

from the buyer to the listing broker within 24 hours of acceptance of the offer to purchase.

(2) **DOWNPAYMENTS BY CHECK, SHARE DRAFT OR DRAFT.** The selling broker shall transfer to the listing broker the earnest money payment received in the form of a personal check, share draft or draft within 24 hours of acceptance of the offer to purchase, except that the selling broker may withhold transfer of the payment pending clearance from the payor's depository institution. If the check, share draft or draft clears, the broker shall transfer the earnest money to the listing broker within 24 hours of receiving evidence of clearance.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81; am., Register, April, 1982, No. 316, eff. 5-1-82; renum. from REB 9.08, Register, February, 1983, No. 326, eff. 3-1-83; renum. to be (1) and am., cr. (2), Register, June, 1984, No. 342, eff. 7-1-84.

**RL 18.09 Disbursement of trust funds. (1) PROPER DISBURSEMENT.** A broker who disburses trust funds from his or her real estate trust account under the following circumstances shall not be deemed to have violated s. 452.14 (3) (i), Stats.:

(a) To the payor upon the rejection, expiration or withdrawal prior to binding acceptance of an offer to purchase, lease, exchange agreement or option on real estate or a business opportunity;

(b) As directed in a written earnest money disbursement agreement signed by all parties having an interest in the trust funds. A closing statement is a written earnest money disbursement agreement for the purposes of this subsection. An offer to purchase, lease, exchange agreement or option is not a written earnest money disbursement agreement for the purpose of this subsection.

(c) To a court having jurisdiction over a civil action involving all parties having an interest in the trust funds;

(d) As directed by order of a court;

(e) Upon a good faith decision based upon advice of an attorney not representing any party to the contract;

(f) Upon authorization granted within the contract; or

(g) As otherwise provided by law.

(2) **NOTIFICATION OF DISBURSEMENT.** Prior to making a disbursement of trust funds under sub. (1) (a) where the broker has knowledge that not all parties agree that the rejection or withdrawal occurred prior to binding acceptance, and prior to making a disbursement under sub. (1) (e), (f) and (g) where the broker has knowledge that either party disagrees with the disbursement, the broker shall attempt to notify all parties in writing of the intent to disburse. The notice shall be delivered by certified mail to the parties' last known addresses and shall state to whom and when the disbursement will be made. The disbursement may not occur until 30 days after the date on which the notice is sent.

(3) **WITHDRAWAL OF COMMISSIONS.** A broker shall withdraw commissions or fees earned by the broker from real estate trust accounts maintained by the broker within 24 hours after transactions are consummated

Register, July, 1993, No. 451

or terminated, or after the commissions or fees are earned in accordance with the contract involved.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81; renum. from REB 9.09 and am. (3) (intro.), Register, February, 1983, No. 326, eff. 3-1-83; am. (2), (3) (a) and (b) and (4), Register, June, 1984, No. 342, eff. 7-1-84; r. and recr., Register, July, 1993, No. 451, eff. 8-1-93.

**RL 18.10 Commingling prohibited.** A broker shall deposit only real estate trust funds in the broker's real estate trust account and shall not commingle the broker's personal funds or other funds in the trust account, except that a broker may deposit and keep a sum not to exceed \$300.00 from the broker's personal funds in any real estate trust account, which sum shall be specifically identified and deposited to cover service charges relating to the trust account.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81; renum. from REB 9.10, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, July, 1984, No. 342, eff. 7-1-84; am. Register, January, 1992, No. 433, eff. 2-1-92.

**RL 18.11 Deposits in lieu of cash. (1) NON-DEPOSITABLE DOWNPAYMENTS.** With the exception of promissory notes, a broker shall not hold as down payment from a buyer any instrument, equity or thing of value which is not depositable in a real estate trust account. Non-depositable items other than promissory notes shall be held by one of the parties to the transaction or some other party, subject to an escrow agreement prepared by the parties or an attorney.

(2) **PROMISSORY NOTES.** A broker may accept promissory notes from buyers as downpayments, and hold these for the parties to the transaction; if the broker inserts language in the offer to purchase which expressly gives the broker authority to hold the note and if the broker modifies the earnest money clause and the earnest money receipt in the offer to purchase to show receipt of a promissory note.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81; renum. from REB 9.11, Register, February, 1983, No. 326, eff. 3-1-83.

**RL 18.12 Branch office trust account.** In the event a branch office, as defined in s. RL 19.01, maintains one or more real estate trust accounts, separate from any trust account at the broker's main office, a separate bookkeeping system shall be maintained in that branch office.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81; renum. from REB 9.12 and am. Register, February, 1983, No. 326, eff. 3-1-83.

**RL 18.13 Bookkeeping system.** Each broker shall maintain and be responsible for a bookkeeping system in the broker's office consisting of at least the following:

(1) **CASH JOURNAL.** A broker shall maintain a permanent record book, called a journal, which shall show the chronological sequence in which real estate trust funds are received and disbursed:

(a) For funds received, the journal shall include the date, the name of the party who is giving the money, the name of the principal, and the amount.

(b) For disbursements, the journal shall include the date, the payee, the number of the check, share draft or draft and the amount. The journal shall identify each transaction by including the name of the principal, an identification number or other means of identification.