

**STATE OF WEST VIRGINIA
REAL ESTATE COMMISSION
300 CAPITOL STREET, SUITE 400
CHARLESTON, WV 25301
304.558.3555
<www.wvrec.org>**

**Trust Fund Account Statement
and
Consent to Examine**

The West Virginia Real Estate License Act (WV Code §30-40-18) provides:

1. Every person licensed as a real estate broker shall maintain one or more trust fund accounts, into which all funds received in relation to a real estate transaction must be deposited (e.g. earnest money deposits, rental receipts, auction proceeds, money held in escrow, and similar types of funds).
2. Each trust fund account must be maintained in a financial institution which is insured against loss by an agency of the Federal Government and the amount deposited therein cannot exceed the amount that is insured against loss.
3. The account must provide for the withdrawal of funds without notice.
4. The broker may not commingle his or her own funds with the trust funds, however, the broker may deposit no more than \$100.00 of his or her own money in the account, in order to maintain the account.
5. The broker may not pledge the account as collateral or otherwise utilize the account in a manner that would violate his or her fiduciary obligations in relation to the funds being held in trust by the broker.
6. The broker shall be the designated trustee of the account and shall maintain complete authority and control over all aspects of each trust fund account, including signature authority.
7. One additional member or officer of a business organization, who must also be licensed under the designated broker as an associate broker or salesperson, may be authorized to disburse funds from the account. If disbursements require two signatures, then one additional person may be a signatory as hereinbefore provided.

To be completed by a financial institution representative.

Exact Title of the Account: _____
(The words "Trust Fund Account" must be included in the title of the account)

Account Number: _____ Number of Signatures required for Withdrawals: _____

Authorized Signatures: _____, Broker
(See # 7 above)

Name of Financial Institution: _____
Address: _____

I hereby certify the above information is complete and accurate to the best of my knowledge and belief, that a copy of this authorization will be maintained in our records for future reference, that we will notify the Real Estate Commission if any checks drawn against this account are returned for insufficient funds and that we will not require a minimum balance in excess \$100.00.

Signature of Bank Official: _____ Date: _____
Title: _____

To be completed by the Broker:

Consent to Examine

The trust fund account identified above is:

- a new account that is **not** replacing an existing trust fund account
- a new account that is replacing trust fund account number _____ located at _____ (Name of Financial Institution)
- updated information for an existing trust fund account (e.g. new Authorized Signatures, etc.)

I hereby certify that I, _____, real estate broker, shall notify the real estate commission, within ten days, of the establishment of or any change to my trust fund account. As trustee of the account I authorize the Real Estate Commission, or its duly authorized representative, to make periodic inspections of the trust fund account and to obtain copies of records from any financial institution wherein a trust fund account is maintained. Furthermore, a copy of this authorization shall be accepted by any financial institution with the same force and effect as the original.

Broker's Signature

Date

WEST VIRGINIA REAL ESTATE LICENSE ACT
WV Code §30-40

§30-40-18. Trust fund accounts.

(a) Every person licensed as a broker under the provisions of this article who does not immediately deliver all funds received, in relation to a real estate transaction, to his or her principal or to a neutral escrow depository shall maintain one or more trust fund accounts in a recognized financial institution and shall place all funds therein: *Provided*, That nothing contained herein shall require a broker to maintain a trust fund account if the broker does not hold any money in trust for another party.

(b) Funds that must be deposited into a trust fund account include, but are not limited to, earnest money deposits, security deposits, rental receipts, auction proceeds and money held in escrow at closing.

(c) Each trust fund account must be established at a financial institution which is insured against loss by an agency of the federal government and the amount deposited therein cannot exceed the amount that is insured against loss.

(d) Each trust fund account must provide for the withdrawal of funds without notice.

(e) No trust fund account may earn interest or any other form of income, unless specifically authorized by commission rule.

(f) The broker may not commingle his or her own funds with trust funds and the account may not be pledged as collateral for a loan or otherwise utilized by the broker in a manner that would violate his or her fiduciary obligations in relation to the trust funds: *Provided*, That nothing contained herein prevents the broker from depositing a maximum of one hundred dollars of his or her own money in the trust fund account to maintain a minimum balance in the account.

(g) No financial institution, in which a trust fund account is established under the provisions of this article, shall require a minimum balance in excess of the amount authorized in subsection (f) of this section.

(h) The broker shall be the designated trustee of the account and shall maintain complete authority and control over all aspects of each trust fund account, including signature authority: *Provided*, That only one other member or officer of a corporation, association or partnership, who is licensed under the provisions of this article, may be authorized to disburse funds from the account: *Provided, however*, That if disbursements from a trust fund account require two signatures, one additional member or officer may be a signatory as provided in this section.

(i) The broker shall, at a minimum, maintain records of all funds deposited into the trust fund account, which shall clearly indicate the date and from whom the money was received, date deposited, date of withdrawal, to whom the money belongs, for whose account the money was received and other pertinent information concerning the transaction. All records shall be open to inspection by the commission or its duly authorized representative at all times during regular business hours at the broker's place of business.

(j) The broker shall cause the financial institution wherein a trust fund account is maintained, to execute a statement, prepared by the commission, which shall include, but is not limited to:

- (1) Exact title of the account as registered by the financial institution;
- (2) The account number of the trust fund account;
- (3) Identification of all persons authorized to make withdrawals from the account;
- (4) Name and address of the financial institution;
- (5) Title of the person executing the statement on behalf of the financial institution;
- (6) Date the statement was executed; and
- (7) Certification that the financial institution will notify the real estate commission if any checks drawn against the account are returned for insufficient funds and that the financial institution does not require a minimum balance in excess of the amount authorized in subsection (f) of this section.

(k) The broker shall execute a statement authorizing the commission, or its duly authorized representative, to make periodic inspections of the trust fund account and to obtain copies of records from any financial institution wherein a trust fund account is maintained. A copy of any authorization shall be accepted by any financial institution with the same force and effect as the original.

(l) The broker shall notify the commission, within ten days, of the establishment of or any change to a trust fund account.

(m) Nothing provided in this section creates any duty or obligation on a financial institution to monitor the activities of a broker designated as trustee of a trust fund account, except for those duties or obligations specifically provided in subsection (g) of this section and subdivision (7), subsection (j) of this section.