

STATE OF CALIFORNIA –DEPARTMENT OF BUSINESS OVERSIGHT
**INSTRUCTIONS FOR ESTABLISHING RECORDS AND
ACCOUNTS PURSUANT TO THE ESCROW LAW**
EL 314 (Rev. 08-13)



TO LICENSEE AND ITS ACCOUNTANT:

As an aid to licensees and their accountants in establishing proper records and accounts required by the Escrow Law and by the California Code of Regulations, Title 10, this is a summary of the minimum records and accounts required to be maintained by escrow agents. These records and accounts are required for the purpose of safeguarding escrow funds, for the purpose of providing the escrow agent with adequate internal controls, and for the purpose of enabling the Commissioner of Business Oversight ("Commissioner") to determine whether licensees are complying with the provisions of the Escrow Law and the Commissioner's regulations, established pursuant to the Escrow Law.

1. ESCROW BOOKS

An escrow agent shall establish and post daily and reconcile at least weekly the following books with reference to its escrow accounts:

- (a) Escrow ledger containing a separate ledger sheet for each escrow; (b) Escrow liability controlling account; and
- (c) Cash receipt and disbursement journal or a file containing copies of all receipts and checks.

2. ESCROW BANK ACCOUNT

- (a) A separate bank account, titled "trust" or "escrow" account wherein all funds received by an escrow agent as part of an escrow transaction must be deposited on or before the close of the next working day after receipt. This account must be reconciled with the records referred to in paragraphs 1(a), 1(b), and 1(c), at the end of each month, no later than the 15th day after the end of the month. Reconciling items should be cleared immediately.

(b) Consecutively pre-numbered receipts must be issued for all escrow money or checks deposited with or mailed to the escrow agent and copies of such receipts retained in a separate file.

3. GENERAL BOOKS

- (a) General ledger reflecting the assets, liabilities and capital, and the income and expense of the business, in accordance with generally accepted principles of accounting; and
- (b) General cash receipt and disbursement journal.

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These records shall be posted through the last day of each month, no later than the 15th day following the end of the month.

4. NEW EMPLOYEES

An escrow agent shall notify the Commissioner, in writing, on Department of Business Oversight ("Department") Form 512 or FS 17419, EL 1726 and fingerprint card (BID-7), before allowing any officer or employee in the regular discharge of his duties to have access to moneys or to draw checks upon the escrow agent or the trust funds of the escrow agent. Forms may be obtained from the Department.

5. FORMS

(a) Escrow Instructions

The printing of escrow instructions by the licensee should take into consideration the requirements of Section 1738.5 (Printed Instructions) and Section 1740.1 (Notice of Interest) of Title 10, California Code of Regulations.

(b) Closing Statement

The preparation of printing of the closing statement by the licensee should conform with Section 1741.3 (Statement of Account) of Title 10, California Code of Regulations, which reads in part as follows: "Charges made by the escrow agent for his services, _____ shall be clearly designated as such and shall be shown separately from the disbursements of the escrow agent."

NOTE: Additional provisions relating to the maintenance of records and accounts by escrow agents and provisions setting forth generally the requirements and standards pertaining to escrow agents are contained in the Escrow Law (Financial Code, Div. 6), and in Subchapter 9, Chapter 3, Title 10, California Code of Regulations. All licensees are expected to become familiar with the provisions of the Escrow Law and Regulations.

Copies of Title 10, California Code of Regulations, may be obtained from:

Barclays Law Publishers
P. O. Box 95767
Chicago, IL 60694-5767
Phone# (800) 888-3600

Copies of the Financial Code may be obtained at legal book stores.

The owner of every Escrow company is concerned over the cost of their yearly certified audit and also the cost of their Department of Business Oversight's examination. The cost of an audit and examination, in most cases, is a direct result of the amount of care you take in your record keeping throughout the year and

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also during the actual examinations. Sloppy books, records and files take a lot longer to review than orderly records. The following are areas that the Department feels, if addressed, can help expedite a review of your company which should hold down the cost of the review.

I. Items the Escrow company can do throughout the year in preparation for the examination.

1. Trust Account Banking

- a) Balance manual controls and computer prepared ledgers daily. b) Research and correct all exception items immediately, including missing ledgers.
- c) Review month-end bank reconciliations and correct all exception items immediately.
- d) Review daily and month-end ledgers for debit balances. All debit balances should be researched and corrected immediately.
- e) Maintain adequate controls and reconcile all interest-bearing trust accounts monthly.
- f) Review actual ledgers at least monthly for posting errors and unusual items.
- g) If a company changes bank accounts, the following procedures, at a minimum, should be performed.
 - (1) Documentation should be maintained and available for review which shows how the amount transferred was determined, i.e. the bank statements, canceled checks and liability control sheet, on the day of the transfer (an entry should be made on the liability control sheet reflecting the transfer).
 - (2) If subsequent transfers are made, documentation should be kept to show how the amount was arrived at.
- h) All dormant trust accounts should be reconciled monthly and all bank statements and canceled checks should be available for review.
- i) All records relating to banking, including but not limited to: check copies, canceled checks, validated deposit tickets, receipts, bank statements, void original checks, stop payment orders, debit and credit memos, adjustment slips, etc.; should be maintained.

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in an orderly and consistent manner and should be available for review. Daily ledger printouts should be maintained in orderly fashion until the full month-end printout is received.

2. Escrow File Maintenance

- a) Files should be organized in a logical and consistent manner.
- b) The principal's addresses should be listed in the files in the same place.
- c) The licensee should have a system of filing escrow files which make it easy to locate all files.
- d) Files should be opened in numerical sequence and all numbers should be accounted for.
- e) Ledger cards should be prepared for every escrow file at the time Escrow is opened.

3. General Ledger Maintenance

- a) The general ledger should be posted monthly.
- b) All general bank accounts should be reconciled monthly.
- c) The Escrow manager or a responsible person should be familiar with all accounts listed in the general ledger.
- d) The company should understand the Liquid and TNW requirements and determine monthly if the company is in compliance with the requirements. If the company is not in compliance, steps should be taken immediately to correct the problem.

II. Items the Escrow company can do during examination which will help reduce the time needed to complete the exam in an efficient manner and keep costs down.

- 1. When the exam is started, the manager should take time immediately to discuss what the examiner will need to complete the exam. The examiner should be given the daily banking (daily computer printout, manual control, cash on hand, unposted checks and receipts) as soon as the items are available.
 - a) All items needed from banks, accounting services, etc. should be ordered immediately and the manager or designee should be prepared to follow up to

obtain the records.

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- b) If the prior month's reconciliation is not completed, the service should be contacted and the licensee should request the service to prepare it as soon as possible.
- c) If possible, one person at the company should be assigned to assist the examiner during the examination.
- d) The company should provide all records the examiner requests as soon as possible.
- e) The examination would take less time if the paid checks were filed in numerical order.
- f) If requested by the examiner, the licensee should be prepared to prepare confirmations from their computer service when available.
- g) Both the Departments' examiners and your CPA review and account for a number of items in your company. These include open and closed escrow ledger cards and files, canceled checks and receipts. When these records are not filed in numerical order, it takes longer to account for them. There is one general rule to remember that can save your company money:
 - (1) It costs less to have clerical personnel or a secretary do clerical functions (such as place records in numerical order or prepare escrow confirmations) than it does to have an Examiner or CPA do them. If you can have your staff help the Examiner, you are saving yourself money.