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## THE NOTARY AND YOUR MONEY



600-1801 McGill College Avenue  
Montreal, QC H3A 0A7

Telephone: 514-879-1793  
Toll free: 1-800-263-1793

[www.cnq.org](http://www.cnq.org)

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*In the course of his duties, a notary may have to receive sums of money from his clients for the purchase of a property or a business, the settlement of an estate or some other transaction. These sums are deposited and held temporarily in the notary's trust account.*

### TRUST ACCOUNTING

All trust accounts must be held in a Canadian financial institution whose funds are covered by deposit insurance. The Chambre des notaires du Québec strictly monitors the trust accounts of notaries by requiring annual audits. It also assesses these accounts through its professional inspection process.

Every notary must keep a personalized file for each client identifying all deposits and withdrawals made to or from the notary's trust account. Clients may also request a statement of deposits and withdrawals.

### FUND TRANSFER

The notary has to establish the secure origin of the funds and make sure they are safely deposited in the trust account. The money usually comes in the form of an electronic fund transfer, a bank draft or a certified cheque.

### WHY DOES THE NOTARY NEED TO RECEIVE THE MONEY A FEW DAYS BEFORE THE DOCUMENTS ARE SIGNED?

Once the amount is deposited in the notary's trust account, it is "frozen" for a few days to allow your financial institution to carry out its usual verifications and make sure the money is irrevocably available for your transaction. Most deposits are subject to a delay, known as "clearing time," to allow the institution receiving the funds to draw the money from another account. This time is used to verify the origin of the funds, mainly to avoid real estate fraud, such as the misapplication of a bank draft or a cash transfer from a closed bank account. The notary has to accommodate the financial institution's clearing time before carrying out the transaction. It may take up to 10 business days for funds to clear, depending on the receiving institution and the method of deposit. For example, electronic fund transfer is faster and safer than depositing a cheque. Since this type of transfer is irrevocable, there is no actual clearing time, just processing time.

*Electronic fund transfer is faster and safer than depositing a cheque.*

## TRANSFERRING FUNDS ELECTRONICALLY TO YOUR NOTARY

For faster access to your funds and to avoid having to physically go out to put money into your notary's trust account, you can use the TELUS **Assyst Payment**\* electronic fund transfer solution, which can be accessed through your financial institution's online or mobile banking service.

The **Assyst Payment** solution offers:

- ▶ A downpayment function that allows the notary to generate a reference coupon.
- ▶ A coupon, sent by your notary, that lets you electronically transfer the funds required to purchase a property, a business or any other type of transaction into his trust account.
- ▶ A transfer made simply from the comfort of your home, office or anywhere you have access to the Internet. The deposit is made from your financial institution's website, no matter where you and your notary have your accounts.

*This fast, safe solution is a great improvement over issuing a payment order. It lets you avoid travelling back and forth from your financial institution to your notary's office to hand over a bank draft. Once the funds are transferred, you will receive an email confirmation.*

assyst™  
Payment

\* ASSYST™ PAYMENT is powered by TELUS and is a trademark of Emergis inc.

## HOW TO TRANSFER FUNDS TO YOUR NOTARY:

1. Sign in to your financial institution's banking service (online, mobile or phone);
2. Select **Add Payees**;
3. Look for **Assyst Payment** in the list of payees;
4. Add **Assyst Payment** as a new payee. To do so, enter the reference number on the coupon your notary gave you;
5. Confirm the addition and then select **Bill Payment**;
6. Enter the amount of the payment;
7. Confirm the payment. Allow up to three business days for the transfer to go through.

## BENEFITS OF THE ASSYST PAYMENT SOLUTION

- ▶ Flexible fund transfer method: can be done any time, from anywhere.
- ▶ Quick access to the funds: between 24 and 72 hours after the transfer.
- ▶ Protects your banking information: no financial information (bank account number, balance, etc.) is revealed to TELUS or to the notary.
- ▶ Secure transfer process: the financial institutions and TELUS are subject to strict rules and procedures.

## WHY IS THE NOTARY KEEPING YOUR MONEY?

In transactions involving money, the notary has to carry out certain verifications before transferring your money.

Before giving you the money, the notary has to:

- ▶ make sure, in some cases, that the notarized deed is registered with the Registry office of the registration division in question (formerly called the "land titles office"). It generally takes 24 hours to publish the deed;
- ▶ ascertain that there are no undisclosed sums due to a creditor, such as a mortgage.

The notary carries out these verifications for your protection and holds your money securely in his trust account. Usually the notary will only hold the funds for a few days.

If any funds have to be held for longer, the notary may suggest that the recipient of this money open a "special" trust account. In this case, interest will be paid to the client's account. Opening this type of account may entail costs and fees, however.

## INTEREST GENERATED BY THE TRUST ACCOUNT

What happens to the interest generated by this account? It is paid to the Chambre des notaires du Québec notarial studies fund. In recent years, this fund has subsidized several research projects and other activities sponsored by organizations in the field of law and justice to provide better protection to the public.