

Guidelines Governing Title Insurance Agents
And Interest On Trust Accounts

(Effective November 1, 2005)

The purpose of this bulletin is to provide guidance to title insurance agents with respect to "interest on trust accounts" ("IOTA accounts") and the use of escrow accounts in the title insurance business. IOTA accounts are required under section 3953.231 of the Ohio Revised Code.

IOTA Accounts

The law requires each title insurance agent and title insurance company to establish and maintain an interest-bearing trust account for the deposit of "all non-directed escrow funds that meet the requirements of sections 1349.20 to 1349.22 of the Revised Code." It has come to the Superintendent's attention that some title insurance agents may have adopted a business practice that causes consumers to sign documents specifying that funds otherwise considered "non-directed escrow funds" be deposited in an account for the benefit of the title insurance agent or company, or that interest earned on such funds be paid to the agent or company. This practice circumvents and is contrary to the IOTA requirement, which was enacted to provide funding for the legal aid fund established under section 120.52 of the Ohio Revised Code. Section 3953.231(C)(3) of the Revised Code specifically prohibits payment of interest on IOTA accounts from non-directed funds to a title insurance agent or company.

Therefore, title insurance agents and companies may not cause, or request, parties to a real property transaction to direct that funds typically considered "non-directed escrow funds" be deposited in an account for the benefit of the title insurance agent or company, or that interest earned on such funds be paid to the agent or company. This prohibition also prohibits directing funds into an interest-bearing account where the title agent or company receives interest or uses the interest credits earned on the account to pay for expenses incurred not related to the account.

Fees

Section 3953.231(C)(3) of the Revised Code provides that all interest earned on IOTA accounts "net of service charges and other related charges, shall be transmitted to the treasurer of state for deposit in the legal aid fund...." The statute also states that none of the interest earned shall be paid to the title insurance agent or company. For purposes of this statute, "service charges and other related charges" include the maintenance, deposit and withdrawal fees applied on accounts, and wire transfer fees. "[S]ervice charges and other related charges" do not include check printing or sorting charges, stop payment orders, NSF charges, or charges for copies of checks if the actual checks are not returned. When multiple IOTA accounts exist at a financial institution for the purpose of safety and fraud prevention in conjunction with wire transfers and electronic funds transfer

transactions, the service charges and other related charges on all IOTA accounts may be aggregated and then deducted before interest is remitted.

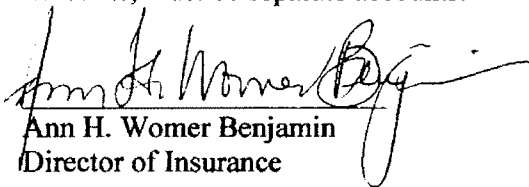
In the event a title insurance agent uses interest earned on an IOTA account to pay "service charges or other related charges," the title insurance agent shall not charge or seek reimbursement from anyone, including the consumer, with respect to such charges.

Duty To Register IOTA Accounts

Every title insurance agent and company must register their IOTA account information with the Superintendent. Every change in the account number, name on the account, and location of the financial institution must also be filed with the Superintendent. An individual title insurance agent may use the IOTA account of a business entity that is licensed as a title insurance agency but must register separately. Effective November 1, 2005, the Department will initiate an electronic registration system that may be accessed from the Department's website. Every licensed title insurance agent and company will be sent registration instructions and a User ID and Password to the agent's address on file with the Department. Title insurance agents and companies are responsible for keeping their addresses current. Failure to respond to register the IOTA account may result in administrative action.

Lawyers and IOLTA accounts

A title insurance agent who is also an attorney must maintain a separate IOTA account. IOTA accounts and "interest on lawyer's trust accounts," also known as IOLTA accounts, must be separate accounts.


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