

543B.46 Trust accounts.

1. Each real estate broker shall maintain a common trust account in a bank, a savings and loan association, savings bank, or credit union for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or the broker's salespersons on behalf of the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom the broker acts as salesperson. The account shall be an interest-bearing account. The interest on the account shall be transferred quarterly to the treasurer of state and transferred to the department of economic development for deposit in the local housing assistance program fund established in section 15.354 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession.
2. Each broker shall notify the real estate commission of the name of each bank or savings and loan association in which a trust account is maintained and also the name of the account on forms provided therefor.
3. Each broker shall authorize the real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the commission. The certification and consent shall be furnished on forms prescribed by the commission. This subsection does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager. This subsection also does not apply to an individual property management account maintained in the name of the owner or owners for the purpose of conducting ongoing property management whether it is conducted by the property owner or by an agent or manager when the account is part of a property management agreement between the owner and agent or manager.
4. Each broker shall only deposit trust funds received on real estate or business opportunity transactions as defined in section 543B.6 in the common trust account and shall not commingle the broker's personal funds or other funds in the trust account with the exception that a broker may deposit and keep a sum not to exceed five hundred dollars in the account from the broker's personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the trust account.
5. A broker may maintain more than one trust account provided the commission is advised of said account as specified in subsections 2 and 3 above.
6. The commission shall verify on a test basis, a random sampling of the brokers, corporations, professional corporations, professional limited liability companies, and partnerships for their trust account compliance. The commission may upon reasonable cause, or as a part of or after an investigation, request or order a special report.
7. The examination of a trust account shall be conducted by the commission or the commission's authorized representative.
8. The commission shall adopt rules to ensure implementation of this section.

[C71, 73, 75, 77, 79, 81, § 117.46; 81 Acts, ch 54, § 23; 82 Acts, ch 1067, § 1]

85 Acts, ch 252, § 1; 92 Acts, ch 1242, § 22, 23

C93, § 543B.46

93 Acts, ch 30, §2; 93 Acts, ch 175, §19; 95 Acts, ch 170, §7; 96 Acts, ch 1027, § 1; 97 Acts, ch 23, § 67; 97 Acts, ch 214, § 12; 2007 Acts, ch 13, §6