

324.111 Escrow account of broker -- Interest -- Audit -- Contract deposit release -- Separate property management accounts.

- (1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing. Each principal broker shall advise the commission, in writing, if any overdraft occurs in the escrow account for any reason other than service charges instituted by the bank, and which is not corrected within seventy-two (72) hours of the broker receiving notice.
- (2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.
- (3) No checks shall be drawn against uncollected deposits in the escrow account.
- (4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.
- (5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his or her escrow accounts.
- (6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter unless all parties enter into a written mutual release, or unless one (1) or more of the parties initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit to the party identified in the certified letter without penalty under this section and without civil liability in the courts of the Commonwealth of Kentucky.
- (7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts or specifically indicate in all escrow records if funds are property management funds.
- (8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.
- (9) If any licensee is alleged to have committed an escrow account violation that warrants emergency action, the commission may conduct an emergency hearing as authorized by KRS 324.150(1)(b).

Effective: June 25, 2009

History: Amended 2009 Ky. Acts ch. 58, sec. 2, effective June 25, 2009. -- Amended 2000 Ky. Acts ch. 488, sec. 9, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 448, sec. 11, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 304, sec. 2,

effective July 15, 1988. -- Created 1982 Ky. Acts ch. 196, sec. 3, effective July 15, 1982.