 and a second mortgage of \$25,000, you have an equity of \$30,000 in your home. The homestead exemption protects this equity against creditors.

What is a judgment lien?

When you owe someone money he is considered your creditor. If a creditor sues and wins a judgment against you, he can file a lien against your home. The homestead exemption is protection against such liens.

What kind of property is covered?

A house, a condominium, a duplex, a mobile home, a community apartment project, or a planned development.

Who is eligible for this homestead exemption?

Every homeowner who resides in his or her home is entitled to this protection. A person can only have one valid homestead at a time. Homestead is abandoned by recording an Abandonment of Homestead.

Who may file a Declaration of Homestead?

Every homeowner may file. A homestead will remain in effect until the house is sold, or the homestead is abandoned by recording an Abandonment of Homestead.

Are their limits to the amount of equity protected?

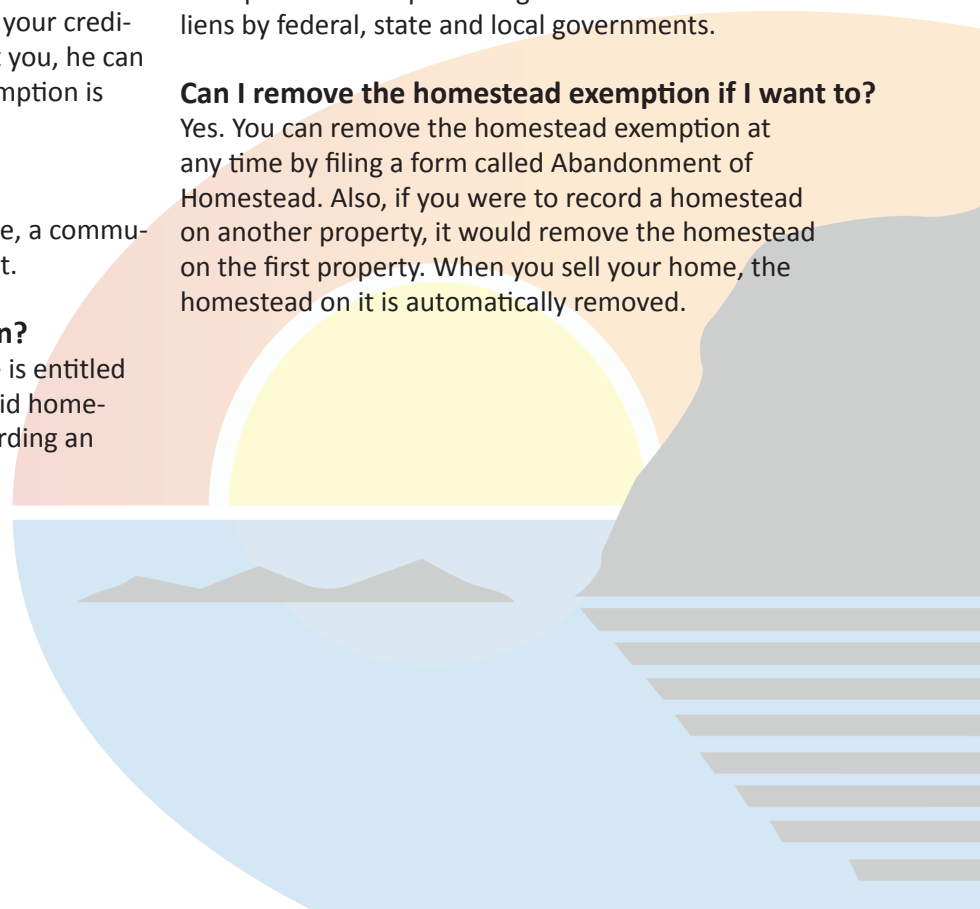
Yes, for married couples, or single parents with dependents living at home the homestead exemption is \$75,000; unmarried individuals, \$50,000. For persons 65 years or older, or for persons physically or mentally disabled, the exemption limit is \$100,000.

What situations are not covered by the homestead exemption?

Judgment liens recorded before you have recorded your Declaration of Homestead will attach to the house. Loans or debts secured by the property (mortgages, deeds of trust, etc.) are not covered by the homestead exemption. When you voluntarily put up your home as security against a debt, a homestead will not protect it. When a contractor or laborer puts labor or materials into repairs or improvement on your property, and you do not pay him, the homestead exemption will not protect against the mechanic's lien. Tax liens by federal, state and local governments.

Can I remove the homestead exemption if I want to?

Yes. You can remove the homestead exemption at any time by filing a form called Abandonment of Homestead. Also, if you were to record a homestead on another property, it would remove the homestead on the first property. When you sell your home, the homestead on it is automatically removed.





Holding title as joint tenants or as community property involves a multitude of issues to be dealt with. Here are two distinguishing features between taking title as joint tenants or community property, that most people are concerned with.

- When title is taken as joint tenants and one spouse dies, the surviving spouse automatically receives the property. This is called a right of survivorship. (Although the property does not go through any probate proceedings, the surviving spouse must still file an affidavit of death of joint tenant to remove the deceased's name from the deed.)
- When title is taken as community property however, and one spouse dies, there is no right of survivorship and the surviving spouse does not automatically receive title to the property. If the deceased spouse died without a will, the deceased spouse's interest in the community property would go to the surviving spouse. If there was a will, the deceased spouse's interest would be handled as outlined in the will. In other words, each spouse has ownership of their half of the community property and can leave it by will to their surviving spouse or any other third party.
- One way of looking at the death scenario is that joint tenancy has more certainty and community property has more flexibility.

The tax consequences has been a little more blurred as of late but basically the issue is as follows:

- If property is joint as joint tenants, the tax basis of the deceased spouse's half interest would be "stepped-up" to the fair market value at the time of his/her death. The tax basis of the surviving spouse's half interest would remain at its original basis.

104.1 - Provides assignee of the insured mortgage with assurance concerning (a) validity of a recorded assignment transferring the beneficial interest to the named assured assignee: and (b) full or partial reconveyances, modification or subordination of the insured mortgage.

110.5 - Provides insured ALTA lender with assurance concerning proper modification of the insured mortgage, including express priority coverage.

110.9 - Provides insured ALTA residential lender with coverage against loss by reason of lack of priority over (a) any federal or state environmental protection set forth in Schedule B, and (b) any state environmental protection lien providing for by any state statute in effect at Date of Policy, except as provided for by state statutes specified in the endorsement.

111.10 - Assured lender that future advances made under a "revolution line of credit" shall have the same priority as do advanced made as of Date of Policy.

111.5 - Provides insured ALTA variable rate mortgage lender with coverage against loss by reason of (a) invalidity or unenforceability of the insured mortgage resulting from the terms therein providing for changes in the rate of interest, or (b) loss of priority of the insured mortgage lien caused by the changed in the rage of interest, unpaid interest added to principal and/or interests on interest.

115 - Provides insured lender with assurance that the estate or interest covered by the policy is a condominium, in fee, and such is entitled to be assessed and taxed as a separate parcel.

116 - An Address Endorsement used with ALTA policies, designating the street address of the land insured and specifying the type of improvements on said land.



We should always be concerned about encroachments; whether the seller's use of those five square feet of the neighbor's property for a garden is a problem? Can we expect that the neighbor will continue to permit it? It is a problem and we cannot expect the permissive user to continue.

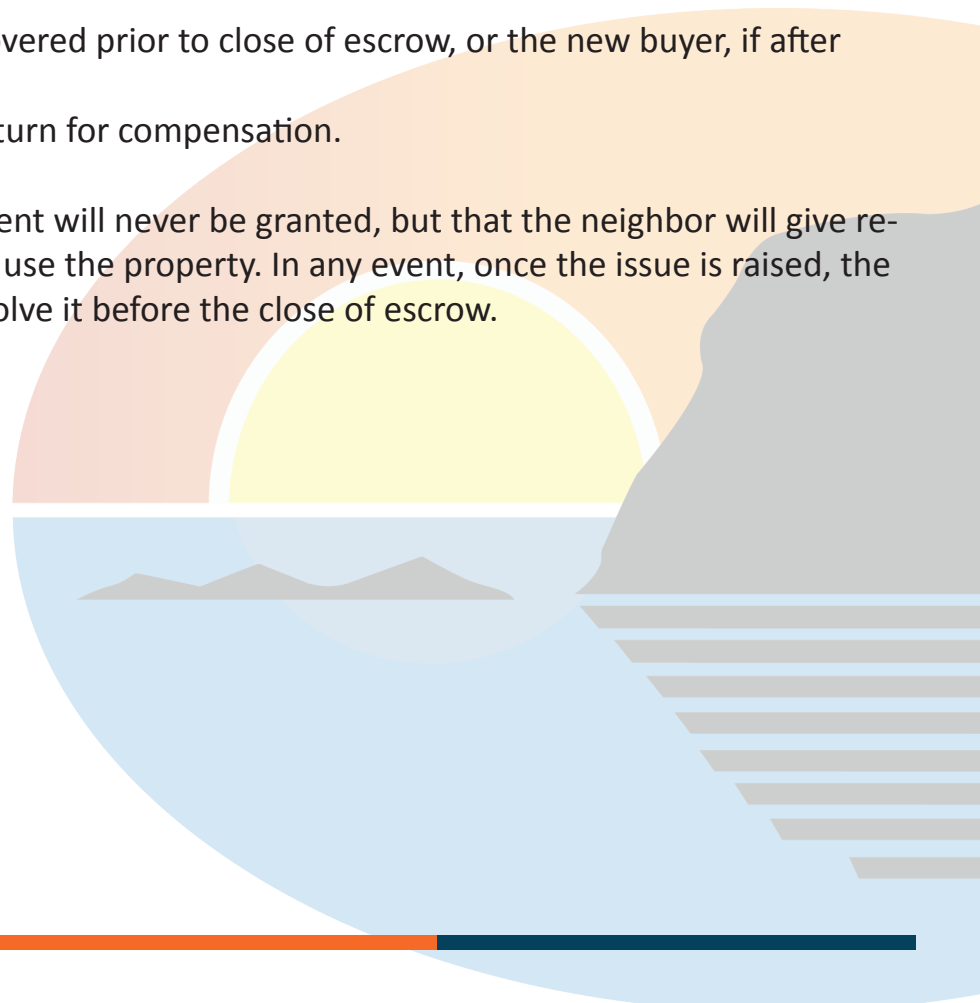
The seller must establish the following:

- The use was visible, open, notorious (i.e. that the neighbor knows about it)
- There was never expressed permission
- The use was continuous for at least five years

If the seller cannot establish these elements the use may constitute an encroachment over the boundary line and a trespass.

Never assume that a neighbor will continue to allow the encroachment. Unless a prescriptive easement is legally confirmed, and recorded, the neighbor could always file a complaint, force the buyer to remove the encroachment and bar your client from crossing the actual property boundary line. Of course, subject to your client's consultation with an attorney, there are some options:

- Either the seller, if the issue is discovered prior to close of escrow, or the new buyer, if after close, could negotiate a settlement or title in return for compensation.
- Or, they could agree that an easement will never be granted, but that the neighbor will give revocable permissions (a "license") to use the property. In any event, once the issue is raised, the parties must consult counsel and resolve it before the close of escrow.





TITLE FEES

COST	CHARGED BY	DESCRIPTION
Lender's Title Policy	Title	Title policy issued to lender to cover the amount of the loan. Based on the loan amount unless it is a negative amortization loan.
Document Transfer Tax	County	Fee charged on all properties that transfer title-based on sales price.
Electronic Recording	County	Charged to file for electronically recording documents.
Federal Express	Federal Express	Charged to file for delivery of all time sensitive documents/monies.
Lenders Endorsement	Title	Charged for endorsements required by lender to cover "outside the normal" risk circumstances
Messenger	Messenger Service	Charged to file to Special Messenger documents during the course of escrow. Fee varies with distance
Owners Title Policy	Title	Fee to issue a title policy. Calculated using the sales price. May be reduced if home was purchased or refinanced in the last 5 years. Insures that the title is free and clear at the time of transfer.
Record Grant Deed	County	Charged to file for recording the Grant Deed.
Record Release/ Reconveyance	County	Charged to file for recording the release/reconveyance.
Record Trust Deed	County	Charged to file for recording Trust Deeds.
Sub-Escrow Fee	Title;Split:buyer /seller	Fee to administer the pay-off of loans or property taxes of the seller and collection of funds from the new lender.
Title/Wire Fee	Banking Institution	Charged to file for wiring funds to escrow, seller, lenders, etc.

ESCROW FEES

COST	CHARGED BY	DESCRIPTION
Demand Fee	Escrow to Seller	Charged for requesting a statement and processing involved in getting a pay-off figure to escrow on the outstanding amount of the current loan. One demand fee per loan.
Document Fee	Escrow	Cover the expense for drawing legal documents for official records
Escrow Fee	Escrow; Buyer & Seller	Covers liability assumed as well as standard processing costs.
Process HOA Documents & Transfer Fee	Escrow; Buyer & Seller	Fee for processing required to assign membership for HOA and copying all governing documents.



A land contract is an installment contract in which the Seller finances the purchase. The seller maintains the deed until satisfaction. It is comparable to owner financing. The buyer gives the Seller a down payment and the Seller acts as a Bank; financing the balance of the purchase or sale price. The interest rate is negotiated by the parties.

Installment Land Contracts are sometimes referred to as ILC's or Agreements for Deed. They can be created on or used on most types of property: Residential, Land Only, Mobile Home with Land, Commercial, Mixed Use.

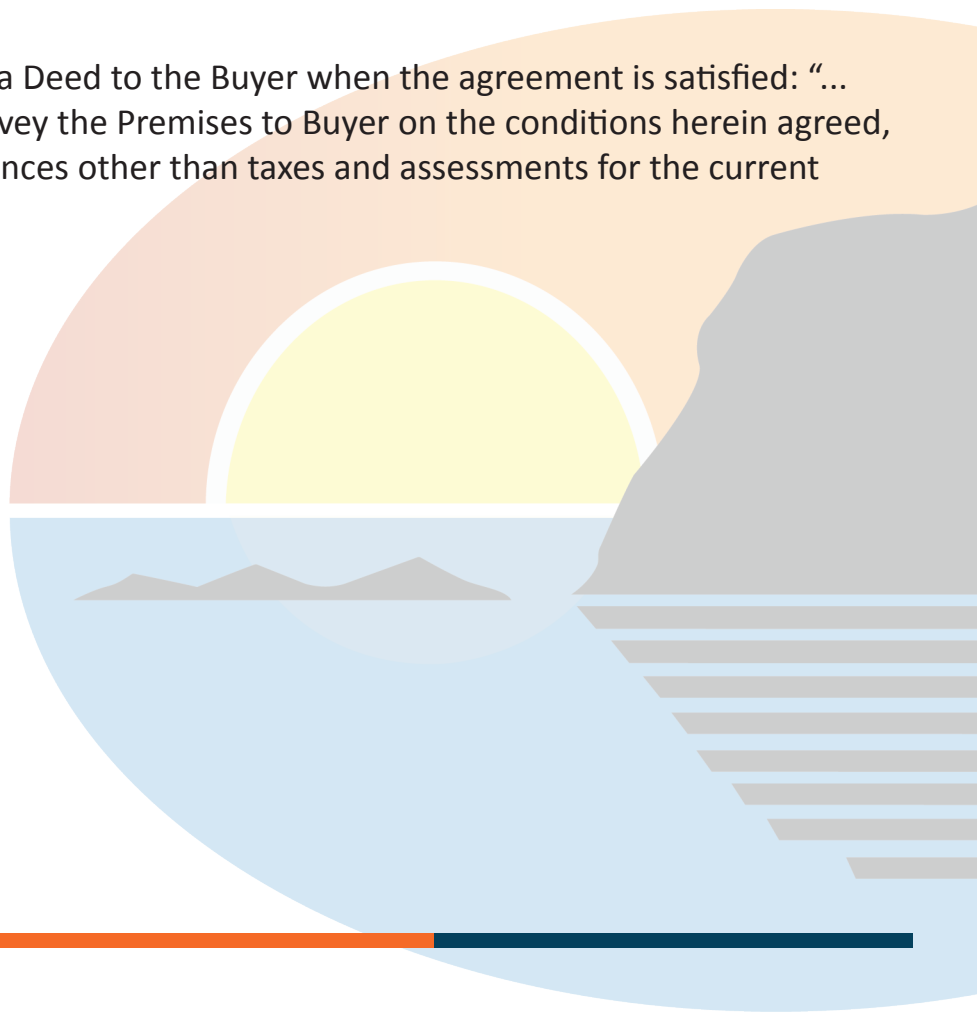
During the course of a Land Contract:

The Buyer has possession of and equitable title to the property while the Seller holds legal title.

If desired, the Buyer may assign and convey his/her (Buyer's) Interest in this Contract or any part thereof, provided, however, that such assignment or conveyance shall not impair the Seller's security in the Premises.

Once the contract is in effect and for the duration thereof, the Buyer is responsible for all taxes and assessments.

The Seller conveys legal title by way of a Deed to the Buyer when the agreement is satisfied: "... by good and sufficient Grant Deed, convey the Premises to Buyer on the conditions herein agreed, free and clear of any liens or encumbrances other than taxes and assessments for the current year..."





An All Inclusive Trust Deed secures a wrap-around loan, which loan incorporates an existing loan, with a new loan made by the Seller of a property.

For example, the sales price is \$200,000, there is an existing first trust deed securing a loan with a balance of \$150,000, with an interest rate of 7%, the Buyer has \$20,000 cash to put down; therefore, an AITD is created in the amount of \$180,000 at 8%. The AITD wraps around the existing \$150,000 at, and the Seller makes 1% on the \$150,000 at 8%, on the \$30,000, thereby effectively increasing the yield.

The Buyer makes payments based upon the \$180,000 balance, and the Seller makes the payments on the existing loan secured by the first trust deed.

The terms of the AITD, such as rates, maturity date, payment amount, late charges and prepayment penalty are completely negotiable.

In the event the first trust deed and note contains a “Due On Sale Clause,” the parties will want to seek legal and tax counsel as to the ramifications of doing an AITD.

<i>AITD</i>	<i>LAND CONTRACT</i>
Usually recorded with a Grant Deed	Can be unrecorded or only a Memorandum file or Performance
Conveys FULL title	Conveys only an “equity” interest
Foreclosure through trustee	May require judicial foreclosure
Future liens against Seller WILL NOT attach to property	Future liens against Seller MAY attach to property
Always include underlying loans - larger yield for Seller	May be either All-Inclusive or Split Interest



If any of the following items appear on your Preliminary Report, they will require immediate attention. A delay in closing may result without **immediate** attention. Please see reverse side for definitions and actions needed to be taken.

1. A Claim of Mechanic's Lien

Amount: \$23,300.00
By John Contractor
Recorded: January 5, 2001 as instrument No. 01-333

2. Notice Of Action Filed In:

Court: Superior
Case No: A123456
Plaintiff: John Contractor
VS:
Defendant: John Consumer
Purpose: Foreclose/Quiet Title
Recorded: March 5, 2001 as Instrument No. 01-2222

3. Subject to proceedings pending in the bankruptcy court of the central district of the U.S. District Court, California, entitled: In RE: John Consumer, debtor, case no. AP12345, wherein a petition for relief was filed on the date of January 20, 2001.

4. The effect of deed, dated June 4, 1991, executed by June Consumer as Grantor, to John Consumer as grantee, recorded January 19, 2001 as instrument No. 01-12222.

The requirement that this office be furnished with evidence that said deed was an absolute conveyance, for value, and that there are no other agreements, oral or written, regarding the ownership of the land described herein.

5. The lack of a right of access to and from the land.

Explanations:

1. **Mechanic's Lien:** A statutory lien in favor of persons contributing labor, material, supplies, etc. to a work of improvement upon real property. A release must be recorded to be removed.

2. **Notice of Action:** A lis pendens. A proceeding in a court of justice by which one party prosecuted another for the enforcement or protection of a right.

3. **Bankruptcy:** A proceeding in the U.S. Bankruptcy Court wherein assets of a debtor (unable or unwilling to pay debts) are applied by an officer of the court in satisfaction of a creditor's claim.

4. **Uninsured Deed:** A deed that has been recorded that it is believed to not have been checked as to its validity. Additional information may be needed before passing title. Call your title officer to see what might be needed in each case.

5. **Access:** A landowner's right to have ingress to and egress from the property to a public street. This property does not have legal access.



Preliminary Title Report Terms

Estates: The word “estate” is used to express the degree, a fee quantity, nature, duration, or extent of an interest in land. A “Fee” is the highest type of estate or interest an owner can have in land, freely transferable, inheritable and whose owner is entitled to possession. (There are a number of other estates or interests in land that we can insure.)

Vesting: It is the ownership or title to an estate. Legal Description: The description of the land covered by the preliminary report.

Exceptions: Matters which are expected from the property conveyed, such as oil and gas rights, or easements for specified purposes.

Taxes: The amount and status of past unpaid real estate taxes, if any, and current year’s taxes, paid or unpaid, or taxes which are a lien but not yet payable.

Bonds: Bonds or assessments, if any, levied at the inception of construction of improvements such as streets, gutters, side-walks, etc.

CC&Rs: Covenants, conditions and restrictions are limitations sometimes put on the use and enjoyment of real property, such as limiting the property to a single family or to a one-story dwelling.

Easements: An easement is a right of use in favor of others in the land for specific purposes such as public utilities, roads, or ingress and egress.

Deed of Trust: A deed of trust conveys title to particular land to a neutral third party (trustee) with limited powers (such as power of sale) for the purpose of securing a loan (debt).

Assignment: An assignment of the beneficial interest under the deed of trust from one beneficiary to another.

Trustor: The borrower, owner and grantor of the property conveyed in a deed of trust.

Beneficiary: The lender on a deed of trust is referred to as the beneficiary.

Trustee: Is a neutral third party in the deed of trust with limited powers. When the loan is paid in full the property is reconveyed by the trustee back to the person or persons legally entitled to the land, or, if delinquent, the property will be conveyed pursuant to non-judicial foreclosure proceedings, to the highest bidder in a public sale.

Abstract of Judgment: Imposes alien on all real property owned or subsequently acquired by the debtor until satisfaction or expiration of the lien.

Statement of Information: This information statement is confidential and is used to enable the title company to eliminate title problems which may arise through similarity of the name of Seller or Buyer with the name of another person against whom there may be judgments, tax liens, or other matters affecting property ownership.



100 - This endorsement offers an explicit extension of coverage to an ALTA Extended Coverage Loan Policy by adding insurance for certain recorded and “off-record” matters. The coverage is extended for Covenants, Conditions, and Restrictions (CC&Rs): encroachments and the rights to use the land surface for mineral developments. This endorsement is not issued in conjunction with policies covering raw land or construction loans.

100.12 - Also used with ALTA policies. Form

100.12 assures a lender or owner that existing CC&Rs do not contain any enforceable reverter, right of re-entry or power of termination.

100.18 - Provides insured ALTA lender or owner with coverage against loss by reason of the exercise or attempt to exercise reverter rights in CC&Rs.

100.23 - Provides insured ALTA lender with coverage against loss by reason of the exercise of surface rights for the extraction or redevelopment of minerals leased under an oil gas lease.

100.29 - Provides insured ALTA lender with coverage against loss by reason of the exercise of surface rights for the extraction or redevelopment of minerals expected from the description of the land or shown as a reservation in Schedule B.

103.1 - Provides insured lender with coverage against loss by reason of the exercise of the right of use or maintenance or a particular easement by the easement holder.

103.3 - Provides insured lender with coverage against loss by reason of the forced removal of improvements which encroach upon a particular easements.

103.7 - Provides insured owner or lender with assurance that the land described in Schedule A abuts upon a specific, physically open public street.

104.1 - Provides assignee of the insured mortgage with assurance concerning (a) validity of a recorded assignment transferring the beneficial interest to the named assured assignee: and (b) full or partial reconveyances, modification or subordination of the insured mortgage.

110.5 - Provides insured ALTA lender with assurance concerning proper modification of the insured mortgage, including express priority coverage.

110.9 - Provides insured ALTA residential lender with coverage against loss by reason of lack of priority over (a) any federal or state environmental protection set forth in Schedule B, and (b) any state environmental protection lien providing for by any state statute in effect at Date of Policy, except as provided for by state statutes specified in the endorsement.

111.10 - Assured lender that future advances made under a “revolution line of credit” shall have the same priority as do advanced made as of Date of Policy.

111.5 - Provides insured ALTA variable rate mortgage lender with coverage against loss by reason of (a) invalidity or unenforceability of the insured mortgage resulting from the terms therein providing for changes in the rate of interest, or (b) loss of priority of the insured mortgage lien caused by the changed in the rage of interest, unpaid interest added to principal and/or interests on interest.

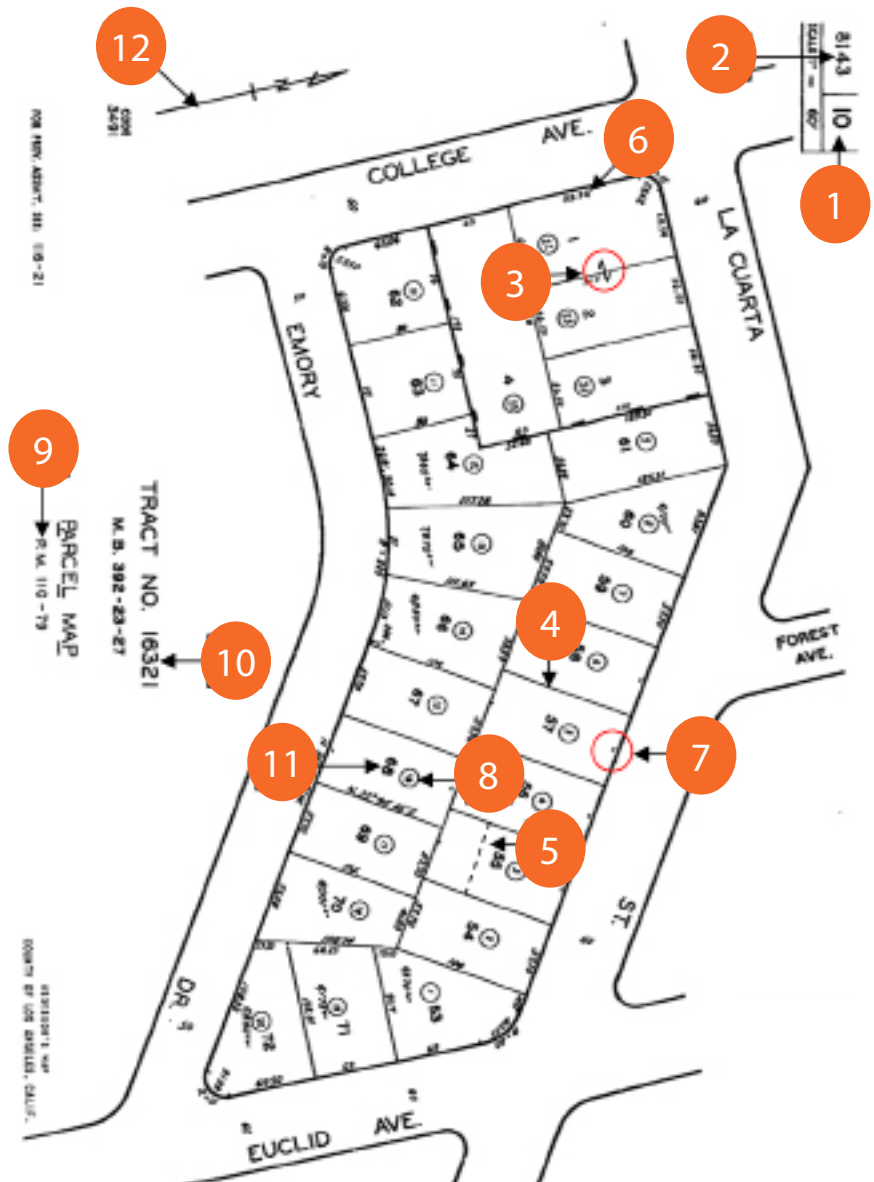
115 - Provides insured lender with assurance that the estate or interest covered by the policy is a condominium, in fee, and such is entitled to be assessed and taxed as a separate parcel.

116 - An Address Endorsement used with ALTA policies, designating the street address of the land insured and specifying the type of improvements on said land.



How To Read a Plat Map.

- 1 Assessor's Page Number.
- 2 Assessor's Book Number.
- 3 Tie Line may indicate that two or more record lots are assessed as one parcel.
- 4 Lot Line (Solid Line).
- 5 Tax Parcel Line (Dotted).
- 6 Approximate Lot Dimensions in Feet.
- 7 Ditto Mark indicates lot dimensions are equal to adjoining lot.
- 8 Parcel Number assigned to the specific lot(s).
- 9 Abbreviated Tract Map Filing Reference.
- 10 Recorded Tract Number.
- 11 Recorded Lot Number.
- 12 Compass Indicator.



The Assessor's Map is not filed with the official County's Records. This map is based upon tract maps that are filed with the local County records. The Assessor will include a reference to the maps that have been filed at the County.



The Real Benefits of Mello-Roos

As always, today's families recognize the importance of living in a community that's as desirable as their home itself. Mello-Roos enables critical community facilities to be provided whenever they're needed at a lower cost ultimately to homeowners. By doing so, Mello-Roos ensures a higher quality of life for every family in that community. Perhaps most importantly of all, Mello-Roos helps preserve the value of your new home investment.

Where did Mello-Roos Come From?

When Proposition 13 passed in 1978, it severely limited the ability of local governments to use property taxes to construct public facilities and services. As a result, Californians were forced to find new ways to fund public improvements in their respective locales. The Mello-Roos Community Facilities Act of 1982 was co-authored by Senator Henry Mello of the Monterey area and Los Angeles assemblyman Mike Roos. Enacted by the California legislature, the Act enabled "Community Facilities Districts" (CFD's) to be established by local government agencies as a means of obtaining this crucial community funding. Today the colloquial name for the Facilities Act of 1982 is simply "Mello-Roos."

What Public Facilities are Funded by Mello-Roos?

School districts are the most common beneficiaries. Since state funds are not available to provide the quality of facilities necessary in every community in California, Mello-Roos makes the acquisition of timely financing possible. In addition, Mello-Roos can provide financing for other vital community needs. These needs include the construction and maintenance of public roads, traffic light systems, storm sewers, water mains, police stations, fire stations, ambulance services, public libraries, recreational parks, museums and cultural facilities.

How is Community Funding Provided?

Let's say, for example, that plans for a new school are approved in your Community Facilities District. To finance the school, tax exempt municipal bonds are issued. These public bonds are repaid (or secured) over an extended time through the levy of a special tax (Mello-Roos) on properties that benefit from the facility. This tax is usually added to the annual property tax bills (over a 20-25 year period) of residences within the CFD. Commercial and industrial property owners are also subject to Mello-Roos. All proceeds raised from Mello-Roos assessment must be used exclusively to finance the specific public facilities and/or services that were authorized in your CFD.

How Much Will I Be Assessed?

This will vary from one CFD to another. Typically, an adopted formula that relates to the size of the home (square footage or lot size) is used to determine the amount of an individual assessment. In general, the special taxes and assessments do not exceed 1% to 1.5% of the market value of new homes. Moreover, the total amount of all annual taxes (including property tax) usually does not exceed 2% to 2.5% of the home's market value.

Will My Mello-Roos Tax Increase?

It can. However, this special tax can increase only at a maximum rate of 2% per year over a 25 years period. On the other hand, it's possible that this tax will decrease, should state or other funds become available that could be used to reduce existing bond indebtedness, or be used to construct new facilities in lieu of additional bond sales.

Can I Choose How to Pay for Mello-Roos?

Yes. As already mentioned, the special assessment can be added to your property tax bills until your portion of the tax is paid off. A schedule of maximum special tax payments over a period of 25 years is available to homeowners prior to the close of escrow. Those who purchase a new home also have the option to pay for their Mello-Roos tax in it's entirety at the time they buy. However, because statistics indicate that the average homeowner in California moves every 7 years, it's often prudent to spread the payments over time.

Why Can't Builders Bear the Cost of these Facilities?

They can. But ultimately, the builder must recover these considerable costs in the form of higher home prices. Commercial construction loans acquired by builders typically incur higher rates of interest than CFD financing, which accrues at significantly lower rates.

Mello-Roos Makes Sense

Buying a home is the most important decision most of us will ever make. Mello-Roos offers the security of knowing that your community will continue to prosper and grow in ways that are most beneficial to it's residents.



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”?

1. Generally, there are five purposes, many of which have subsets to them:
2. To determine that the decedent is in fact dead,
3. To establish the validity of the will,
4. To identify the heirs and devisees of the decedent,
5. To settle any claims that creditors may have against the estate of the decedent, and
6. 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.

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.

What are the steps to a normal uncontested probate?

Very generally speaking they are as follows:

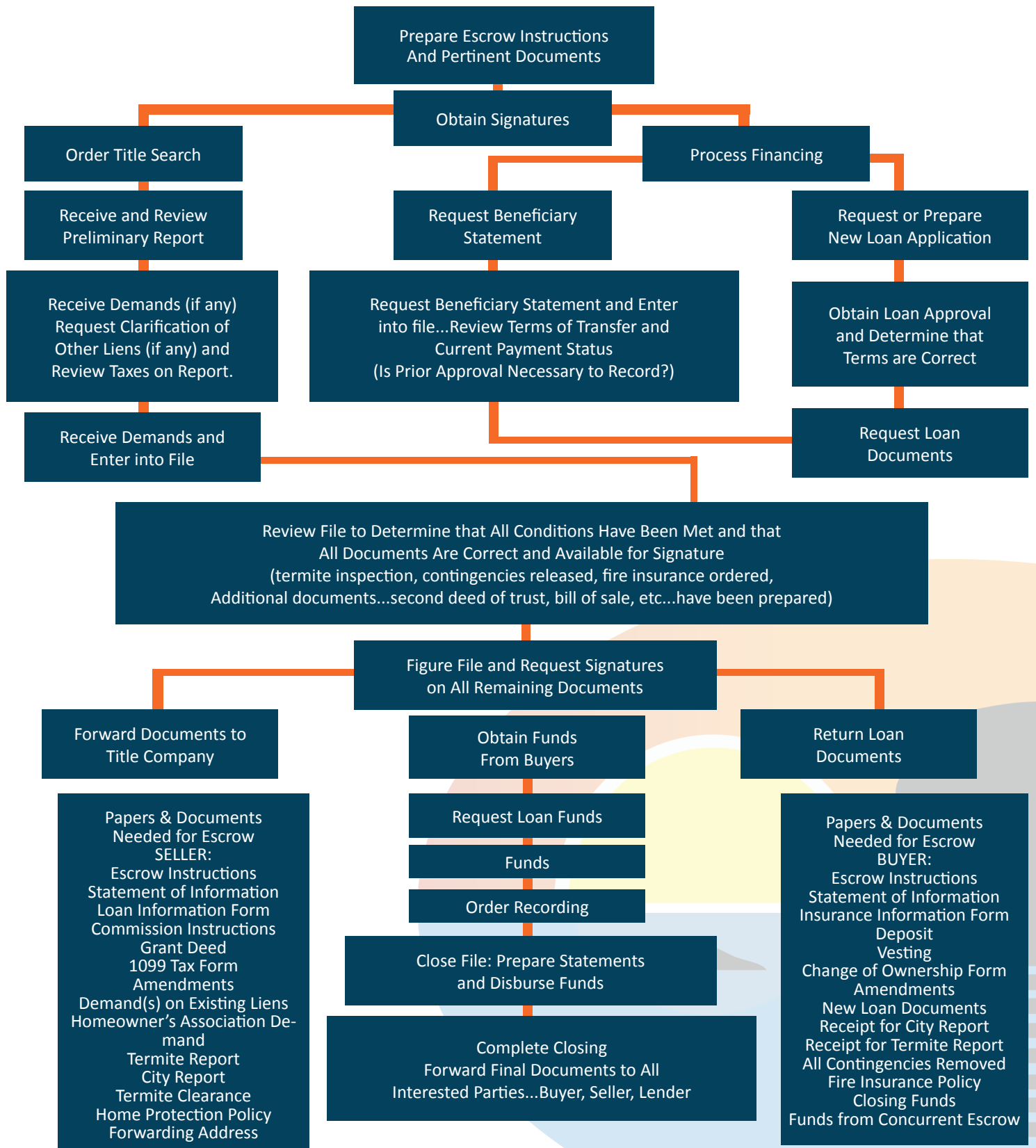
1. Death of the decedent.
2. The will is delivered to the executor or Court Clerk.
3. A petition is filed for the Probate of Will or Letters of Administration.
4. A hearing is held on the petition.
5. Letters of Administration are issued by the Court.
6. Notice to creditors is given.
7. Inventory and 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 “inprobate” 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.





1. When you open escrow, specify “Pacific Coast Title” for your title insurance. Ask for your Escrow Reference number to use for all future communications.
2. Read and understand the Preliminary Title Report. If an item is not understood, phone your escrow officer or title officer.
3. COMMUNICATE with your escrow officer. He/She must be instructed when to order payoffs, releases, etc. It is important that you keep him/her informed as to loan approval and related issues.
4. Inform your escrow officer if any changes occur. All changes should be in writing. Remember, with rare exceptions, escrow acts only on MUTUAL instructions.
5. It is important to understand the fiscal tax year, debits, credits, prepaid interest, impounds, and due and delinquent dates in order that this information will be easily understood by your client. Familiarize yourself with “normal” buyer’s and seller’s closing costs.
6. Check each signature for accuracy as to middle initials and spelling. Have your client sign exactly as shown on the document. Make sure all required documents are signed and notarized when applicable.
7. Double check all papers and documents before returning them to your escrow officer to verify the following:
 - a. They are signed properly. Any and all changes are initialed.
 - b. The vesting shows as the clients had requested.
 - c. Addresses are supplied for all future correspondence.
 - d. Any changes in phone numbers are provided.
 - e. Any and all addendum’s are executed.
 - f. All funds held by the broker are deposited into escrow.
 - g. The client has noted if their closing statements/funds are to be mailed or picked up.
 - h. The notary completes the acknowledgment, signs it and places the seal clearly.
 - i. Closing fund are sent by certified/cashiers check or wire.



What is Escrow?

Escrow is a transaction where one person delivers something of value to a third person, to be held until the happening of a specified event or condition, upon which it is then delivered by the third person to another. Both parties to a real estate transaction entrust legal documents and various funds to the escrow holder, which transfers the papers and funds upon the closing of escrow. As a neutral third party, both buyer and seller are assured that all mutually agreed to terms are met before the transaction is completed.

Convenience

Using the escrow holder as a common depository, the buyer and seller can proceed simultaneously in providing funds, deeds, inspection reports, insurance information, and other required documents. Both parties give written instructions, the requirements of which must be met before the transaction is complete, to an experienced escrow officer. Lenders also specify their conditions for completing the loan process. Provided that the instructions are clear and mutually consistent, the escrow officer, as a limited agent for all parties, saves time in the closing process.

Protection

The authority given to an escrow holder is strictly limited by instructions provided by the buyer and seller. The escrow officer is authorized by instructions to allocate funds for items during the escrow period, such as real estate commissions, title insurance, liens, recording fees, and other closing costs. Instructions also specify the method of collecting funds, proration of insurance and taxes, and time limitations on settling the transaction. The escrow process protects all parties involved by retaining money and documents until mutual instructions are met.

Confidentiality is another important aspect of escrow. To effectively handle a transaction, your escrow officer must be instructed as to the required terms necessary to close. The officer will discuss escrow matters only with the parties directly involved, specifically the buyer, seller, lender, and real estate agent. No one else has access to this information, except through proper legal procedures. The escrow officer retains impartiality and confidentiality concerning the real estate process.

Closing Escrow

Upon closing, the escrow holder causes the required documents to be recorded and disburses funds according to the instructions given to the escrow officer. Escrow fees are included in these costs, and are based on the sales price of the property, the loan amount, and services required.

Responsibilities of Each Party

The Buyer

- Deposits funds to pay the purchase price, and funds for property and closing costs.
- Provides deed of trust or mortgages needed to secure the loan.
- Arranges for borrowed funds to be deposited into escrow.
- Provides, if required, documents such as inspection reports, insurance policies and lien information to verify compliance to the instructions.

The Seller

- Deposits the deed to the buyer with the escrow holder.
- Provides evidence to meet the buyer's condition of sale, such as proof of repair work and inspections.
- Submits other documents, such as tax receipts, mortgage information, insurance policies, and warranties.

The Lender

- Deposits loan funds, lender instructions, and other loan documents with the escrow holder.

The Escrow Holder

- Serves as a central depository for funds and documents.
- Obtains a title insurance policy, when required.
- Fulfills the lender's requirements if applicable.
- Secures approval from the buyer on requested documents.
- Prorates insurance, taxes, and rents, as instructed.
- Fulfills buyer and seller instructions.
- Allocates funds for closing costs, and verifies that required funds from each party are deposited into escrow.
- Once all conditions are met, the escrow holder causes the necessary documents to be recorded



ESCROW is a service which provides the public with means of protection in the handling of funds and documents. Escrow enables the buyer and seller to transact business with each other through a neutral party, thereby minimizing their risk.

An escrow is created when money and/or documents are deposited by two or more persons with a third party which are to be delivered upon the happening of certain conditions. The third party is known as the escrow agent or escrow holder.

The escrow process protects all parties involved by retaining money and documents until the mutual instructions are met.

The statutory definition of escrow is found in Section 17003 of the California Financial Code and reads as follows:

‘Escrow’ means any transaction wherein one person for the purpose of effecting the sale, transfer, encumbering, or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance or a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the later.

The authority given to an escrow holder is strictly limited by instructions provided by the parties involved. Consequently, an escrow holder acts on mutual instructions deposited into escrow and DOES NOT represent any party. The escrow officer is authorized by instructions to allocate funds for items during the escrow period, such as real estate commissions, title insurance, liens, recording fees and other costs. Instructions also specify the method of collecting funds, proration issues, time limitations and all the terms of the transaction.



What is Escrow?

An escrow is money or property put into the custody of a 3rd party until specified conditions are met.

How Do I Open Escrow?

As soon as you execute your purchase agreement, your real estate agent will deposit your initial down payment into your escrow account. Your escrow officer will then send you escrow instructions.

How Will I Know Where My Money Has Gone?

Written evidence of your deposit is included in your copy of the purchase agreement. Your funds will then be deposited in your separate escrow account.

What Do I Do Next?

You will want to speak with your credit union, bank, mortgage company or savings and loan. You will be required to complete a loan application which will require personal and financial information.

What Happens After I Submit the Loan Application?

The lender will begin the qualification process including verification of items submitted on the application and appraisal of the value of the property.

Assuming the Loan is Approved, What's Next?

Your escrow officer will make an appointment for you to sign your final loan papers. At this time, the escrow officer will also tell you the amount of money you will need to buy your new home. Your loan funds will be sent directly to the escrow by the lender.

What Are Escrow Instructions?

Escrow instructions define all the conditions that must occur before the transaction can be finalized. Your escrow instructions represent your written statement to the escrow holder protecting your interests. They authorize the escrow officer to order title insurance which provides ownership protection for your new home.

When Do I Sign Escrow Instructions?

Your escrow officer will send escrow instructions to you for signing along with other forms such as: vesting instructions, statement of confidential information, and change of ownership form. Be sure to return your signed instructions and forms as soon as possible.

What Do I Need to Do Before My Appointment to Sign Loan Papers?

- **Cashier's Check:** Obtain a cashier's check made payable to the escrow company in the amount indicated to you by escrow.
- **Lender's Requirements:** Make sure you are aware of your lender's requirements and that you have satisfied those requirements before you come to the escrow company to sign your loan documents.
- **Hazard Insurance:** If you are purchasing a single family home, detached home, be sure to order your hazard insurance. Then call your escrow agent with the insurance agent's name and phone number. You must have secured hazard insurance before the lender will send its money to the escrow company.
- **Identification:** Please bring a driver's license or passport (photo ID) for each person who will be on the title with you to the escrow company. This is needed so that your identity can be verified by a notary public. It is a necessary step for your protection.

What is the Next Step After I've Signed My Documents?

After you have signed all the instructions and documents, the escrow officer will return them to the lender for review. This usually occurs within a few days and upon completion, the lender is ready to fund the loan and advise escrow.

What is An Escrow Closing?

It is the culmination of the transaction. It signifies legal transfer of title from the seller to you. Usually the Grant Deed and Deed of Trust are recorded within one working day of the escrow's receipt of loan funds. This signifies the close of escrow.

When Will I Receive the Deed?

The original deed to your home will be mailed directly to you at your new home by the County Recorder's Office. This usually takes several weeks, sometimes longer.



Broker: This is the person who represents the buyer/seller during a real property transaction. When buying or selling real estate in California through a broker, you are protected by dealing with a party who is operating under state license.

Escrow: This means to deposit money and documents with an escrow agent, usually in the form of a corporation, to be used as specifically described in the written instructions of the parties.

Escrow Officer: This person writes the written instructions of the parties for the escrow agent. These instructions govern the use of money and documents given by the parties involved.

Preliminary Report: This report shows preliminary ownership and encumbrance information. It is given to the escrow officer after the escrow is opened.

Taxes: The prorating of county, city, and irrigation district taxes and the calculation of bonds and special assessments requires skillful handling.

Insurance: At the time of closing, all premiums must be adjusted and all policies transferred. All changes must be made and the insurance companies must be notified.

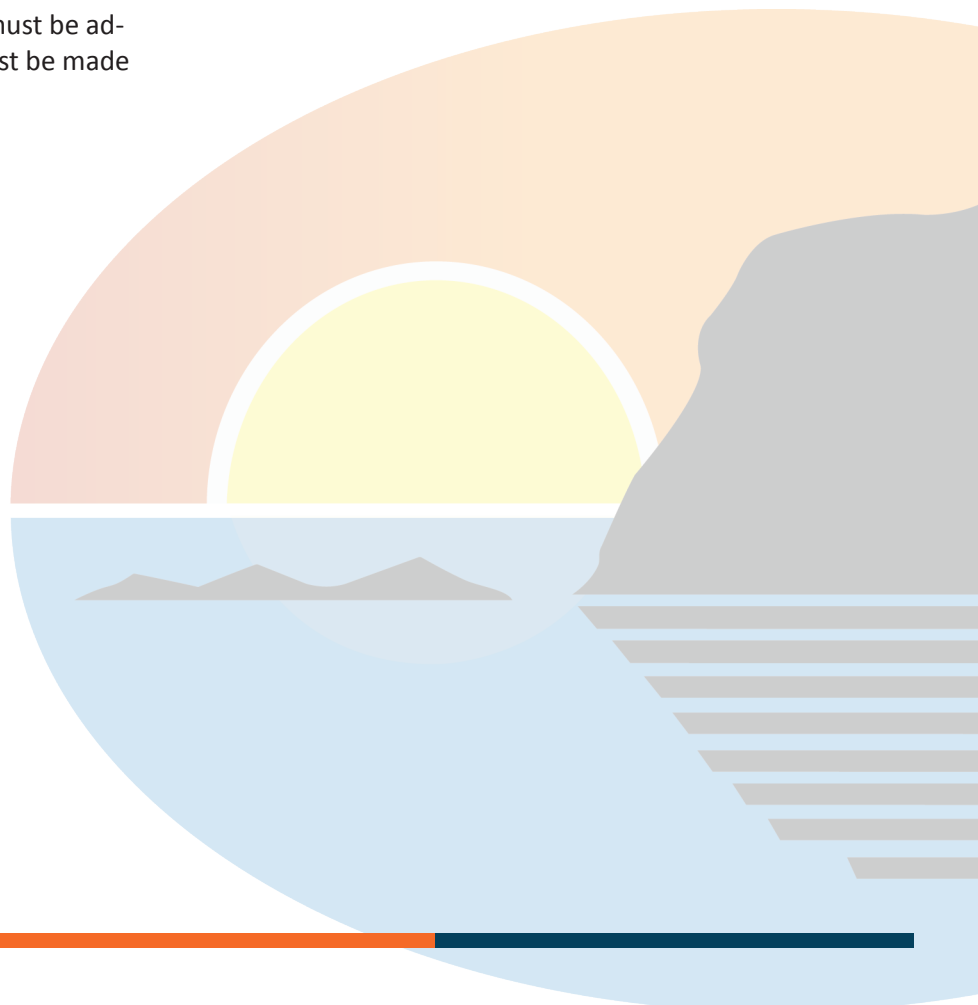
Prorate: The division of proportionate shares of rent, insurance, taxes, etc. between the parties involved. This is usually calculated by an escrow officer.

Revenue Stamps: These are put on deeds to show that taxes have been paid at a transfer rate of .11% based on the sale price. The escrow officer uses these when appropriate.

Deed: This is a document that is used to transfer the ownership of land from one person to another. The form of the deed may vary.

Title: The right by which the owner of the land has possession of the property. Publicly recording a deed is a common way to establish a title.

Title Insurance: A policy which protects your rights as owner of a property, and will reimburse for any problems with the title to the property. Your real estate professional can provide free information about title insurance.





Some of the common hurdles that slow or stop an escrow transaction are:

BUYER:

- The Buyer does not have the additional funds needed to close transaction
- The buyer brings a personal check for closing
- Husband/wife comes to sign without spouse
- Escrow Officer was not aware of marriage, separation, divorce, sole and separate property, death of a joint tenant, etc., making all papers incorrect
- One of the spouses is out of town
- Buyer signs loan papers incorrectly
- Judgments arise during escrow period
- Buyer does not have proper info for notary
- Buyers make a major purchase on Credit

SELLER:

- Demands on existing loans are not yet in escrow
- Releases are not yet in escrow
- Judgments arise during the escrow period
- Did not disclose to Realtor that homeowners dues are due on the property.
- Seller does not have proper info for notary

FIRE INSURANCE

- The policy wasn't ordered soon enough - escrow cannot order without lender's instructions
- The policy reads incorrectly -addresses, names, etc.
- The coverage is not for the correct amount
- The buyer used an Out-of Town (State) insurance agent

TERMITE & PEST CONTROL:

- The inspection was done on the wrong property
- No report, inspection or clearance has been received in escrow
- The clearance was not completed
- The addresses are incorrect -the Lender will not accept
- Certain areas were not checked but a clear report was issued - the lender will not accept

LENDER:

- Points/Interest rate goes up: parties are not notified
- Miscellaneous charged were made and not disclosed to parties
- The Lender has called for additional conditions

What Causes Escrow Delays?

- Not returning the calls to escrow when they try to verify a new escrow
- Not giving vesting information at opening
- Forms turned in Incomplete or Late! (i.e., missing S.S.N. or S.I., no insurance company)
- No loan information so demand can be ordered
- Initials Missing on forms and documents
- Signatures Missing
- Grant Deeds Signed but not Notarized
- Grant Deed not in at closing
- Not returning Paperwork in a Timely Manner
- If you know about a PROBLEM-Don't keep it a Secret!
- Lack of Communication between Agents, Escrow and parties.
- If you know about Loan Approval Give Escrow a Heads Up!
- Get the Insurance Agent's name and Information to Escrow A.S.A.P

What Can the Agent Do?

- Have your property profile when you open escrow
- Have new lender information so Cert. Instructions can be sent out with no delays
- Have purchase contract & all counters with you so all terms are clear at opening
- Know the other agent's phone number so information can be verified quickly
- Get all escrow papers back as quickly as possible. If you are not a notary, feel free to send them in to Escrow to sign Grant Deed. This is often a last minute hold up.
- Be sure the S.I. is returned quickly this shows all the judgments, etc. (Very Important to do this early)
- Be sure to complete all paperwork. Loan info for Seller, Insurance for Buyer is often not completed
- Check each page of instructions that they initialed and signed correctly and did not miss any spots.



- ☐ A copy of the Seller's existing title policy, if possible. If the policy is not available, provide the Escrow Officer with the following:
 - ____ Legal description and/or address of the property
 - ____ Assessor's Parcel Number (APN)
 - ____ Name of party in ownership
 - ____ Name of existing lien holders and type of loan
- ☐ Direct which liens are to remain and which are to be paid in full. Provide the name, address and loan number(s) of existing lien holders. Request a 30-day notice letter if an FHA loan is being paid off.
- ☐ Full names, addresses (including zip codes) and phone numbers of parties involved. This includes buyers, sellers, real estate agents and any new lenders with the name of the loan officer.
- ☐ Vesting - How buyers desire to take title. Include the correct spelling of each buyer's name.
- ☐ Consider the issue of required owner occupancy for residential property.
- ☐ What will the amount of the Buyer's deposit be? Direct whether funds are to be deposited into escrow or held in the broker's trust account.
- ☐ Include information on the amounts of commission and breakdown of payments.
- ☐ Inform the Escrow Officer of the type of property (Single Family, land with mobile home, etc.)
- ☐ If a termite report is required, provide information as to who is paying the fee. If corrective work is required, promptly order and deposit into escrow.
- ☐ If there are rents to prorate, leases to assign and/or a Bill of Sale to be drawn, secure and deposit into escrow a rental schedule showing amounts of rents, date rents are paid and the amount of security/cleaning deposits to be credited to buyer. An inventory of personal property for the Bill of Sale and copies of all leases to be assigned should also be provided to escrow.
- ☐ Inform the Escrow Officer of all items to be prorated and the proration date.
- ☐ If there is a Homeowner's Association, provide us with the name and address of the management company.
- ☐ Provide us with the hazard insurance agent's name and phone number. Promptly order and deposit into escrow.
- ☐ If a loan is remaining that has an existing trust fund for taxes and insurance, direct how said account is to be handled.
- ☐ Submit all terms of notes and security documents to be typed by escrow officer.
- ☐ Direct who is to receive copies of the preliminary title report and the number of copies to be sent. Provide information as to whether copies of the tract restrictions or CC&R's are required.
- ☐ Discuss all closing costs and who will be responsible for each.
- ☐ Communicate all contingencies and conditions required prior to closing.
- ☐ If the Seller is a non-resident of California, contact your escrow office immediately as additional disclosures may be required.
- ☐ If Seller or Buyer is a corporation, submit the Articles of Incorporation, bylaws, and a corporate resolution authorizing the sale or purchase of the subject property.
- ☐ If the Seller or Buyer is a partnership, submit a copy of the partnership agreement and a copy of the recorded statement/certificate of partnership.
- ☐ If the Seller or Buyer is a trust entity, submit a copy of the trust agreement and a signed verification of trustee.



What is escrow? Escrow is a service which provides the public with a means of protection in the handling of funds and/or documents. Escrow enables the buyer and the seller to transact business with each other through a neutral party, thereby minimizing their risk. In the escrow, all parties involved give their instructions to this neutral intermediary, the “escrow holder” whose duty it is to assure that no funds or property will change hands until all instructions have been carried to completion.

What types of transactions go through escrow? Most contracts that involve the transfer, lease or financing of real or personal property can be placed in escrow. You may be involved in escrow not only when you buy or sell a home, but also when you buy a mobile home, sell a business or transfer stock in a closely held business. Prizefighters have even been known to have their purses guaranteed through an escrow depository. The buyer or seller should demand the protection of escrow for any transaction which involves a substantial investment.

Why do I need escrow? Whether you are the buyer or the seller, you want assurance that no funds or property will change hands until all of your instructions have been followed. With the increasing complexity of business, law and tax structures, it takes a trained professional to supervise the transaction.

Who handles the escrow transaction? The escrow officer is a trained and experienced professional. He or she can provide you with the assistance required to close your transaction quickly and effectively. This professional person may, under the terms of the instructions, make the decision that the conditions of escrow have been met, and then order the transfer of the affected real or personal property to the interested parties. Many escrow officers proudly display their professional designations of certification and show these designations on their business cards and letterhead. The designations indicate that this person has met the high standards of education and experience required for certification by the California Escrow Association.

As a buyer entering into escrow, what must I do? If the transaction is contingent upon a new loan, it is your responsibility to arrange this loan. Your real estate agent can be most helpful in obtaining a lender, since he or she is more knowledgeable about which lenders are currently active and their financing terms. The instructions are ready...now what? When the escrow instructions have been prepared, read them carefully to determine that they are complete and properly reflect your total agreement. If you have any questions or corrections, discuss them with the escrow holder before signing. Once the instructions have been signed, they become the basis for the conduct of the escrow.

Can I get legal advice from the escrow officer? An escrow officer is not a legal counselor and cannot give you advice. Remember, the purpose of escrow is to take, and comply with, instructions to carry out the mutual agreement of the principals. In the event of disagreement of the parties, the escrow officer must remain neutral until agreement is reached. The transaction should not be negotiated in the escrow office, nor should an escrow officer become involved in the negotiation.

If I still have questions about the transaction, where can I go for answers? If negotiations have been conducted through a real estate agent, that person, or his/her broker, should be your primary consultant. The role as an independent agent prohibits the escrow officer from answering many of your questions. However, a knowledgeable escrow officer, whose responsibility is giving impartial service to all the parties, will refer you to the proper source for your answers. An escrow officer will often suggest that the customer seek the advice of legal counsel or a tax consultant.



What happens at the closing? When instructions of all parties to the escrow have been carried out, the closing can take place. All outstanding funds are collected at this time and all costs must be paid. Title to the property, whether real or personal, will then be transferred. All specified documents are recorded or filed at this time.

What fees must I pay at closing? Fees and charges are controlled by many factors and depend largely upon the type of transaction and the terms of your agreement. However, there are certain charges which are considered to be normal. These would include fees charged by a lender in connection with obtaining a new loan or in paying off the old one. They may also include recording fees, title insurance policy premium, documentary transfer taxes, prepaid taxes and insurance and escrow fees. Your escrow officer will provide you with an itemized statement. Your closing funds should be in the form of a wire transfer or a cashier's check made payable to the escrow holder in the amount requested. Do not bring a personal check to close a transaction. It will only delay the closing, since the funds must be collected before the closing can take place. An out-of-town check can cause a week to ten days delay in closing.

As a seller entering into escrow, what must I do? To be fully prepared when you enter the transaction, you should have sufficient information relative to your ownership available. This would include information concerning any loans, taxes, insurance and, if appropriate, rental data. Items which would be the sources of this information are your original deed or title policy, fire insurance policy and a year-end statement from the existing lender. A copy of the most recent structural pest control report may be helpful, or in some cases even required, in a real estate transaction.

What is the fee for the escrow service? The escrow fee is normally based on the size and complexity of the transaction. Since there are so many types of escrows and every transaction is different, there are no set fees. Usually the escrow fee is divided in accordance with the agreement of the parties.

The closing is complete...now what? Upon closing, review the closing statement to determine that the costs were allocated in accordance with your instructions. It normally takes a period of time after closing before the hazard and title insurance policies can be delivered to you. Any recorded documents to which you are entitled will be mailed to you after the escrow has closed. Frequently these documents will come to you directly from the office of the recorder or the Secretary of State in the case of personal property filing.

If the transaction isn't completed, is my deposit refundable and who pays the fees? When a transaction fails to close, a cancellation agreement must be reached between the parties. This cancellation agreement must be put in the form of a written instruction, just as your contract was. Since the deposit is part of the escrow contract, both the buyer and the seller must mutually agree to its disposition. Instructions for the disposition of this deposit should include, among other things, provisions for payment of charges incurred during the escrow. This would include fees and costs incurred by the escrow holder and charges such as loan processing and title insurance fees as specified in the escrow instructions.



Interest in solar energy is growing as more and more homeowners, as well as businesses, are taking long, serious looks at this alternative source of power. As with any new technology, however, there are potential problems. For example, the sun's rays must reach the solar collectors in order to produce energy from either active or passive systems. If the sun were always directly overhead there would be no problem. It is not, of course, and this brings up the question of solar access -- the availability of sunlight to reach a building's solar collectors. Resolution of this problem often involves access across adjacent properties, which, in turn, involves a neighbor's air space.

Since the amount of unobstructed sunlight reaching the solar collectors is critical to the efficient operation of a solar system, the flow of sunlight to the system must be assured. In most systems it takes about six hours of direct sunlight per day for maximum equipment efficiency. This varies, naturally, according to the season, geographic location and the type of solar system installed.

Passive systems are especially dependent on direct sunlight. The sun's rays cannot be reflected or diffused. For the building owner, access questions involve both the height and setback of adjacent buildings. That's where negotiated agreements for solar easements come into sharp focus. If a neighbor's trees grow high enough to cut off the sun early in the morning or late afternoon, your solar system may not perform up to design specifications. The same thing goes for structural heights.

That's why the question of guaranteeing access to sunlight is becoming an important part of property ownership. In fact, it has been called the single most difficult legal issue connected with solar energy use. The most practical solution to the problem is the negotiation of easements between property owners. Under such an agreement, one property owner would receive assurances from the other that the sunlight which travels over the neighbor's property would always be available. The neighbor, and all subsequent owners, would be restricted in building or planting trees which could obstruct the sunlight.

After agreement, if such solar easements are not properly recorded, problems could arise if the property is subsequently sold and the new owners are either unaware of the easement or not in agreement with its conditions. Solar easements may have to be negotiated with several different neighbors to assure adequate access to the sun throughout the year. Such easements could negatively affect the future property values of those neighbors.

California was one of the first states to enact legislation to guide the establishment of solar easements. The California Solar Rights Act of 1978 was passed to promote and encourage the "widespread use of solar energy systems and to protect and facilitate adequate access to the sunlight which is necessary to operate solar energy systems." This statute prohibits any covenant, condition or restriction which prohibits or restricts the installation or use of a solar energy system.

A solar easement establishes certain land use conditions agreed to by the property owners involved. Such an agreement includes (1) a description of the dimensions of the easement, including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed; (2) restrictions placed upon vegetation, structures and other objects which would impair or obstruct the passage of sunlight through the easement, and; (3) the terms and conditions, if any, under which the easement may be revised or terminated.

It is important, of course, that all solar easements be officially recorded, just as other uses and conditions are included in public records. Otherwise, such an easement might not be noted during the title search at the time of a real estate sale. Such an omission could create serious problems at a later date when the new owners decide to make structural or landscape changes that would affect the path of sunlight across their property.



1. Goodwill

If you permit the borrower to start construction before your deed of trust is recorded you are relying on the borrower's ability to get the title company to accept an indemnity to issue its policy without exception to possible mechanics' liens. The title company may not accept the indemnity. If the indemnity is refused you cannot fund the loan and that will create a loss of goodwill with the borrower.

2. Added Costs

Even if the title company issues its policy the lender may face added costs when mechanic' liens are recorded. Your staff, particularly the senior management and legal department, will spend additional hours on settlement negotiations and legal actions.

3. Closing Delays

The inspection for priority of a deed of trust is not made until the recording is anticipated. When the title company inspection reveals construction has started, closing is delayed while the title company gathers the facts if needs to evaluate the acceptability of the risk created by the start of construction prior to recordation of the deed of trust.

4. Litigation Delays

In the event mechanics' liens are recorded, a sale of your loan or its payoff may be delayed. The title company may decide to challenge the validity of the liens. While the needed litigation proceeds you may incur months or years of delay in selling your loan or having it paid off. You do not have the control you would have when prior recordation is achieved.

5. Loss of Take-out Lender

A take-out lender may not purchase your loan or make a new loan in the face of recorded liens even if the title company insures against loss or damage because of enforcement of the liens. By law, many lenders must have a first lien position, and special insurance by the title insurer does not meet those legal requirements.

6. Marketability of Title

A buyer may decline to buy the completed work of improvement of any mechanics' liens are recorded. This could result in your funds being tied up longer than expected resulting in a loss of earnings.

7. Adverse Publicity

In the event of legal action the lender's name is used in the suit, not the title company's. Such adverse publicity is not needed.

8. Bankruptcy Delays

To forestall foreclosure of a mechanics' lien the borrower may file bankruptcy. In that event your funds are tied up for periods of time far in excess of those contemplated when the loan fees were charged.

9. Foreclosure Problems

The foreclosure of a deed of trust recorded prior to the start of construction generally extinguishes mechanics' liens. Such is not the case if construction starts before recordation of your deed of trust. If the deed of trust is recorded after the construction commences all lien claimants' interests may be superior to the deed of trust. This is true even if the lien claimant started work after the deed of trust has been recorded. All lien claimants' rights begin at the same time, that is, at the time the first work is started on the project.

10. You do NOT have the control you would have when prior recordation is achieved.

Prevent Problems. While no one makes a construction loan expecting problems, we must recognize that problem projects do arise. The best way to avoid problems is to anticipate them. Insist on prior recordation of the construction loan. Remember, a deed of trust recorded before the start of construction and before materials are furnished is prior to the claims of any mechanics' liens.



California Mechanics' Lien law provides special protection to contractors, subcontractors, laborers and suppliers who furnish labor or materials to repair, remodel or build your home.

If any of these people are not paid for the services or materials they have provided, your home may be subject to a mechanics' lien and eventual sale in a legal proceeding to enforce the lien. This result can occur even where full payment for the work of improvement has been made by the homeowner. The mechanics' lien is a right that California gives to workers and suppliers to record a lien to ensure payment. This lien may be recorded where the property owner has paid the contractor in full and the contractor then fails to pay the subcontractors, suppliers, or laborers. Thus, in the worst case, a homeowner may actually end up paying twice for the same work.

Why, you may ask, can a homeowner be placed in the impossible situation of having to pay twice for the same work? The answer lies in the Constitution and laws of California. The overriding theory behind the mechanics' lien law is that between two potentially blameless parties, the homeowner who has ordered the work and made full payment of the agreed amount and obtained the value of the work is in a better position to bear the loss than the laborer or supplier who has provided work or materials to the job site and has not been paid for his efforts by the contractor. It is the homeowner who bears the ultimate responsibility for making payment for services rendered. The theory is that the value of the property upon which the labor or materials have been bestowed has been increased by virtue of these efforts and the homeowner who has reaped this benefit is required in return to act as the ultimate guarantor of full payment to the persons responsible for this increase in value. In practice, a homeowner faced with a valid mechanics' lien may be compelled to pay the lien claimant and then pursue conventional legal remedies against the contractor or subcontractor who initially failed to pay the lien claimant but who himself was paid by the homeowner. Another justification for this result relates to the relative financial strengths of the parties to a work of improvement. The law views the property owner as being in a better situation to absorb the financial setback occasioned by having to pay the amount of a valid mechanics' lien, as opposed to a laborer or materialman who is viewed as being less able to absorb the financial burdens occasioned by not being paid for services or materials provided in connection with a work of improvement.

The best protection against these claims is for the homeowner to employ reputable firms with sufficient experience and capital and/or require completion and payment bonding of the construction work. The issuance of checks payable jointly to the contractor, materialmen and suppliers is another protective measure, as is the careful disbursement of funds in phases based upon the percentage of completion of the project at a given point in the construction process. The protection offered by mechanics' lien releases can also be helpful.

Even if a mechanics' lien is recorded against your property you may be able to resolve the problem without further payment to the lien claimant. This possibility exists where the proper procedure for establishing the lien was not followed. While it is true that mechanics' liens may be recorded by persons who have provided labor, services, or materials to a job site, each is required to strictly adhere to a well-established procedure in order to create a valid mechanics' lien.

Needless to say, this is one area of the law that is very complex, thus it may be worthwhile to consult an attorney if you become aware that a mechanics' lien has been recorded against your property. In the event you discover that a lien has been recorded but no effort has been made to enforce the lien, a title company may decide to ignore the lien. However, be prepared to be presented with a positive plan to eliminate the title problems created by this type of lien. This may be accomplished by means of a recorded mechanics' lien release from the person who created the lien, or other measures acceptable to the title company.

As in all areas of the real estate field, the best advice is to investigate the quality, integrity, and business reputation of the firm with whom you are dealing. Once you are satisfied you are dealing with a reputable company and before you begin your construction project, discuss your concerns about possible mechanics' lien problems and work out, in advance, a method of ensuring that they will not occur.



Under Proposition 90, California property owners who are 55 years and older may be able to qualify to transfer the assessed value of their principal residence sold in county “A” to their new residence in county “B.”

Qualifications for Proposition 90 are as follows:

- The purchaser or spouse must be 55 years of age, AND
- The replacement residence must be equal to or less than the value of the residence sold, AND
- The replacement residence must be located in the same county as the property being sold OR must be located in one of the counties which have voted to PASS Proposition 90 in order for the real property tax base to be transferred from the former residence to the replacement residence.

Before making plans to move, call the County Assessor’s Office in the county you are moving to and request the most recent information concerning Proposition 90.

<i>Counties - Passed</i>	<i>Effective Date</i>
1. Alameda	11/09/88
2. Los Angeles	11/09/88
3. Orange	11/09/88
4. San Diego	11/09/88
5. San Mateo	11/09/88
6. Santa Clara	07/07/89
7. Ventura	05/04/92

<i>Counties - Rejected</i>	
1. Butte	13. Nevada
2. Contra Costa	14. Riverside
3. El Dorado	15. Sacramento
4. Fresno	16. San Bernardino
5. Inyo	17. San Luis Obispo
6. Kern	18. Santa Barbara
7. Madero	19. Santa Cruz
8. Marin	20. Shasta
9. Mendocino	21. Solano
10. Modoc	22. Sonoma
11. Monterey	23. Tulare
12. Napa	

<i>Counties - No Action Taken</i>		
1. Alpine	11. Lassen	21. Siskiyou
2. Amador	12. Mariposa	22. Stanislaus
3. Calaveras	13. Merced	23. Sutter
4. Colusa	14. Mono	24. Tehama
5. Del Norte	15. Placer	25. Trinity
6. Glenn	16. Plumas	26. Tuolumne
7. Humboldt	17. San Benito	27. Yolo
8. Imperial	18. San Francisco	28. Yuba
9. Kings	19. San Joaquin	
10. Lake	20. Sierra	



Propositions 60 & 90 are constitutional initiatives passed by California voters. They provide property tax relief by preventing reassessment when a senior citizen sells his/her existing residence and purchases or constructs a replacement residence worth the same or less than the original.

Why Were They Enacted? They encourage a person, age 55 or older to “move down” to a smaller residence. When a senior citizen acquires a replacement property worth less than the original property, he/she will continue to pay approximately the same amount of annual property taxes as before

How Do These Propositions Work? When the senior citizen purchases or constructs a new residence, it is not reassessed, if he/she qualifies. The Assessor transfers the factored base value of the original residence to the replacement residence. Proposition 60 originally required that the replacement and the original be located in the same county. Later, Proposition 90 enabled this to be modified by local ordinance. Los Angeles County enacted an ordinance to provide that when the replacement is located in Los Angeles County, the original property may be located in any other California county.

Who Qualifies? The seller of the original residence, or spouse who resides with the seller, must be at least 55 years of age at the time of the sale.

When are these Propositions Effective? The replacement residence must have been purchased or constructed on or after November 5, 1986 if the original was located in Los Angeles County. The replacement residence must have been purchased or constructed on or after November 9, 1988 if the original was located in any other California county. Claims must be filed within three years following the purchase of the replacement residence.

Where are Claim Forms Available? Claim forms are available from several sources. Choose the most convenient for you. Online: Forms are available from the Assessor’s website: assessor.lacounty.gov
Email: Send us an email to helpdesk@assessor.lacounty.gov or Call (213) 893-1239.

Proposition 60 / 90 Eligibility Requirements

- The replacement property must be the owner’s principal residence and eligible for the Homeowners’ Exemption. The original property, at the time of its sale, must have been eligible for the Homeowners’ Exemption, or entitled to the Disabled Veterans’ Exemption.
- The seller of the original residence, or a spouse residing with the seller, must be at least 55 years of age, as of the date that the original property is transferred.
- The replacement property must be of equal or lesser “current market value” than the original.
- If the replacement is purchased in Los Angeles County, the original can be located in Los Angeles County or any other California county. Several other counties have passed similar Proposition 90 local option ordinances. If your original is in Los Angeles County, and you want to relocate in another county, contact that county for Proposition 90 eligibility.
- The replacement property must be purchased or newly constructed within two years (before or after) of the sale of the original property.
- The owner must file an application within three years following the purchase date or new construction completion date of the replacement property.
- This is a one-time only filing. Proposition 60/90 relief cannot be granted if the claimant, or spouse, was granted relief in the past.
- Proposition 60/90 relief includes, but is not limited to: single family residences, condominiums, units in planned unit developments, cooperative housing corporation units or lots, community apartment units, mobile homes subject to local real property tax, and owners’ living premises which are a portion of a larger structure.
- In most instances, if more than one owner of an original property is eligible for Proposition 60/90, they must choose among themselves which one will use the benefits.



Proposition 8 was passed in California in 1978 as a constitutional amendment that allows a temporary reduction in assessed value when a property incurs a “decline-in-value.” A decline-in-value occurs when the current market value of a property is less than the current assessed value as of January 1. In order to qualify for the reassessment, the property owner must demonstrate that on January 1, the market value of the property was less than the current assessed value. A claim form for a **“Decline-in-Value Reassessment Application (Prop. 8)”** must be filed with the Assessor between January 1 and December 31 for the fiscal year beginning on July 1. In instances in which December 31 falls on a Saturday, Sunday, or legal holiday, an application is valid if either filed or mailed and postmarked by the next business day.

FREQUENTLY ASKED QUESTIONS

Q. Do properties other than single family residences qualify?

A. Yes. All real property qualifies.

Q. What is a comparable sale?

A. A property sold with features that are similar to your property is a comparable sale. Comparable sales information helps you analyze the value of your home. For example, a property similar in location, zoning, size, number of bedrooms and bathrooms, age, quality and condition to yours that sold in the open market is a comparable sale.

Q. Where can I find comparable sales information?

A. A good place to start is online. The Assessor’s website offers sales information for properties that have sold within the last two years. The same information is available from any Assessor District Office. Also, many websites offer sales information free of charge. A local real estate agent or title agent can also be a valuable source of information.

Q. I filed my Proposition 8 Application by December 31. When and how will I know if my value will be reduced?

A. You will receive notification by mail before July 1.

Q. If my assessed value is reduced, how long will it last?

A. Proposition 8 reassessments are not permanent, but last at least one year. The assessed value may decrease or increase depending on the market value of your property on January 1 of each subsequent year. Your assessed value will never increase more than the trended base value. It is important to remember, however, that base year values suspended by Proposition 8 reassessment values continue to increase by an annual inflation factor of no more than 2% per year.

*For more information about Proposition 8 or for filing details, please contact me directly or visit your County Assessor online. *Contact your County Assessor’s Office as well as your Tax Accountant before making any decisions or taking legal action. This information is provided for you for reference purposes only and is deemed reliable but not guaranteed.*



Those who have owned their homes for a while, easily see the value of Proposition 13. Many of us remember that before Proposition 13 the average property tax rate in California was three percent of assessed value and there was no limit on annual increases. In those days, if a house on your block sold for much more than you paid for your house, you shuddered in fear when you received your next property tax bill. Chances are, your new taxes would be based on what your new neighbor was willing to pay for his home. Things got so bad in the late 1970s that people were actually losing their homes because of uncontrolled tax increases.

The assessment rate is now only one percent for all California property and annual tax increases are limited to no more than two percent. When property is sold it is then reassessed at market value, but the rate remains at one percent and the new owner is then protected by the two percent cap on annual increases.

What good is Proposition 13 to me?

Every owner of property in the state is covered. Proposition 13 is Article XIII A of the California Constitution.

How come I'm paying more in property taxes than some of my neighbors who have similar houses?

Under Proposition 13 you determine how much your property taxes will be. Your taxes are not based on your neighbors', but are based on the price you voluntarily agreed to pay for your new home.

We all get the same services, but I pay more. How can this be fair?

In California, just like other states, services have never been related to the amount you pay in property taxes. If services were tied to what you paid, you might see four fire trucks assigned to a costly home while only one would protect a less expensive residence. In fact, property taxes are not allocated for specific services. They go into the general fund along with other taxes and it is local public officials who determine how the money will be spent.

It still seems like I'm paying too much!

We all feel that way, but in fact, thanks to Proposition 13, the tax rate for all Californians is only a third of what it was. If you think things are bad now, multiply your tax bill by three and see what you get.

That's easy for your to say, you're still paying less than I am.

That may be true, but I've been paying for years. It's the neighbors that were here ahead of you that paid for all these local improvements you now enjoy.

I still don't see what good Proposition 13 is to me.

Besides your lower tax rate, it makes your taxes predictable. In a few years when new houses sell in the neighborhood for two or three times what you paid, you will be protected. Under Proposition 13 your property taxes can't go up more than two percent a year. You are going to find that very important when you get around to planning your retirement. If you ever find yourself on a fixed income, chances are, because of Proposition 13, you'll be able to keep your home.



These constitutional initiatives provide property tax relief for real property transfers between parents and children and from grandparents to grandchildren. Collectively, they make it easier to keep property “in the family.” In general, Proposition 58 states that real property transfers, from parent to child or child to parent, may be excluded from reassessment. Proposition 193 expands this tax relief to include transfers from grandparent(s) to grandchild(ren). In both cases, a claim must be filed within three years of the date of transfer to receive the full benefit of the exclusion.

Requirements and Guidelines for Propositions 58 and 193

1. The principal place of residence must have been granted a Homeowners’ Exemption or Disabled Veterans’ Exemption before the transfer. This residence need not be the new principal residence of the person that acquired the property.
2. No limit is placed on the assessed value of a principal residence that may be excluded from reassessment.
3. In addition to tax relief on the principal residence, you may claim an exclusion on transfers of other real property with an assessed value of up to \$1,000,000.
4. The \$1,000,000 exclusion applies separately to each eligible transferor. A \$2,000,000 limit applies to community real property of an eligible married couple.
5. Transfers by sale, gift, or inheritance qualify for the exclusion.
6. Transfers between parents and children as individuals, from grandparents to grandchildren as individuals, between joint tenants, from trusts to individuals, or from individuals to trusts may qualify for the exclusion.
7. Transfers from grandchildren to grandparents are not eligible for this tax relief.
8. Transfers of ownership interests in legal entities, aside from most trusts, do not qualify for the exclusion.
9. A claim must be filed within 3 years after the date of purchase or transfer for which the claim is filed or prior to transfer to a third party, whichever is earlier, or within 6 months after the mailing of the notice of supplemental or escape assessment, issued as a result of the transfer for which the claim is filed. Untimely filed claims are subject to certain conditions, i.e., the property must not have transferred or resold to a third party and the claim will only apply to future tax years.
10. If reassessment of your property occurs before the approval and processing of your timely filed claim, the reassessment may be reversed. In these situations, a corrected tax bill and/or a refund will be processed.

(Proposition 58) Transfer between Parent and Child Eligibility Requirements

1. The real property must be owned by the eligible transferor who is either the parent or child.
2. You must be a parent or child. A child may be a son, daughter, son-in-law, daughter-in-law, stepchild, or child adopted before the age of 18. Spouses of eligible children are also eligible until divorce or, if terminated by death, until the remarriage of the surviving spouse, stepparent, or parent-in-law.
3. You must complete a Claim for Reassessment Exclusion for Transfer between Parent and Child form for a gift or purchase of real property between parent and child.

(Proposition 193) Transfer from Grandparent to Grandchild Eligibility Requirements

1. The real property must be owned by the eligible transferor who is the grandparent.
2. You must be a grandchild whose parent(s) qualify as the deceased child(ren) of the grandparents as of the date of transfer, and you must be the decedent’s child.
3. You must complete a Claim for Reassessment Exclusion for Transfer from Grandparent to Grandchild form for a gift or purchase of real property from grandparent to grandchild.

How Do I File for Proposition 58/193 Tax Relief?

Online: Forms are available from the Assessor’s website: assessor.lacounty.gov

Email: helpdesk@assessor.lacounty.gov

Phone: Call (213)893-1239



They have been with us since July of 1983, but you and your neighbors still may not know what they are, what they do, and how they affect you and your property. To help you better understand this confusing subject, the California Land Title Association has answered some of the questions most commonly asked about supplemental real property taxes.

When did this tax come into effect? The Supplemental Real Property Tax Law was signed by the Governor in July of 1983 and is part of an ambitious drive to aid California's schools. This property tax revision is expected to produce over \$300 million per year in revenue for schools.

How will Supplemental Property Taxes affect me? If you don't plan on buying new property or undertaking new construction, this new tax will not affect you at all. But, if you do wish to do either of the two, you will be required to pay a supplemental property tax which will become a lien against your property as of the date of ownership change or the date of completion of new construction.

When and how will I be billed? "When" is not easy to predict. You could be billed in as few as three weeks, or it could take over six months. "When" will depend on the individual county and the workload of the County Assessor, the County Controller/Auditor and the County Tax Collector. The assessor will appraise your property and advise you of the new supplemental assessment amount. At that time you will have the opportunity to discuss your valuation, apply for a Homeowner's Exemption and be informed of your right to file an Assessment Appeal. The County will then calculate the amount of the supplemental tax and the tax collector will mail you a supplemental tax bill. The supplemental tax bill will identify, among other things, the following information: the amount of the supplemental tax and the date on which the taxes will become delinquent.

Can I pay my Supplemental Tax Bill in installments? All supplemental taxes on the secured roll are payable in two equal installments. The taxes are due on the date the bill is mailed and are delinquent on specified dates depending on the month the bill is mailed as follows:

- (1) If the bill is mailed within the months of July through October, the first installment shall become delinquent on December 10 of the same year. The second installment shall become delinquent on April 10 of the next year.
- (2) If the bill is mailed within the months of November through June, the first installment shall become delinquent on the last day of the month following the month in which the bill is mailed. The second installment shall become delinquent on the last day of the fourth calendar month following the date the first installment is delinquent.

How will the amount of my bill be determined? There is a formula used to determine your tax bill. The total supplemental assessment will be prorated based on the number of months remaining until the end of the tax year, June 30.

Can you give me an idea of how the proration factor works?

The supplemental tax becomes effective on the first day of the month following the month in which the change of ownership or completion of new construction actually occurred. If the effective date is July 1, then there will be no supplemental assessment on the current tax roll and the entire supplemental assessment will be made to the tax roll being prepared which will then reflect the full cash value. In the event the effective date is not on July 1, then the table of factors represented on the following panel is used to compute the supplemental assessment on the current tax roll.

<i>If the Effective Date is</i>	<i>The Proration Factor is:</i>	<i>If The Effective Date is</i>	<i>The Proration Factor is:</i>	EXAMPLE: The County Auditor finds that the supplemental property taxes on your new home would be \$1,000 for a full year. The change of ownership took place on September 15 with the effective date being October 1: the supplemental property taxes would, therefore, be subject to a proration factor of .75 and your supplemental tax would be \$750.
August 1st	92 ¢	February 1st	42 ¢	
September 1st	83 ¢	March 1st	33 ¢	
October 1st	75 ¢	April 1st	25 ¢	
November 1st	67 ¢	May 1st	17 ¢	
December 1st	58 ¢	June 1st	08 ¢	
January 1st	50 ¢			

Will my taxes be prorated in escrow?

No, unlike your ordinary annual taxes, the supplemental tax is a one time tax which dates from the date you take ownership of your property or complete the construction until the end of the tax year on June 30. The obligation for this tax is entirely that of the property owner.



Joint Tenancy

Under this method of holding title, each owner holds the property jointly with the other owners. Upon the death of one owner, the property passes to the surviving joint tenant. For assessment purposes, the termination of joint tenancy (other than husband and wife or parent/child transfers) causes a reappraisal.

Tenancy In Common

Under this method of co-ownership, each owner owns a specific percentage of the property. At death, tenants in common pass their interest in the property to their legal heir. The transfer of a tenancy in common interest will cause a reappraisal, unless it is a husband/wife or parent/child transfer, but only for the interest that has been transferred.

Legal Entities (Partnerships and Corporations)

Under this method, a reassessment occurs when there is a change in the controlling interest of the corporation or partnership. A controlling interest is defined as an interest greater than 50%. These changes in ownership are monitored and reported by the State Board of Equalization.

Leases

Whenever real property is leased for 35 years or more, including options, reappraisal is required. If the tenant then transfers or subleases that property with more than 35 years remaining on the original lease, state law requires it to be reappraised again. However, if the owner transfers or sells the leased property, a reappraisal is required only if there is less than 35 years remaining on the lease.

Trusts

In this method of holding title, there is only a reassessment if there has been a change of beneficial interest or control. For example, revocable trusts (i.e. living trusts) are not subject to reappraisal. Irrevocable trusts are reappraisable if the recipient or beneficiary is not the current owner.

Methods of Holding Title

A change in the method of holding title in itself does not cause a reappraisal. For example, if two equal partners incorporate, and each owns 50% of the corporate stock, no appraisal is required. In this case, the proportional ownership has not changed, only the method of holding title.

Summary

Under Proposition 13, a reassessment takes place upon a change of ownership or transfer of title. It is always best to review any proposed ownership change with the Assessor's office in advance to determine any possible property tax consequences.

NOTE

For transfers that are not required to be reappraised, taxpayers should have their escrow and title companies note their parent/child or husband/wife relationship on their deed or other documents transferring title, including the Preliminary Change of Ownership Report (which is filed with the deed.) After the deed is filed with the County Recorder, application forms are mailed to the new owners within 30 days. They should be returned immediately.



PROPOSITION 110 – SEVERLY AND PERMANENTLY DISABLED RESIDENT EXCLUSION

FAST FACT

#57

Proposition 110 is a constitutional initiative passed by California voters that provides property tax relief for severely and permanently disabled claimants when they sell an existing home and buy or build another. It allows the transfer of the base-year value of their existing home to a newly purchased or constructed home within select counties in the State of California. In addition, the initiative also provides relief for modifications that make a home more accessible for a severely disabled person.

Who Qualifies?

If you or your spouse that lives with you are severely and permanently disabled, you can buy a home of equal or lesser value than your existing home and transfer the trended base year value of your existing home to your new property. Also, you can modify your current home as long as the modifications directly satisfy disability requirements. The transfer of a trended base value from one property to another is a one-time benefit only. You must buy or newly construct a replacement property within two years of the sale of the original property. Both the original property and the replacement property must be your principal place of residence, and you must file your claim within three years following the purchase or completion of new construction of your replacement property. Once you have filed and received this tax relief, neither you nor your spouse who resides with you will qualify to receive this benefit again.

If a person has been granted a Proposition 60/90 benefit and subsequently becomes severely and permanently disabled, he/she may also qualify for a Proposition 110 benefit.

Eligibility Requirements...

1. Both your original and replacement property must be eligible for the homeowners' or disabled veterans' exemption and the replacement property must be your principal residence.
2. The replacement property must be of equal or lesser "current market value" than the original property. The "equal or lesser" test is applied to the entire replacement residence, even though the owner of the original property may acquire only a partial interest in the replacement residence. Owners of two qualifying original residences may not combine the values of those properties in order to qualify for a Proposition 110 base-year transfer to a replacement residence of greater value than the more valuable of the two original residences.
3. The replacement property must be purchased or built within two years (before or after) of the sale of the original property.
4. You must file your claim within three years following the purchase or completion of new construction of the replacement property.
5. You or a spouse residing with you must be severely and permanently disabled when the original property was either sold or modifications were completed.
6. The disabled person, spouse or legal guardian must submit a Physician's Certificate of Disability (Form OWN-107) with the claim.

Frequently Asked Questions

Q. My original home is located outside Los Angeles County, but my replacement home is in Los Angeles County. Do I qualify for relief? **A.** Yes

Q. I plan to relocate from Los Angeles County to another county. Do I qualify for relief? **A.** You may qualify for relief. As of November 5, 2004, the following counties in California have an ordinance enabling Proposition 110: Alameda Orange San Mateo Ventura Los Angeles San Diego Santa Clara Since the counties indicated above are subject to change, we recommend contacting the county to which you wish to move to verify Proposition 110 eligibility.

Q. Do all replacement homes qualify? **A.** If you meet all other eligibility requirements, relief is granted for single family residences, condominiums, units in planned developments, cooperative housing, community apartments, manufactured homes subject to local real property tax, and living units within a larger structure consisting of both residential and non-residential accommodations.

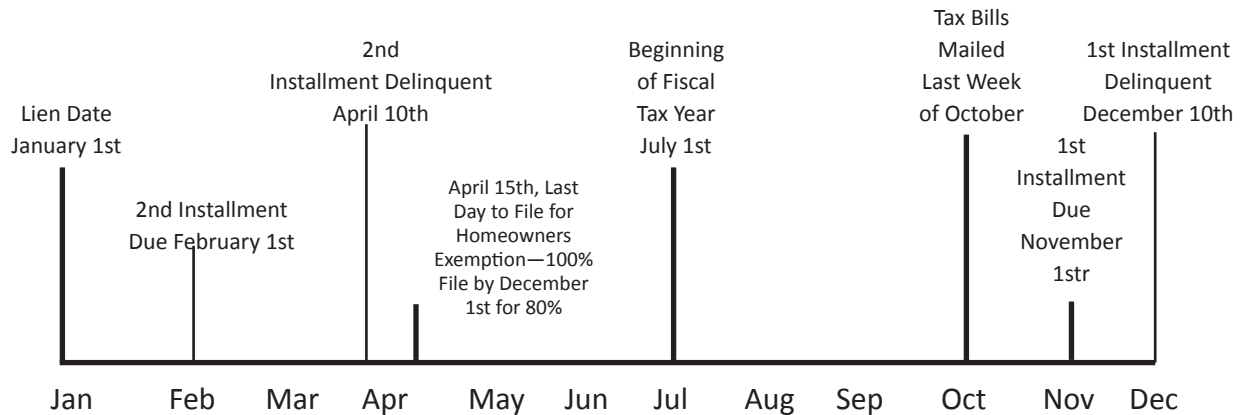
Q. If I make an improvement to my replacement home within two years of purchase, can I get additional tax relief for the new construction? **A.** Yes, as long as the total amount of your purchase and the new construction does not exceed the market value of the original property at the time of its sale.

Q. What does "equal or lesser value" of a replacement property mean? **A.** The meaning of "equal or lesser value" depends on when you purchase the replacement property. In general, equal or lesser value means the following: 100% or less of the market value of the original property if a replacement property is purchased or newly constructed before the original property is sold, or 105% or less of the market value of the original property if a replacement property is purchased or newly constructed within the first year after the original property is sold, or 110% or less of the market value of the original property if a replacement property is purchased or newly constructed within the second year after the original property is sold. When making the "equal or lesser value" test it is important to understand that the market value of a property is not necessarily the same as the sale/purchase price. The Assessor will determine the market value of each property. If the market value of your replacement property exceeds the "equal or lesser value" test, no relief is available. It is "all or nothing" with no partial benefits granted.

Q. If I qualify for Proposition 110 benefits, do I still need to file for a Homeowners' Exemption on the replacement property? **A.** Yes. Homeowners' exemptions are not automatically granted.

Q. Does the owner of a home that is modified to make it more accessible need to be disabled to qualify for Proposition 110 benefits? **A.** No. The severely and permanently disabled person need only be a permanent resident of the dwelling.

Q. What tax relief is available for homes modified to improve accessibility? **A.** If qualified, the value of the improvement, addition, modification, or feature that specially adapts a home's accessibility for a severely and permanently disabled person is excluded from property tax assessment.



<i>Closing Month</i>	<i>1st Payment</i>	<i>Estimated Impounds</i>	<i>Tax Message</i>
January	March	2 Months	All Paid
February	April	2 Months	All Paid
March	May	3 Months	All Paid
April	June	4 Months	All Paid
May	July	5 Months	All Paid
June	August	6 Months	All Paid
July	September	7 Months	All Paid
August	October	8 Months	All Paid
September	November	9 Months	All Paid
October	December	4 Months	Pay 1st Half
November	January	5 Months	Pay 1st Half
December	February	6 Months	Pay 1st Half

- Owner must own and occupy property on the 1st of March to be eligible for applicable exemptions.
- Penalties for delinquency are 10% on the date of delinquency plus \$10.00 costs for delinquent 2nd installment. Thereafter, 1.5% per month of original tax amount until paid.
- Property may be sold at public auction after 5 years of delinquency.
- Property taxes are based on the assessed value of your property. Property tax bills show land and improvement values. Improvements include all assessable buildings and structures on the land.
- Proposition 13 (passed in 1978) substantially reduced property tax rates. As a result, the maximum levy cannot exceed 1% of a property's assessed value (plus bonded indebtedness and direct assessment taxes.) Increases in assessed value are limited to 2% annually. Only four events can cause a reappraisal:
 - A change in ownership
 - Completed new construction
 - New construction partially completed on line date (January 1st)
 - A decline-in-value
- State law requires the Assessor to reappraise property upon a change in ownership or completion of new construction. The supplemental assessment reflects the difference between the reappraised value and the prior value.
- Supplemental tax bills are mailed directly to the property owner and do not go to impound accounts. The owner is responsible to verify if the lender will pay the supplemental bill.



WHEN HOMEBUYERS ARE APPROVED to

purchase a property, they are bombarded with a great deal of information and must make some very important decisions as part of the closing process. One critical decision is determining who will handle the financial aspects of their real estate transaction to ensure all parties are properly allocated their portion of the costs and receive accurate cash proceeds.

What sounds like a simple accounting process, however, can be immensely complicated depending on the state, the type of real estate transaction and the potential issues that must be resolved before closing can occur. Not only must this assigned third party handle and manage potentially large sums of money on behalf of the parties to the transaction, but they must also make sure every detail of the closing is correct and accurately reflects the intention of each participant.

What Is Involved In the Settlement?

Before a homebuyer can actually close on his/her property, a great deal of documentation is required by the lender and includes everything from the sales contract and loan application, buyer credit history, property appraisal and flood zone determination to the title search report.

Throughout the mortgage process, the lender, seller and buyer incur costs associated with the real estate transaction that must be “settled” at the closing. A multi-party financial transaction also occurs when the lender loans funds to the homebuyer and the homebuyer then “settles” with the seller by transferring the agreed upon funds to that party.

Who Can Provide Escrow/Settlement/Closing Services?

The kind of company that can manage this process-called escrow closings in some Western states and real estate settlements or real estate closings in the rest of the U.S.- is dictated by state law and can vary a great deal from state to state. It can be title insurance companies, underwritten title companies, independent escrow companies, real estate brokers, attorneys and financial institutions.

In most states, title insurance and underwritten title companies are a good choice since they have no financial stake in the real estate transaction itself and can act as a “disinterested third party.” Since these firms usually order the title search and make sure all encumbrances to the title are resolved prior to closing, they are an economical choice for also managing the entire closing process.

What Services Are Provided

In order to effectuate a closing, the third party assigned to manage the process must:

1. Account for and make sure all documents are correct
2. In some states, draw the documents in order to convey the title
3. Receive funds, set up and hold those funds in a secure escrow or trust account
4. Review the instructions of all participants to the transaction and establish the appropriate steps to make sure all instructions are implemented at closing
5. Set the date and arrange for the place of the closing when all documents and funds are received
6. Provide an on-site closing representative to facilitate the closing transaction
7. Disburse funds as required
8. Ensure the timely recording and filing of all real estate documents
9. Final reconciliation of accounts

The Value of a Third-Party Closing Expert

For most people, buying a home is one of the largest financial transactions they are involved in. They want to be confident that every aspect of the closing process is handled professionally and precisely. Having an experienced, disinterested third-party closing expert managing the process enables a smooth, accurate closing that will properly reflect the intent of all the participants to the deal. Both the seller and the buyer can walk away from the closing table with assurance and peace-of-mind that their real estate agreement was executed with the proper due diligence, regulatory compliance and financial accuracy.



Initial Request for Title Insurance

An order for title insurance is opened with a title officer who produces the initial response promptly within 24 to 48 hours. A preliminary report can be issued with the minimum of information; without even identifying the buyer or the terms of the sale. It shows the record title as it presently exists and is only an offer to provide insurance. To order a preliminary report contact your local Pacific Coast Title representative or office.

On-Site Searching and Examining

Your title officer performs three searches: Property, Name, and Tax searches. From that information, a preliminary report is created. Our on-site customer service center expedites the process of obtaining hard copies of recorded documents. Imaging helps expedite searches with the ability to obtain documents on-line.

Technical Review

The skill and expertise of our title officer is the key to providing you with a useful, accurate title report. Once the report is issued the review begins by making a technical analysis of the documents of record. An interpretive view of all recorded matters is made to evaluate their impact on the title to the property. Among the questions the examiner asks are: Would any of the recorded matters prevent the buyer from using the property for its intended purpose? Can antiquated leases be eliminated from the policy per a review of the current leases?

Inspection Analysis

In anticipation of ALTA coverage, a site inspection is ordered. From the inspection report, the initial title product is supplemented to show any encroachments or other off-record matters which would ultimately impact the title.

Re-Insurance

The title insurer will insure up to the total sale price or loan amount, and then employs another title insurance company to insure them. The premium paid to the re-insurance title company is deducted from the title fees; it is not an additional charge to the parties. Re-insurance is handled by the Title Department when requested by the proposed insured or is required based upon self-imposed or statutory title insurance limits.

Co-Insurance

The proposed insured may only allow the title insurance company to insure up to a certain amount (i.e. not the total sale price or loan amount). The insuring company must employ another title insurance company to insure the remainder of the sale price or loan amount. When there is coinsurance, the customer is charged based upon each company's filed rates for the portion of the total liability covered by that company. The co-insurance company may be chosen by the customer.

We Earn Your Respect with our Skills, Service and Solutions

We try not to point out impediments to the close of a transaction without also offering assistance and solutions. By understanding the sometimes delicate balance of the interests of the parties to a transaction, and by professionally and courteously handling issues as they arise, we can capably guide a transaction to a successful conclusion.

Documents in the Title Process

- Preliminary Report
- Commitment - Shows the condition of title in the way we are willing to issue it.
- Pro Forma - Specimen of what the requested policy, as requested, will look like. Underwriting issues not completed. Not binding upon the company.
- Policy - Final product. Contract of indemnity between named insureds and the company.



Title insurance is actually a process, with the insurance policy being the end product. This process starts with a comprehensive search of public records to determine if any liens or other encumbrances are attached to the title. During the search, detailed information from potentially hundreds of sources is gathered and reviewed, including tax records, federal, state and local records, court judgments, deeds and an evaluation of whether the property characteristics are accurately reflected by the information on the title. Not surprisingly, one in four title searches uncovers some problem that must be rectified prior to the close.

What kind of problems? There are four primary categories that can cloud a title and result in significant risk for a prospective home buyer. The title search meticulously seeks out and evaluates any known indication of any of these issues; however, even the most comprehensive search may not uncover every hidden area of title risk:

- Liens can be placed against a title by any party with an unpaid financial obligation against the property owner. The nature of these claims can be everything from unpaid child support or alimony to unpaid parking tickets, taxes or bills from contractors like electricians or plumbers.
- Errors may have occurred during the course of previous ownership changes that could have included recording errors, typographical errors, incorrect legal descriptions, incorrect indexing of land records or title search errors resulting from undisclosed issues like unsatisfied claims not shown in the public record.
- Claims against a property may come from missing heirs or heirs born after the execution of a will, the dower or courtesy rights of spouses of former owners, claims from ex-spouses or even from government or corporate entities. They can also arise when the mental competence of a grantor of deed is called into question; when wills are not properly probated or are misinterpreted; when a title was transferred by a minor; or when a grantor of a deed did so while under undue influence.
- Fraudulent activity such as forged signatures or fraud in the execution of documents, the use of false powers of attorney in the execution of documents, false impersonation by someone claiming to be the owner of the property or any other fraudulent activity can invalidate any title work that occurred from that point on.

Prospective buyers should be certain they know what issues affect the title of the property they plan to buy and recognize that even new construction properties can be subject to these same kinds of problems. Buyers should make sure that all issues that come to light from the title search are adequately resolved prior to the closing.

What does title Insurance cover? Once the title search has been concluded and curative work to resolve any issues has been completed, title insurance can then be issued. The title insurance policy protects policy owners against covered financial losses associated with claims against the title that were not discovered during the title search process. It also insures against the title being rejected by the subsequent buyer of your property due to preexisting title defects and covers losses that may arise after the property is sold if title covenants were included in the

sales contract. This includes attorney fees and costs associated with defending the title and insures that the policy holder is the legal owner and has access to the property. Since the final title insurance policy may have some coverage exceptions (such as conditions, tility and other easements or set-back requirements), policy owners must carefully read the coverage information for their specific policy provisions.

Who is covered by title Insurance? There are two different kinds of title insurance policies, and each covers a specific type of policy owner:

Lender's (or Loan) title policies are required by lenders and paid for by the borrower(s) at the closing. However, these policies only protect the lending institution in the event a title problem is later uncovered and causes a financial loss. Lender title insurance covers institutions up to the amount of the mortgage loan associated with the property, but makes no provision for the borrower's losses.

- **Owner's Title policies** are not required for home buyers, and in many jurisdictions an Owner's policy is not offered during the mortgage process. As a result, home buyers are left without title risk coverage and often don't know they had a choice. Without an Owner's policy, home buyers must pay for title curative work out-of-pocket and the equity they have in their property can be at risk. However, with an Owner's title insurance policy in effect, the homeowner's investment is fully protected since the policy usually covers buyers up to the full sale price.

Lender's title policies and Owner's title policies cover many of the same things. In both cases, the policy holders are protected from title risks such as title search errors, claims by missing heirs or ex-spouses, forged signatures in the chain of title and many other title problems that could go undetected before the close. Attorney fees and settlement costs are also covered up to the policy's limit.

What does title Insurance cost? Many states set the rates for title insurance and major lenders may be able to secure volume-based rates for their borrowers. Home buyers should always feel free to shop policy coverage and rates before making their final choice.

Unlike other types of insurances that require ongoing payments, title insurance covers things that happened in the past (prior to the closing) that could affect the status of the property's title. There is a one time cost for title insurance at the time of the closing and the policy is good for as long as home buyers or their heirs own the property.

How is title Insurance regulated? Each state has a department of insurance that generally regulates all forms of insurance, including title insurance. These governmental bodies are responsible for establishing and enforcing regulations for insurance sold in their respective states.

A TIME-TESTED PROFESSION Unlike many countries around the world, the United States has a time-tested, extensive system of maintaining public land records that gives property owners an unmatched level of confidence in their ownership status. But the system only works because of the extensive research and corrective actions that are taken to maintain the integrity of property titles. Home buyers should ask about the title insurance options available to them and feel free to discuss the provisions and exceptions of any title insurance coverage they might be considering. Whatever they ultimately decide about title insurance, it should always be an informed choice.



Title to real property in California may be held by individuals, either in Sole Ownership or in Co-Ownership. Co-Ownership of real property occurs when title is held by two or more persons. There are several variations as to how title may be held in each type of ownership. The following brief summaries reference some of the more common examples of Sole Ownership and Co-Ownership.

SOLE OWNERSHIP

A Single Man/Woman

A man or woman who is not legally married.

Example: John Doe, a single man.

An Unmarried Man/Woman

A man or woman, who having been married is legally divorced. Example: Joe Doe, an unmarried man.

A Married Man/Woman, as His/Her Sole and Separate Property

When a married man or woman wishes to acquire title in his or her name alone, the spouse must consent, by quitclaim deed or otherwise, to transfer thereby relinquishing all right, title and interest in the property. Example: John Doe, a married man, as his sole and separate property.

CO-OWNERSHIP

Community Property

The California Civil Code defines community property as property acquired by husband and wife, or by either. Real property conveyed to a married man or woman is presumed to be community property, unless otherwise stated. Under community property, both spouses have the right to dispose of one half of the community property. If a spouse does not exercise his/her right to dispose of one-half to someone other than his/her spouse, then the one-half will go to the surviving spouse without administration. If a spouse exercises his/her right to dispose of one-half, that half is subject to administration in the estate.

Example: John Doe and Mary Doe, husband and wife, as community property.

Example: John Doe and Mary Doe, husband and wife.

Example: John Doe, a married man.

Joint Tenancy

A joint tenancy estate is defined in the Civil Code as follows: "A joint interest is one owned by two or more persons in equal shares, by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy." A chief characteristic of joint tenancy property is the right of survivorship.

When a joint tenant dies, title to the property immediately vests in the surviving joint tenant(s). As a consequence, joint tenancy property is not subject to disposition by will.

Example: John Doe and Mary Doe, husband and wife, as joint tenants.

Tenancy in Common

Under tenancy in common, the co-owners own undivided interests, but unlike joint tenancy, these interests need not be equal in quantity or duration, and may arise at different times. There is no right of survivorship; each tenant owns an interest which, on his or her death, vests in his or her heirs or devisees. Example: John Doe, a single man, as to an undivided 3/4th interest, and George Smith, a single man, as to an undivided 1/4th interest; as tenants in common.

Trust

Title to real property in California may be held in a title holding trust. The trust holds legal and equitable title to the real estate. The trustee holds title for the trustor/beneficiary who retains all of the management rights and responsibilities.

Community Property with Right of Survivorship

Community Property of a husband and wife, when expressly declared in the transfer document to be community property with the right of survivorship, and which may be accepted in writing on the face of the document by a statement signed or initialed by the grantees, shall, upon the death of one of the spouses, pass to the survivor, without administration, subject to the same procedures as property held in joint tenancy.

The preceding summaries are a few of the more common ways to take title to real property in California and are provided for informational purposes only. For a more comprehensive understanding of the legal and tax consequences, appropriate consultation is recommended. There are significant tax and legal consequences on how you hold title. We strongly suggest contacting an attorney and/or CPA for specific advice on how you should actually vest your title.



Following is a list of real estate transactions that are exempt from the Documentary Transfer Tax under Los Angeles County's amended Ordinance and State Revenue and Taxation Code Section 11902, et seq. A statement as shown below must appear on the face of all documents to be recorded that are exempt from the tax. Please contact the Recorder's Office staff at (562)462-2125 if you have any further questions.

1. Conveyances Confirming Title in Grantee

"This conveyance confirms title to the grantee(s) who continue to hold the same interest acquired on Date _____, Document No. wherein \$_____ Documentary Transfer was paid, R & T 1911."

2. Conveyances in Dissolution of Marriage

"This conveyance is in dissolution of marriage by one spouse to the other, R & T 11927."

3. Conveyances to Secure a Debt

"This conveyance is to secure a debt, R & T 11921."

4. Reconveyances Upon Satisfaction of a Debt

"This is a reconveyance of realty upon satisfaction of a debt, R & T 11921."

5. Conveyances Transferring Interests Into or out of a Living Trust

"This conveyance transfers an interest into or out of a Living Trust, R & T 11930."

6. Conveyances Changing Manner in Which Title is Held

"This conveyance changes the manner in which title is held, grantor(s) and grantee(s) remain the same and continue to hold the same proportionate interest, R & T 11911."

7. Court Ordered Conveyances Not Pursuant to Sale

"This is a court-ordered conveyance or decree that is not pursuant to sale, R & T 11911."

8. Conveyances Given For No Value

"This is a bonafide gift and the grantor received nothing in return, R & T 11911."

9. Conveyances to Establish Sole and Separate Property of a Spouse

"This conveyance establishes sole and separate property of a spouse, R & T 11911."

10. Conveyances to Confirm a Community Property Interest when property was purchased with Community Property Funds

"This conveyance confirms a community property interest, which was purchased with Community Property Funds, R & T 11911."

11. Conveyances to Confirm a Change of Name

"This conveyance confirms a change of name, and the grantor and grantee are the same party, R & T 11911."

12. Conveyance of An Easement or Oil and Gas Lease Where the Consideration and Value is Less Than \$100

"This is a conveyance of an easement (Oil and Gas Lease) and the consideration and value is less than \$100, R & T 11911."

13. Conveyances Where the Liens and Encumbrances Are Equal or More Than the Value of Property, and No Further Consideration is Given

"The value of the property in this conveyance, exclusive of liens and encumbrances is \$100 or less, and there is no additional consideration received by the grantor, R & T 11911."

14. Conveyances From a Trustee Under a Land Contract at the Consummation of the Contract

"This is a conveyance of equitable title from a trustee, under a land contract, to the vendee at the consummation of the contract, R & T 11911."

15. Conveyances From Individual(s)/Legal Entity(ies) to Individual(s)/Legal Entity(ies) Where the Grantors and Grantees Are Comprised of the Same Parties, and Parties Continue to Hold the Same Proportionate Interest. (Exception: Dissolution of a Partnership. R & T 11925 (b))

"The grantors and the grantees in this conveyance are comprised of the same parties who continue to hold the same proportionate interest in the property, R & T 11923 (d)"



A lis pendens literally means that litigation is pending. It tells the public that a lawsuit affecting the property is in progress and that any judgment awarded in that legal action will have priority as of the date of the lis pendens. Some lawyers file a lis pendens creates a cloud on the title and can prevent a potential sale of the property taking place.

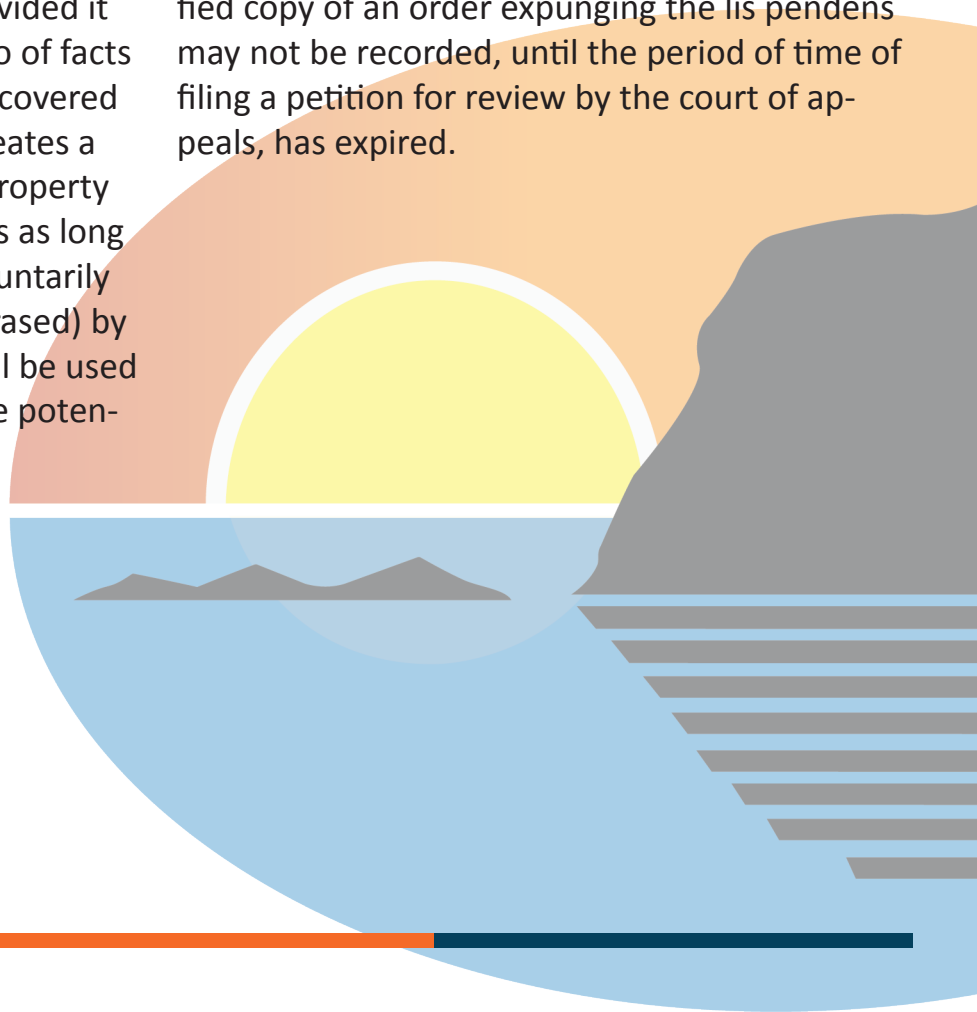
A lis pendens gives constructive notice of a pending lawsuit relating to real property or affecting the title or the right of possession of real property. The notice is recorded in the County Recorders Office in which the property is located, at the time the complaint or cross complaint is filed, or at any time thereafter.

Once recorded the lis pendens imparts constructive notice not only of its contents (provided it meets statutory requirements), but also of facts concerning the action that could be discovered by reasonable inquiry. A lis pendens creates a cloud on title which could render the property unmarketable. Said lis pendens remains as long as the action is pending, unless it is voluntarily withdrawn or expunged (wiped out, erased) by motion to the court (caution should still be used even if the lis pendens is removed since potential for litigation still exists).

The ground for expungement include the following:

1. Underlying action does not affect title to or the right to possession of the real property described in the notice, or
2. The lawsuit was not commenced, or is not prosecuted for a proper purpose and in good faith.

The court may also order expungement, even if they decide the real property claim is probably valid, if the court decides that adequate relief can be secured by posting a bond, an amount sufficient to indemnify the claimant against all resulting damages from removing the lis pendens. If a motion to expunge is granted, a certified copy of an order expunging the lis pendens may not be recorded, until the period of time of filing a petition for review by the court of appeals, has expired.





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