

§16-99-4 Client's account; trust funds; properties other than funds. (a) Every brokerage firm that does not immediately place all funds entrusted to the brokerage firm in a neutral escrow depository, shall maintain a trust fund account in this State with some bank or recognized depository, which is federally insured, and place all entrusted funds therein. The trust fund account shall designate the principal broker as trustee and all trust fund accounts, including interest bearing accounts, shall provide for payment of the funds upon demand.

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(b) Every brokerage firm shall retain for at least three years records of all trust funds which the brokerage firm has received. All records and funds shall be subject to inspection by the commission or its representative. The three-year requirement shall be for real estate license law purposes only. The brokerage firm may be required to keep records for a longer period of time for other purposes. The records shall be kept in Hawaii in accordance with standard accounting principles and shall clearly indicate the following:

(1) Names of the persons from whom funds are received, for whom deposited, and to whom disbursed;

(2) Dates of receipt, deposit, withdrawal, and disbursements, and amounts received, deposited, withdrawn, and disbursed;

(3) Description of the trust fund and the purpose for its establishment;

(4) Purposes for the money; and

(5) Other pertinent information concerning the trust fund transactions.

(c) Trust fund accounts shall be either interest bearing or non-interest bearing, as agreed to in writing between the owner of funds and the principal broker or broker in charge receiving the funds and all other individuals who are parties to the real estate agreement. For interest bearing accounts, these same parties to the real estate agreement shall also agree in writing as to who shall pay for any early withdrawal penalty. The principal broker or broker in charge shall keep any interest belonging to others in the trust fund account and shall not commingle the accrued interest with the brokerage firm's, principal broker's, or broker in charge's general operating account or with the brokerage firm's, principal broker's, or broker in charge's own funds. All agreements relating to disbursements of the accrued interest from the client trust account shall be in writing, signed by the owner of the trust fund, the principal broker or broker in charge receiving the funds, and all other individuals that are parties to the real estate agreement. The interest accrued on any trust account deposit shall be disbursed in strict compliance with the written disbursement agreement. In the absence of a written agreement, any interest accrued shall be paid to the owner of the funds.

(d) Every brokerage firm shall deposit or place trust funds received into a neutral escrow depository or in a trust fund account with some bank or recognized depository, which is federally insured, by the next business day following their receipts.

(e) Every principal broker or broker in charge who receives personal property, other than funds, in trust for other people, by the next business day shall safeguard the property by placing the property in a secure place located in the State.