CHAPTER 47-34
REAL ESTATE TRANSACTION GOOD FUNDS

47-34-01. Definitions.

As used in this chapter:

1. "Closing agent" means a person that closes a real estate transaction in connection with the purchase, sale, or financing of an interest in real estate. The term does not include a lender or an employee of a lender that conducts a settlement or closing of a real estate secured loan provided by the lender in the office of the lender.
2. "Collected funds" means a cash deposit or a check that has been presented for payment and for which payment has been irrevocably credited to the closing agent's escrow account.
3. "Escrow account" means:
   a. A checking account established by a closing agent with a bank, savings and loan association, credit union, or savings bank that is chartered under the laws of a state or the United States and which is used exclusively for the deposit and disbursement of funds for a real estate transaction; or
   b. A trust account maintained by an attorney under the North Dakota Rules of Professional Conduct.
4. "Good funds" means funds in any one or more of the following forms:
   a. United States currency.
   b. Wired funds unconditionally held by and irrevocably credited to the escrow account of the closing agent.
   c. A check that has been presented for payment and for which payment has been collected. As used in this subdivision, the term check includes a certified check and a cashier's check.
   d. A check that is drawn on the trust account of a real estate broker licensed under chapter 43-23 or on the trust account maintained by an attorney under the North Dakota Rules of Professional Conduct, for which funds are collected funds by the real estate broker or the attorney's trust account.
   e. A cashier's check not to exceed fifty thousand dollars in the aggregate which is received by the closing agent and which is drawn on an existing account at a bank, savings and loan association, credit union, or savings bank chartered under the laws of a state or the United States located in this state, Minnesota, Montana, or South Dakota.
   f. A check drawn on the escrow account of another closing agent in this state, Minnesota, Montana, or South Dakota.
   g. Funds transferred to the closing agent's escrow account by the bank, savings and loan association, credit union, or savings bank that is the host institution of the closing agent's escrow account.
5. "Real estate transaction" means a transaction in which a person deposits with a closing agent funds that are to be held until a specified event occurs or the performance of a prescribed condition in connection with the purchase, sale, or financing of an interest in real estate; or a settlement or closing conducted in connection with the purchase, sale, or financing of an interest in real estate. The term does not include a loan financing if the only parties to the loan transaction are the lender and the borrower, and the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

47-34-02. Real estate transaction disbursements.

A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless funds that are received are good funds.

47-34-02.1. Acceptance of funds by closing agents.

1. At or prior to closing, a closing agent may accept a cashier's check for loan funds, if that check is delivered to the closing agent by a local issuing bank, savings and loan association, credit union, or savings bank, located in the same county as the closing agent or in a contiguous county.
2. The closing agent shall deposit the cashier's check in the agent's escrow account with a local financial institution that makes the funds available for immediate withdrawal, prior to the disbursement of funds.

47-34-03. Disclosures.

In a prominent manner in the closing documents, a closing agent shall disclose to the seller the anticipated closing date and all of the dates through which any loan payoffs are calculated.

47-34-04. Civil damages.

In addition to any other cause of action that may exist, a person may bring a cause of action against a person that violates section 47-34-02. In addition to any actual damages a plaintiff may prove, a person that violates section 47-34-02 is liable to the plaintiff for five hundred dollars per violation in the first action. In any subsequent action for violation of section 47-34-02, a person is liable for one thousand dollars per violation.