

Acceptable Escrow Depositories

The escrow depository for the sale of multi-site time-share project interests must be an acceptable California escrow company pursuant to Regulation 2807.2.

An out-of-state escrow depository may be used provided that a California affiliate is willing to stand in the shoes of the out-of-state affiliate with regard to purchase money protections for California purchasers. Most title/escrow companies active in timeshares process their escrow through a central, national timeshare division.

PERSONAL PROPERTY

Personal property may include furniture, appliances, window treatments, floor treatments, linen package, dishes and utensils, boats, automobiles, skis and other properties exclusive of buildings and grounds. The personal property should be considered common area and regulated under Section 11230. The personal property may be conveyed or leased to the association or conveyed by fractional interests to the interest owners. Such property may also be conveyed to an acceptable trustee whose duty would be to retain title to the property for benefit of the interest owners and to protect the property against third party claims.

Conveyance of Personal Property

There should be provisions for assuring purchasers receiving use of personal property prior to issuance of the Public Report or prior to close of the first escrow with appropriate assurances of conveyance or other adequate means of assuring use, free of liens and encumbrances. Adequate financial arrangements for purchase and placement of the property in the project must be provided in compliance with Section 11230. Personal property can be leased or financed provided there is adequate non-disturbance language stating that so long as the association is current in the lease/loan payments, the lessor/lender shall not repossess the personal property, regardless of whether the developer is in default under any loan covenants with the lessor/lender.

Personal Property Conveyed Outright to an Association

When personal property is conveyed outright to the association, the event is effected by a bill of sale. The escrow instructions should include a provision requiring delivery of the bill of sale which includes, as an exhibit, the inventory of personal property, to the association prior to the close of escrow of the first sale. In order that escrow can verify that the inventory attached to the bill of sale is correct, a proper inventory should be attached to the escrow instructions and referred therein. The escrow must also state that the personal property will be delivered to the association and the personal property placed in the dedicated units or appropriate location for use prior to close of escrow.

Personal Property Leased to an Association

In all cases the Subdivisions Deputy or the Budget Review Deputy, if there is a budget review, should be certain that lease payments are properly included in the association budget. The escrow instructions should include a provision which requires delivery of the lease to the association and the installation of the leased property to the project prior to closing of the first escrow. Unless financially secured, personal property shall be installed prior to the first close of escrow.

Free and Clear Conveyance of Personal Property

To insure free and clear conveyance of the personal property, the escrow instructions should include a provision which requires that prior to close of escrow, a U.C.C.-3 Form will be issued by the Secretary of State to the association indicating that there are no financing statements on file naming the developer