

**193E—13.2 (543B) Closing transactions.** It shall be mandatory for every broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete detailed statement, showing all of the receipts and disbursements handled by the broker. Also, the broker shall at the same time deliver to the buyer a complete statement showing all moneys received in the transaction from the buyer and how and for what the same were disbursed.

**13.2(1)** In the event all funds being held by the broker for a transaction cannot be disbursed at the time of closing, the broker shall obtain an escrow agreement signed by both parties to the transaction which shall direct the broker regarding the future disbursement of the funds.

**13.2(2)** The broker shall retain all trust account records and a complete file, which shall include but not be limited to the records required by 13.5(543B), on each transaction for a period of at least five years after the date of the closing. Records required by this rule may be retained as an electronic record as provided by 13.5(543B).

**13.2(3)** The listing broker shall be responsible for the closing even though the closing may be completed by another licensee.

**13.2(4)** If the closing transaction is handled through an unlicensed escrow agent and the escrow agent renders a closing statement, the listing broker shall ensure that funds which the broker has received or paid as part of the transaction are accounted for properly.

**13.2(5)** In the case of a cooperative sale between brokers, the listing broker may elect to close the transaction or, by prior agreement, authorize the selling broker to close.

*a.* If the listing broker so elects, the selling broker shall have the buyer make the earnest money check or money order payable to the listing broker and shall immediately deliver the earnest money check or money order along with the offer to purchase to the listing broker or listing agent.

*b.* Unless by prior agreement the listing broker has authorized the selling broker to close, the offer to purchase shall designate that the earnest money is to be held in trust by the listing broker.

*c.* Unless by prior agreement the listing broker has authorized the selling broker to close, when cash is accepted as earnest money by the selling agent, the selling agent must deposit the money in the selling broker's trust account in accordance with commission rules, and then immediately transfer the earnest money deposit to the listing broker by issuing a check drawn on the selling broker's trust account.

**13.2(6)** Any means other than cash or an immediately cashable check shall not be accepted as earnest money unless that fact is communicated to the seller prior to the acceptance of the offer to purchase, and is stated in the offer to purchase.

**13.2(7)** Brokers acting as agents for the buyer in a specific real estate transaction shall have the same requirements for retention of copies as stated in this rule, except that a buyer's agent who is not a party to the listing contract is not required to retain a copy of the listing contract or the seller's settlement statement.

**13.2(8)** Iowa Ct. R. 37.5, limited real estate practice. All Iowa real estate licensees should be aware that Iowa Ct. R. 37.5 authorizes nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this court rule may constitute the unauthorized practice of law.

*a.* Except to the extent authorized by the court rule, the selection, preparation, and completion of legal documents in connection with real estate transactions by nonlawyers constitutes the unauthorized practice of law unless the nonlawyer is acting on the person's own behalf as a buyer or seller.

*b.* Upon written request of a buyer or seller, a nonlawyer may select, prepare, and complete form documents for use incident to a residential real estate transaction of four units or less. Such documents shall be limited to:

- (1) Offers to purchase or purchase agreements, provided the parties are given written notice that these are binding legal documents and competent legal advice should be sought before signing;
- (2) Groundwater hazard statements; and
- (3) Declaration of value forms.

*c.* Nonlawyers may not charge for preparation of the legal documents authorized by the court rule. Nonlawyers shall not select, prepare or complete:

- (1) Deeds;
- (2) Real estate installment sales contracts;
- (3) Affidavits of identity or nonidentity;
- (4) Affidavits of payment of spousal or child support; or
- (5) Any other documents necessary to correct title problems or deficiencies.