

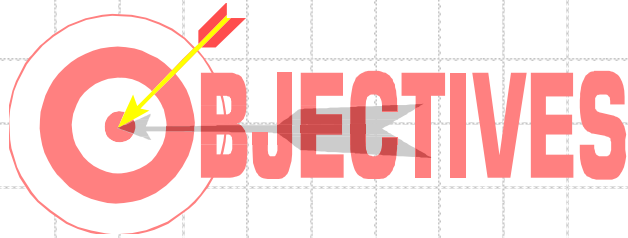
CHAPTER 8

ESCROW AND TITLE

INSURANCE



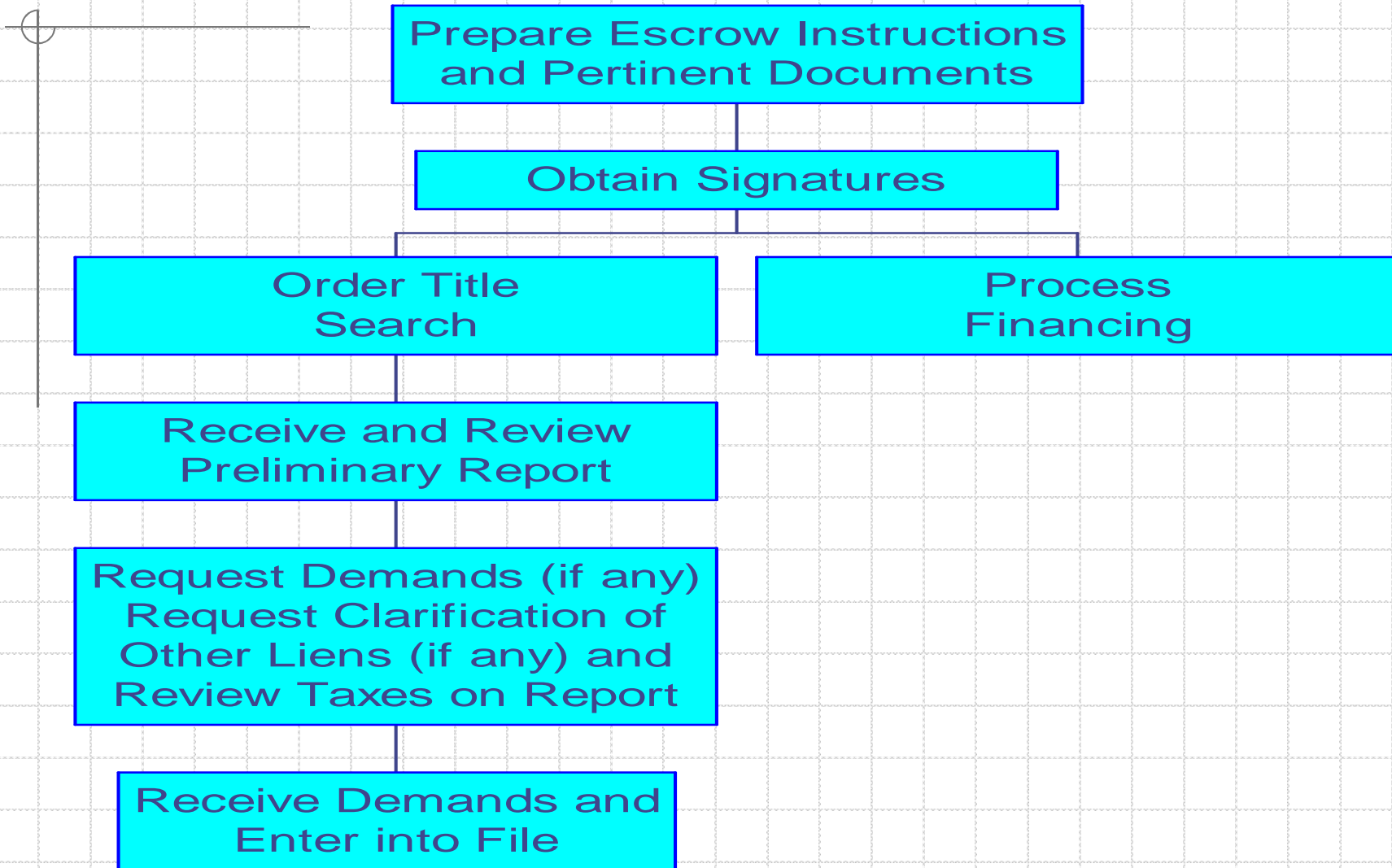
Chapter 8



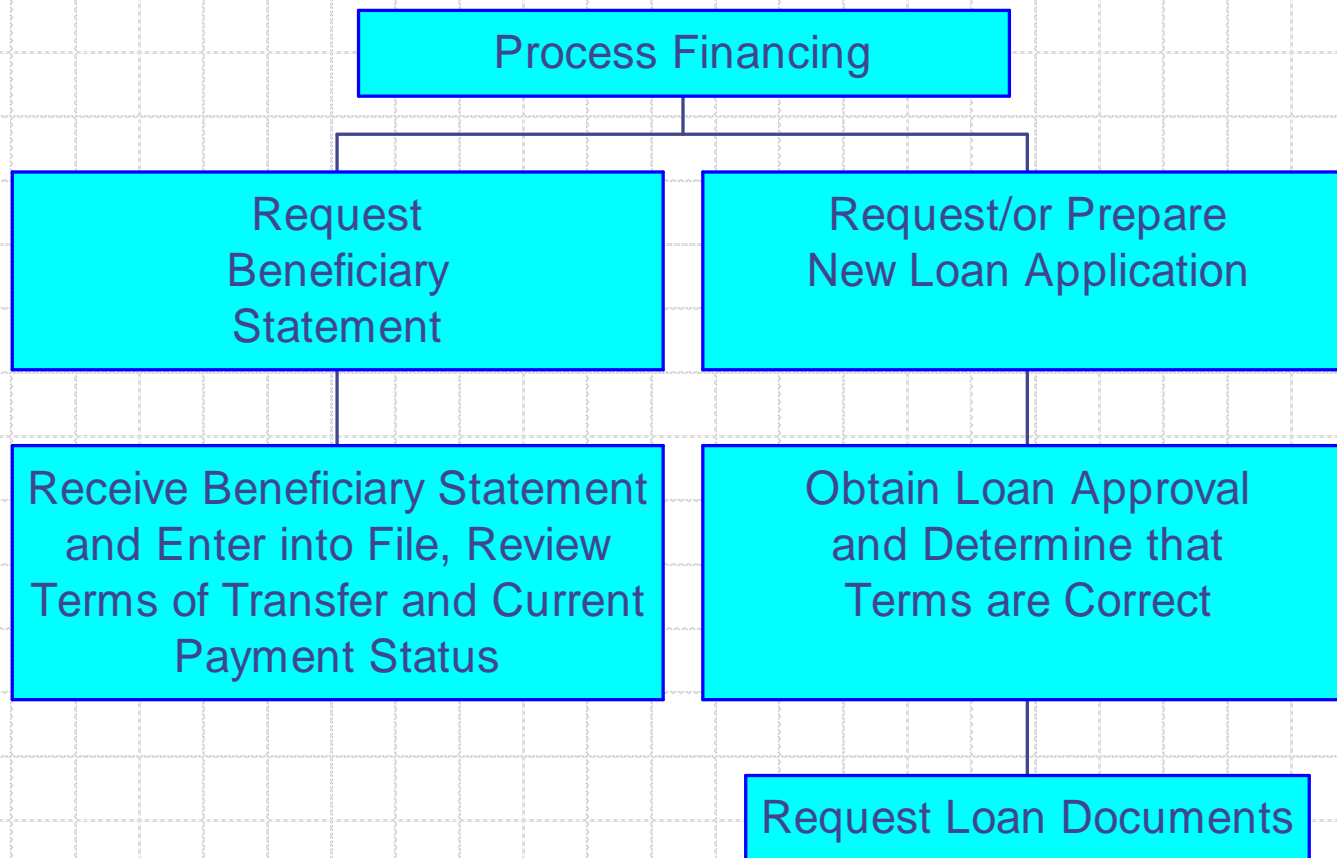
STUDENT LEARNING OUTCOMES (SLOs):

1. Define the term escrow and explain the legal requirements of a valid escrow.
2. Describe the services offered by title insurance companies.
3. Identify and explain the coverage in a CLTA (standard) and an ALTA (extended) coverage title insurance policy.
4. Explain various closing costs and indicate who normally pays each closing cost.

LIFE OF AN ESCROW



LIFE OF AN ESCROW (Finance)



LIFE OF AN ESCROW (closing)

Review File To Determine that All Conditions Have Been Met and that All Documents are Correct and Available for Signature
Termite inspection, contingencies released, fire insurance ordered
additional documents (2nd T.D. bill of sale etc.) have been ordered

Compute Prorations
(Costs and Charges)
and Request Signatures on all
Remaining Documents

Forward Documents
To Title Company

Obtain Funds
From Buyer

Return Loan
Documents

Next Slide

LIFE OF AN ESCROW (title/recording)

Request Loan Funds

Receive Loan Funds

Order Recording of Deed
and Other Documents

Close File
Prepare Statements
and Disburse Funds

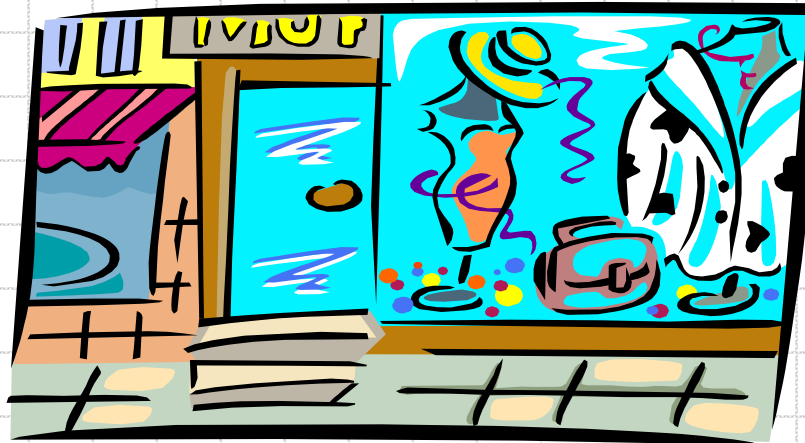
Complete Closing
Forward Final Documents
to All Interested Parties
(Buyer Seller Lender)

I. Definition of Escrow

A. Process where neutral **third party** acts as closing agent

◆ Involves deposit of deeds, monies and other documents

B. **Instructions** for their use.



C. LEGAL REQUIREMENTS FOR VALID SALE ESCROW

1. Binding contract between Buyer and **Seller**

Conditional Delivery of

1. Transfer instruments
2. Deposit funds and monies

2. Escrow company must be licensed unless exempted

Exemptions:

Banks, S&L's, Title Insurance Cos.

Attorneys

Real Estate Broker acting individually
as agent of buyer or seller



D. The escrow must be impartial and escrow
information must be kept confidential

E. Escrow Disagreements

Escrow agent cannot give **legal advice.**

We'Close'M Escrow

1. Halt until mutual agreement.

2. **Interpleader:** Legal court action to resolve dispute between the parties.



F. Who May Act

Escrow Laws

Corporation
Independent

Corporation
Commissioner

Bank
*

Bank
Commissioner

Saving
and
Loan*

FSLIC
Commissioner

Attorney
*

Bar
Association

Title*
Insurance
Company

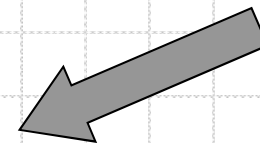
Insurance
Commissioner

Real*
Estate
Broker

Real Estate
Commissioner

* Exempt from escrow licensing law.

Only if Broker is Agent in the Transaction



II. ESCROW HOLDERS

After parties sign sales agreement :

1. A depository for funds and documents.
2. Clearinghouse for documents and funds
3. Calculate and compute closing costs
4. Prepare escrow instructions
5. Order status of loans and pay off demands
6. Process termite, home inspection & pest control reports
7. Prepares financing instruments
8. Order title search and buyer preliminary title report
9. Transfer impounds
10. Requests hazard insurance policies
11. Computes pro-rations
12. Obtains documents and prepares Deeds needing recording
13. Orders title insurance policy



TYPICAL CLOSING STATEMENT

	Buyer		Seller	
	Debit	Credit	Debit	Credit
Sales Price	xxxx			xxxx
Buyer's initial deposit		xxxx		
Buyer's new loan		xxxx		
Balance of Buyer's Deposit		xxxx		
Appraisal	xxxx			
Loan origination fee	xxxx			
New fire Ins. Policy	xxxx			
Credit report	xxxx			
Drawing Fee/Notary	xxxx			
Lender's ALTA Title	xxxx			
Any "buyer pays" fees	xxxx			
Tax service & impounds	xxxx			

TYPICAL CLOSING STATEMENT (cont)

	Buyer		Seller	
	Debit	Credit	Debit	Credit
Prepaid rents		XXXX	XXXX	
Documentary transfer tax			XXXX	
Prepayment penalties			XXXX	
Termite insp & correction			XXXX	
Seller's CLTA title ins policy			XXXX	
Brokerage commission			XXXX	
Recording Fees	XXXX		XXXX	
Payoff of Existing Loan			XXXX	
Discount points			XXXX	
Any "seller pays" fees			XXXX	
Seller's Net Proceeds			XXXX	

III. TITLE INSURANCE

A. Incorporated businesses that:

1. Search and **Gather** Title Records

- Courthouse search
- Title Plant_search

2. Examine and **Interpret** Title Records

Compile a Chain of title

Identifies existing encumbrances

Issue a Preliminary Title Report with encumbrances

Issues insurance policies

- Insured against defects in title
- Additional assurance over seller's representations

Escrow the Real Estate Transaction

Collect all instruments of transfer

Close transaction

3. **Insures** against financial loss

B. Types of Title Insurance Policies

1. Standard policy insures **owner** for amount of purchase price
2. Standard **lender's** policy insures lender for amount of loan
3. Standard **joint protection** policy insures owner and lender under one policy

Pg 8-2

Pg 8-3

4. TITLE INSURANCE COVERAGE

California Land Title Association (CTLA) Standard Coverage

Usually from Seller to Buyer

Risks insured against

- Undisclosed public record and **encumbrances**
- Forgery
- Incompetence of Parties
- **Recorded rights**
- Street Access

◆ NOT Insured:

- Matter not of public record
- Zoning and use of the property
- Mining and water claims
- Undisclosed KNOWN defects not revealed to title Pg 8-3

5. TITLE INSURANCE COVERAGE

ALTA Extended Coverage

Usually between borrower & lender

Risks insured against

- All Items under standard coverage
- Unperfected Mechanic's liens
- Encroachments and adverse possession
- Facts found on a survey or by a physical inspection
- Unrecorded tax liens
- Mining claims & water rights
- Unrecorded encumbrances

◆ NOT insured:

- Zoning and property use
- Known defects not disclosed to title company

IV. CLOSING COSTS

1. **NonRecurring** = One Time Costs

- ✓ Escrow
- ✓ Title
- ✓ Commission
- ✓ Loan Fees



2. Recurring = Continue repeated costs

- ✓ Property Taxes
- ✓ Interest on Loans
- ✓ Insurance



3. PRORATIONS

Equitable division of costs

Every month = 30 Days

Every Year = 360 Days



of Days x Rate Per Day = Share of Expense

Common: taxes, insurance, prepaid rent & interest

Credit is an Entry Made in Favor of the Party

Debit is an Entry to be Paid by the Party (obligation)

Deeds typically record at 8:00 a.m.



Sample PRORATIONS Question:

(Closing Statement Example)

The rent is \$900 per month paid in advance

Rent was last paid on first of the month

Escrow closes on tenth of month

Calculate:

- (1) The amount per day
- (2) Debit or Credit for Buyer
- (3) Debit or Credit for Seller
- (4) Amount for Buyer
- (5) Amount for Seller

V. RESPA

Real Estate Settlement Procedures Act

- ◆ Federally related loans
- ◆ 1-4 unit residences
- ◆ Special Information Booklet
- ◆ **Good Faith Estimate** settlement of costs
- ◆ Sent 3 days from loan application
- ◆ Must be presented no later than the day before the close of escrow/settlement date.
- ◆ Lenders must use a **Uniform Settlement Statement**

**I'M PLAYING MY FAVORITE
SONG "GOING HOME"**

