



## Wyoming Real Estate Commission

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### HOT TOPIC: FUNDS HOLDER AGREEMENTS

At its July 2, 2010, meeting, the entire Commission, with guidance from the Attorney General's Office, considered if and when funds holder agreements are required. It is the position of the Commission:

- a) If a broker has a trust account with a banking institution, it is not necessary to have a written agreement with a title company, escrow agent, or third party if the broker is paying earnest money or advanced fees to facilitate closing; and
- b) If a broker uses a title company, escrow agent, or third party to hold earnest money or advanced fees, a fund holder's agreement with that entity must be on file with the Commission.

Further clarification: If the responsible broker uses a trust account to hold earnest money and advance fees and only involves a third party to close, no "Funds Holder Agreement" is required. However, if a responsible broker uses a third party to hold earnest money or advance fees in trust; a "Funds Holder Agreement" between the responsible broker and the third party must be on file with the WREC. The requirement for having funds holder agreements is based on why the money is being held and not on the length of time it is held.

All responsible brokers using title companies, escrow agents, or other third parties to hold client funds in trust, must have a "Fund Holder Agreement" with each filed with the Commission. When a different broker becomes the responsible broker for a business entity, that broker must obtain new agreements and file them with the commission.

**NOTE:** A sample "Funds Holder Agreement" acceptable to both the WREC and the Wyoming Land Title Association can be found on the Commission website under "Real Estate Trust Account Guidelines."