**Section 1440.270 Escrow or Trust Accounts**

a) For the purposes of the Act and this Part "escrow monies" means all monies, promissory note, legal tender or financial consideration entrusted to, held by, and deposited with an auctioneer or auction firm in consideration of property sold or leased by the auctioneer or auction firm for the benefit of the parties to the transaction.

b) Pursuant to Section 20-15 of the Act, licensees who accept escrow monies shall maintain and deposit in a special account, separate and apart from any personal or ordinary business accounts, all monies entrusted to the licensee while acting as an auctioneer, while conducting an auction or providing an auction service.

c) A licensee may maintain more than one special account or may elect to hold all escrow monies in one special account. A licensee who accepts escrow monies shall maintain a special account, and shall maintain a bookkeeping system in his or her office or place of business, including systems of electronic data processing, consisting of the following:

1) A record book, called a journal, for each special account, that shall show the chronological sequence in which escrow monies were received and disbursed by the licensee and a running balance after each entry;

2) For each auction, a deal file which contains clerk sheets and settlement sheets that correspond to journal entries;

3) A record or account ledger (e.g., check ledger) that shall show the date, amount of monies deposited into the special account, and date, amount and payee of any money disbursed from the special account; and

4) Bank statements for each special account shall be reconciled monthly within 10 days after the receipt of the bank statement, except where there has been no transactional activity during the previous month. The reconciliation shall include a written work sheet comparing the balances as shown on the bank statement, the journal and the ledger, respectively, in order to insure agreement between the special account and the journal and the ledger entries with respect to the special account. Each reconciliation shall be kept for at least three years from the last day of the month covered by the reconciliation.

d) A licensee who maintains any special account shall notify the Division in writing of the name and location of the depository in which the special accounts are held, and shall execute a written consent giving the Division the authority to examine and/or audit any or all special accounts.

e) The Division shall make available for distribution, on request, samples of approved bookkeeping systems.

f) A licensee shall not commingle any monies held for another in connection with the practice of auctioneering, conducting an auction, or providing an auction service with any personal account or normal business account. A licensee shall only deposit his or her own funds into the special accounts in which escrow monies are held to open the account or maintain a sufficient balance to avoid incurring service charges. In addition, a licensee shall not disburse monies from any special account for his own personal or business use, except for commissions, compensation, fees, advertising or other expenses incurred by the licensee pursuant to the terms of the auction listing contract.

g) A licensee shall deposit all escrow monies into the licensee's special account no later than the next business day following acceptance of the monies.

(Source: Amended at 35 Ill. Reg. 7358, effective April 21, 2011)