

**FINANCIAL REPORTING REQUIREMENTS FOR REAL ESTATE BROKERS AS PER THE
REAL ESTATE TRADING ACT, 2019 (THE ACT) AND
THE REAL ESTATE TRADING REGULATIONS (REGULATIONS)**

1. Legislation

- 1.1. This document is prepared in accordance to the financial reporting requirements contained in the Real Estate Trading Act, 2019 (the Act) and Real Estate Trading Regulations (regulations).

2. Trust account requirements

- 2.1. A real estate broker and a restricted real estate broker (the broker) is required to maintain at least one interest-bearing trust account in a financial institution authorized to receive money on deposit
- 2.2. A deposit shall be paid directly to a broker and the broker shall issue a receipt for the deposit.
- 2.3. The trust account shall have deposited to it all funds received in connection with trades within two banking days of receipt of the deposit.
- 2.4. A broker shall only disburse money from a trust account where
- a) the offer of purchase has not been accepted by the seller;
 - b) the trade has been completed;
 - c) the terms of the agreement of purchase and sale relating to the disbursement of the money have been satisfied;
 - d) the broker receives written notice from the seller and purchaser authorizing either the return of the money to the purchaser, or the release of the money to the seller;
 - e) the superintendent has directed the disbursement of the money;
 - f) a court has directed the disbursement of the money; or
 - g) the money was deposited into the trust account in error.

3. Principles for Management of Trust Funds

- 3.1. The following general guidelines apply to the management of trust funds related to real estate brokers:

a) Trust Account

- The name on the trust bank account(s) must clearly indicate that it is a Real Estate trust account and such designation should be included in the bank's description of the account and on all deposit slips and cheques.
- Trust bank accounts cannot be used as collateral or pledged as security.

b) Interest Income

- Interest income earned on monies deposited in a trust account is the property of the Broker

4. Annual submission of audited statements

- 4.1. Annually, a broker shall engage a person who is a public accountant licensed under the *Chartered Professional Accountants and Public Accountants Act* to conduct an audit of the trust account and provide a report in the form approved by the superintendent, not more than 90 days after the end of the preceding fiscal year.
- 4.2. Trust account financial statements must be prepared in form provided in the attached schedules 1 and 2.
- Schedule 1 – sample auditor’s report.
 - Schedule 2 – sample trust financial statement.
- 4.3. The Broker or the Broker’s Designated Representative must sign the audited statements.
- 4.4. The Broker is responsible for meeting the annual financial reporting deadline.

5. Annual submission of the unaudited semi-annual report

- 5.1. Semi-annually, Brokers are required to provide an unaudited semi-annual report of their trust account(s), to the superintendent, within 30 days of the Broker’s semi-annual reporting date. The report must include bank reconciliations for the preceding 6 month period (the first six months of the fiscal year). For example, if the broker’s fiscal yearend is December 31st, a semi-annual report for June 30th must be submitted by July 30th.
- 5.2. Trust account financial statements must be prepared in the form provided in the attached schedules 3 and 4. Note schedule 2 contains a sample trust financial statement.
- Schedule 3 - Blank trust financial statement.
 - Schedule 4 - Certification of the semi-annual unaudited trust financial statement
- 5.3. An auditor does not have to be engaged for the completion of the unaudited semi-annual report.
- 5.4. The Broker or the Broker’s Designated Representative must sign the Certification of the semi-annual unaudited trust financial statement contained in schedule 4.
- 5.5. The Broker is responsible for meeting the semi-annual financial reporting deadline.

6. Trust account reconciliation

6.1. A broker shall prepare a monthly trust account reconciliation within 30 days of receipt of the broker's monthly bank statements relating to the trust account.

6.2. A trust account reconciliation shall

- a) reconcile the trust account bank balance to the trust account liability for the same period; and
- b) state the amount of money held in trust for each person.

6.3. A broker shall immediately notify the superintendent where a trust account reconciliation reveals

- a) a disbursement not authorized under section 26 of the **Act**; or
- b) a negative balance in the trust account.

7. Failure to comply with reporting requirements

7.1. Failure to comply with the reporting requirements, may result in an examination being performed on the account or an acceleration of the trust reporting requirements to a quarterly or monthly basis until such time as the recognized deficiencies have been corrected and the Superintendent is satisfied that the broker is complying with the requirements.

If you require further information or clarification on the reporting requirements contact Lenora Noftle by email lenoranoftle@gov.nl.ca or by mail at the following mailing address:

Consumer and Financial Services Division
Digital Government and Service NL
Government of Newfoundland Labrador
149 Smallwood Drive, MRD Building
Mount Pearl, NL A1N 4B5

AUDITOR'S REPORT

To the Superintendent of Real Estate Brokers and Salespersons for the Province of Newfoundland and Labrador:

We have conducted an audit of trust(s) account maintained by the Real Estate Licensee _____ for fiscal year ending _____ for compliance to Sections 26 of the Real Estate Trading Act (the **Act**) and Sections 6 and 7 of the Real Estate Trading Regulations (the Regulations). Compliance with these requirements is the responsibility of management. Our responsibility is to express an opinion on compliance to these provisions of the **Act** and Regulations.

Management's Responsibility

Management is responsible for the compliance with these requirements, and for such internal controls as management determines is necessary to enable the compliance with these provisions of the Act and Regulations.

Auditors' Responsibility

Our responsibility is to express an opinion on this compliance based on our audit. We conducted our audit in accordance with Canadian Generally Accepted Auditing Standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance _____ is in compliance with the provisions of the **Act** and Regulations.

An audit involves performing procedures to obtain audit evidence about the compliance with the provisions of the **Act** and Regulations. The procedures selected depend on the auditor's judgment, including the assessment of the risks of not complying with the provisions of the **Act** and Regulations, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's compliance with the provisions of the **Act** and Regulations in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

SCHEDULE 1

In our opinion, _____ is in compliance, in all material respects, with the requirements outlined in Sections 26 of the *Real Estate Trading Act* and Sections 6 and 7 of the Real Estate Trading Regulations.

Auditor's signature _____

Date of the auditor's report: _____

Auditor's address: _____

SCHEDULE 2

Sample Trust Fund Financial Statement for both the fiscal year end audit and the semi-annual reporting requirement

(Legal trade name)

Trust Fund Financial Statement for the period ending _____

| | <u>2021</u> | <u>2020</u> |
|---|--------------------|--------------------|
| Trust Assets | | |
| Trust Bank Account(s) | <u>\$9,650</u> | <u>\$10,000</u> |
| Trust Liabilities | | |
| Balance, beginning of year | 10,000 | 7,000 |
| Add: | | |
| Deposits | 1,000 | 4,500 |
| Interest Income | 300 | 250 |
| Other – provide details | | |
| Less: | | |
| Disbursements | (1,400) | (1,450) |
| Interest Transferred to Agent’s General Account | (250) | (300) |
| Other – provide details | | |
| Balance, end of period | <u>\$9,650</u> | <u>\$10,000</u> |
| Excess/(Deficiency) | <u>\$0</u> | <u>\$0</u> |

Semi-Annual Trust Fund Financial Statement

(Legal Trade Name of Real Estate Broker)

Unaudited Trust Fund Financial Statement for the six month period ended _____

| | <u>202</u> | <u>202</u> |
|---|------------|------------|
| Trust Assets | | |
| Trust Bank Account(s) | _____ | _____ |
| Trust Liabilities | | |
| Balance, beginning of year | _____ | _____ |
| Add: | | |
| Deposits | _____ | _____ |
| Interest Income | _____ | _____ |
| Other – provide details | _____ | _____ |
| Less: | | |
| Disbursements | _____ | _____ |
| Interest Transferred to Agent’s General Account | _____ | _____ |
| Other – provide details | _____ | _____ |
| Balance, end of period | _____ | _____ |
| Excess/(Deficiency) | ===== | ===== |

REMINDER: Please include copies of the monthly bank reconciliations for the preceding 6 month period of the semi-annual date. (the first six months of the fiscal year)

CERTIFICATION OF THE SEMI-ANNUAL UNAUDITED TRUST FINANCIAL STATEMENT

I, _____ (broker or designated representative) of the city of _____ in the Province of _____ being the broker or designated representative for _____ certify that the attached unaudited Trust Fund Financial Statement has been prepared from the books and records of the broker, which books and records are maintained in accordance with Canadian Generally Accepted Accounting Principles for Private Enterprises, and to the best of my knowledge and belief, is correct and complete, and shows the financial position of the trust fund for the six month period ended on the _____ day of _____, 20____.

Signature (broker or designated representative)

Date

Witness signature

Date