

187—18.22 (17A,535B) Closing standards.

18.22(1) A closing agent shall read and comply with all closing instructions from the parties to the transaction.

18.22(2) A closing agent shall disburse or deliver funds only in accordance with closing instructions from the lender, the attorney's title opinion or title commitment, and the real estate purchase agreement, when applicable. All disbursements shall agree to the final signed settlement statement.

18.22(3) A closing agent shall obtain written payoff statements for any loan being paid off as part of the real estate transaction and shall make all loan payoffs as soon after the closing as is practical, but in no event more than two business days after the closing, or within one business day after the rescission period ends in the case of a refinance transaction. For the purposes of this rule, placing the loan payoffs with a delivery service for overnight delivery shall meet the requirements of this subrule.

18.22(4) A closing agent shall be responsible for ensuring that all documents for the real estate transaction that require recording are recorded with the appropriate county recorder's office in a timely manner, but in no event more than five business days after the date of the transaction.

18.22(5) A closing agent shall maintain a closing register and a closing index. A closing register is a chronological list of real estate closings. The closing register shall include for each closing the date of the transaction, the name of the buyer or borrower, the name of the seller, the name of the lender and the mortgage loan originator, and the property address, as applicable. A closing index shall be maintained so that all records are accessible by the names of the parties to the transaction (including the name of the buyer or borrower, the name of the seller, and the name of the mortgage loan originator) and file number. A searchable database containing the information required by this subrule satisfies the requirements of this subrule.

18.22(6) A closing agent shall maintain a closing file for each real estate transaction for which the closing agent performed real estate closing services. The closing file shall include, at a minimum, the following records:

a. An accounting ledger or disbursement sheet that details all receipts and disbursements with date, transaction type, check number, payee, amount, and the file's ending balance. All ledger or disbursement sheets shall balance zero after the transaction is completed. If any balance remains, the date, the reason for the balance, and to whom the balance belongs shall be clearly documented in the file.

b. A signed settlement statement that totals properly and is supported by written instructions for all amounts (such as closing instructions, invoices, or written payoffs). If the settlement requires changes, a copy of the new settlement statement with changes clearly documented shall be maintained in the file.

c. A copy of the closing instructions from the lender and other parties to the transaction.

d. A copy of the signed real estate contract, if applicable.

e. Detailed records of the individuals present at each closing, including copies of photo identification, and specifying where and when each closing is held.

f. Properly executed affidavits, where required.

g. Evidence that the real estate transaction documents were filed with the county recorder.