

Escrow Business Law

24 March 2008 | The new escrow business law was enacted by Parliament on 21 December 2007 and comes into effect on 19 May 2008. The law is intended to protect buyers and sellers of real estate from possible fraud and deceit through the services of a neutral third party who holds funds, property, or legal documents for disbursement once certain conditions are met as instructed by the buyer and seller. An escrow service provider can provide services in the areas of reciprocal contract, contracts for purchase of homes, condominiums, and land. In property purchases, the escrow service provider is responsible for overseeing that payments for purchase of property are made according to schedule and as specified by the conditions under the escrow contract. In the event of breach of contract, such as the seller cannot complete the project as stated in the contract, the funds held by the escrow service provider will not be disbursed to the seller and can be returned to the buyer.

It is not mandatory under Thai laws to enlist the services of an escrow service provider. If the buyer and seller wish to avail themselves of an escrow arrangement, a contract with the buyer, seller, and escrow service provider as signatories will be needed in addition to the contract between buyer and seller.

The details are as follows:

1. The escrow service provider must be a financial institution, a commercial bank, or a financial company.
2. The escrow service provider must have received authorization to provide escrow services from the Ministry of Finance.
3. The escrow contract must be signed by the buyer, seller, and the escrow service provider.
4. The escrow service provider must be a neutral third party and have no connections to buyer or seller either directly or indirectly.
5. The escrow service provider must open a bank account for the parties to the contract with a financial institution.

6. The property, funds, or legal documents held in trust by the escrow service provider must be kept separate from the escrow service provider's personal assets.

7. For escrow property agreements, the escrow service provider must inform the Land Department that the property comes under the escrow agreement and that transfer of ownership is not permitted until the escrow service provider provides the department with a written notice authorizing transfer of ownership. The department's official must make a written record to that effect.

8. In the event of disagreement between buyer and seller, the escrow service provider must not transfer funds or property to either party until the parties come to an agreement or under order of the court.

9. Once the funds have been transferred from the escrow service provider's account to that of the rightful owner and the escrow agreement comes to an end, the escrow service provider must close the escrow bank account and inform the parties immediately.