This guideline is not a new law but is an agency interpretation of existing law.
For more information on this guideline, please contact:
Craig Boyack, Chief Investigator at craig.boyack@irec.idaho.gov
MiChell Bird, Executive Director at michell.bird@irec.idaho.gov
Broker’s Duty to Deposit “Entrusted” Funds into a Real Estate Trust Account

A broker is required to deposit any and all “entrusted” funds it receives into a real estate trust account maintained by the broker, and the broker is responsible for those funds. Any and all funds received by the broker are considered “entrusted” UNLESS:

1. the parties have directed the broker, in writing, to transfer those funds to control of a third party, such as a title, escrow or trust company; and
2. neither the broker nor his licensees have any right to exercise control over the safekeeping or disposition of the funds.

Broker’s Duty regarding Funds that are NOT “Entrusted”

Whenever a broker receives funds with the parties’ written direction to transfer them to a third party, the broker’s duty is to transfer the funds as directed and maintain a ledger record of the time and date of the transfer; he must also obtain and retain a receipt. Because such funds are not considered “entrusted,” the broker has no duty to deposit them into a real estate trust account under the broker’s control.