



# TRAINING TIP OF THE WEEK

## Electronic Transfers of: Earnest Money

Whether it's Venmo, Apple Pay, or PayPal, brokers and agents should be aware of what is allowed and what the risks are when allowing clients to submit earnest money through money transfer applications.

The statute and rules are silent on how earnest money can be transferred from the buyer to the brokerage. The statute and rules only reference that funds should be submitted timely, and all funds be accounted for: [§61-2f-401\(4\)](#) and [R162-2f-401a\(1\)\(f\)](#).

The biggest challenges with using third party applications to collect earnest money is verifying that the funds have been seasoned to the lenders satisfaction and providing acceptable documentation.

If a broker is going to allow their agents to accept earnest money via third parties, the Division suggests the funds go directly to the brokerage's account rather than being transferred first to the agent and then the brokerage. If the funds remain in the agent's account for some reason, this could result in a violation of the statute and rules.

### Brokers Best Practices:

- Educate your clients and agents on the risks of using third party applications
- Require that funds are directly submitted to the brokerage's account
- Document and account for all funds received

While the Division allows for third party acceptance of earnest money funds, you must also be aware of the earnest money deposit stipulation in the Real Estate Purchase Contract, which reads that the buyer “*agrees to deliver no later than four (4) calendar days after Acceptance, an Earnest Money Deposit in the amount of \$\_\_\_\_\_ in the form of\_\_\_\_\_ . After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.*” In some instances, the delay in transferring the funds to the appropriate escrow account **could** trigger a breach in contract. Let me explain...

Your brokerage is set up to receive earnest money via VENMO, deposited directly into an escrow account, therefore the service is offered to your client. Contract acceptance occurs today, March 8th with an earnest money receipt deadline of the 12th. On March 11th, your Buyer submits a VENMO payment request to the brokerage. The brokerage now has until March 15th to deposit the funds in the escrow account. On March 12th, the brokerage requests a “no-fee” transfer to the escrow account, which allows for 1-3 business days for the funds to show up in the account, which could be as late as March 17th.

IF USING ELECTRONIC FUNDS TRANSFERS AS A WAY TO ACCEPT EARNEST MONEY, please be aware of and meet ALL contractual deadlines, taking into account weekday holidays, and the timeline for electronic funds transfers, and full compliance with state statutes/administrative rules.

This is a Publication of the Cache Valley Association of REALTORS®

TIPS OFFERED BY THE CACHE VALLEY ASSOCIATION OF REALTORS® ARE INTENDED FOR BROKER AND AGENT TRAINING. IN THE EVENT ADDITIONAL LEGAL ADVICE IS NEEDED, WE ENCOURAGE MEMBERS TO CONTACT THE UAR LEGAL HOTLINE AT (801) 676-5211 MONDAY, WEDNESDAY AND FRIDAY BETWEEN THE HOURS OF 8:30 AM AND 4:00 PM.

