



CHAPTER 4

Escrow Management



Purpose

- Hold money on behalf of others
- For a particular real estate transaction
- Must be in a separate account
- Commingling – mixing escrow with personal, operational funds, etc
- Conversion – misuse, commingling, intermingling or failure to account for funds
- Escrow account not required by law
- May be held with an attorney or title company (Florida)



Escrow Account

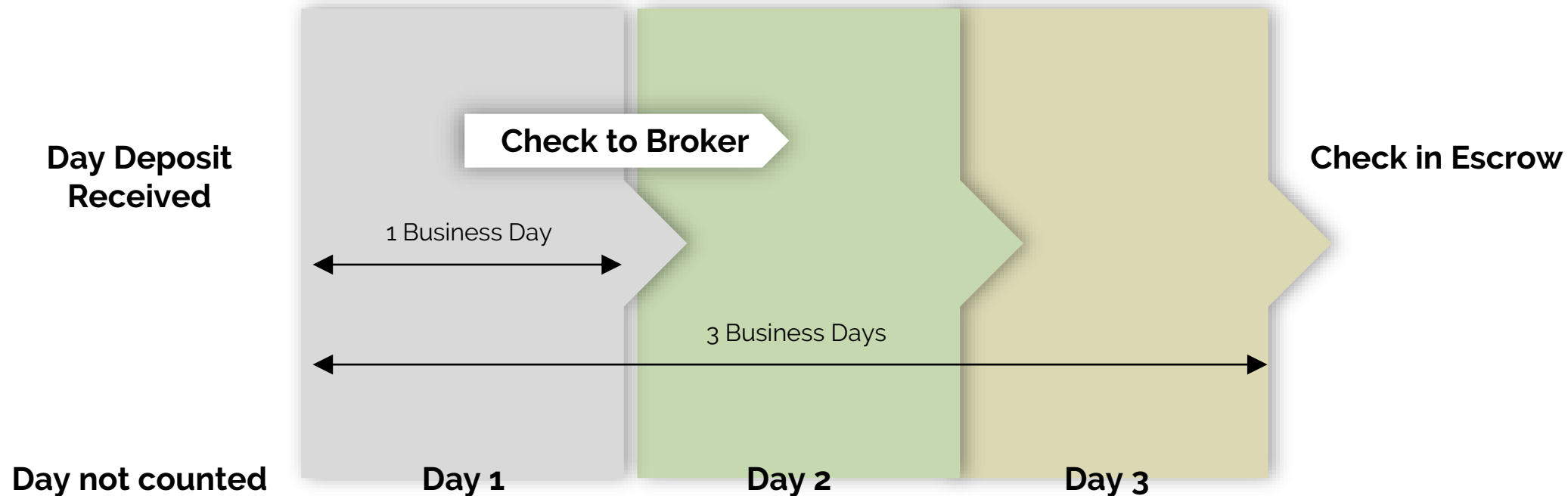
Escrow Deposit



- Anything of value that can be converted to cash at the earliest practical time and deposited immediately
- Seller must approve type of escrow that is being offered
- Postdated check is acceptable with sellers permission
- Postdated check can be enforced in court
- Broker holds the escrow for all parties
- Not the brokers money

Immediately

Deposits must be placed in escrow account immediately defined as



Post dated checks or promissory notes require Seller's Consent before accepting
Broker not responsible for NSF check if deposit made timely

Deposit received by any of the firms representatives –

- Constitutes receipt by broker
 - 61J2-14.009

Immediately defined

- 61J2-14.008/9
- Sales associate
 - Deliver deposit to employing broker by the end of the next business day after receipt
- Employing broker
 - Place the funds in the escrow account by the end of the 3rd business day after receipt from customer



Receipt of Deposit



Established in a Florida Bank

- An account for the deposit of money held by a third party
- Real estate broker's escrow account must be in a **Florida** based:
 - Title Company with Trust Powers
 - Commercial Bank
 - Credit Union
 - Savings Association
- May be interest bearing account with written consent of all parties

- An account for the deposit of money held by a third party
- 3 steps:
 - Name, address & phone number of title co./attorney on sales contract
 - Request written verification of deposit with 10 business days
 - Provide seller's broker or seller with copy of verification within 10 business days



Title Companies and Attorneys

- Deposits that can't be placed in Escrow Account:
- Securities, promissory notes, etc.
- Convert to cash at earliest practical time



Safe-Deposit Box

Escrow Agent

A close-up photograph of a hand holding a black pen with a gold-colored tip, poised to sign a document. The document is on a black clipboard and features a circular logo on the left side. The background is a wooden surface.

- Must be in the State of Florida
- Personal funds
 - \$5,000 max - property management account
 - \$1,000 max - sales escrow account
- Interest bearing account
 - All interested parties must agree in writing
 - Must designate who is to receive the interest
- Reconcile bank balance
 - Must review and sign monthly
 - Keep for 5 years

Escrow Audit

A hand holding a black pen with gold accents is positioned over a document on a clipboard. The document has some text and a signature. In the background, a smartphone is visible on a wooden surface.

- **Errors detected in escrow account**
 - No shortage of funds
 - No threat to public
 - Broker given reasonable time to correct
- **Conversion**
 - Misuse of escrow funds
 - Includes:
 - Commingling
 - Failure to account & deliver

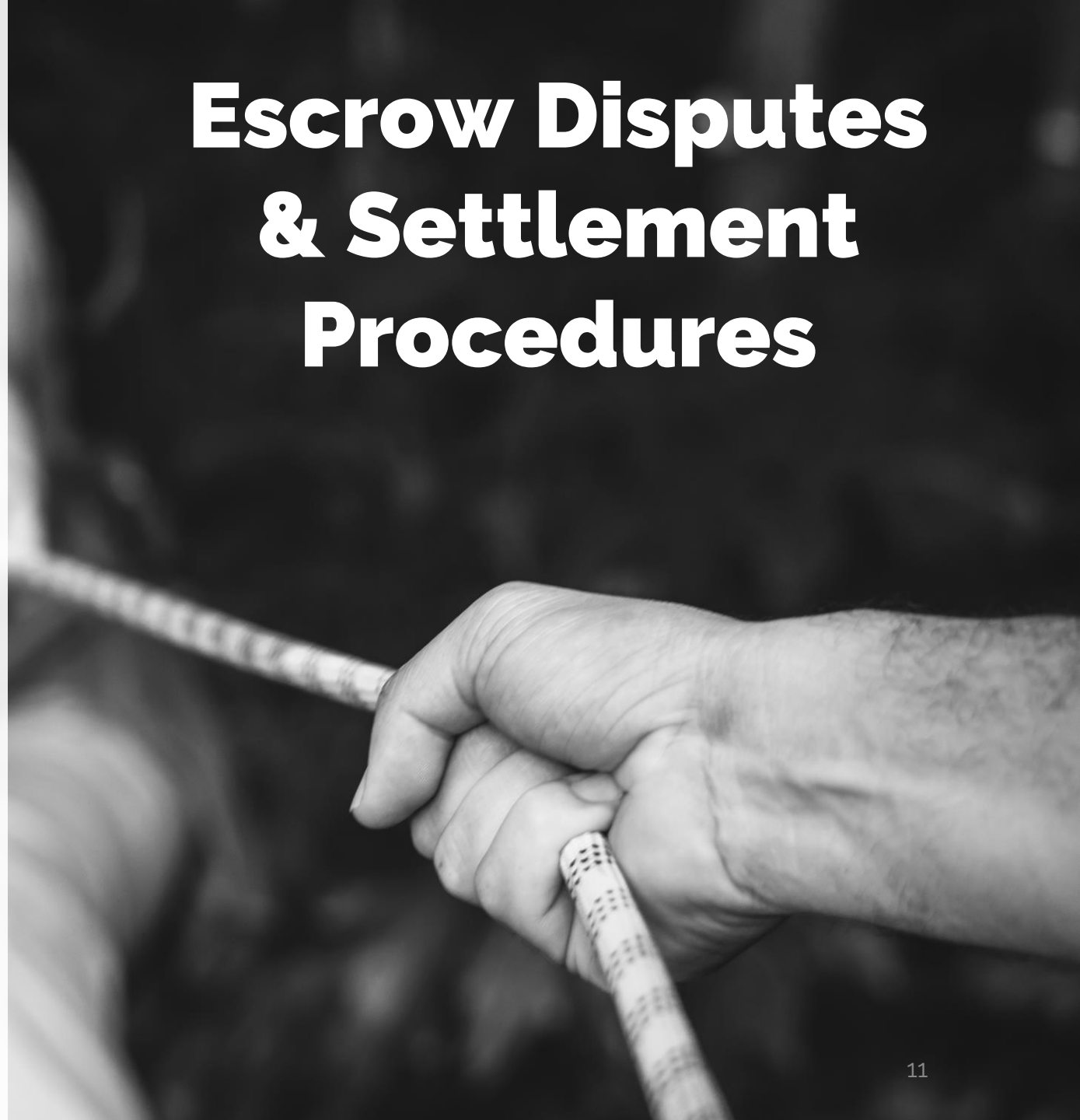
Buyer and seller both make demands on escrow funds, or

Broker has good faith doubt as to the parties intentions to close the contract must notify FREC

2 Steps broker must initiate:

- **Step 1 of 2** – Notify FREC in writing within 15 business days of parties last demand
 - Escrow Disbursement Order

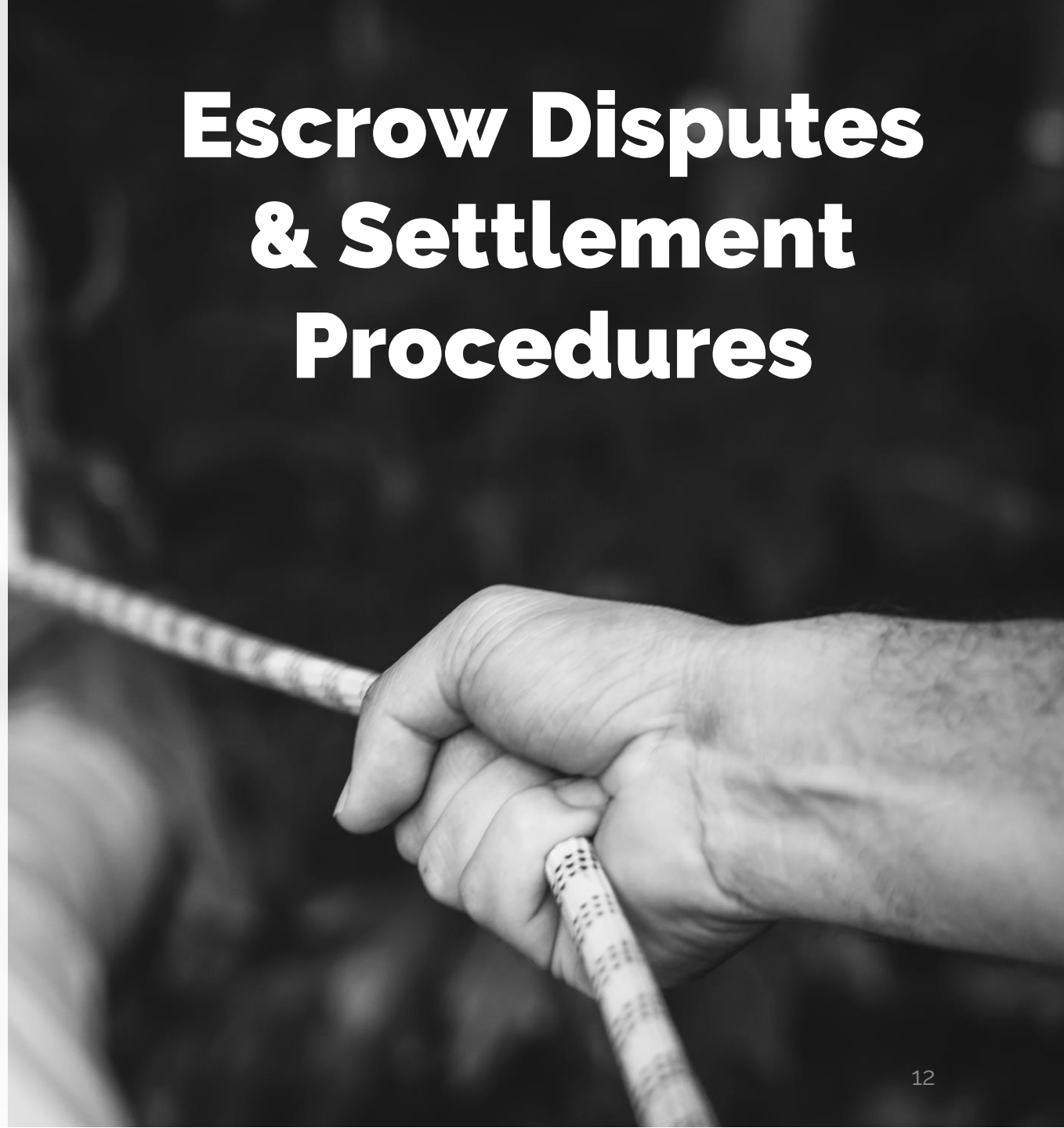
Escrow Disputes & Settlement Procedures



Buyer and seller both make demands on escrow funds

- **Step 2 of 2** – Institute one of the following settlement procedures within 30 business days after last demand
 - Mediation
 - Arbitration
 - Litigation
 - Interpleader
 - Declaratory decree
 - Escrow Disbursement Order

Escrow Disputes & Settlement Procedures



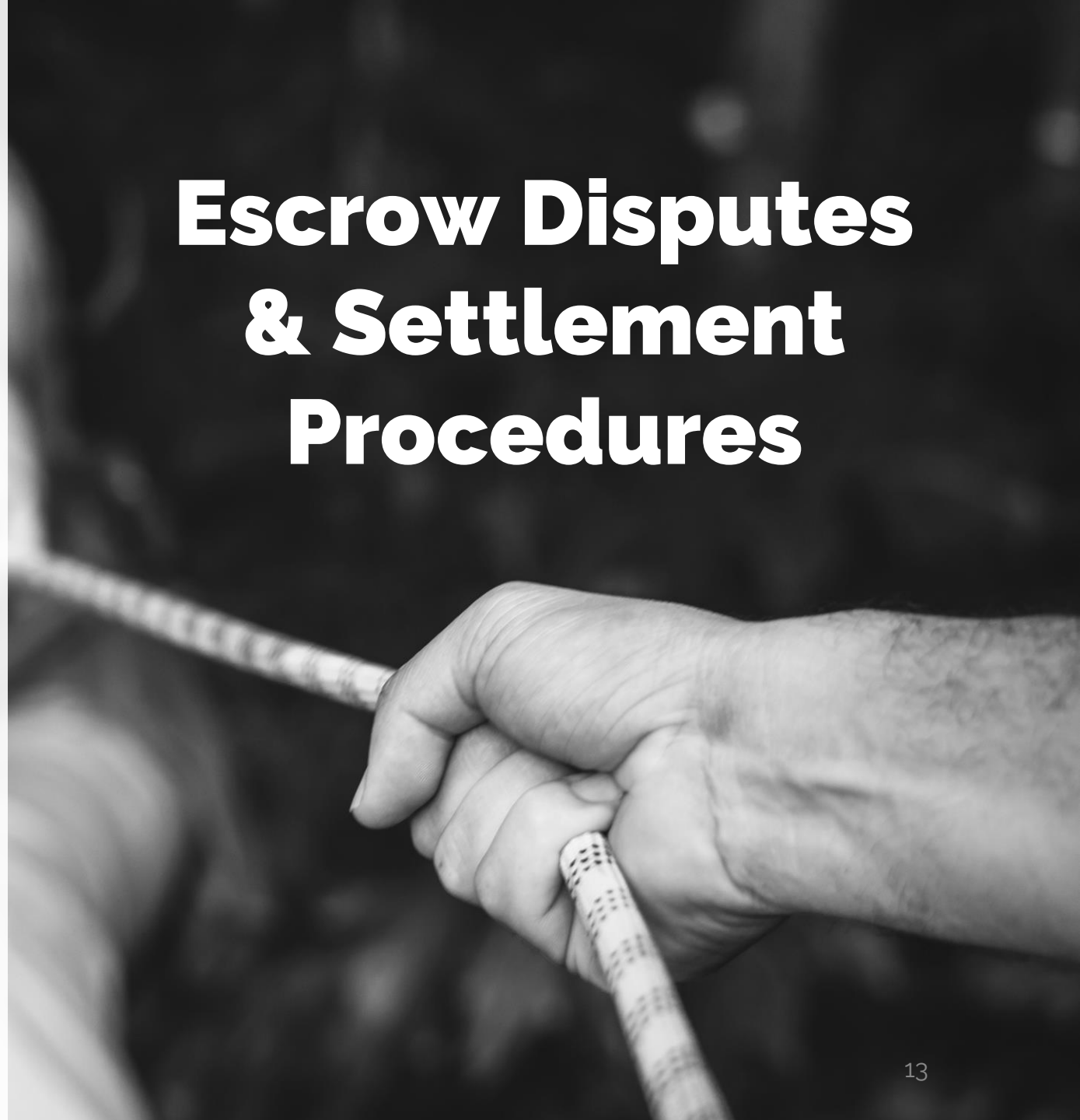
Buyer and seller resolve differences after broker submits EDO to FREC:

- Broker has 10 days to notify FREC

FREC refuses to issue and EDO:

- Broker must institute one of the other three procedures (mediation, arbitration, litigation)
- Notify FREC within 30 days of receiving FREC EDO denial

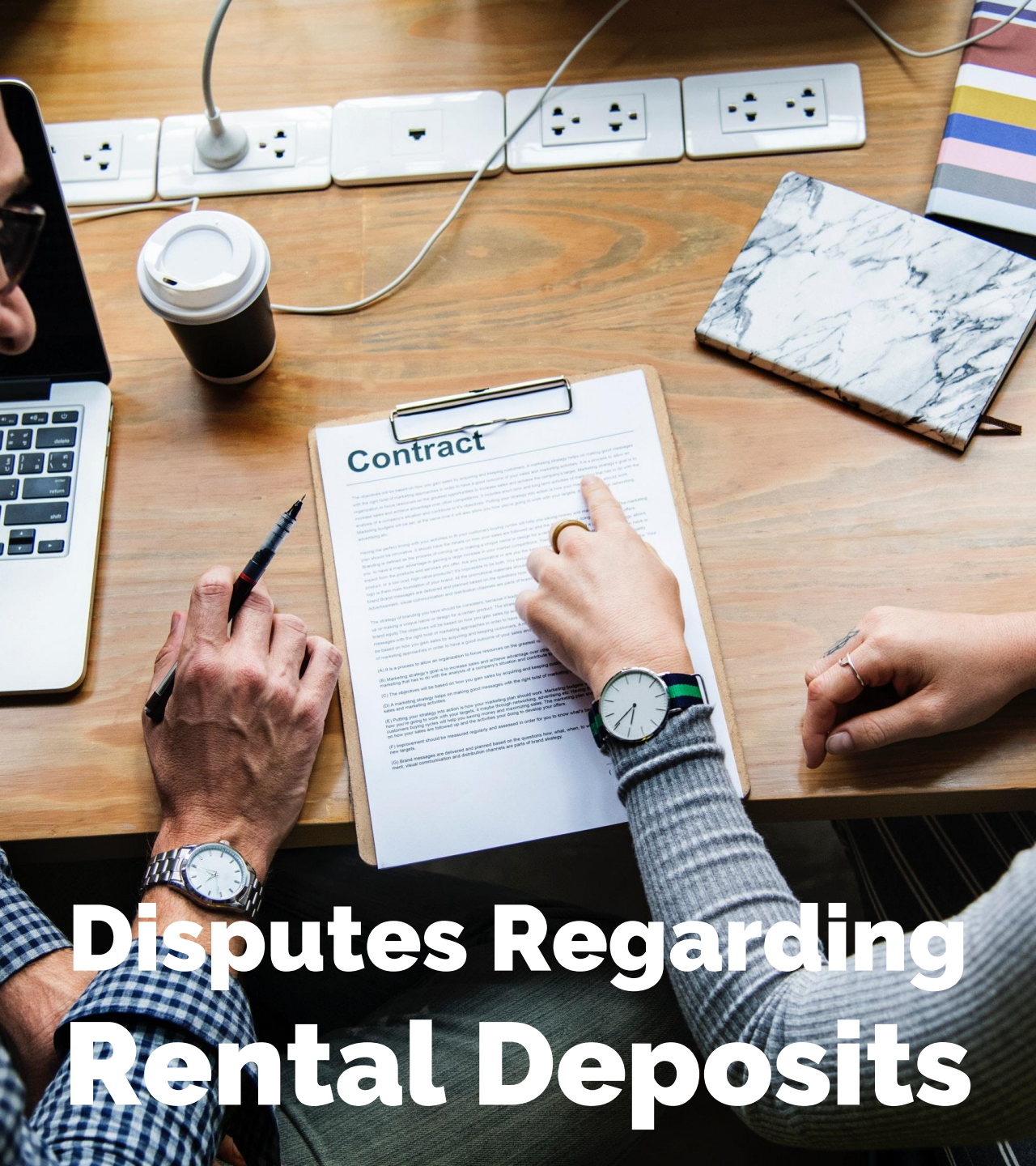
Escrow Disputes & Settlement Procedures





3 Exemptions to Escrow Dispute Notification

- HUD Purchase & Sales contract
- Condominium sale
 - New – 15 days
 - Resale - 3 business days
- Financing contingency



Disputes Regarding Rental Deposits

- The Florida Landlord Tenant Act (F.S. 83.49)
- Rental escrow disputes
- Broker not required to notify FREC
- Broker must comply with F.S. 83.49

- **Separate non-interest bearing account**
 - Florida banking institution
- **Separate interest bearing account**
 - Florida banking institution
 - Tenant receives 75% of interest
 - Landlord may retain up to 25%
- **Surety bond**
 - File with the clerk of the circuit court in the county where the unit is located
 - Amount of total security holdings or \$50,000 whichever is less
 - May commingle funds
 - Must pay 5% interest annually to tenant

Landlord Escrow Funds



- Landlord must notify tenant in writing within 30 days of:
 - Deposit
 - Advance rent
- Notice must include:
 - Name of depository
 - Rate of interest, if any
 - Time for interest payment, if any

Landlord Escrow Funds



Landlord Escrow Funds (cont)



- If landlord uses agent, deposits and advance rents must be in escrow account

Exception to Act – landlords who rent fewer than 5 units not using real estate broker

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- Unclaimed property after 5 years
 - Department of Financial Service Unclaimed Property Reporting Manual
 - F.S. 717.112

Unclaimed Escrow Funds



Coffee Break

15 Minutes