

NEBRASKA REAL ESTATE COMMISSION

**REAL ESTATE TRUST ACCOUNT MANUAL
UPDATE**

Enclosed are new pages to be used to update your copy of the **Nebraska Real Estate Trust Account Manual**. You may discard the pages replaced.

Remove Old Pages:	Insert New Pages:	Changes Included:
MGMT E-1 dated 8/06	MGMT E-1 dated 9/19	Allowing for automated withdrawal of trust account funds in property management account under certain circumstances

If you have any questions regarding this update, please call the Commission Office at 402-471-2004. Thank you for your cooperation.

III. PROPERTY MANAGEMENT ACCOUNTS

E. Handling Trust Funds - Disbursements

Once trust funds are deposited into the trust account, the written management agreement usually dictates how those funds should be handled. The Commission will assume that all disbursements are to be made from the trust account and are supported by a vendor invoice, and that the payment of such invoice has been authorized by the owner, unless otherwise outlined in the written management agreement.

All expenses paid on behalf of the owner must be paid from the trust account, regardless of whether the funds are held in an interest-bearing account, unless otherwise specified in writing by the owner.

Property management fees are normally determined by a written management agreement, and should be removed from the property sub-ledger account when due the broker. Removal of the management fees can be accomplished by issuing a check drawn on the trust account for each management fee earned, or by transferring the management fee to the broker's equity sub-ledger account. The transfer to the broker's equity would be accomplished by journal entries which would lower the fund balance on the property sub-ledger account and increase the fund balance on the broker's equity sub-ledger account. The transfer of fees to the broker's equity sub-ledger account allows the broker to remove from the trust account, via a check drawn on the trust account, several management fees at one time versus issuing a check for each management fee.

Except as provided in the following paragraph, a broker is ~~also~~ prohibited from authorizing a financial institution to automatically remove trust funds, such as a mortgage payment, from the trust account. The prohibition is due to the fact that an automatic debit on the trust account occurs even if funds are not available to cover the expense. This could result in an unnecessary service charge or overdraft charge against the trust account and the property owner. It would also create a negative balance to the owner's funds, which would be a violation of the License Act and Rules. It is the responsibility of the broker to initiate all disbursements from the trust account by the issuance of a check or wire transfer drawn on the trust account, and to ensure that concurrent posting occurs.

A broker may authorize a financial institution to automatically remove trust funds from an account if a separate trust account is created for each client for whom the automated withdrawals are authorized and each client specifically agrees to the use of automated withdrawals in writing.

The broker must ensure that sufficient funds are available, at all times, to cover any check issued **on the date of issuance**.