

DEBT MANAGEMENT ACT (EXCERPT)
Act 148 of 1975

451.425 Trust account.

Sec. 15. (1) Subject to subsection (6), payments received by a licensee from or on behalf of a debtor for the benefit of a creditor shall be held in a trust account at a financial institution whose deposits are insured by an agency of the United States government. Each licensee shall ensure that it maintains records of all debtor funds it holds in trust for residents of this state and all funds disbursed on behalf of those debtors and shall provide the department with a full accounting of those funds and the disbursement of those funds on request of the department.

(2) Any disbursements by a licensee to the debtor or to the creditors of the debtor shall be made from a trust account established under this section. A licensee shall deposit a payment from a debtor or on behalf of a debtor in the account not later than 2 business days after receiving the payment. A licensee may utilize a sweep arrangement if the trust account is insured for 100% or more of the balance in the trust account.

(3) A licensee shall reconcile a trust account established under this section at least every month. The reconciliation shall ascertain the actual cash balance in the account and compare it with the sum of the escrow balances attributable to the debtor or debtors whose funds are included in the account. The licensee may reconcile the account electronically or by any other appropriate method and shall complete the reconciliation within 45 business days after receiving the bank statement for the account. The licensee shall keep an electronic or other appropriate notation of the reconciliation as a permanent record of the licensee. The licensee shall individually schedule each debtor's trust account balance in the licensee's reconciliation records. On request, the licensee shall make the reconciliation of the total account, including the balance for each debtor whose funds are included in the account, available to the department.

(4) A trust account established under this section shall at all times have an actual cash balance equal to or greater than the sum of the escrow balances of each debtor's account, and failure to maintain that amount is cause for a summary suspension of a license unless the failure is the result of an inadvertent clerical or human error.

(5) If a trust account established under this section does not contain sufficient funds to cover the debtor escrow balances, the licensee shall immediately on discovery notify the director by telephone, facsimile, electronic mail, or other method approved by the department. The licensee shall also provide written notice to the director that includes a description of the remedial action taken by the licensee.

(6) If a trust account described in subsection (1) is maintained at a financial institution described in subsection (1) that is located outside of this state, the licensee shall furnish a surety bond or irrevocable letter of credit for the benefit of the people of the state of Michigan, in an amount that is equal to or exceeds 100% of the average amount of deposits held in the trust account from month to month and is in a form approved by the department. This requirement is in addition to an applicant's obligation under section 5(2)(c).

History: 1975, Act 148, Eff. Mar. 31, 1976;—Am. 2000, Act 255, Imd. Eff. June 29, 2000;—Am. 2014, Act 362, Eff. Mar. 16, 2015.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.