



Fidelity National Title

# Buyer's Guide

A Guide To Purchasing Your Dream Home

escrow process

title insurance

loan process

closing costs

## ▶ **Table of Contents**

▶ How to Become a Buyer	4-7
▶ The Escrow Process	8-10
▶ Life of an Escrow	11,12
▶ Title Insurance	13
▶ Statement of Identity	14
▶ Title Policy Comparison	15
▶ The Loan Process	16
▶ Mortgage Loan Checklist	17
▶ Concurrent Co-Ownership Interests	18,19
▶ Important Real Property Tax Dates	20
▶ Tax Prorations	21
▶ The Advantages of Having a Fidelity National Home Warranty on Your House	22
▶ Guide to Closing Costs	23
▶ What Closing Costs Are All About	24
▶ Overview of Closing Costs	25
▶ Moving Checklist	26,27
▶ Glossary	28-35
▶ Notes	36,37



## How To Become A Buyer

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You are about to embark on one of the most important and exciting decisions in your lifetime, the selection and purchase of your home. It is a decision that will bring you years of comfort and joy. Yet, the idea of spending your free time evaluating homes and neighborhoods, figuring your down payment and monthly costs, applying for a loan, and finalizing the purchase can be an overwhelming process. For some buyers, the process is tedious and confusing. This is why consulting a professional realtor is a smart decision.

A licensed Real Estate Agent can help you find a house, efficiently and quickly. Discuss with your agent the type of home you believe will be right for your needs. Is your family growing? Do you entertain a lot? Garden? Barbecue? Work at home? Are you a chef? A wardrobe buff? Are you a fixer-upper or a total couch potato?

Your realtor's expertise and experience will be crucial in helping you find the right home of your dreams. He/she has access to the Multiple Listing Services (MLS), which provides information on virtually every home for sale in the market. This is a useful tool because it provides the most current comparative information available for more informed shopping.

In addition, your Realtor will show you homes that you can comfortably afford. He/ she will have the resources to help you understand how much a lender will let you borrow and on what basis it is calculated. Once you have calculated a price range, your Realtor will work with you to establish criteria that will lead you to the right home.

When you are ready to make an offer, your Realtor can assist you. He/she cannot suggest a lower price than what is listed, but he/she can tell you what comparable homes are selling for in the same neighborhood. Your realtor will act as the intermediary between you and the seller who is likely to also be represented by an agent. If there are negotiations over price, closing dates, contingencies, and items - such as appliances - to be left or taken, your Realtor will be your representative.

Once your offer is accepted, you will have a lot to do in a short period of time. Your Realtor will direct you to a lender, and inspection and insurance professionals and Fidelity National Title for your escrow and title needs. He/she will keep you on track and organized.

### **Shop Smarter...Not Harder**

Fine tune those dreams of your nest home by working on the answers to two questions:



### **Get Your Financing In Order**

You can get together with a lender to get your loan application completed and the financing process started. Be prepared to provide the lender with copies of any important and necessary information.

### **Making Decisions About Your Purchases**

Below are some of the items you'll need to consider and how the purchase process works:

#### **How Much Should You Offer to Pay?**

Should you offer to pay the seller's asking price or a lower one? Consider such factors as: How long has the house been on the market? Is its price reasonable? Your Realtor can show you comparable sales (comps) for similar properties in the neighborhood to help you. How competitive is the area's home buying market? If the seller is offering an assumable mortgage or financing, how much is it worth to you?

#### **Making Decisions About Your Purchase**

Once you have found the perfect house, your Realtor will take you through the purchasing process: Submit your offer to buy the house. The seller may accept your first offer, or you may go through one or several counter-offers before you and the seller agree on the terms of the sale. Once you both agree, you have a contract of sale which spells out the details and responsibilities of all parties involved in the transaction.

#### **What Conditions Do you want To Place On Buying The House?**

When you commit to buy the house through your offer, you may make that commitment contingent upon certain things happening, such as you securing financing for the home. In a similar vein, you may purchase contingent upon the sale of your present home by a certain time and under certain terms.

You will also want to make sure the house is in good shape. You may make the contract subject to your being satisfied with a building inspector's report and/or an inspection for termites. The purchase should also be subject to your being satisfied with your own inspection of the house just prior to closing.



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### **What Special Provisions Should Be Included?**

Most contracts for sale include some standard provisions, such as one for property taxes, insurance costs, utility bills, and special assessments to be prorated at closing between buyer and seller. Others outline particulars about what happens if the property is damaged before closing or if the seller or buyer fails to go through with the sale. You may want to add your own special provisions. For example, you may want a new home builder to provide you with home warranty insurance at no cost to you.

### **What Are you Buying?**

The contract should spell out everything that is part of the purchase that may not be clearly part of the real estate. Common items that could cause questions include appliances, light fixtures (such as chandelier in the dining room), shades, blinds, curtains and rods, screens and storm windows, shelving or cabinets, potted flowers, shrubs and trees, or perhaps a swing set that is cemented down.

### **What Happens To The Earnest Money?**

A "deposit" is made, in part, to show the seller your seriousness about buying. Your Realtor will inform you of the amount that is usually given in your area. The seller doesn't actually receive the earnest money. A third party, Fidelity National Title - holds the amount in a special trust - or escrow account until the sale is closed or the contract is broken.

If you go through with the sale, the money is applied to your down payment or other closing costs. If you fail to buy the house, the seller has the right to keep the earnest money. However, you can get your money back until the point at which you are notified that the seller has accepted your offer. And if the seller fails to fulfill his/her obligations, the money is yours.



# The Escrow Process

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## **What is an Escrow?**

When opening an escrow, the buyer and seller establish terms and conditions for the transfer of ownership of that property. These terms and conditions are given to a neutral third party known as the escrow holder (Fidelity National Title). The Escrow Officer, in turn has the responsibility of seeing that these terms of the escrow are carried out. The escrow is an independent third party -- the vehicle by which the interest of all parties to the transaction are protected.

## **How Does the Escrow Process Work?**

The Escrow Officer takes instructions based on the terms of your Purchase Agreement and the lender's requirements. The Escrow Officer can hold inspection reports and bills for work performed as required by the Purchase Agreement. Other elements of the escrow include, hazard and title insurance, and the grant deed from the seller to you. Escrow cannot be completed until these have been satisfied and all parties have signed escrow documents.

## **What Does the Escrow Holder Do?**

The escrow holder is a neutral third party, such as Fidelity National Title, that maintains the escrow and impartially oversees the escrow process, ensuring that all conditions of the sale are properly met.

## ***The escrow holder's duties include:***

- Serve as the neutral agent and the liaison between all parties involved.
- Prepare the escrow instructions.
- Request a Preliminary Title Search to determine the status of the title to the property.
- Comply with the lender's requirements as specified on its instructions to escrow.
- Receive and handle purchase funds from the buyer.
- Prepare or secure the deed and documents related to the escrow.
- Prorate taxes, interest, insurance and rents.
- Secure releases of all contingencies or other documents imposed on the escrow.
- Request the deed and any other documents.
- Close the escrow pursuant to instructions supplied by the seller, buyer, and lender, if any.
- Disburse funds as authorized by the instructions, including charges for title insurance, recording fees, real estate commissions and loan payoffs.
- Prepare final statements for all parties involved that account for the disposition of all funds held in the escrow account.

**How Do I Open An Escrow?**

When your offer has been accepted, your Real Estate Agent will open escrow with Fidelity National Title. As soon as you execute the Purchase Agreement, he/she will place your initial deposit (earnest money) into an escrow account at Fidelity National Title.

Written evidence of the deposit is generally included in your copy of the sales contract. The funds will then be deposited in a separate escrow account and processed through your local bank. You will receive a receipt for the funds from Fidelity National Title.

**What Information Will I Have to Provide?**

You may be asked to complete a Statement of Identity as part of the paperwork. Because many people have the same name, the Statement of Identity is used to identify the specific person involved in the transaction through such information as date of birth, social security number, etc. This information is strictly confidential.

**How Long Is An Escrow?**

The length of an escrow is determined by the terms of the Purchase Agreement and can range from a few days to several months. The average length of an escrow is usually 45 days.

**When Do I Sign Escrow Instructions and Where?**

A few days before closing, your Fidelity National Title Escrow Officer or your realtor will contact you to make the appointment for you to sign your escrow instructions, grant deed and final papers. At this time, your Escrow Officer will also tell you the amount of money you will need to bring in.



## Your Appointment

Now that you have your appointment to sign your papers, the following is a list of items you will need in preparation for your appointment.

### • Identification

All Parties - there are several acceptable forms of identification which may be presented. One of the following forms must be presented at the signing of escrow in order for the signature to be notarized: current California or (your state) driver's license, passport or Department of Motor Vehicles ID card.

### • Cashier's Check

(If applicable) You need a cashier's check or a certified check issued by a California or (your state) financial institution made payable to Fidelity National Title in the amount indicated to you by your Escrow Officer. A personal check may delay the closing since Fidelity National Title is required by law to have "good funds" before disbursing funds from escrow.

### • Lender's Requirements

Check with your lender to make sure you have satisfied all your lender's requirements before coming to Fidelity National Title to sign the papers.

### • Fire and Hazard Insurance

You must have fire and hazard insurance in place before the lender will send money to Fidelity National Title to fund the loan. Whenever you buy a home, you must have insurance. Once you have spoken to your insurance agent, call Fidelity National Title with the insurance agent's name and phone number so they can make sure that the policy complies with your lender's requirements.

### • Title To Your Home

You may refer to the "Common Co-Ownership Interests" in the next few pages of this guide for general information with regard to holding title, but is best to contact your attorney or tax consultant.

### • After Your Appointment

After all parties have signed all the necessary papers, your Escrow Officer will return your loan documents to the lender for final review. This review usually occurs within a few days of execution of the documents. Once the review is completed, the lender will call your Escrow Officer so that the necessary final paperwork can be completed.

### • Escrow Closing

The escrow closing is the legal transfer of title to the property from the seller to the buyer. Once all the conditions of the escrow have been satisfied, your Escrow Officer will inform you of the closing date and will take care of all the final details. Usually after funds are disbursed, the deed of trust is recorded within one business day. This completes the transaction and signifies the close of escrow.

# The Life of an Escrow

## The Buyer(s)

Submit a written offer to purchase (or accepts the Seller's counter-offer) accompanied by a good faith deposit amount.

Applies for a new loan, completing all required forms and often prepaying certain fees such as credit report and appraisal costs.

Approves the preliminary report and any property disclosure, or inspection reports called for by the purchase and sale agreement (Deposit Receipt).

Approves and signs the escrow instructions, new loan documents and other related instruments, required to complete the transaction.

Fulfills any remaining conditions specified in the contract, lender's instructions and/or the escrow instructions.

Approves any final changes by signing amendments to the escrow instructions or contract.

Deposits sufficient funds in the escrow to pay the remaining down payment and closing costs.

## The Lender

Accepts the new loan application and other related documents from the borrower and begins the qualification process.

Orders and reviews the property appraisal, credit report, verification of employment, verification of deposit, preliminary report and other related information.

Submits the entire package to the loan committee and/or underwriters for approval. When approved, loan conditions and title insurance requirements are established.

Informs borrower's of loan approval, terms and commitment, expiration date, and provides a good faith estimate of the closing costs.

Deposits the new loan documents and instructions with the escrow holder for borrower's approval and signature.

Reviews and approves the executed loan package and coordinates the loan funding with the Escrow Officer.



# The Life of an Escrow

Fidelity National Title

## The Escrow Officer

Receives an order for the title and escrow services for Fidelity National Title.

Orders the title search and examination on the subject property. Acts as the impartial "stakeholder" or depository, in fiduciary capacity, for all documents and monies required to complete the transaction, per written instructions from the principals.

With authorization from the lender, agent or principal, orders demands on existing deeds of trust and liens or judgements, if any. For an assumption or subject to loan, orders the beneficiary's statement or the formal assumption package.

Reviews documents received in the escrow: Preliminary Title Report, payoff of assumption statements, new loan package, and other related instruments. Reviews the condition in the lender's instructions, including the hazard and title insurance requirements.

Prepares the escrow instruction and required documents, together with a preliminary estimate of settlement charges for the borrower in accordance with the terms of the sale.

Presents the instructions, documents, statements, loan package and other related documents to the principal for approval.

Reviews the signed instructions and documents, returns the loan package, and requests the lender's funds.

Receives the balance of funds required from the borrower and/or the proceeds of the loan from the lender.

Determines when the transaction will be in the position to close and advises the parties involved.

Assisted by title personnel, records the deed of trust and other documents required to complete the transaction with the County Recorder and orders the title insurance policies.

Closes the escrow by preparing the final settlement statements, disbursing the proceeds to the seller, paying off the existing encumbrances and other obligations. Delivers the appropriate statements, funds and remaining documents to the principals and/or the lenders.

## The Seller(s)

Accepts Buyer's offer to purchase and initial good faith deposit to open escrow.

Submits documents and information to the escrow holder, such as: addresses of lien holders, tax receipts, equipment warranties, home warranty contracts, any leases and/or rental agreements, etc.

Orders inspections, receives clearances and approves final reports and/or repairs to the property as required by the terms of the purchase and sale agreement (Deposit Receipt)

Approves and signs the escrow instructions, payoff demands, grant deed and other related documents required to complete the transactions.

Approves any final changes by signing amendments to the escrow instructions or contracts.

## Fidelity National Title

Examines the title to the real property and issues a preliminary title report. Determines the requirements and documents needed to complete the transaction and advises the Escrow Officer and/or agents.

Reviews and approves the signed documents, releases and the order for title insurance, prior to the closing date.

When authorized by the Escrow Officer, records the signed documents with the County Recorder's office and prepares to issue the title insurance policies.

## **What is Title Insurance?**

Title insurance is a contract of indemnity which guarantees that the title to the property is as reported. If its not as reported, we will reimburse the buyers for actual loss or damage under the condition specified in the policy. The title policy covers the insured for their loss up the amount of the policy.

Title insurance assures owners that they are acquiring marketable title. Title insurance is designed to eliminate risk or loss caused by defects in title from the past. Title insurance provides coverage only for title problems which were already in existence at the time the policy was issued.

## **Title Search**

Fidelity National Title works to eliminate risks by performing a search of the public records or through our own title plant. The search consists of public records, laws and court decisions pertaining to the property to determine the current recorded ownership, any recorded liens or encumbrances or any other matters of record which could affect the title to the property. When a title search is complete, Fidelity National Title issues a preliminary title report detailing the current status of title.

A preliminary report contains vital information which can affect the close of escrow: ownership of the subject property, how the current owners hold title, matters of record that specifically affect the subject property or the owners of the property, a legal description of the property and an informational plat map.

## **What Does a Title Policy Cover?**

Not all risks can be determined by a title search, since certain things such as forgeries, identity of persons, incompetency, failure to comply with the law, or incapacity cannot be disclosed by an examination of the public records.

The preliminary title report is an offer to insure under certain situations, the title policy is a contract that gives coverage against such problems.

The California land Title Association (CLTA) is the standard policy of title insurance in California.

### **What Does CLTA Cover?**

- A forged signature on the deed.
- Mistakes in the interpretation of wills or other legal documents.
- Deeds delivered without the consent of the grantor.
- Deeds and mortgages signed by persons not of sound mind, by minors or by someone listed as single but in fact, married.
- Impersonation of the real owner.
- Errors in copying or indexing.
- Falsification of records.
- Undisclosed or missing heirs.
- Recording mistakes.
- With regard to lenders coverage, it covers: the priority of the insured mortgage; the invalidity or unenforceability of the insured assignment; the invalidity or unenforceability of the lien of the insured mortgage on the title.



# Statement of Identity

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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 some 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 unnecessarily 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.

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# Title Policy Comparison

- Someone else owns a recorded interest in your title
- A document is not properly signed, sealed, acknowledged or delivered
- Forgery, fraud, duress, incompetency, incapacity or impersonation
- Defective recording of any document
- Unmarketability of title
- Lack of a right of access to and from the land

CLTA

- Mechanic's lien protection for work or materials done prior to the policy date except where the insured has agreed to same
- Order removal of the residential structure because it extends onto other land, an easement shown as an exception to the policy, any unrecorded subsurface easement, or it violates an enforceable CC&R or zoning ordinance
- Unrecorded liens by the homeowner's association
- Others have rights arising out of leases, contracts, or options
- Someone else has an easement on your land
- Plain language

ALTA-R

- Building permit violations (from prior owners)
- Subdivision map coverage
- Restrictive covenant violations (from prior owners)
- Enhanced access feature
- Map inconsistencies protection
- Mineral extraction structure damage
- Post policy encroachment
- Post policy forgery
- Living trust coverage
- Automatic policy increase
- Post policy adverse possessions
- Post policy easement by prescription
- Encroachment of boundary walls or fences

Homeowner's Plus

*Please refer to a full copy of the title policies for exceptions, deductibles and other terms that may apply to these coverages.*