TRUST ACCOUNT INFORMATION FOR PRINCIPAL BROKERS

Ohio law requires that you maintain a special or trust bank account in a depository located in the state of Ohio. Further, if you engage in property management services, in most instances, a separate property management special or trust bank account must also be maintained. If you engage in property management ONLY, a property management trust account is all that is needed. When setting up a trust account with your financial institution, the following Revised Code and Administrative Code Sections may be helpful to share with your banker:

Ohio Revised Code Section 4735.18(A)(26) addresses the general trust account provision and states, in part, the following:

“Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent....”

*** The information above must accompany a brokerage application and must be submitted to the Division in the form of a letter from your financial institution.

Ohio Revised Code Section 4735.18(A)(27) addresses the property management trust account and states the following:

“Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.”

*** The information above must accompany a brokerage application and must be submitted to the Division in the form of a letter from your financial institution. IF YOU HAVE ALREADY SET UP YOUR BROKERAGE AND LATER BEGIN PERFORMING PROPERTY MANAGEMENT SERVICES, YOU MUST SEND THIS INFORMATION TO THE DIVISION PRIOR TO OFFERING THAT SERVICE.

Brokerage trust accounts are not IOLTA OR IOTA accounts. An IOTA account (“Interest on Trust Accounts”) applies to title insurance agents and title insurance companies. Such account is required pursuant to Ohio Revised Code Section 3953.231.

An IOLTA account (“Interest on Lawyers’ Trust Accounts”) is required for a lawyer who receives client funds and is required pursuant to Ohio Revised Code Sections 4705.09 and 4705.10.
Both an IOTA and an IOLTA **MUST** earn interest (a general brokerage trust account **may not** and a property management trust account **may** earn interest) The interest earned on IOLTA and IOTA accounts generates revenue for the state’s legal aid fund. THESE ARE NOT PERMITTED FOR REAL ESTATE BROKERAGES.

Please also reference the following Ohio Administrative Code Sections related to trust accounts:

1301:5-5-08- Handling of trust account funds

This rule should be reviewed in its entirety but of note when setting up a trust account is the following:

“Special or trust bank accounts shall be designated by the depository in which the account is located, and **all deposit tickets and checks drawn on said account shall bear the words "trust account" or "special account."**”

1301:5-5-09 Trust account records to be maintained

1301:5-5-11 Separate property management trust accounts

1301:5-5-23 Property management account(s) in the name of the owner