

Chapter RL 125

TRUST ACCOUNTS

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RL 125.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 480.06, 480.14, 480.16 and 480.18, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.02 Definition. In this chapter, "trust funds" means cash, checks, share drafts, drafts or notes received by an auctioneer or an auction company on behalf of a principal or any other person while acting as an auctioneer or auction company for an auction of goods. "Trust funds" does not include proceeds received by an auctioneer or an auction company on behalf of a principal or any other person pursuant to an auction in which the written contract under s. 480.14, Stats., requires the registrant to pay the owner or consignor within 24 hours after the auction.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.03 Receipt of trust funds. This chapter applies to trust funds received by a registrant, but does not apply to money paid to one of the parties pursuant to an agreement between the parties under s. 480.16, Stats.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.04 Type of account. An auctioneer or auction company may place trust funds in an interest-bearing or non-interest-bearing account, provided that none of the interest inures to the benefit of the auctioneer or auction company.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.05 Time of deposit. An auctioneer or auction company shall deposit trust funds in a trust account within 48 hours after receipt by the auctioneer or auction company.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.06 Opening and closing accounts. (1) The department may not require an auctioneer or auction company to open a trust account before the auctioneer or auction company receives trust funds which must be deposited, unless the department finds, in a specific case, that an earlier opening of an account is needed in order to assure compliance with this chapter.

(2) An auctioneer or auction company may close a trust account when no trust funds remain in the auctioneer's or auction company's possession.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.07 Account designation. An auctioneer or auction company shall:

(1) Include the words "trust account" in the name of the trust account maintained by the auctioneer or auction company.

(2) Imprint the name of the auctioneer or auction company on the trust account checks, share drafts or drafts.

(3) Designate the account with the name appearing on the auctioneer's or auction company's registration certificate or with a trade name submitted to the department under s. RL 121.07.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.08 Notification of the department. (1) An auctioneer or an auction company shall provide the department with the name and number of every trust account maintained by the auctioneer or auction company and the name of the depository institution in which the auctioneer or auction company holds each trust account. The auctioneer or auction company shall provide this notification to the department on a form prepared by the department no later than 10 days after opening a trust account. The auctioneer or auction company shall authorize representatives of the department to examine and audit all of the auctioneer's or auction company's trust accounts.

(2) An auctioneer or an auction company shall obtain the certification of every depository institution in which the auctioneer or auction company maintains a trust account, in which the depository institution attests to the existence of the account and consents to the examination and audit of the account by a duly authorized representative of the department.

Note: A Consent to Examine and Audit Auctioneer Trust Account form may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.09 Withdrawal of trust funds. An auctioneer or auction company shall withdraw funds to reimburse the auctioneer or auction company for expenses incurred and commissions and fees earned by the auctioneer or auction company within the 30 days specified in s. 480.14 (3), Stats., or as otherwise provided by the terms of a contract.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.10 Commingling prohibited. (1) Except as provided in subs. (2) and (3), an auctioneer or an auction company may not commingle the auctioneer's or auction company's personal or company funds which are not trust funds in a trust account maintained pursuant to this chapter.

(2) An auctioneer or auction company may place personal or company funds in a trust account under the following conditions:

(a) Funds equal to the amount of any checks received by the auctioneer or auction company on behalf of an owner or consignor when such funds are deposited by the auctioneer to cover potential or actual "non-sufficient funds" checks received from purchasers.

(b) Funds sufficient to cover service charges relating to the trust account.

(3) An auctioneer or an auction company shall deposit additional personal or other funds in the trust account within 10 business days follow-

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ing receipt of a statement or other notification from a depository institution that the trust account is overdrawn.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.11 Bookkeeping system. An auctioneer or an auction company shall maintain a bookkeeping system that enables the auctioneer or auction company to adequately account for all trust funds in a trust account, to maintain an accurate and sufficient balance in the account and to account for all trust funds received from specified buyers and paid to specified sellers for specified purchases.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.

RL 125.12 Use of computers. An auctioneer or an auction company may maintain trust account records in a computerized system, provided that:

(1) A backup copy of the bookkeeping records is made on any day on which entries are made in the computerized bookkeeping system. The backup copy shall be made on a disk or other medium which is separate and distinct from that on which the source documents reside.

(2) All records which are not maintained as written paper records are capable of being immediately converted to written paper records and immediately made available without charge to the department for the purposes of department audit or investigation.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.