Advantage One
ESCROW

FOR EVERYONE · 5 MINUTE READ

Holding escrows

A holding escrow keeps money or documents with a neutral company until a condition both sides agreed on is met. People use one when a promise needs someone in the middle, such as repairs finished after closing.

The idea

Two parties agree that money or a document will change hands only after something happens. Neither party wants the other to hold it in the meantime, so they place it with Advantage One Escrow, a licensed neutral company, under written instructions they both sign.

We release it only when the instructions say the condition has been met.

No sale is required. A holding escrow can stand on its own, or it can follow a sale that has already closed.

Why not hold the money yourselves

When one party holds the money, the other has to trust them to pay it out fairly. A holding escrow removes that problem. Neither side controls the money, and the release rules are written down before anyone is angry or waiting.

An example

Say a sale is ready to close, but the seller hasn't finished a roof repair. The buyer and seller agree to hold back part of the seller's proceeds in a holding escrow.

Their instructions say escrow pays the held money to the seller once both of them sign a statement that the work is done. If the work isn't done by a set date, the money goes to the buyer instead. Escrow doesn't judge the roof. It follows those two sentences.

Common uses

A few examples:

- Money held back at closing for repairs the seller agreed to finish after the sale.
- Funds waiting on a permit or a lien release.
- A disputed amount held while the parties work out an agreement.
- Documents delivered only when a condition is met.
- Payments on a seller-financed loan, collected and paid out over time.

Writing instructions that work

As far as escrow is concerned, the instructions are the whole agreement. Good ones leave nothing to guess. They should state:

- Exactly what is being held.
- The condition for release, and how it will be shown, such as a final permit or a statement signed by both parties.
- Who receives the money or documents when the condition is met.
- An end date, and what happens if the condition is never met.
- Who pays the escrow fees.

Where the money is kept

Money in a holding escrow sits in escrow's trust account, apart from the company's own money, like any escrow deposit. It moves only when the instructions say so.

Escrow can hold documents as well as money. One example is a signed deed that should be recorded only after the last payment on a land sale contract. The instructions say when escrow may release it.

How long it lasts

As long as the instructions say. A repair holdback may last a few weeks, while a collection account on a seller-financed loan can run for years. Either way, the instructions should set an end date.

When the condition is met

When the condition is met, the party who is owed the money tells us and sends the proof the instructions require. We check that proof against the instructions, then release the funds or documents.

Changes take every signature

One side can't change the terms alone. Any change needs a written amendment signed by everyone who signed the original instructions.

If one party asks us to change the terms, we ask for the other party's signature before anything changes. That rule protects both sides. It's also the whole point of using a holding escrow.

What escrow won't do

Escrow doesn't judge whether repairs were done well or who is right in a dispute. We follow the instructions. If they say to release funds when both parties sign a statement, we release them when we have both signatures.

If the parties disagree, escrow can't pick a side. The funds stay in escrow until the parties agree in writing or a court decides. Talk with an attorney if a dispute develops.

Long-term collection accounts

When a seller finances a sale, a holding escrow can collect the buyer's payments and send them to the seller. Escrow keeps a record of every payment. When the loan is paid off, escrow delivers the documents the instructions call for.

If the seller still owes a loan on the property, the instructions can have escrow pay that loan from each payment before sending the rest to the seller.

Ask your attorney whether this setup fits your arrangement.

Getting started and what it costs

To open one, send us the terms you've agreed on and each party's contact details. Tell us what will be deposited, too. We turn that into escrow instructions for everyone to sign.

The fee depends on what is held and for how long. Call us at (714) 962-0999 with the details, and we'll give you a quote.

Holding escrow checklist

- ☐ Both parties agree on what escrow will hold.
- ☐ Release condition, and the proof of it, written down.
- ☐ End date and fallback plan included.
- ☐ Payee named for each outcome.
- ☐ Fees agreed, including who pays them.
- ☐ Instructions signed by every party.

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Updated September 2026.