



## 1995 SENATE BILL 417

November 9, 1995 – Introduced by Senators RUDE, JAUCH, SCHULTZ, DRZEWIECKI, PANZER, COWLES, A. LASEE and BUETTNER, cosponsored by Representatives ALBERS, MEYER, BRANDEMUEHL, HUEBSCH, WASSERMAN, DOBYNS, HANSON, GOETSCH, HAHN, SCHNEIDERS, BALDUS, TURNER, FOTI, SERATTI, OLSEN, HUBER and GROTHMAN. Referred to Committee on Education and Financial Institutions.

1     **AN ACT to create** 708.10 of the statutes; **relating to:** loan funds availability at  
2     real estate closings.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes requirements for the delivery of loan funds at certain loan closings secured by a mortgage on real property. Under the bill, a lender may not permit or require a borrower to complete a loan settlement unless the lender unconditionally delivers qualified loan funds to the borrower in a transaction immediately upon completion of the loan settlement. If a settlement agent is to deliver qualified loan funds to the borrower in a transaction, a lender may not permit or require a borrower to complete a loan settlement unless the lender unconditionally delivers qualified loan funds to the settlement agent before or immediately on completion of the loan settlement. The bill defines qualified loan funds as a wire transfer, a cashier's check, a negotiable check on which the lender or an affiliate of the lender is the payer, or the transfer of loan funds into an account maintained by the lender or an affiliate of the lender in favor of the settlement agent or the borrower.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3     **SECTION 1.** 708.10 of the statutes is created to read:  
4     **708.10 Loan funds at closings. (1) DEFINITIONS.** In this section:  
5     (a) "Affiliate" means, with respect to any lender, any person that controls, is  
6     controlled by, or is under common control with, the lender.

1 (b) "Borrower" means a person who borrows money from a lender to finance a  
2 transaction under a loan that is secured by a real estate mortgage.

3 (c) "Lender" means all lenders identified under s. 706.11 (1), loan solicitors, as  
4 defined under s. 440.71 (2), and savings and loan associations organized under ch.  
5 215.

6 (d) "Loan settlement" means the execution by the borrower of a promissory  
7 note, mortgage and any other documents that are required by the lender to be signed  
8 as a condition to the granting of a loan to the borrower and the delivery of the  
9 proceeds of the loan to the borrower or, in the case of a loan subject to a right of  
10 rescission under 15 USC 1635, the expiration of the borrower's right to rescission under  
11 15 USC 1635.

12 (e) "Qualified loan funds" means any of the following:

13 1. Wire transfer.

14 2. Cashier's check.

15 3. A check that is negotiable, as defined in s. 403.104 (1), and on which the  
16 lender or an affiliate of the lender is the payer.

17 4. Transfer of the loan funds by the lender into an account maintained by the  
18 lender or an affiliate of the lender in favor of the settlement agent or borrower.

19 (f) "Settlement agent" means a person retained by the lender who provides  
20 services that benefit the lender and borrower in a transaction and who receives and  
21 disburses money in connection with the transaction.

22 (g) "Transaction" means a transaction under s. 706.01 (1) and includes a  
23 refinancing of an existing indebtedness that is secured by a mortgage on real  
24 property.

1 (h) "Wire transfer" means the electronic funds transfer system of the federal  
2 reserve banks. When funds are transferred by wire transfer, delivery of the funds  
3 is complete when a transaction number has been assigned to the wire transfer.

4 **(2) LOAN FUND DISPERSAL.** (a) A lender may not permit or require a borrower  
5 to complete a loan settlement unless the lender unconditionally delivers qualified  
6 loan funds to the borrower in a transaction immediately upon completion of the loan  
7 settlement.

8 (b) If a settlement agent is to deliver qualified loan funds to the borrower in a  
9 transaction, a lender may not permit or require a borrower to complete a loan  
10 settlement unless the lender unconditionally delivers qualified loan funds to the  
11 settlement agent before or immediately on completion of the loan settlement.

12 **SECTION 2. Initial applicability.**

13 (1) This act first applies to transactions entered into on the effective date of this  
14 subsection.

15 **SECTION 3. Effective date.**

16 (1) This act takes effect on the first day of the 3rd month beginning after  
17 publication.

18 (END)