

RCW 19.146.050 Moneys for third-party provider services deemed in trust—Deposit of moneys in trust account—Use of trust account—Rules—Tax treatment. (1) All moneys received by a mortgage broker from a borrower for payment of third-party provider services shall be deemed as held in trust immediately upon receipt by the mortgage broker. A mortgage broker shall deposit, prior to the end of the third business day following receipt of such trust funds, all such trust funds in a trust account of a federally insured financial institution located in this state. All trust account funds collected under this chapter must remain on deposit in a trust account in the state of Washington until disbursement. The trust account shall be designated and maintained for the benefit of borrowers. Moneys maintained in the trust account shall be exempt from execution, attachment, or garnishment. A mortgage broker shall not in any way encumber the corpus of the trust account or commingle any other operating funds with trust account funds. Withdrawals from the trust account shall be only for the payment of bona fide services rendered by a third-party provider or for refunds to borrowers.

(2) The director shall make rules which: (a) Direct mortgage brokers how to handle checks and other instruments that are received by the broker and that combine trust funds with other funds; and (b) permit transfer of trust funds out of the trust account for payment of other costs only when necessary and only with the prior express written permission of the borrower.

(3) Any interest earned on the trust account shall be refunded or credited to the borrowers at closing.

(4) Trust accounts that are operated in a manner consistent with this section and any rules adopted by the director, are not considered gross receipts taxable under chapter 82.04 RCW.

(5) A person violating this section is guilty of a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 158; 1998 c 311 s 1; 1997 c 106 s 5; 1987 c 391 s 7.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Intent—Retroactive application—1998 c 311: "The intent of sections 1 and 3 of this act is to clarify the original intent of sections 5 and 21, chapter 106, Laws of 1997 and shall not be construed otherwise. Therefore, sections 1 and 3 of this act apply retroactively to July 27, 1997." [1998 c 311 s 30.]

Severability—1997 c 106: See note following RCW 19.146.010.