EARNEST MONEY AND TRUST ACCOUNTS IN INDIANA

STUDY SHEET

Summary

The state of Indiana regulates brokerage and property management funds. State law also specifies how trust accounts must be established, used, and properly recorded. Pay attention, because trust accounts are a common area of non-compliance and license law violations!

Top Takeaways

- Escrow is a financial agreement involving a buyer and a seller, where money is kept in safekeeping by an escrow agent or trustee until predefined conditions are met by both parties.
- Commingling and conversion are two areas in which licensees can go wrong with earnest money.
- Earnest money goes toward closing costs after the buyer and seller meet the conditions, but can be returned to the buyer when contingencies aren't satisfied.
- Indiana's House Enrolled Act 1374 of 2009 (aka the Good Funds Act) specifies that funds used to finance real estate transactions must be actual funds that are known to exist in the person's account and be immediately available for deposit/disbursement.
- Good funds include wire transfers, cash, certified checks, personal checks of less than $500, checks written from an Indiana broker or closing agent trust account, or checks issued by a municipal, state, or federal entity, or by a farm credit service.
- Acceptance and deposit of earnest money funds is a broker's promise to manage the funds in good faith according to all license laws.
- Non-trust funds are funds, or other items of value, that are given to the licensee or broker for purposes not related to securing a real estate transaction, and must not be commingled with trust funds.
- Record keeping protects the client and the licensee. Transactional, accounting, and legal records should be maintained for the period of time required by state real estate regulations or for even longer based on your attorney's or accountant's recommendations.
- When funds are disbursed from escrow accounts, the date of payment, check number, name of the payee, purpose of the disbursement, amount paid, and the resulting cash balance of the account must be recorded.
- Brokers in Indiana must be able to provide all escrow and real estate records held in the office for review within 24 hours of a request, and must keep all bank statements and records relating to escrow accounts on file for at least five years.

Take a look back at your notes for these items:

- The difference between commingling and conversion
- The Indiana House Enrolled Act 1374 of 2009 (Good Funds Act)
- Legal requirements for trust accounts
- Recordkeeping recommendations
- Specific escrow recordkeeping requirements for Indiana