**Section 8100.1724 Special Accounts**

a) All money received by an independent escrowee as part of an escrow transaction shall on or before the close of the next full working day after such receipt be deposited in a bank, a savings bank, a savings and loan association or credit union ("financial institution") in an account designated "trust" or "escrow" account, or in an account otherwise designated by a name indicating that the funds contained therein are not the funds of the escrow agent, but only if such other designation has been first approved by the Director. No funds other than those received as part of an escrow transaction shall be deposited in such account or otherwise commingled with escrow money.

b) Pursuant to written instructions of the principals containing at least the provisions required by subsection (c), funds received in any particular escrow transaction and deposited pursuant to subsection (a) may subsequently be deposited into an interest-bearing escrow account established solely for such purpose at a financial institution in the name of the independent escrowee as trustee for the principals to the particular escrow identified by escrow number.

c) The escrow instructions for interest-bearing escrow deposits shall, at a minimum:

1) authorize the opening of an interest-bearing escrow account in the name of the independent escrowee as trustee for the particular escrow identified by escrow number;

2) specify the type of account to be opened and the amount of the deposit;

3) identify the name and location of the financial institution with which the interest-bearing account is to be opened;

4) specify:

A) the disposition of the interest at the close of escrow;

B) the disposition of the interest in the event that the escrow fails to close; and

C) the disposition of any accrued interest retained in the interest-bearing escrow account after the close of escrow pursuant to subsection (g);

5) indicate that the principals have been advised by the independent escrowee of possible restrictions or penalties, or both for early withdrawal of funds; and

6) prohibit the independent escrowee from withdrawing funds from the interest-bearing account except for redeposit into the "trust" or "escrow" account.

d) An independent escrowee is responsible for establishing and maintaining an interest-bearing account so that the funds are fully insured or guaranteed, to the extent available by law.

e) An independent escrowee is responsible for establishing and maintaining adequate controls over the passbooks and certificates issued by financial institutions in connection with interest-bearing escrow accounts.

f) An independent escrowee depositing escrow funds into interest-bearing escrow accounts shall establish and maintain a control ledger summarizing the deposits in interest-bearing escrow accounts or shall make a memo entry on each individual escrow ledger. The posting of the ledger shall include the escrow number, interest-bearing account number, date of deposit, and amount of deposit.

g) All funds deposited into an interest-bearing escrow account, including any interest paid thereon, shall be transferred from such account into the "trust" or "escrow" account before the close of escrow, except that a specified portion of all the interest accrued may be retained in the interest-bearing escrow account until the end of the current calendar quarter if the escrow instructions of the principals so provide.

h) Disbursements from the "trust" or "escrow" account shall not be made against funds deposited in an interest-bearing escrow account until such funds have been transferred and receipted into the "escrow" or "trust" account with proper posting to the particular escrow.

i) No electronic fund transfers, except in commercial transactions, shall be made between the "trust" or "escrow" account and any interest-bearing account. Transfers shall be made only in a manner consistent with the provisions of Section 8100.1744 of this Part.

j) Interest paid on any interest-bearing escrow account shall be paid over to the principal having deposited the moneys in escrow unless the escrow instructions clearly specify that such interest is to be paid over to a named person.

k) An independent escrowee which wishes to transact business as an escrow agent on a basis other than as provided by this Subpart may request in writing a variance to or waiver of any provisions of this Subpart, but may not engage in business in a manner not in compliance with this Subpart without first having received a waiver or variance in writing from the Director or the Director's authorized representative.

l) Any request for a variance or waiver shall include at least:

1) a statement of the basis upon which the escrow agent's business is proposed to be transacted in connection with a particular named financial institution;

2) a description of the plan of business and applicable procedures including copies of all agreements or memoranda of understanding between the independent escrowee and the financial institution;

3) a showing that the proposed plan of business and applicable procedures provide for administrative and accounting controls at least as adequate as those provided in this Subpart; and

4) a statement of the reasons why, under the escrow agent's circumstances, a variance or waiver is requested.

m) Any variance or waiver granted pursuant to this Subpart by the Director or the Director's authorized representative shall be in writing and subject to such terms and conditions as may be deemed necessary or advisable by the Director or the Director's authorized representative to protect any escrow relationship.