



PROPERTY MANAGEMENT AUDIT PACKET



Arizona Department of Real Estate (ADRE)

Auditing Division

www.azre.gov

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

DOUGLAS A. DUCEY
GOVERNOR

LOUIS DETTORRE
COMMISSIONER

AUDIT CHECKLIST

A licensed real estate broker has received notification from the Department regarding the performance of a Broker Audit – either an onsite audit or an EBAR (Electronic Broker Audit Review).

What is the purpose of a Broker Audit conducted by the Department's Auditing staff? To confirm regulatory compliance with the Arizona Revised Statutes and Commissioner's Rules.

Audit procedures may vary depending on the type of real estate activities performed, as well as the individual business operations, procedures and processes utilized by the Broker and Entity. When applicable, the Broker Audit will include both the main and branch office(s).

In general, the Auditing staff will review but are not limited to reviewing:

Signage and license display	A.R.S. §32-2126.B A.R.S. § 32-2127.B A.R.S. § 32-2128
Employee files	A.R.S. § 32-2151.01
Broker's operating and/or commission account	A.R.S. §32.2155 A.R.S. § 32-2163.A & B
Broker's Policy and Procedure Manual	R4-28-1103.A
Delegations of Authority for Broker duties and Broker Temporary Absences	A.R.S. § 32-2151.01.G A.R.S. § 32-2127.D R4-28-304.B
Sales, Leasing and/or Property Management Logs	A.R.S. § 32-2151.01.E A.R.S. § 32-2175.E
Sales files for completeness and timely documented broker review	A.R.S. § 32-2151.01
Transactions in which licensees acted as a principal	R4-28-1101.E
Property Management Agreements	A.R.S. § 32-2173
Broker Trust bank accounts, including bank statements and monthly trust account reconciliations	A.R.S. § 32-2151
Client and Tenant Ledgers, Liability Balances and Monthly Reports	A.R.S. § 32-2175.C
Checkbook register (receipts and disbursement journal)	A.R.S. § 32-2151.A.2
Trust Account signature cards	A.R.S. §32-2174

Electronic Broker Audit Review (EBAR)

Following is a List of Items Requested for EBAR (Electronic Broker Audit Review). Documentation is requested covering a specific time period.

1. Completed Number of Properties by Type Form (Types and number of properties under management by the broker.)
2. Copies of ten (10) actual property management agreements currently in effect.
3. Copy of ten (10) current tenant leases.
4. Copy of the Property Management and/or Leasing Log.
5. List of current owners and tenants under contract, including full names and rental property addresses.
6. Copies of individual monthly trust account bank statements for the audit period including all pages, as well as imaged checks if included with bank statement.
7. Copy of each Broker Trust Account signature card(s).
8. Copies of the monthly trust account reconciliations demonstrating the adjusted trust account bank balance has been reconciled to the client ledgers. The reconciliations, including detail, should be provided for each month (not a consolidated report) within the audit period. (*See enclosed instructions and sample.*)
9. A consolidated report for each individual month within the audit period showing the ending balances for each owner.
10. A copy of each monthly owner's statement for the last month of the audit period.
11. A Report showing total security deposits (tenant ledger) held in Broker's Trust Account for each month in the audit period.
12. Receipts and Disbursement Journal (checkbook register) covering period of the audit.
13. Copies of any additional ledgers of accounts containing monies held on behalf of clients/tenants during the audit period, i.e., prepaid rent, tax liability, pet deposits, certificates of deposit, etc.
14. A Balance Sheet for each month of the audit period.

The Broker may submit the requested documentation on a CD, a thumb drive or in paper form.



Arizona Department of Real Estate (ADRE)

Auditing Division

www.azre.gov

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

DOUGLAS A. DUCEY
GOVERNOR

LOUIS DETTORRE
COMMISSIONER

Reconciling Broker Trust Account(s)

Managing trust account(s) is a very serious obligation. The broker is responsible to ensure that reconciliations are performed monthly and account balances are sufficient to satisfy all obligations to the beneficiaries, owners and tenants.

These monthly reconciliations are required by ARS §32-2151(B)(2) and will confirm that the amount of funds on deposit in the trust bank account(s) is sufficient to pay the amounts the broker holds in trust for tenants and owners (beneficiaries). The funds the broker holds in trust includes, for tenants: security deposits, other refundable deposits and pre-paid rents; for owners: reserves and undistributed income. *If a broker is holding non-refundable deposits or fees in the trust account, they must be included in the total.*

Trust account reconciliation is a three step process:

1. Reconcile the trust bank account(s) records (check register or journal) with the monthly bank statement.⁽¹⁾ This will determine the amount of funds available in the account (adjusted balance) and disclose any errors by the broker or the bank. If the broker has more than one trust bank account, all must be reconciled.
2. Determine the amount of trust funds held for beneficiaries (as of the date of the bank statement). These should be readily available and up-to-date in the broker's tenant and owner ledgers. For tenants include security deposits, other refundable deposits, and pre-paid rents. For owners include reserves held and undistributed payments due the owners. When determining amount due owners, use only positive balances. (Negative account balances should not be used to offset the broker's liabilities.)
3. Reconcile the bank account record (adjusted balance) with the trust account records. The adjusted bank account balance should equal or exceed (by not more than \$3,000.00) the total of the trust account records. If the broker maintains one trust bank account and one ledger for tenant and owner funds, the broker will only perform one bank to trust account reconciliation. If the broker maintains separate accounts for tenant and client funds, the broker will perform two reconciliations. Any errors should be corrected immediately upon discovery.

A sample reconciliation worksheet appears on the reverse.

⁽¹⁾ Many tutorials on how to reconcile or balance a checking account are available on the internet.

Bank Account Reconciliation

Bank Statement Balance	a	
Less: Outstanding checks/ withdrawals	b	
Plus: Outstanding deposits	c	
Adjusted Balance (d=a-b+c)	d	
Check Book Balance	e	
Difference (f=d-e)	f	

Trust Account Reconciliation

Client/Tenant Liabilities		
Owner's Funds	g	
Tenant's Funds	h	
Other trust funds	i	
Total Client/Tenant Liabilities (j=g+h+i)	j	
Bank Account Balance (adjusted) (d from above)		
Total Client/Tenant Liabilities (j from above)		
Variance Dollars (k=d-j)	k	



Arizona Department of Real Estate (ADRE)

Auditing Division

www.azre.gov

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

DOUGLAS A. DUCEY
GOVERNOR

LOUIS DETTORRE
COMMISSIONER

PROPERTY MANAGEMENT TRUST ACCOUNT RECONCILIATION (Form AUD-101)

INSTRUCTIONS BY FIELD

(NOTE: A separate monthly reconciliation should be prepared for each Property Management Trust Account.)

- THE ATTACHED PROPERTY MANAGEMENT TRUST ACCOUNT RECONCILIATION FORM IS IN PDF FORMAT; **THE COMPLETED RECONCILIATION MAY NOT BE SAVED AND MUST BE PRINTED FOR RETENTION PURPOSES.**
- FORM AUD-101 IS A FILLABLE FORM (PDF) AND PERFORMS AUTOMATIC CALCULATIONS.
 1. ("Date") - Enter the date that the reconciliation was prepared.
 2. ("Prepared by") - Enter the name of the individual preparing the reconciliation.
 3. ("For Month of") - Enter the month and year that the reconciliation is being prepared for.
 4. ("Trust Account Title") - Enter the Property Management Trust Account title.
 5. ("Bank Name") - Enter the name of the bank where the Property Management Trust Account is located.
 6. ("Trust Acct No") - Enter the account number of the Property Management Trust Account.
 7. **Part I – Bank Statement**
 - a. ("Bank Statement Balance on") - Enter the date of the bank statement balance. **A date must be entered.**
 - b. Enter the amount of the end-of-month balance as shown on the bank statement.
 - c. Go to Schedule A (click on button) – Deposits not yet cleared on Bank Statement. Enter each deposit not cleared as follows:
 - i. Enter the Deposit Date
 - ii. Enter the Client File Number (if available)
 - iii. Enter a description of the deposit.
 - iv. Enter the amount of the deposit.
 - v. Once all deposits not cleared have been entered, return to Page 1 (Click "Back to Page 1" button). The total amount of all uncleared deposits will show in the field next to the "Schedule A" button.
 - d. Go to Schedule B (click on button) – Outstanding Checks & Withdrawals not yet cleared on Bank Statement. Enter each outstanding check and withdrawal as follows:
 - i. Enter the date of the check/withdrawal.
 - ii. Enter the Client File Number (if available).
 - iii. Enter the check/withdrawal number.
 - iv. Enter a description for the check/withdrawal.
 - v. Enter the amount of the check/withdrawal.
 - vi. Once all checks/withdrawals not cleared have been entered, return to Page 1 (Click "Back to Page 1" button). The total amount of all uncleared checks/withdrawals will automatically show in the field next to the "Schedule B" button.
 - e. ("Reconciled Bank Balance as of") - Enter the date of the Reconciled Bank Balance (should be the same as the date for the bank statement balance). **A date must be entered.**
 - f. The Reconciled Bank Balance will show in the next field and is automatically calculated.

8. **Part II – Check Register or Journal of Receipts and Disbursements (Checkbook Register)**

- a. Enter the date of the Check Register or Journal of Receipts and Disbursements (Checkbook Register) balance (should be the same as the date for the bank statement balance). **A date must be entered.**
- b. Enter the amount of the Check Register or Journal of Receipts and Disbursements (Checkbook Register) balance.

9. **Part III – Total of Owner /Tenant Ledgers and/or Tenant Security Deposits**

- a. Enter the date of the Owner Ledgers or Owner Reserves Balances (should be the same as the date for the bank statement balance). **A date must be entered.**
- b. Go to Schedule C (click on button) – Owner Ledgers or Owner Reserves Balances. Enter each Owner Ledger/Owner Reserves as follows:
 - i. Enter the Owner Ledger File Number (if available).
 - ii. Enter the Owner Name/Description.
 - iii. Enter the Owner Ledger/Owner Reserve amount (balance).
 - iv. Once all Owner Ledger/Owner Reserves have been entered, return to Page 1 (Click “Back to Page 1” button). The total amount of all Owner Ledger/Owner Reserves will automatically show in the field next to the “Schedule C” button. **(NOTE: IN THE ALTERNATIVE AND WITH APPROPRIATE BACK-UP DOCUMENTATION, THE TOTAL AMOUNT OF THE OWNER LEDGERS OR OWNER RESERVES MAY BE ENTERED BUT SHOULD BE CLEARLY IDENTIFIED.)**
- c. Enter the date of the Tenant Ledgers or Tenant Security Deposits (should be the same as the date for the bank statement balance).
- d. Go to Schedule D (click on button) – Tenant Ledgers and/or Tenant Security Deposits. Enter each Tenant Ledgers and/or Tenant Security Deposits as follows:
 - i. Enter the Tenant Ledger File Number (if available).
 - ii. Enter the Tenant Name/Description.
 - iii. Enter the Tenant Ledgers or Tenant Security Deposit amount (balance).
 - iv. Once all Tenant Ledgers/Tenant Security Deposits have been entered, return to Page 1 (Click “Back to Page 1” button). The total amount of all Tenant Ledgers or Tenant Security Deposits will automatically show in the field next to the “Schedule D” button. **(NOTE: IN THE ALTERNATIVE AND WITH APPROPRIATE BACK-UP DOCUMENTATION, THE TOTAL AMOUNT OF THE TENANT LEDGERS OR TENANT SECURITY OR OTHER CLEARLY IDENTIFIED TENANT DEPOSITS, I.E., PET DEPOSITS, CLEANING DEPOSITS, PRE-PAID RENT, MAY BE ENTERED.)**

10. **Part IV – Reconciliation Summary (*fields are automatically calculated*)**

- a. The first line is the reconciliation between Part I (Reconciled Bank Balance) and Part II Check Register or Journal of Receipts and Disbursements (Checkbook Register). **This amount should be ZERO.**
 - b. The second line is the reconciliation between Part I (Reconciled Bank Balance) and Part III (Total of Owner /Tenant Ledgers and/or Tenant Security Deposits). **This amount should be ZERO.**
11. Explanation of differences and details of corrective action taken: This field can be used to explain any differences and/or discrepancies in Part IV – Reconciliation Summary. Explanations should also be provided detailing any corrective action taken regarding the differences and/or discrepancies.
12. Enter the name of the Designated Broker (Reviewed by at the bottom of Page 1).
13. Enter the date that the Designated Broker reviewed and signed the Property Management Trust Account Reconciliation (this may be entered in handwriting by the Designated Broker).
14. Print a copy of the reconciliation, using the “Print” button at the top of Page 1. **PLEASE REMEMBER THAT YOU CANNOT SAVE A COPY OF THE COMPLETED RECONCILIATION.**

Disclaimer: The Arizona Department of Real Estate is not responsible for the accuracy of the information on the downloaded, completed form. The Designated Broker is responsible for the accuracy, truthfulness and completeness of the trust account reconciliation performed using this form.



Auditing Division

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

LOUIS DETTORRE
COMMISSIONER

Date:	Prepared by:	For Month of:
Trust Account Title:		
Bank Name:	Trust Acct No:	

Bank Statement Balance on:	
Plus Deposits not yet credited to bank statement (Total from Schedule A, Page 2)	
Less Outstanding Checks & Withdrawals. (Total from Schedule B, Page 3)	
Reconciled Bank Balance as of:	

Check Register or Journal of Receipts and Disbursements Balance as of:	
--	--

Owner Ledgers or Owner Reserves Balance (From Schedule C, Page 4) as of:	
Tenant Ledgers or Tenant Security Deposits Balance (From Schedule D, Page 5) as of:	
Total of Owner Ledgers/Reserve and Tenant Ledgers/Tenant Security Deposits as of:	

(Parts I, II & III should be reconciled on the same date to the same amount)

Amount of difference in Totals of Parts I & II (Should be zero)	
Amount of difference in Totals of Parts I & III (Should be zero)	

The following table shows the results of the regression analysis for the dependent variable "Number of children in the household" (N = 1,000). The independent variables are "Age of the head of household" and "Gender of the head of household". The results show that the age of the head of household has a positive and significant effect on the number of children in the household, while the gender of the head of household has a negative and significant effect.

Reviewed by (Designated Broker):	X	Date:
----------------------------------	----------	-------

Disclaimer: The Arizona Department of Real Estate is not responsible for the accuracy of the information on the downloaded, completed form. The Designated Broker is responsible for the accuracy, truthfulness and completeness of the trust account reconciliation performed using this form.
Form AUD-101 PM Trust Account Reconciliation rev 01-13-2015

Arizona Department of Real Estate (ADRE)

Auditing Division

SCHEDULE A

[illegible]

Arizona Department of Real Estate (ADRE)

Auditing Division

SCHEDULE B[illegible]

Arizona Department of Real Estate (ADRE)

Auditing Division

SCHEDULE C

[illegible]

Arizona Department of Real Estate (ADRE)

Auditing Division

SCHEDULE D

[illegible]

Disclaimer: The Arizona Department of Real Estate is not responsible for the accuracy of the information on the downloaded, completed form. The

Designated Broker is responsible for the accuracy, truthfulness and completeness of the trust account reconciliation performed using this form.

Form AUD-101 PM Trust Account Reconciliation rev 01-13-2015



Arizona Department of Real Estate (ADRE)

Auditing Division

www.azre.gov

100 North 15th Avenue, Suite 201, Phoenix Arizona 85007

DOUGLAS A. DUCEY
GOVERNOR

LOUIS DETTORRE
COMMISSIONER

Trust Account Activity Notification (Form AUD-100)

Submit completed form and attachments to the Department through the Department Message Center [Click Here](#)

1. EMPLOYING BROKER/ENTITY INFORMATION

Designated Broker (DB) or Self-Employed Broker (SE) Name (print as appears on license):				DB or SE License Number:	
Employing Broker/Entity Name:				Employing Broker/Entity License Number	
Employing Broker/Entity Physical Address:			Suite:	City:	State: Zip
Employing Broker/Entity Mailing Address: <input type="checkbox"/> Same as Physical Address			Suite:	City:	State: Zip
Employing Broker/Entity Phone:		Employing Broker/Entity Fax:		DB or SE Email:	

2. NEW ACCOUNT(S) – SUBMIT COPY OF BANK SIGNATURE CARD FOR EACH ACCOUNT

Bank Name:		Branch Address:		City:	State:	Zip:
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:	Authorized Signer(s):		Date Opened:	
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:	Authorized Signer(s):		Date Opened:	
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:	Authorized Signer(s):		Date Opened:	
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:	Authorized Signer(s):		Date Opened:	
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:	Authorized Signer(s):		Date Opened:	

3. CLOSED ACCOUNT(S)

Bank Name:		Branch Address:		City:	State:	Zip:
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:		Date Closed:		
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:		Date Closed:		
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:		Date Closed:		
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:		Date Closed:		
<input type="checkbox"/> General <input type="checkbox"/> Prop Mgmt	Account Name:	Account Number:		Date Closed:		

DB or SE Signature X	Date:
--------------------------------	-------

AUDITING FAQS - PROPERTY MANAGEMENT

What is Property Management?

Property management is real estate activity involving the management by written agreement of an individual's rental properties for compensation. **(A.R.S. § 32-2171)**

Is a real estate license required to conduct property management services?

Yes. A real estate license is required to perform property management services. Property management services are provided to the employing broker's clients by persons licensed to the broker and with the knowledge and permission of and supervision by the designated or self-employed broker. **(A.R.S. § 32-2101.48)**

May a real estate salesperson or associate broker operate a property management business separate from their employing broker?

No. A licensee may perform property management services only on behalf of the employing broker to whom the property manager is licensed. The Department does not license an employing broker under more than one doing business as (dba) name and all property management services must be conducted or promoted using the name under which the employing broker is licensed. **(Commissioner's Rule R4-28-302.I)**

NOTE: Licensees who operate a real estate business separate from their employing broker, with or without their broker's knowledge and permission, are conducting Unlicensed Real Estate Activity.

May a broker pay compensation to a licensee's personal corporation, LLC or general partnership?

No. Corporations, limited liability companies and general partnerships are required to be licensed as real estate entities with a designated broker. **(A.R.S. § 32-2125.A)**

What is required to document a property management agreement?

The employing broker's involvement in the transaction is defined in the property management agreement, which must be clear and state all terms and conditions of the broker's services, be signed by the broker and not be assigned to another licensee without express written consent of the property owner. The specific requirements for a property management agreement are listed in **A.R.S. § 32-2173.A.**

If the property management agreement states the broker is holding the security deposit on behalf of the landlord, the tenant lease must state the same terms in order to provide full and accurate disclosure. Some examples of agreements in and out of compliance are as follows:

- In Compliance: The PM Agreement states the **broker** is holding the tenant's security deposit; the Lease Agreement states the **broker** is holding the tenant's security deposit.
- Out of Compliance: The PM Agreement states the **landlord** is holding the tenant's security deposit; the Lease Agreement states the **broker** is holding the tenant's security deposit.

May a broker advertise a property for lease without having a signed property management agreement?

Yes, if the owner authorizes the broker in writing to list or advertise the owner's property for lease.

May a licensee who acts as a buyer's agent in the purchase of a property manage the property for the buyer after close of escrow?

Yes, if the licensee has their broker's permission to do so; the new owner signs a property management agreement with the employing broker; and; all monies collected are deposited into the broker's trust account or directly into the owner's account.

Is the broker required to review all rental agreements?

No. The broker is not required to review and initial fully executed residential lease agreements. The broker or designee must sign all residential rental agreements and; therefore, need not initial a review of them **(A.R.S. § 32-2173.A)**

The broker is required to review and initial executed non-residential lease agreements. **(A.R.S. § 32-2151.01.G)**

Who is responsible for supervising property management employees?

An employing broker is responsible for all acts of associate brokers, salespersons and other employees of the brokerage. The designated or self-employed broker must supervise the activities of the employing broker, associate brokers, salespersons and other employees of the employing broker. **(Commissioner's Rules R4-28-1103.C and D)**

No salesperson or associate broker may conduct property management services if the broker does not authorize and supervise the activity. **(Commissioner's Rule R4-28-302.J)**

What documentation is required to be maintained by the broker?

Property and Lease Agreements:

- Management Agreements - consecutively numbered or organized using an “orderly, easily accessible” system, i.e., Property Management Log. **(A.R.S. § 32-2175.E)**
- Residential Agreements and related documents according to dwelling number of other systematic manner, i.e. Leasing Log. **(A.R.S. § 32-2175.A)**
- Non-residential Leases – chronological or other systematic manner **(A.R.S. § 32-2175.F)**

Financial Records:

- Bank Statements (All Pages)
(NOTE: The bank’s online system is NOT an electronic storage system. Download the complete bank statement [all pages], including cancelled checks, for storage in an electronic storage system controlled by the broker.)
- Cancelled Checks
- Deposit Slips
- Bank Receipts
- Receipts and Disbursement Journals
- Owner Statements
- Client (Owner and Tenant) Ledgers
- Applicable Bills, Invoices and Statements **(A.R.S. § 32-2175.C)**
- Trust Fund Account Bank Reconciliations and Client Ledger Balances on a monthly basis. **(A.R.S. § 32-2151.B.2)**

Nonresidential Leases:

- Confirmation that the deposits or other monies were handled according to instructions
- Complete copy of the nonresidential lease or rental agreement
- Copy of the listing agreement (if applicable) **(A.R.S. § 32-2175.F.1 through 3)**

How long and where are brokers required to maintain property management records?

- Property Management Agreements – For at least five (5) years from the date of termination of the agreement. **(A.R.S. § 32-2151.01.A)**
- Financial Records – For three (3) years from the execution of each document. **(A.R.S. § 32-2175.C)**
- Residential rental agreements and related documents – For one (1) year from expiration, unless given to the owner on termination of management. **(A.R.S. § 32-2175.A)**
- In the principal office, licensed branch office in this state, or off-site storage location in this state (with prior written notification to the Department of the street address of the off-site storage location). **(A.R.S. § 32-2151.01.A and H)**

Is a real estate license required to manage Vacation Rentals?

Yes and No. An exemption from licensure exists for “a person who, on behalf of another, solicits, arranges or accepts reservations or money, or both, **for occupancies of thirty-one or fewer days in a dwelling unit in a common interest development.**” (A.R.S. § 32-2121.A.15)

The exemption allows for a **single** occupancy by a short-term tenant, not a month-to-month occupancy or an extended stay.

The exemption applies to Vacation Rentals in a **single**, common interest development, i.e., a condominium complex or subdivision with common areas, not properties located in various locations throughout a city or adjacent cities.

May a finder fee be paid to a tenant in a single family home for identification of a potential tenant for another property under management by the broker?

No. A “finder fee” means a fee paid to a tenant **in an apartment complex** managed by the property management firm for introducing or arranging an introduction between parties to a transaction involving **rental of an apartment.** (A.R.S. § 32-2176.B)

Notwithstanding the requirements of A.R.S. §§ 32-2155, 32-2163 and 32-2165 or other provisions, a property management firm or a property owner:

- May not pay a finder fee exceeding a two hundred dollar (\$200) credit toward or reduction in the tenant’s monthly rent. (A.R.S. § 32-2176.B)
- May pay a finder fee five (5) times within a twelve (12) month period to a tenant in an apartment managed by the firm or owned by the owner. (A.R.S. § 32-2176.B)
- May not be paid to a residential leasing agent or manager; however, the residential leasing agent or manager may receive a bonus pursuant to A.R.S. § 32-2121.A.6.

Is a property owner required to hold a real estate license to manage the owner’s property?

A property owner may be exempt from the licensing requirements of this chapter pursuant to A.R.S. § 32-2121.A.1, if they receive no special compensation or other consideration for the management of their personal property.

Is the “residential leasing agent or manager” of an owner’s residential rental property (mul

The “residential leasing agent or manager” must have a license if they perform property management activities at more than one location during a workday or if they receive special compensation, i.e., commissions or property management fees, for their services. (A.R.S. § 32-2121.A.6)

What jurisdiction does the Department exercise over landlord / tenant disputes?

The Department has no jurisdiction over landlord/tenant disputes. (A.R.S. § 32-2160) These issues are regulated by the Arizona Landlord/Tenant Act, which is available for download at www.housing.az.gov under Documents and Links - Publications.

During the term of the lease, does the security deposit belong to the landlord (property owner) or the tenant?

The security deposit belongs to the tenant. The landlord or the landlord's agent, the real estate broker, holds the security deposit for the tenant pending full performance of the tenant's obligations under the terms of the lease.

What jurisdiction does the Department exercise over HOA management?

The Department has no jurisdiction over HOA management, including the management of homeowner associations, condo owner associates, etc., and compliance with CC & R's. Persons restricting their activities to HOA management are not required to hold a real estate license.

HOA managers are charged with overseeing common areas within subdivisions, which are controlled by the HOA, as well as compliance with CC & R's. HOA manager duties generally do not include the management of a single family home owned by an HOA member under a property management agreement.

AUDITING FACTS - BROKER TRUST ACCOUNTS

What are the minimum requirements applicable to each broker's trust account?

In accordance with **A.R.S. § 32-2151.B**, the minimum requirements for a broker's trust account include:

- Monies shall be used only for the purpose for which the monies were deposited.
- A complete record of all monies received in connection with a real estate transaction in the broker's main or branch office located in Arizona or off-site storage location in Arizona.
- The broker's records shall be kept according to generally accepted accounting principles (GAAP) and shall include a properly descriptive receipts and disbursement journal ("checkbook register") and client (owner and tenant) ledger.
- The broker shall maintain a trust account bank reconciliation (in which the adjusted bank balance is reconciled to the client liabilities) and client ledger balance on a monthly basis and shall remove any interest earned on a trust account at least once every twelve (12) months.
- A broker shall not permit advance payment of monies belonging to others to be deposited in the broker's personal account or to be commingled with the broker's personal monies.
- When establishing a trust account, the broker may deposit no more than \$3,000 of the broker's monies to keep a trust account open or to avoid charges for an insufficient minimum balance.
- Any computerized records shall be kept in a manner allowing reconstruction in the event of destruction of electronic data.

What are the additional requirements for a property management trust account?

All property management accounts must be designated as trust accounts and include descriptive wording in the trust account title, such as "Trust Account", "Fiduciary Account", "In Trust for (individual or entity name)", "Trustee for (individual or entity name)" or "Fiduciary for (individual or entity name)". **(A.R.S. § 32-2174.A)**

Who may be a signer on a property management trust account?

The broker may authorize either a licensee or an unlicensed natural person in the direct employ of the broker to transfer monies or to be a signer on the property management trust account. **(A.R.S. § 32-2174.C)** NOTE: If a licensee owns a brokerage with a trust account ("Brokerage A") but is licensed under another brokerage ("Brokerage B"), the licensee / owner **may not** be a signer on the broker's trust account for Brokerage A.

A broker or his authorized signer may not be a signer on an owner's account.

A property owner may not be a signer on the broker's trust account.

When is an agreement to place monies entrusted to the broker in a depository located outside of Arizona valid?

An agreement to place monies in a depository outside of Arizona is valid if all parties to the transaction agree in writing and either the monies are placed in a property management trust account that is federally insured or guaranteed and the property management agreement contains required disclosures **OR** if the monies are not deposited in a property management trust account, the broker discloses to the parties to the transaction that potential risks may accrue as the result of depositing the monies in a depository outside Arizona. **(A.R.S. § 32-2151.C)**

How should monies received from tenants or property owners be handled?

Within three (3) banking days after receipt, the employing broker must deposit the monies received in either the owner's direct account or the property management firm's trust account for the benefit of the owner. **(A.R.S. § 32-2174.D)**

The broker (or the owner of the employing broker) owns properties that are managed by the broker. Should monies related to these properties be maintained in the broker's trust account?

A licensee may not commingle the monies of a client with that of the licensee. **(A.R.S. § 32-2153.A.16)** The best business practice is to hold client funds and the funds related to the broker/brokerage owner's properties in separate trust accounts to avoid commingling of funds.

May property management compensation be paid to licensees from a property management trust account?

No. A broker should pay compensation to licensees for property management services from the broker's operating or commission account, not the property management trust account. **A.R.S. § 32-2151.B.1** requires that monies deposited into a trust account "be used only for the purpose for which the monies were deposited."

Following deposit of the rental payments into the broker's trust account, the monies owed to the brokerage should be transferred to the operating or commission account and compensation paid to licensees from those accounts.

A broker trust account may contain no more than \$3,000 of the broker's monies, including fees owed to the brokerage. **(A.R.S. § 32-2151.B.2)** The broker's funds held in the trust account should be monitored and transferred to the operating or commission account as required.

What financial documentation is the broker required to maintain?

- Bank Statements (All Pages)
(NOTE: The bank's online system is NOT an electronic storage system. Download the complete bank statement [all pages], including cancelled checks, for storage in an electronic storage system controlled by the broker.
- Cancelled Checks
- Deposit Slips
- Bank Receipts
- Receipts and Disbursement Journals
- Owner Statements
- Client (Owner and Tenant) Ledgers
- Applicable Bills, Invoices and Statements (A.R.S. § 32-2175.C)
- Trust Fund Account Bank Reconciliations and Client Ledger Balances on a monthly basis. (A.R.S. § 32-2151.B.2)

What information is contained in a Receipts and Disbursement Journal, aka Checkbook Register?

- The date money was deposited into the trust account.
- The amount of money deposited.
- The name of the party to whom the money belongs.
- The date the money was disbursed and to whom.

How long and where are brokers required to maintain financial records?

The broker is required to maintain financial records pertaining to clients for three (3) years from the date each document was executed. (A.R.S. § 32-2175.C)

The records are to be maintained in the broker's principal office, licensed branch office in this state, or off-site storage location in this state (with prior written notification to the Department of the street address of the off-site storage location). (A.R.S. § 32-2151.01.A and H)

What financial documentation is the broker required to maintain?

- Bank Statements (All Pages)
(NOTE: The bank's online system is NOT an electronic storage system. Download the complete bank statement [all pages], including cancelled checks, for storage in an electronic storage system controlled by the broker.)
- Cancelled Checks
- Deposit Slips
- Bank Receipts
- Receipts and Disbursement Journals
- Owner Statements
- Client (Owner and Tenant) Ledgers
- Applicable Bills, Invoices and Statements **(A.R.S. § 32-2175.C)**
- Trust Fund Account Bank Reconciliations and Client Ledger Balances on a monthly basis. **(A.R.S. § 32-2151.B.2)**

What information is contained in a Receipts and Disbursement Journal, aka Checkbook Register?

- The date money was deposited into the trust account.
- The amount of money deposited.
- The name of the party to whom the money belongs.
- The date the money was disbursed and to whom.

How long and where are brokers required to maintain financial records?

The broker is required to maintain financial records pertaining to clients for three (3) years from the date each document was executed. **(A.R.S. § 32-2175.C)**

The records are to be maintained in the broker's principal office, licensed branch office in this state, or off-site storage location in this state (with prior written notification to the Department of the street address of the off-site storage location). **(A.R.S. § 32-2151.01.A and H)**