

Earnest Money Rules

FAQ: How soon after an offer becomes a contract must earnest money be deposited?

In general, earnest money should be deposited *within 72 hours* (3 days) after the offer becomes a contract, unless otherwise specified. Any delay should be clearly documented in the file.

1260-2-.09 DEPOSITS AND EARNEST MONEY.

(1) Each broker shall maintain a separate escrow account for the purpose of holding any funds which may be received in his fiduciary capacity as deposits, earnest money, or the like.

(2) **An affiliate broker shall pay over to the broker with whom he is under contract all deposits and earnest money immediately upon receipt.**

(3) Brokers are responsible at all times for deposits and earnest money accepted by them or their affiliate brokers, regardless of whether such funds are actually held by some other person or firm.

(4) Where a contract authorizes a broker to place funds in an escrow or trustee account, the broker shall clearly specify in the contract:

(a) the terms and conditions for disbursement of such funds; and

(b) the name and address of the person who will actually hold such funds.

(5) **A broker may properly disburse funds from an escrow or trustee account:**

(a) upon a reasonable interpretation of the contract which authorizes him to hold such funds;

(b) upon securing a written agreement which is signed by all parties having an interest in such funds, and is separate from the contract which authorizes him to hold such funds;

(c) at the closing of the transaction;

(d) upon the rejection of an offer to purchase, sell, rent, lease, exchange, or option real estate;

(e) upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate.

(f) upon filing an interpleader action in a court of competent jurisdiction; or

(g) upon the order of a court of competent jurisdiction.

(6) Funds in escrow or trustee accounts shall be disbursed in a proper manner without unreasonable delay.

(7) **No postdated check** shall be accepted for payment of a deposit or earnest money, unless otherwise provided in the offer.

(8) Earnest money shall be **deposited** into an escrow or trustee account **promptly upon acceptance of the offer**, unless the offer contains a statement such as “Earnest money to be deposited by:”.