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the right
to foresee.

Consult your notary!
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The notary and your money

Depositing your money
in a «trust» or «fidéicommis»
account protects your money.

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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.

The Trust Account

All trust accounts must be opened in Québec at a financial institution whose funds are covered by deposit insurance. The Chambre des notaires strictly monitors the trust accounts of notaries by requiring monthly reconciliations and 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.

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

→ Your funds will be deposited in the notary's account bearing the words "in trust" or "en fidéicommis." This indicates that the funds belong to the notary's clients and that they are protected. The notary must issue a receipt to anyone who entrusts funds to him.

for funds to clear, depending on the receiving institution and the method of deposit. For example, electronic funds 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.

The notary and fraud prevention

Is your family helping you to buy a property? The notary must check the identity of a person who remits funds or an asset to him for the benefit of a client.

Moreover, before making a deposit to his trust account, the notary must advise you of this remittance by a third party and obtain your written authorization for the deposit.

How to transfer funds to your notary

Your notary will tell you how to remit the necessary funds to him. You can do it by electronic funds transfer, saving you a trip to the bank, by issuing a bank draft or a certified cheque. However, the notary cannot accept ordinary cheques.

How your notary transfers funds to you

The notary has payment options when making a disbursement.

- 1) He can make the disbursement to his client
- 2) or, if the client authorizes it in writing,
 - to another person related to the performance of the service contract (such as the city for the payment of property taxes)
 - transfer the funds to the trust account of another notary or
 - apply it to the payment of the notary's professional fees and costs.

However, the notary cannot agree to the client's request to pay the funds owing to the client to someone not bound to the performance of the service contract (such as a brother-in-law who had loaned him money for the down payment).

Electronic funds transfer is faster and safer than depositing a cheque.

Why is the notary keeping your money?

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

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.

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.

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.

Learn about some of the funded projects,
<https://www.cnq.org/bilansocial>

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 funds transfer, a bank draft or a certified cheque.

Did you know?

→ Did you know that the Chambre des notaires' Compensation Fund covers the improper use of funds entrusted to a notary? Learn more from the Chambre des notaires.

