

1993 Assembly Bill 174

Date of enactment: **August 20, 1993**  
Date of publication\*: **September 3, 1993**

## 1993 WISCONSIN ACT 33

AN ACT to repeal and recreate 452.13; and to create 16.351 and 20.505 (7) (h) of the statutes, relating to: interest on real estate trust accounts, granting rule-making authority and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 16.351 of the statutes is created to read:

**16.351 Grants to alleviate homelessness. (1)**

GRANTS. From moneys available under s. 20.505 (7) (h), the department shall make grants to organizations that provide shelter or services to homeless individuals or families.

(2) SUPPLEMENTAL FUNDS. The department shall ensure that grants awarded under sub. (1) are not used to supplant other state funds available for homelessness prevention or services to homeless individuals or families.

(2m) REPORT. Annually, the department shall submit a report to the speaker of the assembly, the president of the senate and to the appropriate standing committees under s. 13.172 (3) that summarizes how much money was received in the previous year and how that money was distributed.

(3) RULES. The department shall promulgate rules establishing procedures and eligibility criteria for grants under this section.

**SECTION 2.** 20.505 (7) (h) of the statutes is created to read:

20.505 (7) (h) *Interest on real estate trust accounts.* All moneys received from interest on real estate trust accounts under s. 452.13 for grants under s. 16.351.

**SECTION 3.** 452.13 of the statutes is repealed and recreated to read:

**452.13 Trust accounts. (1) DEFINITIONS.** In this section:

(a) "Client funds" means all downpayments, earnest money deposits or other money related to a conveyance of real estate that is received by a broker, salesperson or time-share salesperson on behalf of the broker's, salesperson's or time-share salesperson's principal or any other person. "Client funds" does not include promissory notes.

(b) "Depository institution" means a bank, savings bank, savings and loan association or credit union that is authorized by federal or state law to do business in this state and that is insured by the federal deposit insurance corporation or by the national credit union share insurance fund.

(2) INTEREST-BEARING COMMON TRUST ACCOUNT. (a) A broker who holds client funds shall establish an interest-bearing common trust account in a depository institution. The interest-bearing common trust account shall earn interest at a rate not less than that applicable to individual accounts of the same type, size and duration and for which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law or regulation.

(b) Any broker who maintains an interest-bearing common trust account shall do all of the following:

1. Register with the department of regulation and licensing the name and address of the depository institution and the number of the interest-bearing common trust account.

2. Notify the department of regulation and licensing when any of the information required under subd. 1 is changed.

3. Furnish the department of regulation and licensing with a letter authorizing the department of regulation and licensing and the department of administration to examine and audit the interest-bearing common trust account whenever the department of regulation and licensing or the department of administration considers it necessary.

(bm) The department of regulation and licensing shall forward to the department of administration the information and documents furnished under par. (b).

(c) A broker shall deposit all client funds in the interest-bearing common trust account.

(d) The department of administration is the beneficial owner of the interest accruing to the interest-bearing common trust account, minus any service charges or fees.

(e) For each interest-bearing common trust account, the broker shall direct the depository institution to do all of the following:

1. Annually, before February 1, remit to the department of administration the total interest or dividends, minus service charges or fees, earned on the average daily balance in the interest-bearing common trust account during the 12 months ending on the previous December 31. A depository institution is not required to remit any amount if the total interest or dividends for that period is less than \$10 before any deduction for service charges or fees.

2. When the interest remittance is sent, furnish to the department of administration and to the broker maintaining the interest-bearing common trust account a statement that includes the name of the broker for whose account the remittance is made, the rate of interest applied, the amount of service charges or fees deducted, if any, and the account balance for the period that the statement covers.

(f) A depository institution:

1. May not assess a service charge or fee that is due on an interest-bearing common trust account against any broker or, except as provided in subd. 3, against any other account, regardless of whether the same broker maintains the other account.

2. May not assess a service charge or fee for an interest-bearing common trust account against the department of administration.

3. May deduct a service charge or fee from the interest earned by an interest-bearing common trust account, and if a balance remains, may deduct the remaining charge or fee from the interest earned on any other interest-bearing common trust account maintained in that depository institution, before remitting interest to the department of administration.

4. May not deduct a service charge or fee from the principal of an interest-bearing common trust account.

(3) DEPOSIT PROVISIONS. A broker who deposits client funds in an interest-bearing common trust account in compliance with this section may not be held liable to the owner or beneficial owner of the client funds for damages due to compliance with this section. A broker, salesperson or time-share salesperson who deposits client funds in an interest-bearing common trust account in compliance with this section is not required to disclose alternative depository arrangements that could be made by the parties or to disclose that a deposit will be made under this section.

(4) TRUST ACCOUNT OPTIONAL. This section does not require a broker to hold client funds or require a person to transfer client funds to a broker.

(5) RULES. In consultation with the department of regulation and licensing, the department of administration shall promulgate rules necessary to administer this section.

**SECTION 4. Nonstatutory provisions.** The department of administration shall submit in proposed form the rules required under sections 16.351 (3) and 452.13 (5) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this SECTION.

**SECTION 5. Effective dates.** This act takes effect on November 1, 1993, or on the day after publication, whichever is later, except as follows:

(1) The treatment of sections 16.351 (3) and 452.13 (5) of the statutes and SECTION 4 of this act take effect on the day after publication.