WEST VIRGINIA CODE: §30-40-18

§30-40-18. Trust fund accounts.

(a) Every person licensed as a broker under the provisions of this article who does not immediately deliver all funds received, in relation to a real estate transaction, to his or her principal or to a neutral escrow depository shall maintain and reconcile one or more trust fund accounts in a recognized financial institution and shall place all funds therein: *Provided*, That nothing contained herein shall require a broker to maintain a trust fund account if the broker does not hold any money in trust for another party.

(b) Funds that shall be deposited into a trust fund account include, but are not limited to, earnest money deposits, security deposits, rental receipts, auction proceeds, and money held in escrow at closing.

(c) Each trust fund account shall be established at a financial institution which is insured against loss by an agency of the federal government and the amount deposited therein cannot exceed the amount that is insured against loss.

(d) Each trust fund account shall provide for the withdrawal of funds without notice.

(e) No trust fund account may earn interest or any other form of income, unless specifically authorized by commission rule.

(f) The broker may not commingle his or her own funds with trust funds and the account may not be pledged as collateral for a loan or otherwise utilized by the broker in a manner that would violate his or her fiduciary obligations in relation to the trust funds: *Provided*, That nothing contained herein prevents the broker from depositing a maximum of $100 of his or her own money in the trust fund account to maintain a minimum balance in the account.

(g) The broker shall be the designated trustee of the account and shall maintain complete authority and control over all aspects of each trust fund account, including signature authority: *Provided*, That only one other member or officer of a corporation, association, or partnership, who is licensed under the provisions of this article, may be authorized to disburse funds from the account: *Provided, however*, That if disbursements from a trust fund account require two signatures, one additional member or officer may be a signatory as provided in this section.

(h) The broker shall, at a minimum, maintain records of all funds deposited into the trust fund account, which shall clearly indicate the date and from whom the money was received, date deposited, date of withdrawal, to whom the money belongs, for whose account the money was received, and other pertinent information concerning the transaction. All records shall be open to inspection by the commission or its duly authorized representative at all times during regular business hours at the broker’s place of business.

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(i) The broker shall cause the financial institution wherein a trust fund account is maintained to execute a statement, prepared by the commission, which shall include, but is not limited to:

(1) Exact title of the account as registered by the financial institution;

(2) The account number of the trust fund account;

(3) Identification of all persons authorized to make withdrawals from the account;

(4) Name and address of the financial institution;

(5) Title of the person executing the statement on behalf of the financial institution;

(6) Date the statement was executed; and

(7) Certification that the financial institution will notify the Real Estate Commission if any checks drawn against the account are returned for insufficient funds and that the financial institution does not require a minimum balance in excess of the amount authorized in subsection (f) of this section.

(j) The broker shall execute a statement authorizing the commission, or its duly authorized representative, to make periodic inspections of the trust fund account and to obtain copies of records from any financial institution wherein a trust fund account is maintained. A copy of any authorization shall be accepted by any financial institution with the same force and effect as the original.

(k) The broker shall notify the commission, within 10 days of the establishment of or any change to a trust fund account.

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