

FAQ: Escrow and Title Companies

What role do these companies play in the real estate transaction process

CHRISTAL PARK KEEGAN, Esq.

NVR Legal Info. Line Attorney

On a daily basis, the Legal Information Line receives calls from REALTORS® about title companies not doing what they want them to do. This FAQ provides information to help you understand and navigate common issues with title companies.

Legal Information Line: (800)748-6999

Q: Regarding title inducements, specifically filed wire fees, can a title agency waive such fees for a real estate broker?

A: A bulletin published by the Division of Insurance which we discussed in our Inducements in Advertisements article (*See NevadaRealtors.org Legal Library*) provides guidance on this question. Rates may not be unfairly discriminatory. A title agent may not arbitrarily waive a fee filed in accordance with NRS 692.120. (Bulletin 18-007)

Q: Can I ask my title company to split and send commission checks directly to non-brokers, such as transaction coordinators, if a team is involved to each team member, etc.?

A: Per NRS 645.280, commissions are paid in their entirety between brokerages. Escrow is not authorized to split commissions between teams on behalf of the brokerage. Brokers, please advise agents that commissions may not be disbursed to third parties, to include commission advance companies.



Q: Help! Escrow is refusing to release buyer's earnest money deposit even though the contract provides seller's written authorization is not required. How do I reconcile the language in the contract with escrow's refusal to act without buyer AND seller's written authorization?

A: Title and escrow will not read into the terms of a contract. They are a neutral third party and are not attorneys. If they require a written authorization signed by both parties to release any earnest monies deposited, you will need to facilitate in getting that to them. But what if the seller refuses to sign? At that point, buyer's options are to submit a request for mediation with the local REALTOR® association and/or pursue

legal action, depending on what the parties contractually agreed to. Consider starting with a written demand letter to the seller/seller's agent informing them that pursuant to NRS 645A.175 they may be liable to the buyer for damages if they refuse to sign the release within 30 days after the written request. Also include the section(s) of the contract that authorizes the buyer to unilaterally cancel if exercising that right. Include a specific (but reasonable) time frame or date within which the seller must sign the cancellation and authorization for release of funds, and that if it is not signed by the time stated, what you will or will not do (mediation, court, etc.) and any other details which may help if a judge has to decide the case.