

CHAPTER 15
PROPERTY MANAGEMENT

[Prior to 9/4/02, see 193E—Ch 1]

193E—15.1(543B) Property management. A licensee shall not rent or lease real estate, offer to rent or lease real estate, negotiate or offer or agree to negotiate the rental or leasing of real estate, list or offer to list real estate for the leasing or rental of real estate, assist or direct in the negotiation of any transaction calculated or intended to result in the leasing or rental of real estate or show property to prospective renters or lessees of real estate unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

15.1(1) Every property management agreement or other written authorization between a broker and an owner of real estate shall include, but not be limited to, the following:

- a.* Proper identification of the property to be managed.
- b.* All terms and conditions under which the property is to be managed and the powers and authority given to the broker by the owner.
- c.* Terms and conditions under which the broker will remit property income to the owner and when the broker will provide periodic written statements of property income and expenses to the owner, which shall be done no less than annually.
- d.* Which payments of property-related expenses are to be made by the broker to third parties.
- e.* Amount of fee or commission to be paid to the broker and when it will be paid.
- f.* Amount of security deposits and prepaid rents to be held by the broker or the owner.
- g.* Effective date of the agreement.
- h.* Terms and conditions for termination of the property management agreement by the broker or the owner of the property.
- i.* Signatures of the broker and owner or the owner's authorized agent.

15.1(2) The licensee shall give the owner or the owner's authorized agent a legible copy of every written property management agreement or written authorization at the time the signature of the owner is obtained, and the licensee's broker shall retain a copy.

15.1(3) A licensee who is managing the leasing or rental of real estate may act as an agent in the sale or exchange of that real estate only if the property management agreement clearly grants the specific authorization and contains all of the required elements for a listing as set forth in rule 193E—11.1(543B) or if a separate listing agreement is secured.

15.1(4) The broker shall deposit all funds received on behalf of the owner, by no later than five banking days after receipt of the funds, into a trust account maintained by the broker, under the broker's control and in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

15.1(5) If the property management agreement is terminated or transferred for any reason, the property manager:

- a.* Shall terminate the management activities of the property as provided in the agreement and except as otherwise provided by the agreement;
- b.* Shall notify the owner and any tenants of the property of the termination;
- c.* Shall provide the owner, not later than 30 days after the effective date of the termination, with any unobligated funds due the owner under the agreement and not later than 60 days after the effective date of the termination, provide the owner with a final accounting of the owner's ledger account, the amount of any obligated funds held in the property manager's client trust account under the agreement, a statement that explains why obligated funds are being held by the property manager and a statement of when and to whom the obligated funds will be disbursed by the property manager;
- d.* May disburse any unobligated funds only to the owner or, with the proper written authorization of the owner, to another property manager designated in writing by the owner;
- e.* Shall immediately notify each tenant that the conditionally refundable deposit will be transferred to the owner or to a new property manager and, at the same time, provide the name and address of the owner or the new property manager to whom these deposits will be transferred.

15.1(6) If any of the unobligated funds held by the property manager under the terminated agreement represent tenants' conditionally refundable deposits received from current tenants, the property manager:

a. May not expend any tenant's conditionally refundable deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreements, and

b. If any tenant terminates tenancy at the same time as or prior to the termination of the management of the rented or leased property, the licensee shall complete any final accounting, inspection or other procedure required by the tenant's rental or lease agreement, by the Uniform Residential Landlord and Tenant Law, Mobile Home Parks Residential Landlord and Tenant Law, or by the property management agreement, unless the owner directs otherwise in writing.

15.1(7) Financial dealings under a property management agreement shall be conducted subject to the following:

a. A check shall not be issued or presented for payment prior to sufficient funds being in the owner's account to cover the check.

b. Transfers of funds between two or more accounts maintained for the same owner may be made if proper entries are made on the ledgers of the accounts affected and the broker maintains the specific written authorization of the owner.

Transfers of funds between an individual owner's accounts must be done by writing billings and receipts debiting and crediting the appropriate accounts. Transfers may not be done by ledger entries alone.

c. The broker shall not withdraw, pay or transfer money from the owner's account in excess of the remaining credit balance at the time of withdrawal, payment or transfer.

d. Management fees must be withdrawn from the owner's account at least once a month unless the agreement provides otherwise. The fees shall be identified by property name or account number for which the fees were earned and withdrawn by the broker and deposited into the broker's business operating account. Fees may not be paid directly from the owner's trust account to the broker.

e. Conditionally refundable deposits shall be placed in a trust account until refund is made or until all or a portion of the deposit accrues to the owner under the tenant's agreement.

If refundable deposits are not maintained in a separate trust account, the running balance of the account shall not, at any time, go below the total of the refundable deposits being held in the account.

f. The total of balances of the individual property management accounts of the broker must equal the balance shown on the journal, the account ledgers, and the reconciled bank balance of the broker.

All accounts and records must be in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

g. Except as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), if refundable deposits and funds are received from others pursuant to a property management agreement, deposited in an interest-bearing trust account, and there is not a separate written agreement to pay the interest earned to the owner or tenant, the interest shall be paid to the state pursuant to Iowa Code section 543B.46. The property manager shall not receive or benefit from the interest.

The written approval agreement shall be signed by each party having an interest in the funds, fully disclosing how the funds are to be handled by the property manager, who will benefit from the interest earnings, how and when interest earnings will be paid and any limitations that may be provided for on the withdrawal of the funds deposited in the interest-bearing trust account.

This rule is intended to implement Iowa Code chapters 17A, 272C, and 543B.

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