

CHAPTER 381

TITLE INSURANCE LAW

CLOSING REAL ESTATE SALE, REQUIREMENTS FOR SETTLEMENT AGENT

381.410. Definitions.

381.412. Settlement agents, accepting funds, exemption - title insurer, deposit of funds - violation, fine.

CLOSING REAL ESTATE SALE, REQUIREMENTS FOR SETTLEMENT AGENT

381.410. Definitions. - As used in this section and section 381.412, the following terms mean:

1) "**Cashier's check**", a check, however labeled, drawn on the financial institution, which is signed only by an officer or employee of such institution, is a direct obligation of such institution, and is provided to a customer of such institution or acquired from such institution for remittance purposes;

2) "**Certified funds**", United States currency, funds conveyed by a cashier's check, certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers, including written advice from a financial institution that collected funds have been credited to the settlement agent's account;

3) "**Director**", the director of the department of insurance, financial and professional regulation, unless the settlement agent's primary regulator is the division of finance. When the settlement agent is regulated by such division, that division shall have jurisdiction over this section and section 381.412;

(4) "**Financial institution**":

(a) A person or entity doing business under the laws of this state or the United States relating to banks, trust companies, savings and loan associations, credit unions, commercial and consumer finance companies, industrial loan companies, insurance companies, small business investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C. Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

(b) A mortgage loan company or mortgage banker doing business under the laws of this state or the United States which is subject to licensing, supervision, or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans' Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer, if their principal place of business is in Missouri or a state which is contiguous to Missouri;

(5) "**Settlement agent**", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339, RSMo.

(L. 1996 S.B. 664, A.L. 2000 S.B. 894, A.L. 2007 S.B. 66)
Effective 1-1-08

381.412. Settlement agents, accepting funds, exemption - title insurer, deposit of funds - violation, fine. -

1. A settlement agent who accepts funds for closing a sale of an interest in real estate shall require a buyer, seller, or lender who is not a financial institution to convey such funds to the settlement agent as certified funds. A check shall be exempt from the provisions of this section if drawn on:

(1) An escrow account of a licensed real estate broker, as regulated and described in section 339.105, RSMo; or

(2) An escrow account of a title insurer or title insurance agency licensed to do business in Missouri; or

(3) An agency of the United States of America, the state of Missouri, or any county or municipality of the state of Missouri; or

(4) An account by a financial institution.

2. It is unlawful for any title insurer, title agency, or title agent, as defined in section 381.009*, to make any payment, disbursement or withdrawal from an escrow account which it maintains as a depository of funds received from the public for the settlement of real estate transactions unless a corresponding deposit of funds was made to the escrow account for the benefit of the payee or payees:

(1) At least ten days prior to such payment, disbursement, or withdrawal; or

(2) Which consisted of certified funds; or

(3) Consisted of a check made exempt from this section by the provisions of subsection 1 of this section.

3. A violation of any provision of this section is a level two violation under section 374.049, RSMo.

(L. 1996 S.B. 664, A.L. 1997 S.B. 148, A.L. 2000 S.B. 894, A.L. 2007 S.B. 66)

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*Section 381.009 was repealed by S.B. 66, 2007.

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