

# State of Wisconsin



1995 Senate Bill 417

Date of enactment: **June 6, 1996**  
Date of publication\*: **June 20, 1996**

## 1995 WISCONSIN ACT 394

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

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

**SECTION 1.** 708.10 of the statutes is created to read:  
**708.10 Loan funds at closings. (1) DEFINITIONS.** In this section:

(a) "Affiliate" means, with respect to any lender, any person that controls, is controlled by, or is under common control with, the lender.

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

(c) "Lender" means all lenders identified under s. 706.11 (1), loan solicitors, as defined under s. 440.71 (2), and savings and loan associations organized under ch. 215, except that "lender" does not include any federal, state or local unit of government or any agency, political subdivision or instrumentality of such a unit of government.

(d) "Loan settlement" means the occurrence of all of the following:

1. The execution by the borrower of a promissory note, mortgage and any other documents that are required by the lender to be signed as a condition to the granting of a loan to the borrower.

2. The delivery of the proceeds of the loan to the borrower or to a 3rd party on behalf of the borrower.

3. If the borrower has a right to rescind the loan under federal or state law, the expiration of the borrower's right of rescision.

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

1. Wire transfer.
2. Cashier's check.

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

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

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

(g) "Transaction" means a transaction under s. 706.01 (1), including a refinancing of an existing indebtedness that is secured by a mortgage on real property, except that "transaction" does not include an open end credit plan as defined under [15 USC 1602 \(i\)](#).

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

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(2) LOAN FUND DISPERSAL. (a) Except as provided in par. (b), if a settlement agent is to deliver qualified loan funds to the borrower in a transaction, or to a 3rd party on behalf of the borrower, 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.

(b) If the lender and the borrower have agreed that less than all of the loan funds are to be disbursed at the

loan settlement, the lender shall deliver qualified loan funds to the settlement agent only in the amount to be disbursed at the loan settlement.

**SECTION 2. Initial applicability.**

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

**SECTION 3. Effective date.**

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

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