

535B.19 Trust account requirements for closing agents.

A licensee acting as a closing agent shall comply with all of the following:

1. All moneys received for disbursement during a real estate closing shall be deposited in a trust account and, when deposited, the moneys shall be designated as trust funds or trust accounts or under some other appropriate name indicating that the moneys are not the moneys of the licensee.

2. All trust account moneys shall be deposited in a financial institution that is insured by the federal deposit insurance corporation or national credit union share insurance fund unless the transaction does not involve residential real estate and another financial institution has been designated in writing in the escrow instructions.

3. If the trust account earns interest and the interest earned is retained by any party other than the party to the real estate transaction who is the owner of the funds, the licensee shall disclose this fact in writing to the parties to the transaction.

4. A licensee shall enter into a written agreement to pay interest to a party to a transaction, or to a third party if requested by the parties to a transaction, if the client's trust funds can earn net interest. In determining whether a client can earn net interest on funds placed in trust, the licensee shall take into consideration all relevant factors including the following:

a. The amount of interest that the funds would earn during the period in which they are reasonably expected to be deposited.

b. The cost of establishing and administering an individual interest-bearing trust account in which the interest would be transmitted to the client, including any needed tax forms.

c. The capability of the financial institution to calculate and pay interest to individual clients through subaccounting or otherwise.

5. The licensee shall notify the administrator of the name of each financial institution in which a trust account is maintained and the name of the account on forms acceptable to the administrator. A licensee may maintain more than one trust account provided it advises the administrator of the multiple accounts.

6. A licensee shall only deposit trust funds in a trust account and shall not commingle the licensee's personal funds or other funds in the trust account with the exception that a licensee may deposit and keep a sum not to exceed one thousand dollars in the trust account from the licensee's personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the trust account or to advance funds to pay incidental fees as permitted in section 535B.20, subsection 2.

7. Moneys deposited in a trust account are not subject to execution or attachment or to any claim against the licensee.

8. A licensee shall not knowingly keep or cause to be kept any money in any bank, credit union, or other financial institution under any name designating the moneys as belonging to a client of the licensee, unless the money was actually entrusted to the licensee for deposit in trust.

2010 Acts, ch 1111, §10, 13