

R 339.22313 Trust accounts.

Rule 313. (1) Trust or escrow accounts shall be maintained in demand accounts only. Checks drawn on the trust or escrow accounts shall be signed by a broker or an associate broker. Cosignatories may be

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used; however, the signature of a broker or associate broker shall accompany this signature.

(2) A broker shall maintain a non-interest-bearing demand trust account when any earnest money deposits or money belonging to others comes into his or her possession. The account shall be maintained in accordance with the requirements of section 2512 (j) of the code.

(3) A broker may maintain more than 1 trust account. A broker may maintain the broker's own funds in an account that is not more than \$500 in each trust account to cover bank service charges and bank minimum balance requirements or to avoid the account being closed when there are no other funds in the account. The funds shall be accounted for in a bookkeeping system as described in subrule (4) of this rule.

(4) A broker shall maintain a bookkeeping system in the office. At a minimum, the system shall consist of both of the following:

(a) A record which shows the chronological sequence in which funds are received and disbursed, as follows:

(i) For funds received, the record shall include all of the following information:

(A) The date of receipt and deposit.

(B) The name of the party who provided the funds to the broker.

(C) The name of the seller.

(D) The amount of the funds.

(ii) For funds disbursed, the record shall include all of the following information:

(A) The date of the disbursement.

(B) The payee.

(C) The check number.

(D) The purpose of the disbursement.

(E) The amount of the disbursement.

(iii) A current balance of the account or accounts shall be maintained and be available to the department upon request.

(b) A record which shows receipts and disbursements as they affect a single, particular transaction between a buyer and seller. The record shall segregate 1 transaction from another transaction as follows:

(i) For funds received, the record shall include all of the following information:

(A) The names of both parties to a transaction.

(B) The property address or brief legal description.

(C) The dates and amounts received.

(ii) For funds disbursed, the record shall include all of the following information:

- (A) The date.
- (B) The payee.
- (C) The check number.
- (D) The amount of the disbursement.

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(5) All trust or escrow account records shall be maintained for a period of not less than 3 years from the date of inception of the records.

(6) Disbursement of an earnest money deposit shall be made at consummation or termination of the agreement in accordance with the agreement signed by the parties. However, any deposit in the trust account of the broker for which the buyer and seller have made claim shall remain in the broker's trust account until a civil action has determined to whom the deposit must be paid, or until the buyer and seller have agreed, in writing, to the disposition of the deposit. The broker may also commence a civil action to interplead the deposit with the proper court.

History: 1991 MR 4, Effective May 1, 1991. Amended 2002, MR 16. Effective September 1, 2002.