

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 514

An Act to amend and reenact § 6.1-2.10 of the Code of Virginia, relating to the Wet Settlement Act's definition of a settlement.

[H 1098]

Approved March 10, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-2.10 of the Code of Virginia is amended and reenacted as follows:

§ 6.1-2.10. Definitions.

The following terms as used in this chapter shall have the following meanings:

"Disbursement of loan funds" means the delivery of the loan funds by the lender to the settlement agent in one or more of the following forms:

1. Cash;
2. Wired funds;
3. Certified check;
4. Checks issued by the Commonwealth or a political subdivision of the Commonwealth;
5. Cashier's check, or teller's check with equivalent funds availability in conformity with the federal Expedited Funds Availability Act (12 U.S.C. § 4001 et seq.);

6. Checks issued by a financial institution, the accounts of which are insured by an agency of the federal or state government, which checks are drawn on a financial institution located within the Fifth Federal Reserve District, the accounts of which are insured by an agency of the federal or state government;

6a. Drafts issued by a state chartered or federally chartered credit union, which drafts are drawn on the United States Central Credit Union;

7. Checks issued by an insurance company licensed and regulated by the State Corporation Commission, which checks are drawn on a financial institution located within the Fifth Federal Reserve District, the accounts of which are insured by an agency of the federal government; or

8. Checks issued by a state or federal savings and loan association or savings bank operating in the Commonwealth, which checks are drawn on the Federal Home Loan Bank of Atlanta;

"Disbursement of settlement proceeds" means the payment of all proceeds of the transaction by the settlement agent to the persons entitled thereto;

"Lender" means any person regularly engaged in making loans secured by mortgages or deeds of trust on real estate;

"Loan closing" means that time agreed upon by the borrower and lender, when the execution of the loan documents by the borrower occurs;

"Loan documents" means the note evidencing the debt due the lender, the deed of trust, or mortgage securing the debt due to the lender, and any other documents required by the lender to be executed by the borrower as a part of the transaction;

"Loan funds" means the gross or net proceeds of the loan to be disbursed by the lender at loan closing;

"Settlement" means the time when the settlement agent has received the duly executed deed, loan funds, loan documents, and other documents and funds required to carry out the terms of the contract between the parties and the settlement agent reasonably determines that prerecordation conditions of such contracts have been satisfied. *However, a determination by a settlement agent that prerecordation conditions have been satisfied shall not control the rights and obligations of the parties under the contract including whether settlement has occurred under the terms and conditions of the contract.* "Parties" as used in this subsection means the seller, purchaser, borrower, lender and the settlement agent;

"Settlement agent" means the person responsible for conducting the settlement and disbursement of the settlement proceeds and includes any individual, corporation, partnership, or other entity conducting the settlement and disbursement of loan proceeds;

"Settlement service provider" means any person providing settlement services, as that term is defined under the Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.).