

## **Property Management Regulations:**

### **Definitions:**

“Audit trail” means a documented history of a financial transaction by which the transaction can be traced to its source.

“Occupant” means a person who rents a property on a nightly basis.

“Tenant” means a person who rents a property on other than a nightly basis.

"Property Manager" means a licensed principal broker or designated executive broker who performs property management activities pursuant to A. C. A. § 17-42-103(9)

This section does not apply to:

Any residential property management program operated or regulated by a federal or state act or agency which includes specific record keeping requirements that the commission determines are substantially equivalent to or greater than that required by this section.

### **Property Management Agreement:**

A principal broker or designated executive broker must not engage in the management of residential rental real estate without a written, current property management agreement between the owner and the property manager. A property management agreement must include the following:

Name, address and other contact information for property owner;

The address or legal description of the property to be managed;

The duties and responsibilities of the property manager and owner;

The authority and power given by the owner to the property manager;

The management fees, application fees, screening fees, rebates, discounts, overrides and any other form of compensation to be received by the property manager for management of rental real estate including when such compensation is earned and when it will be paid;

A description of the monthly statements of accounting the property manager will provide to the owner;

The duration of the agreement, rollover provisions, renewal clauses or automatic extensions, if any;

The method by which the property management agreement can be terminated and any other terms and conditions of the agreement;

Signatures of the property manager or executive broker and property owner; and

The date of the agreement.

The property manager must promptly deliver a legible copy of the fully executed property management agreement, and any addenda or amendments, to the owner.

### **Tenant Agreement**

A property manager shall not lease property he manages without a written agreement with the tenant.

Each lease or rental agreement for residential real estate managed by the property manager must contain the following:

The name and business address of the property manager and his firm;

The name, address and other contact information of the tenant;

The mailing address or unit number of property being rented or leased;

Payment conditions and amounts pertinent to the rental or lease, and the rental or lease term;

The amount of and the reason for all funds paid by the tenant to the property manager at the outset of the agreement including funds for rent, security deposits, and any other fees;

The location where or entity by whom security deposits will be held;

Method by which tenant will be notified in the event of termination of property manager's property management agreement to include handling of tenant's security deposit;

Signatures of the current property manager or current executive broker and tenant; a tenant's refusal to sign the lease agreement shall not constitute noncompliance by the property manager with the terms stated herein.

A property manager may not expend any tenant security deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreement.

### **Accounting and Recordkeeping:**

A property manager must retain records of all deposits in a manner in which they are traceable to the owners' and tenants' ledgers. A property manager must retain records identifying the amount of and purpose of each disbursement entered into the owner's and tenants' ledgers.

The property manager shall disclose to the owner, in writing, the property manager's use of any employees or a business in which the property manager or any persons licensed under him has a pecuniary interest to provide billable services to the owner's property.

### ***Owner Ledger***

A property manager must prepare and maintain at least one separate owner's ledger for each property management agreement, for all monies received and disbursed.

If a property is utilized for nightly rentals, a separate ledger account must be maintained for that property. Each occupant of the property must be identified, including the dates of occupancy and amounts paid.

If a property manager has access to a separate banking or escrow account owned or controlled by the property owner pursuant to a property management agreement, the property manager may maintain either a record of receipts and disbursements or check register in lieu of an owner's ledger.

All owner ledgers must contain the property manager's name, identification of property being managed, and the following information:

For each deposit of funds:

The amount of funds received;

The purpose of the funds and identity of the person who tendered the funds;

The check number, cash receipt number or a unique series of letters and/or numbers that establish an audit trail to the receipt of funds;

The date the funds were deposited; and

The balance of each recorded entry.

For each disbursement of funds:

The date the funds were disbursed;

The amount of funds disbursed;

The check number or bank-generated electronic tracking number;

The payee of the disbursement;

The purpose of the disbursement; and

The balance after each recorded entry.

If more than one property is managed for a property owner, each entry for deposit or disbursement must identify the applicable property rather than just the owner. If a property management agreement with an owner allows the property manager to use funds collected for one property to apply to expenses of another property owned by the same owner, an overall compilation/accounting shall be prepared for the owner.

At a minimum, once each month, a report showing all receipts and disbursements for the account of the owner must be provided to the owner. A copy or electronic version of each such report must be available through the property manager's records system.

### ***Tenant Ledger***

A property manager must prepare and maintain at least one tenant's ledger for each unit from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of payment of funds to the property manager.

A tenant's ledger must contain the following:

- The name of the tenant; and

- The legal description or physical address of the property sufficient to distinguish that property from other rental units, or a unique series of letters or numbers that establishes an audit trail.

- For each deposit of funds:

  - The amount of funds received;

  - The purpose of the funds and identity of the person who tendered the funds;

  - The check number, cash receipt number or a unique series of letters or number that establishes an audit trail to the receipt of funds;

  - The date the funds were received; and

  - The balance after each recorded entry.

- For each disbursement of funds:

  - The date the funds were disbursed;

  - The amount of funds disbursed;

  - The check number or bank-generated electronic tracking number;

  - The payee of the disbursement;

  - The purpose of the disbursement; and

  - The balance after each recorded entry.

In lieu of an individual tenant ledger a property manager may prepare and maintain a separate record of the receipt of funds from prospective tenants who do not become tenants after such payment.

### ***Cash Receipts***

If a property manager chooses to accept cash, he or his designee must prepare a legible written receipt for any cash funds received under a property management agreement or from a prospective tenant. A copy of the receipt must be maintained in the property manager's records. Cash receipts must be consecutively pre-numbered, be printed in at least duplicate form and must contain:

The date of receipt of cash funds;

The amount of the funds;

The reason for payment or collection of the funds received;

The identity of the property for which the cash funds were received;

The tenant's name;

The payer of the funds if different than the tenant;

The payee of the funds; and

The name and signature of the individual who actually received the cash and prepared the receipt.