

61J2-10.032 Notice Requirements.

**Commission Approved Language.**

**October 23, 2023**

**61J2-10.032 Notice Requirements.**

(1)(a) A real estate broker, upon receiving conflicting demands for any trust funds being maintained in the broker's escrow account, must provide written notification to the Commission within 15 business days of the last party's demand and the broker must institute one of the settlement procedures as set forth in Section 475.25(1)(d)1., F.S., within 30 business days after the last demand.

(b) A broker, who has a good faith doubt as to whom is entitled to any trust funds held in the broker's escrow account, must provide written notification to the Commission within 15 business days after having such doubt and must institute one of the settlement procedures as set forth in Section 475.25(1)(d)1., F.S., within 30 business days after having such doubt. The determination of good faith doubt is based upon the facts of each case brought before the Commission.

(c) If one of the parties to a failed real estate sales transaction does not respond to the broker's inquiry as to whether that party is placing a demand on the trust funds or is willing to release them to the other party, the broker may send a certified ~~N~~notice letter, return receipt requested to the address of record or email address of record shown with the DBPR to the non-responding party. This ~~N~~notice shall~~should~~ include the information that a demand has been placed by the other party; that a response must be received by the seventh business day following dispatch of the Notice, as defined below; and show the contacting broker's mailing address, phone number, and email address.~~a certain date and that~~ A failure to respond to the Notice within seven business days will be construed as authorization for the broker to release the funds to the other party.

(2)(a) If the broker has instituted a settlement procedure other than a request for an Escrow Disbursement Order, the broker shall provide written notification to the Commission within 30 business days of the receipt of the last demand or good faith doubt of the procedure instituted to resolve the matter.

(b) If the broker has requested an Escrow Disbursement Order and the broker is notified in writing that no Escrow Disbursement Order will be issued, then the broker shall institute another settlement procedure and so notify the Commission within 30 business days after the broker's receipt of such notification.

(c) If the broker has requested an Escrow Disbursement Order and the dispute is subsequently settled or goes to court before the Order is issued, the broker shall notify the Commission within 10 business days of such event.

(3) ~~For the purposes of this rule, When~~where a broker ~~is required to~~ provides written Notice of the existence of conflicting demands for escrowed funds, notification within a certain period, the effective date of that Notice~~notification~~ is deemed to be the date of the last dispatched Notice~~dates of the postmark or other dispatch of notification~~. As used in this Rule, the term “Notice” means a notice to a non-responding party regarding a demand for release of escrow funds pursuant to paragraph (1)(c), above. As used in this Rule, the term “date of the last dispatched Notice” shall mean the date the certified letter or emailed Notice is postmarked or the email send confirmation is dated.

(4) A request for an Escrow Disbursement Order as a settlement procedure is deemed instituted when the completed request form is mailed or otherwise dispatched to the Commission.

(5) Brokers who are entrusted with an earnest money deposit (EMD), pursuant to a residential sales contract utilized by the Department of Housing and Urban Development (HUD) in the sale of property owned by HUD, shall comply with the EMD requirements of the specific HUD contract, and are not required to follow the notice or settlement procedures of Section 475.25(1)(d)1., F.S., and subsection (1) of this rule.

*Rulemaking Authority 475.05, 475.25 FS. Law Implemented 83.49(3)(d), 475.25 FS. History—New 10-13-85, Formerly 21V-10.32, Amended 2-18-92, 12-8-92, 6-28-93, Formerly 21V-10.032, Amended 11-16-93, 6-6-94, 8-6-96, 11-10-97, 1-17-02, 12-8-20,\_\_\_\_\_.*