

RECEIPT AND DISBURSEMENT

OF TRANSACTION FUNDS

Put simply, in real estate transactions, escrow is when the buyer and seller use a third party to transfer title, and receive and distribute funds related to the transfer of that title. So, ultimately, your escrow agent – whether a title company or an independent escrow company – is responsible for receiving funds sufficient to close a transaction and for distributing those funds to the proper transaction parties. While this may seem like a simple thing, the disbursement of funds has a language all its own.

Good funds laws

“Good funds” laws regulate the types of funds a title company or escrow agent can accept and/or the minimum length of time those funds must remain on deposit in the escrow holder’s bank before disbursement. For example, “good funds” laws may require wired funds, cashier’s check, certified check or teller’s check to be deposited, and/or limit the amount of personal checks the escrow agent is permitted to accept. Check fraud schemes often involve counterfeit checks. To ensure a smooth and efficient transaction, it is better to deliver funds to the escrow agent through federal wire or get funds to the escrow holder in sufficient time to be sure the funds clear the maker’s bank account.

“Good funds” are not the same as “available funds” and “collected funds”, which are banking terms applicable to all types of accounts. They are the minimum state-imposed standards relating to escrow practices. Your escrow agent, however, should not automatically disburse funds upon the meeting of these minimum requirements, as receiving a check doesn’t always mean the funds are actually there to back it.

How all of this can affect your transaction

In order to provide even greater protection against thieves, many escrow agents require stricter practices than those required by their state’s good funds laws. This can have an impact on the speed of your transaction. If you plan your transaction considering stricter policies, it should help your transaction close quickly and efficiently. Keep these things in mind:

- Provide funds by federal wire or cashier’s check – Other forms of payment may experience delays before funds can be disbursed
- Don’t use lesser known, out of town, out of state or foreign banks – The collection process can take longer and delay the release of funds and finalization of your transaction
- Have to use a lesser known or out-of-town financial institution? – Make sure your bank is in contact with your escrow agent and communicates when they issue funds to speed up the process

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