



Consumer ALERT

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DEPARTMENT OF REAL ESTATE ALERTS CONSUMERS ABOUT IMPORTANCE OF MAKING SURE REAL ESTATE TRUST FUNDS ARE PROTECTED

SACRAMENTO – After the recent failures of at least three banks, including one this week, the California Department of Real Estate (DRE) is alerting consumers involved in real estate transactions about the importance of properly protecting their funds. This includes taking measures to make sure all funds are deposited into a properly designated trust account. The failure to do so may expose the consumer to financial harm, including the possibility that the consumer loses their funds if a bank where the funds are deposited fails.

Trust funds collected and held by real estate brokers may happen during a sales transaction or when the broker is acting as a property manager, loan servicer, a mortgage loan broker, or the broker performs “broker-controlled” escrows.

In California, a real estate broker who accepts funds belonging to others is required to deposit those funds into one of three places:

1. Into a neutral escrow depository;
2. Into the hands of the owner of the funds; or
3. Into a trust fund account maintained by the broker in the name of the broker, or in a fictitious name if the broker is the holder of a license with that fictitious name, as trustee

The account must be in a bank or recognized depository in California.

What Consumers Should Do

Consumers should contact their real estate broker and verify that their funds were deposited into a properly designated trust account at a financial institution located in California.

It’s also possible for funds to be placed into a fiduciary trust account, which are insured by the Federal Deposit Insurance Corporation (FDIC) for up to \$250,000 for each beneficiary.

For fiduciary trust accounts, the consumer should verify with the broker that:

1. The bank account is a fiduciary trust account that has federal insurance coverage for funds held in the account per principal or beneficiary. A consumer should ask their broker to get a written statement from the bank verifying if the account has adequate FDIC coverage per beneficiary.
2. The name of the trust account should be properly designated in the name of the broker as trustee. A consumer can also request the broker to get a written statement from the bank verifying the title of the bank account. The account should be titled in the broker’s name or the broker’s fictitious business name and the word “trust” should be in the identifying name title of the account.
3. The broker maintains trust fund accounting records so that the trust funds can be properly accounted for and identified. A consumer can learn more about trust fund recordkeeping requirements by reading the DRE publication, Trust Funds – A Guide for Real Estate Brokers and

Salesperson, available at: <https://dre.ca.gov/files/pdf/re13.pdf>. They also should review [Commissioner Regulations 2831 and 2831.1](#). Consumers should then request a copy of their own beneficiary record and verify if it has all the elements as described in the regulations noted here.

Taking these steps will help a consumer protect the funds being used in their real estate transaction. If the broker cannot provide an adequate response to your requests, your trust funds may be at risk. You should consider looking for an alternative broker that can meet these trust fund requirements.

Additional Information

- “Deposit Insurance FAQs”
<https://www.fdic.gov/resources/deposit-insurance/faq/index.html>
- “FDIC Information and Support Center”
https://ask.fdic.gov/fdicinformationandsupportcenter/s/?language=en_US
- Learn more about DRE trust fund accounting requirements
<https://dre.ca.gov/files/pdf/re13.pdf>

Consumers who wish to file a complaint against a real estate broker related to improper trust fund handling can submit the complaint on DRE’s website at <https://eocs.dre.ca.gov/>.

The California Department of Real Estate (DRE) was created with the nation's first real estate license law in 1917. California Real Estate Law and the Subdivided Lands Law have both served as models for similar legislation in many other states. Today, DRE continues to enjoy a nationwide reputation as a leader in real estate licensing and regulation. Learn more about DRE at: <https://dre.ca.gov/About/>.