

\*\*\* DRAFT - NOT YET FILED \*\*\*

TO BE RESCINDED

1301:8-7-05                    **Special account requirements.**

- (A) In accordance with section 1322.08 of the Revised Code, a registrant shall establish and maintain a non-interest bearing depository account that is insured by the federal deposit insurance corporation. The account shall be known as the "special account." The special account shall be separate and distinct from any other account, and shall be used for the sole purpose of collecting and dispersing monies for the payment of third party fees. The special account must be in the name of the registrant as it appears on its application and certificate of registration.
- (B) All checks for the special account must bear upon the front of the check the identifying words, "special account." Checks must be pre-numbered by the supplier or printer, unless the registrant uses an automated check writing system, in which case all checks must be numbered in sequence.
- (C) The special account must be reconciled monthly.
- (D) Every registrant shall keep record of all deposits, withdrawals, and disbursements from the special account. This record shall include, but not be limited to:
- (1) Date funds received;
  - (2) Party from whom funds are received and the purpose of the funds;
  - (3) Amount received;
  - (4) Date funds are deposited in the special account;
  - (5) Check number and date funds are disbursed;
  - (6) Party to whom funds are disbursed and purpose of disbursement;
  - (7) Any other documents necessary and sufficient to verify and explain record entries and identify the current balance in the special account.
  - (8) All funds received from buyers and made payable to the registrant or an employee of the registrant for the payment of third-party providers, whether specifically identified as such or not, must be deposited in the special account

prior to the end of the forty-fifth business day following receipt.

- (E) All deposits to the special account must be documented by a bank deposit slip which has been validated by bank imprint, or by an attached deposit receipt which bears the signature of an authorized representative of the mortgage broker indicating that the funds were actually deposited into the proper account.
- (F) Receipt of funds by wire transfer or any means other than cash, check, or money order, must be posted in the same manner as other receipts. Any such transfer of funds must include a traceable identifying name or number supplied by the financial institution or transferring entity. The mortgage broker must also retain a receipt for the deposit of the funds which must contain the traceable identifying name or number supplied by the financial institution or transferring entity.
- (G) Deposits to the special account must be limited to funds delivered and made payable to the mortgage broker or an employee of the mortgage broker for payment to third-party providers. The only exception to this rule are deposits made by the registrant for the payment of a service charge assessed by the financial institution where the account is held.
- (H) Each registrant is responsible for the disbursement of all special account funds. Records must be created and maintained to identify to whom each disbursement is made and for which buyer the disbursement was made.
- (I) When a registrant receives a check from closing which includes both the registrant's fee and a payment or payments for third party service providers, the following are approved methods for avoiding violating division (D)(2) of section 1322.08 of the Revised Code:
  - (1) The registrant at the time of deposit is to split the check at the teller window and route any moneys due to third party service providers to the special account, and moneys due the registrant to its general account; or
  - (2) The registrant deposits the entire check into the special account. After paying any and all moneys due to third party service providers and seeing to it that the buyer has received credit for all funds deposited in the special account, the registrant may transfer excess funds remaining in the special account into the registrant's general business bank account. This amount must be equal to the fee disclosed on the final HUD-1 settlement statement, less any amounts already received by the registrant, and must be duly recorded in the special account ledger. The registrant may at no time before the loan is closed transfer moneys from a special account to its general business bank account.

(J) Buyer funds held by the mortgage broker must be remitted to the buyer within five business days of the determination that all payments to third-party providers owed by the buyer have been satisfied.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	119.03
Statutory Authority:	1322.12
Rule Amplifies:	1322.08
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