

Table 24.1
Closing Practices — Wet Settlement or Good Funds

State	Specifics of the Law	Purchase	Refinance
Alabama	No statutory reference to wet settlement or good funds.	XX	XX
Alaska	No statutory reference to wet settlement or good funds.	XX	XX
Arizona	Good funds. [AZ ST § 6-947 (N).]	XX	XX
Arkansas	Good funds. [Ark Code 18-12-703(A).]	XX	XX
California	Good funds. [Ca Ins. Code § 12413.1.]	XX	XX
Colorado	Good funds. [Colo. Rev. Stat. 38-35-125.]	XX	XX
Connecticut	<p>Wet settlement — With regard to first lien mortgages, funds must be disbursed at time of execution of loan documents or at end of rescission. [C.G.S. 36a-758.]</p> <p>The “Banking Law of Connecticut” applies to all first and secondary mortgage lenders and brokers. [C.G.S. 36a-1.]</p> <p>(a) Any person who violates any provision of the banking law for which no other penalty is provided by law shall be fined not less than \$25 nor more than \$1,000 for each offense. (b) Any person who willfully and deliberately violates any provision of the banking law for which no other penalty is provided by law shall be imprisoned not more than one year or fined not more than \$1,000, or both, for each offense. [C.G.S. 36a-57]</p>	XX	XX
Delaware	Good funds. [The Delaware Lawyers’ Rules of Professional Conduct 1.15(m).]	XX	XX
District of Columbia	<p>Wet settlement — A lender must, at or before loan closing, disburse loan funds to a settlement agent. A lender must not receive or charge any interest on a loan until disbursement of loan funds and loan closing have occurred, and must not require payment of any interest in advance. [DC Code § 42-2403.]</p> <p>This applies only to transactions involving purchase money loans secured by first or second deeds of trust or mortgages, excluding second deeds of trust or mortgages for refinancing purposes only, on real estate containing not more than four residential dwelling units. [DC Code § 42-2402.]</p> <p>Any person that suffers a loss due to the failure of a lender or of a settlement agent to disburse the funds as required will be entitled to recover, in addition to the amount of actual damages, double the amount of any interest collected in violation of the statute, plus any reasonable attorney fees incurred in the collection of that amount.</p> <p>Civil fines, penalties, and fees may be imposed as alternative sanctions</p>	XX	

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	for any infraction of these provisions, or any rules or regulations issued under the authority of the statute. [DC Code § 42-2407.]		
Florida	No statutory reference to wet settlement or good funds	XX	XX
Georgia	<p>Wet settlement — Loan closing is defined as the time agreed upon by the borrower and the lender when the execution and delivery of loan documents by the borrower occurs. The lender shall at or before the loan closing, deliver loan funds to the settlement agent. [OCGA § 44-14-13.]</p> <p>For loans closed on or after July 1, 2008, a settlement agent may disburse proceeds from its escrow account after receipt of any of the following negotiable instruments even though the same are not collected funds: (1) a cashier’s check as defined in OCGA § 11-3-104 from a federally insured bank, savings bank, savings and loan association, or credit union, and issued by a lender for a closing or loan transaction; (2) a check drawn on the escrow account of an attorney or real estate broker, if there are reasonable and prudent grounds to believe that the check will constitute collected funds in the settlement agent’s escrow account within a reasonable time; (3) a check issued by the United States or Georgia, or any agency thereof; and (4) a check or checks not exceeding \$5,000 in aggregate per loan closing. For loans subject to the TILA right of rescission (i.e., refinancings), the lender shall, prior to disbursement and no later than 11:00 A.M. Eastern Standard Time of the next business day following expiration of the rescission period, deliver loan funds to the settlement agent. [SB 355 (2008).]</p> <p>Any party violating this code section shall be liable to any other party suffering a loss due to such violation for such other party’s actual damages plus reasonable attorney fees. In addition, any party violating this code section shall pay to the borrower an amount of money equal to \$1,000 or double the amount of interest payable on the loan for the first 60 days after the loan closing, whichever is greater. [O.C.G.A. § 44-14-13.]</p>	XX	XX
Hawaii	It is appropriate to check both purchase and refi boxes. No licensed escrow agent may disburse funds from an escrow account until cash and/or items sufficient to fund any disbursements from the account have been received and deposited to the account. [HI Stat. § 449-16(b).]	XX	XX

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Idaho	Good funds. [Title Insurance & Title Insurance Agent & Escrow Officer Rules 18.01.25.011(10).]	XX	XX
Illinois	No statutory reference to wet settlement or good funds. The code provides that “a sponsoring broker may not disburse funds until they have been honored by the payor’s depository.” [68 Ill. Adm. Code 1450.175(g).]	XX	XX
Indiana	No statutory reference to wet settlement or good funds.	XX	XX
Iowa	No statutory reference to wet settlement or good funds. [Iowa Admin. Code Section 193E-13.2(6), titled Closing transactions.]	XX	XX
Kansas	No statutory reference to wet settlement or good funds.	XX	XX
Kentucky	No statutory reference to wet settlement or good funds.	XX	XX
Louisiana	Good funds. [LA R.S. 9:3506.1.]	XX	XX
Maine	<p>Wet settlement — A lender is required to cause, at or before loan closing (signed documents received by lender/agent), disbursements of loan funds to the settlement agent. For loans subject to rescission, the lender shall cause disbursement prior to noon of the first business day after expiration of rescission period. [33 MRSA § 524 titled Duty of lender.]</p> <p>Maine also requires the settlement agent to cause disbursement of settlement proceeds within two business days of settlement (recordation) or at the time that the settlement agent reasonably determines that a TILA three-day right of rescission has not been exercised. [33 MRSA § 525 titled Duty of settlement agent.]</p> <p>A lender or settlement agent who violates any provision of this subchapter and causes actual damage to a consumer is subject to a civil action by the aggrieved consumer in which the consumer has the right to recover the greater of actual damages in an amount determined by the court or, except as provided in subsection 2, an amount determined by the court not less than \$250 nor more than \$1,000, plus costs of the action together with reasonable attorney fees. [MRSA Tit. 33, § 9-526.]</p>	XX	XX
Maryland	Wet settlement — Funds must be disbursed at or before settlement. Settlement is defined as the process of executing and delivering to the lender or agent responsible for settlement, legally binding documents evidencing or securing a loan secured by a deed of trust or mortgage encumbering real property in Maryland. If loan funds are not disbursed at closing, the lender may not charge interest on the loan for the first 30 days following the date of closing. [MD Real Prop. Code 7-109.]	XX	
Massachusetts	Good funds. [Mass. Gen. Laws Chap. 183 sec. 63B.]	XX	XX
Michigan	No statutory reference to wet settlement or good funds.	XX	XX

State	Specifics of the Law	Purchase	Refinance
Minnesota	<p>Good funds. [82.49 (subd. 2).]</p> <p>Table funding regulated — Mortgage originators whose names appear as the lender on loan documents but who do not use their “own funds” to close mortgage loans must adhere to the table funding rules in Section 82.49, as amended by Chapter 347 of 2008 — S.F. No. 3594; That amended section prohibits a closing agent from making disbursements out of an escrow, security deposit, settlement, or closing account unless the funds received from the actual lender whose funds are being used to close the loan are collected funds or qualified loan funds as those terms are defined in Section 82.49.</p>	XX	XX
Mississippi	No statutory reference to wet settlement or good funds.	XX	XX
Missouri	Good funds. [MO Rev. Stat. 381.412.]	XX	XX
Montana	No statutory reference to wet settlement or good funds.	XX	XX
Nebraska	Good funds. [Neb. Rev. Stat. § 76-2,122(2)(a).]		
Nevada	No statutory reference to wet settlement or good funds.	XX	XX
New Hampshire	<p>Wet settlement — Lenders are required to comply with the requirements for funding loans at closing. [NHRSA § 477:52.]</p> <p>The banking department may revoke a license if it is satisfied that the licensee has violated any provisions of the Chapter 397-A for Non-depository First Mortgage Bankers and Brokers. A licensee must comply with the provisions of RSA 477:52 relative to requirements for the funding of loans at real estate closing. [NHRSA § 397-A:14-b.]</p> <p>The banking department makes it a felony for any person (other than a natural person) to violate the provisions of Chapter 398-A for Second Mortgage Home Loans. A licensee must comply with the provisions of RSA 477:52 relative to requirements for the funding of loans at real estate closing. [NHRSA § 398-A:9-a.]</p> <p>In the absence of a definition, the regulators in New Hampshire use the definition in the federal Real Estate Settlement Procedures Act (RESPA) to determine when closing occurs. Settlement means the process of executing legally binding documents regarding a lien on property that is subject to a federally related mortgage loan. This process may also be called “closing” or “escrow” in different jurisdictions. [24 CFR Part 3500.2.]</p>	XX	XX

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New Jersey	<p>Wet settlement — Lender must provide proceeds to closing agent prior to closing. [NJ Stat Ann § 17:11C-22 (k).]</p> <p>The commissioner may revoke, suspend, or refuse to renew a license or impose a penalty if a licensee violates any of the provisions of “New Jersey Licensed Lenders Act.” [NJ Stat Ann § 17:11C-18.]</p> <p>In the absence of a definition, the regulators in New Jersey use the definition in RESPA to determine when closing occurs. Settlement means the process of executing legally binding documents regarding a lien on property that is subject to a federally related mortgage loan. This process may also be called “closing” or “escrow” in different jurisdictions. [24 CFR Part 3500.2.]</p>	XX	XX
New Mexico	<p>Wet settlement for purchases only — Unless the consideration necessary to complete a purchase of real property has been previously delivered to the seller or to the closing agent, a lender shall comply with the following:</p> <ol style="list-style-type: none"> 1. Funds in an amount sufficient to complete the purchase of real property shall be provided to the closing agent at the same time the lender provides to the closing agent the documentation to be reviewed and executed by the parties to the real estate transaction; and 		
	<ol style="list-style-type: none"> 2. Within two business days from the time the lender receives copies of all previously required documentation to the real estate transaction, including documentation executed by the parties to that transaction, the lender shall: <ol style="list-style-type: none"> a. Authorize the closing agent to record with the county clerk all documents necessary to complete the real estate transaction and release the proceeds of the real estate transaction in accordance with agreed upon escrow instructions; b. Advise the closing agent of any funding conditions, as set forth in the lender’s escrow instructions, that have not been satisfied and instruct the closing agent in writing what is to be done with any of the lender’s funds held in escrow; or c. Advise the closing agent that the documentation for the real estate transaction does not satisfy the lender’s escrow instructions, specify the manner in which that documentation does not satisfy those instructions and instruct the closing agent in writing what is to be done with any of the lender’s funds held in escrow. [NM ST § 58-21-23.2] 	XX	
New York	<p>Wet settlement — By statute, New York is a good funds state. [3 NYCRR § 38.7.] However, according to custom and practice, it is a wet settlement state.</p> <p>Because wet settlement is a practice rather than a statutory requirement, there are no penalties associated with not adhering to the practice.</p>	XX	XX

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	However, it might be difficult to impossible to close a loan in New York unless the funds are in the possession of the closing agent.		
North Carolina	<p>Wet settlement — The lender must deliver closing funds, including gross or net loan funds at or before closing. [NCGS § 45A-5.] The settlement agent, in turn, is prohibited from disbursing loan settlement proceeds unless those settlement proceeds are collected funds. In this regard, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit being “collected funds” if the deposit is in one or more of the following forms [NCGS § 45A-4]:</p> <ol style="list-style-type: none"> 1. A certified check. 2. A check issued by the state, the United States, a political subdivision of the state, or an agency or instrumentality of the United States, including an agricultural credit association. 		
	<ol style="list-style-type: none"> 3. A cashier’s check, teller’s check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government. 4. A check drawn on the trust account of an attorney licensed to practice in the state of North Carolina. 5. A check or checks drawn on the trust or escrow account of a North Carolina-licensed real estate broker. 6. A personal or commercial check or checks in an aggregate amount not exceeding \$5,000 per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent’s trust or escrow account. 7. A check drawn on the account of or issued by a North Carolina-licensed mortgage banker that has posted with the Commissioner of Banks a surety bond in the amount of at least \$300,000. The surety bond must be in a form satisfactory to the commissioner and must run to the state for the benefit of any settlement agent with a claim against the licensee for a dishonored check. <p>Closing means the time agreed upon by the purchaser, seller, and lender when the execution and delivery of the documents necessary to consummate the transaction occurs. [NCGS § 45A-3.]</p> <p>SL 2007-176 (House Bill 313), effective April 1, 2008, amends the North Carolina Good Funds Settlement Act, General Statutes 45A, sections 45A-4 and 45A-5 covering duties of settlement agents and duties of lender, purchaser and seller, respectively.</p> <p>As of April 1, 2008, settlement agents must ensure that the name of the mortgage broker originating the loan, if one was used, appears on the face of the deed of trust before it is recorded. Likewise, lenders must start including in their loan closing instructions to the settlement agent</p>	XX	XX

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	<p>the name of the mortgage broker or other person, if any, who acted as a mortgage broker in the origination of the loan.</p> <p>Any party violating the Good Funds Settlement Act is liable to any other party suffering a loss for that other party's actual damages plus reasonable attorney fees. In addition, any party violating the act must pay to the party or parties suffering a loss an amount equal to \$1,000 or double the amount of interest payable on any loan for the first 60 days after the loan closing, whichever amount is greater. [NCGS § 45A-7.]</p>		
North Dakota	No statutory reference to wet settlement or good funds.	XX	XX
Ohio	Good funds. [Ohio Rev. Code Ann. § 1349.21.]	XX	XX
Oklahoma	No statutory reference to wet settlement or good funds.	XX	XX
Oregon	“(5) An escrow agent may accept client funds, in excess of earnest money required in transaction documents to be held, as individual funds of the principal who has paid them into escrow. Such individual funds may be disbursed with only the separate written instructions of the principal who deposited the funds into escrow.” [ORS § 696.581 (Escrow Agency Law), subsection 5.]	XX	XX
Pennsylvania	Good funds. [63 Penn. Stat. Ann. § 456.309 (a) (3).]	XX	XX
Rhode Island	<p>Wet settlement — Proceeds must be disbursed on or before the date upon which the security instrument is to be recorded. If the disbursement is not made, as provided, no interest shall be charged for the first 30 days following the closing date. [R.I. Gen. Laws § 19-9-10.]</p> <p>According to the regulators the intent of the statute is to insure that the disbursement funds are delivered to the closing agent at the same time the loan documents are delivered for execution and recording.</p>	XX	
South Carolina	No statutory reference to wet settlement or good funds.	XX	XX
South Dakota	No statutory reference to wet settlement or good funds.	XX	XX
Tennessee	No statutory reference to wet settlement or good funds.	XX	XX

State	Specifics of the Law	Purchase	Refinance
Texas	No statutory reference to wet settlement or good funds.	XX	XX
Utah	Good funds applies specifically when title company conducts closing. [Utah Code § 31A-23-307 (2) (d).] Title companies are required to maintain insured and insurer's funds in a separate trust account unless funds are sent to the appropriate payee by the close of the next business day after their receipt. [Utah Code § 31A-23a-409.]	XX	XX
Vermont	<p>Wet settlement — No statutory reference to wet settlement or good funds. However, loan proceeds are traditionally available at the time of closing. Title agents are attorneys, and they act as “escrow agents” if one is required for closing. If a realtor is involved, they hold “deposit” funds as escrow agents until closing.</p> <p>This information was provided by:</p> <p style="padding-left: 40px;">Joshua B. Lobe, Attorney at Law 35 King Street Burlington, VT 05401 Phone: (802) 660-9000 Fax: (802) 864-0375 e-mail address: josh.lobe@verizon.net</p> <p>Because wet settlement is a practice rather than a statutory requirement, there are no penalties associated with not adhering to the practice. However, it might be difficult to impossible to close a loan in Vermont unless the funds are in the possession of the closing agent.</p>	XX	XX
Virginia	<p>Wet settlement — The lender must, at or before loan closing, cause disbursement of loan funds to the settlement agent. With reference to refinances, disbursement must occur one day after rescission. [Va. Code Ann. § 6.1-2.12.]</p> <p>“Loan closing” means that time agreed upon by the borrower and lender, when the execution of the loan documents by the borrower occurs. [Va. Code Ann. § 6.1-2.10.]</p> <p>Any persons suffering losses due to the failure of the lender or the settlement agent to cause disbursement as required by this chapter shall be entitled to recover, in addition to other actual damages, double the amount of any interest collected in violation of § 6.1-2.12 plus reasonable attorney fees incurred in the collection thereof. [Va. Code Ann. § 6.1-2.15.]</p>	XX	XX
Washington	Good funds. [Wash. Rev. Code § 18.44.400.]	XX	XX
West Virginia	No statutory reference to wet settlement or good funds.	XX	XX

State	Specifics of the Law	Purchase	Refinance
Wisconsin	<p>Wet settlement — 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 before or immediately on completion of loan settlement. [Wis. Stat. § 708.10 (2) (a).]</p> <p>“Loan settlement” means the occurrence of all of the following:</p> <ol style="list-style-type: none"> 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 third 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 rescission. [Wis. Stat. § 708.10 (1) (d).] <p>There is no statutory reference to penalties associated with failure to comply with Wis. Stat. § 708.10 (2) (a). However, it might be difficult or impossible to close a loan in Wisconsin unless the funds are in the possession of the closing agent.</p>	XX	XX
Wyoming	No statutory reference to wet settlement or good funds.	XX	XX