



## COMPLIANCE AUDITS

Division investigators conduct compliance audits of Ohio brokerages in accordance with Section 4735.05 of the Ohio Revised Code. Audits can be performed if the Division receives a substantial increase in complaints in the brokerage's geographic area or upon the request of the Superintendent.

The purpose of the audit is twofold. One: To provide education and awareness of real estate law. Two: To provide assistance to brokerages to ensure compliance with all license laws. If investigators find areas of non-compliance, they work with the broker to make necessary corrections.

## AUDIT CHECKLIST

The compliance audit is a very thorough regulatory and educational process. Some examples of what investigators look for during an audit include:

- ✓ Real Estate Licenses
- ✓ Business Cards (Sales & Brokers)
- ✓ Advertising (Newspaper, Magazines, Yard Signs, Yellow/White pages)
- ✓ Stationery and Envelopes
- ✓ Location of transaction contracts and related documents for the past three years (random checks may be conducted of office files)
- ✓ Mandated Real Estate Forms {Agency agreements such as Listing Contracts, Exclusive Right to Represent (Buyer), Property Management Contracts, Agency Disclosure, and Residential Property Disclosure}
- ✓ Trust Account (copies of latest bank statement, deposit tickets, columnar ledger as required by OAC 1301:5-05-09)
- ✓ Company Policy on Brokerage (ORC 4735.54 and OAC 1301:5-6-03)
- ✓ Fair Housing Signage
- ✓ Operating Account (random checks will be conducted if payment was made to an unlicensed entity or an affiliated licensee - O.R.C. 4735.20)

## AUDIT SUGGESTIONS

To ensure your audit goes smoothly, brokers must take the time to be prepared. The following are some office inspection suggestions.

1. Have copies of the company policy for brokerage and the company policy on agency to give to the investigator. Keep in mind the company policy is not the brokerage's office policy and procedures manual.
2. Maintain a columnar ledger for all trust account funds, including property management accounts. Have a copy of the most recent trust account bank statement to give to the investigator.
3. Ensure all agency agreements contain the mandated fair housing language and definite expiration dates.
4. Maintain ALL transaction related records for a period of three years.
5. Have your earnest money account, deposit tickets and checks clearly marked as a "trust" or "special" account.
6. Ensure your trust account is non-interest bearing.
7. Display ALL brokers' licenses and have available for inspection all sales agents' licenses.
8. Have clear signage on the premises that identifies the brokerage even if you operate out of your own home.

## NON-COMPLIANCE ISSUES FOUND DURING AUDITS

The top non-compliance issues typically found during compliance audits include:

1. Company Policy for Brokerage (ORC 4735.54 and OAC 1301:5-6-03)
2. Agency Agreements do not contain the mandated fair housing language or logotype (ORC 4735.55)
3. Trust Accounts do not have the proper designation (OAC 1301:5-5-08(B))
4. Brokerages not utilizing Columnar Ledger for their trust accounts (OAC 1301:5-5-09(A))
5. Trust Account balances do not reconcile

**BROKERS ARE REQUIRED TO COOPERATE DURING AUDITS, INCLUDING RECTIFYING ISSUES OF NON-COMPLIANCE. IF THEY DO NOT, BROKERS COULD FACE MISCONDUCT CHARGES UNDER THE CANNONS OF ETHICS, ARTICLE 3.**