

Date: October 23, 2012  
To: All Texas Agents  
From: Ellen Wied, Underwriting Counsel  
RE: Escrow Check Scams

Although escrow and settlement services are not covered activities within the Underwriting Agreement, First National Title Insurance Company wants to support its agents in avoiding escrow losses and share any information that may assist you in protecting your company.

There are several types of escrow check scams that cause losses for title agents. We are aware of purchasers who deposit a cashier's check for earnest money on a bogus contract, cancel within the option period and ask for the money to be wired back to them. The title company discovers afterwards that the check was counterfeit, and the purchasers are not to be found. There is also the scam where a foreign party sends a cashier's check for an amount in excess needed to close and requests that a refund be wired to an overseas bank. The check is returned eventually as counterfeit.

One of the more recent escrow check scams in the pipeline involves the electronic deposit of a check using a smart phone like iPhone or Android. Basically, the title company issues a paper check, the payee uses a commonly downloaded application for scanning images on his smart phone and electronically deposits the check in his bank account. There will be no markings on the check indicating that it has been processed and/or deposited. The payee then attempts to return the original check to the title company in exchange for a wire transfer of the funds.

So, when a customer wants to swap a check of any kind for a wire transfer—exercise caution. Always put a stop payment request on any check that has been issued but is being replaced by a wire transfer, or another check, even when the original check has been returned. Prior to issuing a replacement check or wire, verify with your bank that the original check has not been negotiated or cleared your account. You may want to have a standard “waiting period” of several business days before issuing a replacement check or wire, to allow any previously deposited checks to clear your account. Do not leave escrow checks unattended in the closing room while you step out to make copies.

Please let us know if you have been a victim of or seen this type of scam in your area. Be careful out there.