



## ***MONTANA LAW ALLOWING REMITTANCE OF TITLE INSURERS INTEREST BEARING ACCOUNTS***

**33-25-201. Escrow, closing, or settlement services -- title indemnification -- maintenance of accounts -- maintenance of nominal or short-term accounts -- rules.** (1) A title insurer or title insurance producer may provide escrow, settlement, or closing services, or any combination of those services and may operate as an escrow, settlement, or closing agent subject to the provisions of subsections (2) through (9).

(2) A title insurer or title insurance producer shall:

(a) deposit funds accepted in connection with an escrow, settlement, closing, or title indemnification in a separate fiduciary trust account in a bank or other financial institution insured by an agency of the federal government and segregate the funds by escrow, settlement, closing, or title indemnification in its records. The funds are the property of the person entitled to the funds under the terms of the escrow, settlement, closing, or title indemnification and are not subject to debts of the title insurer or title insurance producer. A title insurer or title insurance producer may use the funds only in accordance with the terms of the individual escrow, settlement, closing, or title indemnification under which the funds are accepted.

(b) except as provided in subsections (3) through (7), pay any interest received on funds deposited with it in connection with an escrow, settlement, closing, or title indemnification to the depositing person or as otherwise provided by the terms of the escrow, settlement, closing, or title indemnification;

(c) maintain separate records of all receipts and disbursements of escrow, settlement, closing, or title indemnification funds; and

(d) comply with rules adopted by the commissioner pertaining to escrow, settlement, closing, or title indemnification transactions.

(3) In the absence of written instructions to the contrary, a title insurer or title insurance producer may maintain a pooled, interest-bearing, depository account for deposit of trust funds that are nominal in amount or expected to be held for a short period of time. The account must comply with the following provisions:

(a) The account may include only trust funds that are nominal in amount or that are expected to be held for a short period of time.

(b) Interest from the account may not be made available to the title insurer or title insurance producer.

(c) The determination of whether trust funds are nominal in amount or to be held for a short period of time is to be determined by each title insurer or title insurance producer.

(d) Notification to parties whose funds are nominal in amount or to be held for a short period of time is not required.

(4) An interest-bearing account established pursuant to subsection (3) may be established with any financial institution that is authorized by federal or state law to do business in the state in which the title insurer's or title insurance producer's office is situated and that is a member of the federal deposit insurance corporation. Funds deposited in the accounts must be subject to withdrawal upon request and without delay.

(5) (a) The Montana land title association shall establish the Montana land title foundation for the administration of the funds generated by the interest on trust accounts program for the following purposes:

- (i) to support Montana nonprofit charitable organizations;
- (ii) to provide continuing education programs for licensed title insurance agents; and
- (iii) to promote knowledge and awareness of the real estate and title insurance industries.

(b) The foundation shall establish bylaws for the administration of the foundation in accordance with subsections (5)(a)(i) through (5)(a)(iii).

(6) A title insurer or title insurance producer depositing funds in an account created pursuant to subsections (3) and (4) shall direct the depository institution to:

(a) at least quarterly, remit interest and dividends, less any service charges or fees, on the average monthly balance on the account or as otherwise computed in accordance with the institution's standard accounting practice for other depositors to the Montana land title association foundation; and

(b) transmit with each remittance to the foundation a statement showing the name of the title insurer or title insurance producer for whom the remittance is sent and the rate of interest applied.

(7) The Montana land title association foundation shall maintain records of each remittance and statement received from depository institutions for a period of at least 3 years and shall, upon request, promptly make available to a title insurer or title insurance producer the records and statements pertaining to the title insurer's or title insurance producer's account.

(8) All interest transmitted to the Montana land title association foundation must, after deductions for necessary and reasonable administrative expenses of the foundation for operating the interest on trust accounts program, be distributed by the foundation for the purposes set forth in subsections (5)(a)(i) through (5)(a)(iii) in whatever proportion the foundation determines is appropriate.

(9) A title insurance producer shall keep books of account, records, and vouchers pertaining to any escrow, closing, settlement, or title indemnification business transacted, in a manner that allows the commissioner or the commissioner's authorized representative to readily ascertain, under the authority of **33-1-402**, whether the title insurance producer has complied with all applicable provisions of this title.