

Trust Fund Account Manual For Real Estate Brokers

Issued by
West Virginia Real Estate Commission
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What are Trust Funds

Generally, trust funds are moneys which have been entrusted to a real estate broker for safekeeping pending the outcome of a real estate transaction. Some examples of trust money include earnest money, rental security deposits, escrow deposits and rent receipts. The most common type of trust money is earnest money which is sometimes referred to as the good faith deposit. There is some uncertainty as to exactly who owns the earnest money once it is deposited in the Trust Fund Account. Until the offer has been formally accepted, the money still belongs to the prospective purchaser and can be returned to the purchaser any time up to acceptance of the offer by the seller. After the seller has accepted the offer, the ownership of the money is uncertain because the final disbursement of the money can not be ascertained until only one of many possible events has occurred. The money does not belong to the broker either. The uncertain nature of trust money deposits makes it absolutely necessary that such funds be properly protected pending a final decision on how it is to be disbursed.

Sometimes customers or clients may deposit money with a broker to cover expense items in real estate transactions such as appraisal fees, credit report fees, or utility cut on/off charges. These escrow deposits are considered trust money and should be deposited in the Trust Fund Account.

Trust money does not include license renewal fees, association membership fees, MLS fees or personal funds belonging to the broker or his or her company.

When the Commission discovers money in a trust fund account that can not be properly classified as trust funds, or if the broker does not maintain proper records concerning the transactions in the trust fund account, the broker is in violation of the West Virginia Real Estate License Act and may have his or her license suspended or revoked.

Broker's Equity - Personal Funds

"Broker's Equity" is a term most frequently used to describe the personal funds of the broker in a trust fund account. WV Code §30-40-18(f) provides in pertinent part:

[N]othing . . . prevents the broker from depositing a maximum of one hundred dollars (\$100.00) of his or her own money in the trust fund account to maintain a minimum balance in the account.

The Commission allows the broker to keep a maximum of \$100.00 of his or her own money in a trust fund account, for the purpose of absorbing fees that are directly related to maintaining the account. Some of the more common fees are bank service charges, check printing charges, insufficient fund check charges, etc. The Broker's Equity of the trust fund account can never show a negative balance or more than \$100.00 or the broker is guilty of commingling.

The Broker's Equity portion of the trust account can not be used as an "Operating Account" for the purpose of paying general operating expenses on behalf of the broker or the firm. If the broker does not maintain \$100.00 of equity in the trust account, the broker must reimburse the account for any bank charges to ensure that commingling does not occur.

Trust Account Examinations

The Commission has authority to examine the books and records of the trust fund account during normal working hours at the broker's usual place of business.

The Commission's Investigators operate a very active trust fund account examination program. The Investigators perform periodic compliance audits on each brokerage operation in the State. The audits are designed to educate and help every broker operate their business in compliance with all applicable laws and regulations. Besides reviewing the trust fund account records, the Investigator will measure compliance with all provisions of the law and regulations and assist the broker in complying.

Every broker can expect to have his or her trust fund account(s) examined on a periodic basis. When an Investigator visits the broker's office, the visit should be viewed as a positive opportunity to improve the brokerage operation.

The compliance audit normally takes only a few hours and should not disrupt the normal business activities of the office. The Investigator will verify that bank statements have been reconciled and will randomly inspect your transaction files, both pending and closed. The Investigator will also review the entries made in the bookkeeping system and the associated documentation. The documents and records that are reviewed during the audit are at the discretion of the Investigator.

The Commission requires that the bookkeeping system is current and up to date at all times. The broker should assure that posting is always current so the Investigator can complete the examination in an accurate and efficient manner. If personnel other than the broker are aware of the location of the trust fund account records, the Investigator can complete the entire examination even in the broker's absence.

When the Investigator arrives, the broker will be asked to provide, at a minimum, the following trust fund account records:

- 1) Checkbook and check register
- 2) Checks (canceled, voided and unused)
- 3) Bank statements and reconciliations
- 4) Deposit slips (original and/or duplicate)
- 5) Bookkeeping System (ledgers and journals)
- 6) Transaction files (pending and closed)

The broker can improve the efficiency of the examination process if all files and records are maintained in a neat and orderly fashion.

Bookkeeping - Illustrated

Each active broker is required to maintain a bookkeeping system that will clearly and accurately account for all trust funds received and how they are disbursed. Once the broker has established the proper trust fund account records, they are maintained by recording the entries as cash or checks deposited and checks paid out.

When funds are deposited, the accounting process consists of:

- 1) preparing a deposit slip,
- 2) depositing the trust funds into the trust fund account,
- 3) recording the deposit in the General Ledger, and
- 4) recording the deposit in the Individual Subsidiary Ledger.

A disbursement consists of:

- 1) preparing a check,
- 2) recording the check in the General Ledger, and
- 3) recording the check in the Individual Subsidiary Ledger.

A bookkeeping system should be maintained on a cash-in/cash-out basis. The following recommendations are minimal standards for any bookkeeping system used by the broker.

General Ledger

The General Ledger is a permanent record for recording the sequence in which all trust funds are received and disbursed by the broker. This record should include:

- 1) For funds received:
 - a) the date of the deposit,
 - b) the name of the depositor,
 - c) the name of the principal or identify the property or both,
 - d) the check number; and
 - e) the amount of the deposit.
- 2) For funds disbursed:
 - a) the date of disbursement,
 - b) the name of payee,
 - c) the name of principal or identify the property or both,
 - d) the check number; and
 - e) the amount disbursed.

A current balance should always be maintained in the general ledger, so the total amount of all trust funds in the account may be determined at any given time. This balance will include Broker's Equity (personal funds).

Brokers that do not have a large volume of transactions may find that the check register that accompanies most checkbooks, will suffice as adequate substitute for a separate general ledger.

Subsidiary Ledgers

The Sub-ledgers are permanent records that record the chronological sequence in which trust funds are received and disbursed for each real estate transaction. On each Individual Sub-ledger page, the broker should record the name of the seller, the name of the buyer and the address of the property being sold. This record should also include:

- 1) For funds received:
 - a) the date,
 - b) the name of the depositor or an explanation of activity,
 - c) the check number; and
 - d) the dollar amount of the deposit.

- 2) For funds disbursed:
 - a) the date of disbursement,
 - b) the name of the payee or an explanation of activity,
 - c) the check number; and
 - d) the dollar amount of the disbursement.

The balance in each sub-ledger should account for the remaining funds to be disbursed relating to that particular transaction

The bookkeeper should provide a written bank reconciliation of each bank statement received as of the ending date on the bank statement(s). The reconciliation should establish agreement between the following:

Reconciled bank statement = General ledger = Sum of Subsidiary ledgers

It is recommended that a written list of all Individual Sub-ledger balances be completed on the date of bank reconciliation for agreement and completeness.

It should be re-emphasized that all receipts and disbursements must be posted in chronological order to both the general ledger and the applicable individual sub-ledger(s) at the time they occur. The posting of receipts and disbursements several days after the activity occurs is an unacceptable accounting practice.

EXAMPLE

The following example illustrate the process of accounting for receipts and disbursements for several real estate transactions. You should trace and understand each transaction as it is recorded in the general ledger and the individual sub-ledgers.

- A) Recording the deposit of broker's funds (see Broker's Equity - Personal Funds) to open the trust fund account for XYZ Realty It is assumed that \$25.00 was deposited to open the trust fund account on April 1, 20xx. The bank will be charging the trust account for check printing fees that will be recorded when notice of the charge is received from the bank. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled "Broker's Equity - Personal Funds".
- B) Recording a buyer's earnest money deposit On April 7, 20xx, XYZ Realty received \$5,000.00 from Jerry Tucker representing an earnest money deposit on the property owned by Angie Wright. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Wright-Tucker.
- C) Recording a deposit from Fidelity Mortgage Company for a real estate closing On April 10, 20xx, XYZ Realty received \$45,000.00 from 1st Rate Mortgage Company on behalf of Jerry Tucker for his real estate closing at 105 Plank Road. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Wright-Tucker.
- D) Recording a real estate transaction that is closed. On April 11, 20xx, XYZ Realty closed the real estate transaction at 105 Plank Road for Jerry Tucker. The company issued check #101 through #108. The proper entries are recorded in the General Ledger and the Individual Sub-ledger card titled Wright-Tucker. Each check has the payee identified and the reason for payment.
- E) Recording a buyer's earnest money deposit. On April 15, 20xx, XYZ Realty received \$1,000.00 from George Stone representing an earnest money deposit on the property owned by Pat Wise. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Wise-Stone.
- F) Recording a buyer's earnest money deposit. On April 17, 20xx, XYZ Realty received \$2,000.00 from Mary Kates representing an earnest money deposit on the property owned by Kenny Adams. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Adams-Stone.
- G) Recording a buyer's earnest money deposit. On April 20, 20xx, XYZ Realty received \$1,000.00 from Frank Perry representing an earnest money deposit on the property owned by William Huntley. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Huntley-Perry.
- H) Recording a buyer's earnest money deposit. On April 25, 20xx, XYZ Realty received \$3,000.00 from Paul Walters representing an earnest money deposit on the property owned by Edward Young. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled Young-Walters.

- l) Recording check printing charges that is shown on the bank statement at the end of the month. On April 30, 20xx, the bank statement indicates a \$15.90 check printing charge for the trust account. The proper entries are shown in the General Ledger and in the Individual Sub-ledger card titled "Broker's Equity - Personal Funds".

SUBSIDIARY LEDGERS

Brokers equity -personal funds Ledger Card

	<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
A		April 1,	To open trust fund account		25.00	25.00
I		April 30,	Check printing charges	15.90		9.10

Wright - Tucker Ledger Card

***3672 Meadow Lane
Biltmore, WV***

	<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
B		April 7,	Earnest money received from Larry Tucker		5,000.00	5,000.00
C		April 10,	Loan from The 1st Rate Mortgage Company		45,000.00	50,000.00
D	101	April 11,	Mike Compton (title opinion & deed)	120.00		49,880.00
D	102	April 11,	Trustworthy Abstract Co. (continuation)	85.00		49,795.00
D	103	April 11,	Wayne County Treasurer (taxes)	312.00		49,483.00
D	104	April 11,	Jerry Tucker (tax proration)	80.00		49,403.00
D	105	April 11,	Angie Wright (proceeds)	13,803.00		45,903.00
D	106	April 11,	Allied Bank (mortgage payoff)	32,000.00		13,903.00
D	107	April 11,	Pest Control Company (termite inspection)	100.00		13,803.00
D	108	April 11,	XYZ Realty (commission)	3,500.00		0.00

**Wise - Stone
Ledger Card**

**#2 River Run Rd.
Bushing, WV**

	<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
E		April 15,	Earnest money received from George Stone		1,000.00	1,000.00

**Adams - Kates
Ledger Card**

**RT. 2, Box 49
Banks, WV**

	<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
F		April 17,	Earnest money received from Mary Kates		2,000.00	2,000.00

**Huntley - Perry
Ledger Card**

**19 Crooked Run Rd.
Hillside, WV**

	<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
G		April 20,	Earnest money received from Frank Perry		1,000.00	1,000.00

**Young - Walters
Ledger Card**

**47 Mile High Rd.
Red Hill, WV**

<u>Check #</u>	<u>Date</u>	<u>Explanation</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
H	April 25,	Earnest money received from Paul Walters		3,000.00	3,000.00

General Ledger

	<u>Check #</u>	<u>Date</u>	<u>Payee/Depositor</u>	<u>Transaction</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Balance</u>
A		April 1,	XYZ Realty operating acct.	Broker's equity - personal funds		25.00	25.00
B		April 7,	Jerry Tucker	Wright - Tucker		5,000.00	5,025.00
C		April 10,	1st Rate Mortgage	Wright - Tucker		45,000.00	50,025.00
D	101	April 11,	Mike Compton, Attorney	Wright - Tucker	120.00		49,905.00
D	102	April 11,	Trustworthy Abstract Co.	Wright - Tucker	85.00		49,820.00
D	103	April 11,	Wayne County Treasurer	Wright - Tucker	312.00		49,508.00
D	104	April 11,	Larry Tucker	Wright - Tucker	80.00		49,428.00
D	105	April 11,	Angie Wright	Wright - Tucker	13,803.00		35,625.00
D	106	April 11,	Allied Bank	Wright - Tucker	32,000.00		3,625.00
D	107	April 11,	Pest Control Company	Wright - Tucker	100.00		3,525.00
D	108	April 11,	XYZ Realty	Wright - Tucker	3,500.00		25.00
E		April 15,	George Stone	Wise - Stone		1,000.00	1,025.00
F		April 17,	Mary Kates	Adams - Kates		2,000.00	3,025.00
G		April 20,	Frank Perry	Huntley - Perry		1,000.00	4,025.00
H		April 25,	Paul Walters	Young - Walters		3,000.00	7,025.00
I		April 30,	Check printing charges	Broker's equity - personal funds	15.90		7,009.10

{B}

The balance in your trust fund account general ledger shows that on April 30, 20xx you should have \$7,009.10 of trust fund money on deposit. As days pass, you periodically make a deposit and write a few checks, and with each transaction you write in a new, up to date balance. You believe that the balance shown in your General Ledger (checkbook register) is accurate, but you never really know until you reconcile your bank statement every month.

You have just received the bank statement for your trust account (on the following page). It must be reconciled for agreement between the checking account, the general ledger, and all individual sub-ledgers. An example of an actual reconciliation follows.

STATEMENT OF ACCOUNT

**Green County National Bank
P.O. Box 1000
Smithville, WV 28947**

STATEMENT OF ACCOUNT

This statement: May 1, 20xx
Last statement: N/A

XYZ Realty Inc.
Trust Fund Account
1000 Forrest Way
Smithville, WV 28947

Account # 0123456789

Beginning balance	\$0.00	Ending balance	\$7,541.10
	Total additions	Total subtractions	\$49,483.90

ADDITIONS (credits)

<u>Date</u>	<u>Description</u>	<u>Additions</u>
04-1	deposit -	25.00
04-7	deposit -	5,000.00
04-11	deposit -	45,000.00
04-15	deposit -	1,000.00
04-17	deposit -	2,000.00
04-20	deposit -	1,000.00
04-25	deposit -	3,000.00

SUBTRACTIONS (debits)

<u>Number</u>	<u>Date</u>	<u>Amount</u>	
102	04-12	85.00	
104	04-12	80.00	
105	04-14	13,803.00	
106	04-14	32,000.00	
108	04-14	3,500.00	
Misc. Debit	04-30	15.90	(Check charges)

Bank Reconciliation

Account Title	Trust Fund Account
Account #	123456789
Bank statement date	May 1, 20xx
Bank statement balance	\$7,541.10 ¹
Deposits in transit	+ 0.00 ²
Subtotal	= \$7,541.10 ³
Outstanding checks	- 532.00 ⁴
Reconciled Balance	= \$7,009.10 7{A}

¹ The bank statement balance refers to the ending balance as stated on the bank statement.

² Deposits in transit refers to deposits that have been made, but have not been credited on the bank statement.

³ The bank statement balance (plus) the deposits in transit (equals) the subtotal.

⁴ Outstanding checks are checks that have been disbursed but do not appear on the bank statement. (Check #'s 101,103 & 107)

After the reconciliation is complete, you note that the general ledger balance equals the reconciled bank balance. **BUT DON'T STOP THERE!** List and total the Individual Sub-ledger sheets, which should total the reconciled bank balance and the general ledger balance. The individual sub-ledgers and their totals are listed below.

Broker's equity - personal funds	\$9.10
Wise - Stone	1,000.00
Adams - Kates	2,000.00
Huntley - Perry	1,000.00
Young - Walters	<u>3,000.00</u>
	\$7,009.10 7{C}

You should notice at this time that the following is true;

RECONCILED BANK STATEMENT = GENERAL LEDGER = SUM OF INDIVIDUAL SUB-LEDGERS

"Or"

$$\{A\} = \{B\} = \{C\}$$

In our examples the three amounts are equal, so the trust account is in balance. Mistakes in the trust account are relatively easy to find in a one-month period.

A broker can easily maintain the Trust Account and keep it in balance with just a few simple rules.

- 1) When money is accepted or disbursed, immediately record the amount in the General Ledger and on the appropriate Individual Subsidiary Ledgers.
- 2) On a routine basis, check to see that the balance in the checkbook and the balance in the General Ledger are equal and that the total amount also is equal to the total of all the Individual Sub-ledgers.
- 3) When the bank statement arrives be sure to make the necessary entries in the Broker's Equity (personal funds) Ledger if necessary for service charges or bank fees if required.
- 4) Reconcile your bank statement each month.
- 5) Each month do a three-way reconciliation.

§30-40-19 states in pertinent parts:

(a) The Commission shall have full power to ... revoke, suspend or impose any other sanction against a licensee if the licensee:

(8) Fails, within a reasonable time, to account for or to remit any moneys or other assets coming into his or her possession which belong to others;

(9) Commingles moneys belonging to others with his or her own funds;

(25) Accepts other than cash or its equivalent as earnest money or other deposit unless this fact is disclosed in the contract to which the deposit relates;

(29) Fails to maintain adequate records on the broker's "trust fund account";