



# Foreign Buyers Guide

# Arizona's Good Funds Law

## **6-843. Disbursements; applicability – Good Funds**

A. Except as provided by subsection B, an escrow agent may only disburse money out of an escrow account if deposits are previously made that are at least equal to the disbursements and the deposits relate directly to the transaction for which the money is being disbursed. The deposits shall be in at least one of the following forms:

1. Wire transfers so that the monies are received by the escrow agent or the agent's depository.
2. Except as provided in paragraphs 1, 4 and 5, checks, drafts, negotiable orders of withdrawal, money orders or any other item that has become available for withdrawal in accordance with the federal expedited funds availability act (P.L. 100-86; 101 Stat. 635; 12 United States Code section 4001).
3. Credit transfers through the automated clearing house that are deemed available by the depository institution receiving the credits. The credits must conform to the operating rules set forth by a national automated clearing house association.
4. Cashier's checks, certified checks or teller's checks that have been deposited in the escrow agent's depository account.
5. Checks made by an affiliate of a state or federally regulated depository institution where the check is drawn on the affiliated depository institution so that the monies are deposited in the escrow agent's depository account.

B. An escrow agent may disburse up to five hundred dollars per transaction or any funds that are available as cash without complying with subsection A.

C. Subsection A does not apply to account servicing.



# FIRPTA and Foreign Buyers

All funds deposited for the escrow must be by wire transfer.

Out of US Wire Transfers / Swift Fee: International transfers are executed through SWIFT, Society for Worldwide Interbank Financial Telecommunication, and there is an additional charge for this type of transfer.

The charge is deducted from the wired funds and varies from bank to bank. The charge is typically a flat rate and does not exceed \$50.00, so we recommend that our clients wire an additional \$50.00 when wiring from outside of the U.S.

When a foreign owner gets ready to sell, they could be subject to a 10% withholding unless the transaction is exempt from FIRPTA.

Most common exemption: Sales Price is not more than \$300K. The Buyer or a member of their family must have plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two twelve month periods after the sale.

Other possible exemptions are:

Seller provides a certificate showing they are not a foreign seller

Seller receives a withholding certificate from IRS excusing withholding



# The Escrow Process

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Escrow is a neutral depository for funds and documents needed to complete a real estate transaction. When a buyer and seller have signed a purchase contract, a copy of that contract along with the buyer's earnest money check are deposited into escrow. This constitutes opening of escrow and the escrow process begins and progresses as follows:

1. A copy of existing deed is ordered by the escrow officer, to obtain the legal description of the property and the names of the record owners.
2. The escrow officer or their assistant then orders a commitment for title insurance from the company's title departments, in order to determine what will be required to close the transaction and to inform the buyer and the buyer's lender what will remain of record against the property after closing.
3. Statements from the seller's existing lender and the homeowners association are ordered in order to determine the amounts needed for payoff and/or transfer at the close of escrow.
4. Copies of the commitment for title insurance, covenants, conditions and restrictions and termite inspection reports are forwarded to buyer, seller and lender for their approval as received.
5. Upon receipt of the buyer's loan documents of the buyer's lender, the escrow officer prepares the settlement statement (or HUD), based on the information provided by the buyer's new lender, the statements from homeowners association and payoff lenders and the purchase contract. The buyer and seller are contacted separately to schedule signing appointments for each. Buyer and seller are signed separately. The buyer will deposit their closing funds at the scheduled signing time unless other arrangements are previously made.
6. After signing, the loan documents are returned to the buyer's lender for approval and funding. Upon receipt of the loan proceeds from the lender, the escrow officer will release the document in the transaction for recording with the County Recorder on the agreed upon recording date. After recording, the funds are disbursed and copies of all documents are provided to REALTORS, buyers and sellers and the title insurance policies are issued to the buyer and the buyer's new lender.

In ARIZONA, real estate agents are authorized to write purchase contracts and escrow/title companies are authorized to complete standard documents to close a real estate transaction. As a result, attorneys are not commonly engaged in real estate closings of residential property. The real estate professionals generally involved include the real estate agents, the escrow officer and the buyer's loan officer.

Be advised, however that none of the above referenced professionals are allowed by law to offer legal advice. If you have a complex transaction or have questions or doubts that cannot be answered by your real estate professionals, it is important that you consult with an attorney.



# A COMPARISON to taking title in Arizona

COMMUNITY PROPERTY	JOINT TENANCY	TENANCY IN COMMON	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP	TITLE HOLDING TRUST
<b>PARTIES</b> Only husband & wife.	<b>PARTIES</b> Any number of persons (can be husband & wife.)	<b>PARTIES</b> Any number of persons (can be husband & wife.)	<b>PARTIES</b> Only husband & wife.	<b>PARTIES</b> Individuals, groups of person, partnerships or corporations, a living trust.
<b>DIVISION</b> Ownership & managerial interests are equal.	<b>DIVISION</b> Ownership interests must be equal.	<b>DIVISION</b> Ownership can be divided into any number of interests equal or unequal.	<b>DIVISION</b> Ownership interests must be equal.	<b>DIVISION</b> Ownership is a personal property interest & can be divided into any number of interests.
<b>TITLE</b> Title is in the "community." Each interest is separate but management is unified.	<b>TITLE</b> Sale by joint, tenant serves joint tenancy.	<b>TITLE</b> Each co-owner has a separate legal title to his/her undivided interests.	<b>TITLE</b> Title is in the "community." Each interest in separate but management is unified.	<b>TITLE</b> Legal and equitable title is held by the trustee.
<b>POSSESSION</b> Both co-owners have equal possession.	<b>POSSESSION</b> Equal right of possession.	<b>POSSESSION</b> Equal right of possession.	<b>POSSESSION</b> Equal right of possession.	<b>POSSESSION</b> Right of possession as specified in the trust provisions.
<b>CONVEYANCE</b> Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse. real property requires written consent of other spouse & separate interest cannot be conveyed except upon death.	<b>CONVEYANCE</b> Conveyance by one co-owner without the others breaks the joint tenancy.	<b>CONVEYANCE</b> Each co-owner's interest may be conveyed separately by its owner.	<b>CONVEYANCE</b> Purchaser can only acquire whole title of community.	<b>CONVEYANCE</b> Designated parties within the trust agreement authorize the trustee to convey property. Also a beneficiary's interest in the trust may be transferred.
<b>PURCHASER'S STATUS</b> Purchaser can only acquire whole title of community, cannot acquire a part of it.	<b>PURCHASER'S STATUS</b> Purchaser will become a tenant in common with the other co-owners in the property.	<b>PURCHASER'S STATUS</b> Purchaser will become a tenant in common with the other co-owners in the property.	<b>PURCHASER'S STATUS</b> Purchaser can only acquire whole title of community.	<b>PURCHASER'S STATUS</b> A purchaser may obtain a beneficiary interest by assignment or may obtain legal & equitable trust from the trust.
<b>DEATH</b> On co-owner's death, 1/2 belongs to survivor in severalty, 1/2 goes by will to descendants devisee or by succession to survivor.	<b>DEATH</b> On co-owner's death his/her interest ends & cannot be disposed of by will. Survivor owns the property by survivorship.	<b>DEATH</b> On co-owner's death his/her interest passes by will to devisee or heirs. No survivorship rights.	<b>DEATH</b> On co-owners death his interest ends and cannot be disposed of by will. Estate passes to survivor outside of probate.	<b>DEATH</b> Successor beneficiaries may be named in the trust agreement eliminating the need for probate.
<b>SUCCESSOR'S STATUS</b> If passing by will, tenancy in common between devisee & survivor results.	<b>SUCCESSOR'S STATUS</b> Last survivor owns property.	<b>SUCCESSOR'S STATUS</b> Devisee or heirs become tenants in common.	<b>SUCCESSOR'S STATUS</b> Last survivor owns property.	<b>SUCCESSOR'S STATUS</b> Defined by the trust agreement, generally the successor becomes the beneficiary & the trust continues.
<b>CREDITOR'S RIGHTS</b> Co-owners interest, cannot be sold at execution sale to satisfy creditors.	<b>CREDITOR'S RIGHTS</b> Co-owner's interest may be sold on executive sale to satisfy creditor. Joint tenancy is broken. Creditor becomes a tenant in common.	<b>CREDITOR'S RIGHTS</b> Co-owner's interest may be sold on executive sale to satisfy higher creditor. Creditor becomes a tenant in common.	<b>CREDITOR'S RIGHTS</b> Co-owner's interest cannot be seized and sold separately. The whole property may be sold at execution sale to satisfy creditors.	<b>CREDITOR'S RIGHTS</b> Creditor may seek an order for execution sale of the beneficial interest or may seek an order that the trust estate be liquidated & the proceeds distributed.
<b>PRESUMPTION</b> Strong presumption that property acquired by husband & wife in community.	<b>PRESUMPTION</b> Must be expressly stated.	<b>PRESUMPTION</b> Favored in doubtful cases except husband & wife case.	<b>PRESUMPTION</b> Must be expressly stated in writing and accepted. Court will not presume joint tenancy. Both halves of community property are entitled to "stepped up" tax bases as of date of death of either spouse.	<b>PRESUMPTION</b> A trust is expressly created by an executed trust agreement.

# COMMON WAYS *to take title in Arizona*

## **ARIZONA IS A COMMUNITY PROPERTY STATE.**

### **THERE IS A STATUTORY PRESUMPTION THAT ALL PROPERTY ACQUIRED BY HUSBAND AND WIFE IS COMMUNITY PROPERTY.**

**COMMUNITY PROPERTY:** Community property is a method of co-ownership for married persons only. Upon the death of one of the spouses, the deceased spouse's interest will pass by either a will or intestate succession.

**COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP:** A community property with right of survivorship estate can be held by a husband and wife when created by express language in the vesting document. Upon the death of a spouse, the estate is vested in the surviving spouse and an Affidavit Terminating Right of Survivorship, together with a certified copy of the death certificate is recorded.

**CORPORATION:** Title may be taken in the name of a corporation provided that the corporation is duly formed and in good standing in the state of its incorporation.

**GENERAL PARTNERSHIP:** Title may be taken in the name of a Partnership provided that the Partnership is duly formed in accordance with state laws. A certificate of Partnership must be recorded in Arizona.

**JOINT TENANCY WITH RIGHT OF SURVIVORSHIP:** Joint tenancy is a method of co-ownership that gives title to the real property to the last survivor. Title to real property can be acquired by two or more individuals. If a married couple acquires title as joint tenants with right of survivorship, they must specifically accept the joint tenancy to avoid the presumption of community property.

**LIMITED LIABILITY COMPANY:** A limited company formed by two or more persons under the law of Arizona or another state. A limited liability company operates similar to a partnership with protection which is similar to a corporation. An Arizona limited liability company must be filed with the State of Arizona.

**LIMITED PARTNERSHIP:** A partnership is formed by two or more persons under the laws of Arizona or another state and having one or more limited partners. A certificate of limited partnership must be filed in the office of the Secretary of State.

**SOLE AND SEPARATE:** Real property owned by a spouse before marriage or any acquired after marriage by gift, devise, descent, or specific intent. If a married person acquires title as sole and separate property, his or her spouse must execute a disclaimer deed.

**TENANCY IN COMMON:** A method of co-ownership when parties do not have survivorship rights and each owns a specific undivided interest in the entire title. Each co-owner has a separate title to his/her interest, and can transfer his/her interest without the other co-owners.



**Application for IRS Individual  
 Taxpayer Identification Number**

OMB No. 1545-0074

▶ See Instructions.  
 ▶ For use by individuals who are not U.S. citizens or permanent residents.

**An IRS individual taxpayer identification number (ITIN) is for federal tax purposes only.**

**FOR IRS USE ONLY**

**Before you begin:**

- Do not submit this form if you have, or are eligible to get, a U.S. social security number (SSN).
- Getting an ITIN does not change your immigration status or your right to work in the United States and does not make you eligible for the earned income credit.

**Reason you are submitting Form W-7.** Read the instructions for the box you check. **Caution:** If you check box **b**, **c**, **d**, **e**, **f**, or **g**, you must file a tax return with Form W-7 unless you meet one of the exceptions (see instructions).

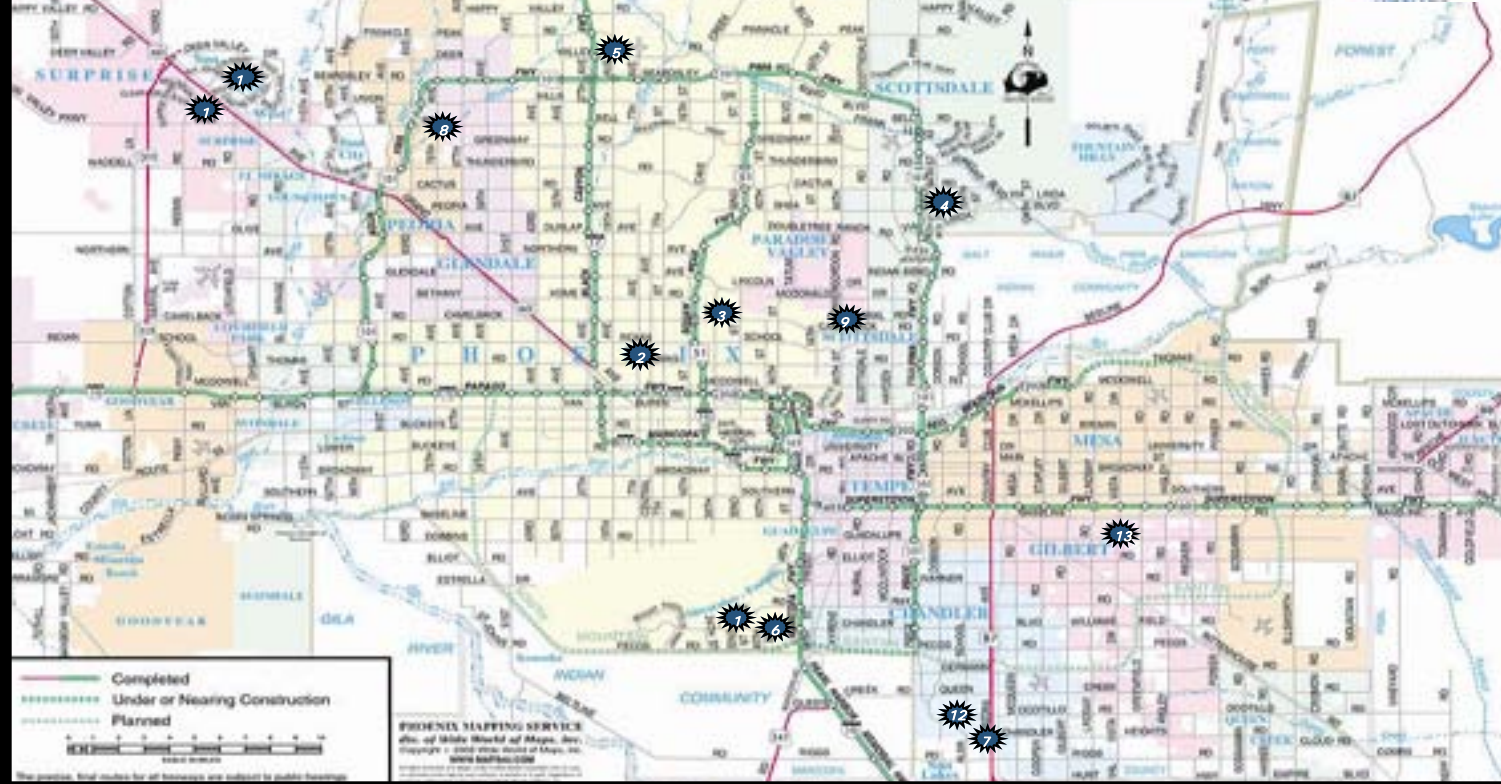
- a  Nonresident alien required to get ITIN to claim tax treaty benefit
  - b  Nonresident alien filing a U.S. tax return
  - c  U.S. resident alien (based on days present in the United States) filing a U.S. tax return
  - d  Dependent of U.S. citizen/resident alien } Enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ▶ \_\_\_\_\_
  - e  Spouse of U.S. citizen/resident alien } \_\_\_\_\_
  - f  Nonresident alien student, professor, or researcher filing a U.S. tax return or claiming an exception
  - g  Dependent/spouse of a nonresident alien holding a U.S. visa
  - h  Other (see instructions) ▶ \_\_\_\_\_
- Additional information for a and f. Enter treaty country ▶ \_\_\_\_\_ and treaty article number ▶ \_\_\_\_\_

<b>Name</b> (see instructions) Name at birth if different ▶	1a First name	Middle name	Last name
	1b First name	Middle name	Last name
<b>Applicant's mailing address</b>	2 Street address, apartment number, or rural route number. If you have a P.O. box, see page 4.		
	City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
<b>Foreign (non-U.S.) address</b> (if different from above) (see instructions)	3 Street address, apartment number, or rural route number. Do not use a P.O. box number.		
	City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
<b>Birth information</b>	4 Date of birth (month / day / year) / /	Country of birth	City and state or province (optional)
			5 <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>Other information</b>	6a Country(ies) of citizenship	6b Foreign tax I.D. number (if any)	6c Type of U.S. visa (if any), number, and expiration date
	6d Identification document(s) submitted (see instructions) <input type="checkbox"/> Passport <input type="checkbox"/> Driver's license/State I.D.		
	<input type="checkbox"/> USCIS documentation <input type="checkbox"/> Other _____		
	Issued by: No.: Exp. date: / / Entry date in United States / /		
	6e Have you previously received a U.S. temporary taxpayer identification number (TIN) or employer identification number (EIN)? <input type="checkbox"/> No/Do not know. Skip line 6f. <input type="checkbox"/> Yes. Complete line 6f. If more than one, list on a sheet and attach to this form (see instructions).		
6f Enter: TIN or EIN ▶ _____ and Name under which it was issued ▶ _____			
6g Name of college/university or company (see instructions) _____ Length of stay _____ City and state _____			
<b>Sign Here</b>	Under penalties of perjury, I (applicant/delegate/acceptance agent) declare that I have examined this application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to disclose to my acceptance agent returns or return information necessary to resolve matters regarding the assignment of my IRS individual taxpayer identification number (ITIN), including any previously assigned taxpayer identifying number.		
	Signature of applicant (if delegate, see instructions)	Date (month / day / year) / /	Phone number ( )
Keep a copy for your records.	Name of delegate, if applicable (type or print)	Delegate's relationship to applicant	<input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Power of Attorney
	Signature	Date (month / day / year) / /	Phone ( ) Fax ( )
<b>Acceptance Agent's Use ONLY</b>	Name and title (type or print)	Name of company	EIN Office Code



# Magnus Title Agency Maricopa County Office Locations

METROPOLITAN  
PHOENIX  
ARTERING STRATEGIES



**1 Administration**  
3930 E Chandler Blvd. Suite 2  
Phoenix, AZ 85048  
**Phone:** (480) 748-2100

**Ahwatukee**  
3930 E. Chandler Blvd. Suite 2  
Phoenix, AZ 85048  
**Phone:** (480) 455-3700  
**Fax:** (480) 682-3377

**2 Title Department**  
3200 N. Central Ave. Suite 1270  
Phoenix, AZ 85012  
**Phone:** (602) 792-7300  
**Fax:** (602) 748-2700

**Customer Service**  
3200 N. Central Ave., Suite 1270  
Phoenix, AZ 85012  
**Phone:** (480) 792-7300  
**Fax:** (602) 748-2797

**3 Camelback Commercial**  
2525 E. Camelback Rd. Suite 136  
Phoenix, AZ 85016  
**Phone:** (602) 748-2800  
**Fax:** (602) 748-2710

**4 North Scottsdale**  
9500 E. Ironwood Square Dr. Suite 125  
Scottsdale, AZ 85258  
**Phone:** (480) 748-2100  
**Fax:** (480) 682-3330

**5 19th Avenue**  
21410 N. 19th Ave. Suite 139  
Phoenix, AZ 85027  
**Phone:** (602) 385-1550  
**Fax:** (602) 748-2750

**6 Ahwatukee Unit 4**  
4621 E. Chandler Blvd. Suite 180  
Phoenix, AZ 85048  
**Phone:** (480) 385-6275  
**Fax:** (480) 682-3306

**7 Ocotillo 2**  
4050 S. Arizona Ave. Suite 1  
Chandler, AZ 85248  
**Phone:** (480) 339-7000  
**Fax:** (480) 682-3350

**8 Magnus Arrowhead**  
7200 W. Bell Rd. Suite J-101  
Glendale, AZ 85308  
**Phone:** (602) 792-1050  
**Fax:** (602) 682-3460

**9 Phoenician**  
6991 E. Camelback Rd. Suite C-100  
Scottsdale, AZ 85251  
**Phone:** (480) 682-0200  
**Fax:** (480) 385-6862

**10 Sun City West**  
13843 W. Meeker Blvd. Suite 113  
Sun City West, AZ 85375  
**Phone:** (623) 385-4000  
**Fax:** (623) 792-1863

**11 Surprise Bell**  
14239 W. Bell Rd., Suite 213  
Surprise, AZ 85374  
**Phone:** (623) 385-4675  
**Fax:** (623) 792-1830

**12 Ocotillo**  
4913 S. Alma School Rd. Suite 2  
Chandler, AZ 85248  
**Phone:** (480) 682-0234  
**Fax:** (480) 682-3365

**13 Val Vista**  
130 S. Val Vista Dr. Suite 2  
Gilbert, AZ 85296  
**Phone:** (480) 339-7010  
**Fax:** (480) 682-3340

**Lakeshore**  
130 S. Val Vista Dr. Suite 2  
Gilbert, AZ 85296  
**Phone:** (480) 339-7010  
**Fax:** (480) 682-3390

**Power Road**  
130 S Val Vista Dr. Suite 2  
Gilbert, AZ 85296  
**Phone:** (480) 455-3737  
**Fax:** (480) 682-3300