Managing expectations can go a long way towards keeping the closing a pleasant experience for all. For a smoother transaction, whether it be residential or commercial, here are some friendly reminders for you and your clients:

■ When scheduling back-to-back closings, keep in mind that wire transfers are not immediate. A wire transfer requires time to be recognized by the receiving bank. While some wires post immediately, many can take 4 hours or even longer from time sent until time received by the intended party. Many banks have early afternoon cut off's for processing both outgoing and incoming wire transfers. This could result in some wire transfers not being completed until the following day.

■ Disbursement may be delayed until the wire is confirmed. This means that the disbursement of funds could be well past time of closing.

■ Any funds less than the amount of $10,000 can be in the form of a cashier's check, certified check or a personal check if it is not in excess of $500. Personal checks cannot be accepted in excess of $500.

■ Buyers should be made aware in advance that their money may be required. Sellers must be cautioned that there’s a possibility that funds may not be available immediately at the closing table.

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Indiana Good Funds Law Q&A
http://www.indianalandtitle.org/documents/Title%20Topics%20June.pdf

Effective July 1, 2009, any funds brought to closing in excess of $10,000 must be in the form of a wire. The Good Funds Bill, House Bill 1374, has been signed into effect by the Governor. The new law affects all title companies in Indiana and cannot be deviated from under any circumstance.
When does a wire become irreversible for purposes of the new law?

Typically, funds tendered electronically by wire (CHIPS or Fed wire) are considered unconditionally held by and credited to the escrow account of the title company upon confirmation by closing agent that the funds have been received and credited to the escrow account. To further protect wired funds, closing agents may elect to set up a separate trust or escrow account to receive all incoming wire transfers, and immediately upon receipt, re-transfer the funds into a secure escrow account or trust account. Because practices may vary by bank, closing agents should contact the bank or banks that hold their escrow account to discuss this issue and Realtors® and other customers should discuss this issue with the closing agent handling their transaction.

Funds transferred electronically by wire through the Automated Clearing House (ACH) are not acceptable. Funds transferred through the ACH network can be recalled by the originator up to 90 days after the transfer. As a result, only funds wired electronically through the Federal Reserve Bank will satisfy the Act’s requirements.

Does the new law require all funds to be wired into the closing agent’s escrow account?

Only funds in the amount of $10,000.00 or more must be wired funds.

Are there any alternatives to the wired funds requirement?

Yes, the law states that “good funds” may be received for amounts less than $10,000.00. The following are considered good funds under the Act:

- United States Currency
- Wired funds
- Certified or cashier’s check drawn on an existing account at a bank, savings & loan, credit union or savings bank chartered under the laws of a state or the United States
- A check drawn on the trust account of a real estate broker
- A personal check not to exceed $500 per closing
- A check issued by the State, the United States, or a political subdivision of the State or the United States
- A check drawn on the escrow account of another closing agent
- A check issued by a farm credit service authorized under the Farm Credit Act of 1971 (12 USC 2001 et.seq.)

Is there an exception for incidental fees?

Yes. The Act allows the closing agent to advance up to $500 from an escrow account to pay any incidental fees involved in a real estate transaction without requiring good or wired funds.

Example of incidental fees may be fees for preparing and recording a deed necessary to clear title prior to closing. As stated above, funds are still required to be deposited into the closing agent’s escrow account to cover incidental fees for a specific real estate transaction.

Who does the Act apply to?

The new law applies to any person closing a purchase or refinance transaction who is required to be licensed by the Indiana Department of Insurance. Lenders who close in the lender’s office and disburse on a loan provided by the lender for the refinance of a homeowner’s existing mortgage with the same lender are not subject to the Act’s funding requirements. However, a lender who closes and disburses on a purchase loan provided by the lender in its own office is required to comply with the funding requirements of the Act.

Does the new law require closing agents to wire out funds to payoff existing mortgages at closing in every transaction?

No. A closing agent is only required to wire out a mortgage payoff if the lender being paid off at closing requests in writing, in its payoff letter or separate document, that its payoff be in the form of wired funds as long as wired funds were deposited in the closing agent’s escrow account in an amount sufficient to cover the payoff. If a closing agent is required to pay off a home equity line or line of credit in the form of wired funds, the borrower will still need to sign a close-out account letter to be transmitted to lender by overnight mail or other means acceptable to closing agent and lender.

How will the new law affect back-to-back closings?

The speed of funds transferred electronically by wire depends on which Federal Reserve Bank the wire goes through and the volume the Reserve is handling at the time. Banks typically have a late afternoon cut-off time by which incoming and outgoing wires are no longer available. The cut-off time may vary by bank. Given the wire’s variables mentioned above, scheduling back-to-back closings an hour apart may not be feasible unless the same closing agent is handling both closings. Realtors®, lenders, homeowners, and closing agents will need to work together to schedule closings to accommodate the receipt of wired funds by the closing agent. With approval of all parties involved, the transaction can still “dry close” and disburse when the wire is credited to the closing agents escrow account.

Are individual cashier’s checks from a buyer in amounts less than $10,000.00 acceptable if the total amount of the checks exceed $10,000.00?

No, the Act states that amounts $10,000.00 or more, in the aggregate, from any single party must be wired funds. If, when added together, the amount of the cashier’s checks from one party to the transaction exceed $10,000.00, wired funds are required.

Are individual cashier’s checks from multiple buyers in amounts less than $10,000.00 acceptable if the total amount of the checks exceed $10,000.00?

No. Multiple buyers are considered as one buyer for purposes of the Act, so they must wire funds if, in the aggregate, their funds exceed $10,000 or more.

How will earnest money be handled?

Earnest money to be applied to the purchase price in the amount of $10,000.00 or more must be wired into the closing agent’s escrow account for closing. Earnest money under $10,000.00 brought to closing must be good funds as defined by the Act. An earnest money check deposited into a closing agent’s escrow account prior to closing must be fully cleaned and collected prior to disbursement at closing.