Producers' Fiduciary Responsibilities for Trust Accounts

* Like most state insurance laws and regulations, the rules governing the fiduciary responsibilities of producers with respect to the handling of client funds vary widely from state to state. Some states have very detailed requirements producers must meet in order to satisfy their fiduciary obligations; other states are less specific; and a few still impose no fiduciary obligations at all.
* The Producers' Fiduciary Responsibilities for Trust Accounts survey is designed to assist Council members in determining which states impose fiduciary obligations on producers with respect to the handling of client funds and provide information regarding those state laws. In particular, the survey documents whether a state:
  - Imposes a fiduciary duty on a producer with respect to client funds;
  - Requires client funds to be placed in a segregated account (and to what extent);
  - Imposes penalties for violation of a state's fiduciary funds requirements; and/or
  - Provides additional restrictions or limits (e.g., restricts investment of client funds, limits the collection of interest on client funds, imposes recordkeeping requirements or premium reporting requirements, etc.).
* The below survey outlines the existing statutory text, associated regulatory provisions, and interpretive administrative guidance in the fifty states. As states revise or amend their provisions (whether via enacted legislation, finalized regulations, or newly-minted guidance documents), we will note these updates throughout the survey in ***bold and italicized blue text***.
* We envision this survey to be an evergreen document. As updates are put forth—whether through legislative or administrative action—we will update the document and provide a brief overview of the relevant changes in this top box. We ask, therefore, that you continuously review the document for updates to any statutes, regulations, bulletins, or other guidance documents. That said, if you see laws enacted, regulations finalized, bulletins issued, or enforcement actions undertaken that are not reflected in this survey, please let us know!

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
Alabama	All premiums, return premiums, or other funds belonging to others received by a producer in transactions under their license will be trust funds received in a fiduciary capacity. ALA. CODE § 27-7-36(A).		Any producer who unlawfully diverts or appropriates funds to their own use will, upon conviction, be guilty of theft of property. ALA. CODE § 27-7-36(B).	
Alaska	All money, except that made payable to the insurer, must be received by the licensee as a fiduciary. ALASKA STAT. § 21.27.360(B); ALASKA STAT § 21.27.560.	Money held by the producer as a fiduciary may not be commingled or otherwise combined with other money not held by the licensee as a fiduciary. ALASKA STAT. § 21.27.360(B). A producer may, however, commingle premium taxes and fees, premiums, and return premiums with additional money for the purpose of advancing premiums, establishing reserves for the payment of return premiums, or reserves for receiving and transmitting premium or return premium money. ALASKA STAT. § 21.27.360(D); 3 ALASKA ADMIN. CODE § 550.	A producer who the director has determined has acted to divert or appropriate money held as a fiduciary for personal use will be: • Required to make restitution; • Subject to suspension or revocation of all licenses; and • Subject to a civil penalty of, at most, $50,000 per violation. ALASKA STAT. § 21.27.360(C).	*Recordkeeping*. A producer who accepts money in a fiduciary capacity must maintain records for the following types of financial information: • Fiduciary money. • Accounts receivable from insurance customers. • Accounts payable to insurers. 3 ALASKA ADMIN. CODE § 520. Specifically, within 24 hours of receipt, a producer who receives money in a fiduciary capacity must document that money in sufficient detail to determine—at a minimum—the date received, name of the payee, and amount. A producer must maintain detailed receipt records as records of a transaction. ALASKA STAT. § 21.27.350(B); 3 ALASKA ADMIN. CODE § 590.

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Arizona			Although there are no statutory fiduciary fund obligations, the Insurance Department may impose penalties for misuse of client funds (e.g., suspension, denial, refusal to renew, revocation, or imposition of a civil penalty for improperly withholding, misappropriating, or converting any monies or property received in the course of doing insurance business). ARIZ. REV. STAT. § 20-295.	
Arkansas	All funds, fees, moneys, premiums, or return premiums received by a producer must be trust funds received in a fiduciary capacity. ARK. CODE ANN. § 23-64-223(A).	The Insurance Department advises that agent trust accounts are the best way for producers to show that they have complied with their fiduciary duty. FAQs.	Any producer who unlawfully diverts or appropriates funds to their own use will, upon conviction, be guilty of theft of property. ARK. CODE ANN. § 23-64-223(B).	
California	All funds received by a person acting as a producer as premium or return premium must be received and held by that person in their fiduciary capacity. CAL. INS. CODE § 1733.	If fiduciary funds are received by a producer, they must do one of the following: • Remit premiums (less commissions) and return premiums received by/held by them to the insurer or the person entitled thereto. • Maintain those fiduciary funds at all times in a separate, FDIC-insured trust account in a bank or saving and loan	Any producer who diverts or appropriates fiduciary funds to their own use is guilty of theft. CAL. INS. CODE § 1733.	

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		association in the United States (but a producer may commingle with those fiduciary funds any additional funds as they deem prudent for the purpose of advancing premiums, establishing reserve for the paying of return commissions, or for those contingencies that may arise in their business of receiving and transmitting premium or return premium funds. • Maintain those fiduciary funds in U.S. government bonds and treasury certificates, certificates of deposit of FDIC-insured banks or savings and loan institutions, repurchase agreements, etc. Cal. Ins. Code §§ 1734, 1734.5.		
Colorado	All premiums belonging to insurers and all unearned premiums belonging to insureds received by a producer must be treated by the producer in a fiduciary capacity. COLO. REV. STAT. § 10-2-704(1)(A); COLO. CODE REGS. § 1-2-1.	Broadly, no producer may commingle premiums belonging to insurers and returned premiums belonging to insureds with the producer's personal funds or with any other funds, except those directly connected with the producer's insurance business (i.e., a producer must treat all premiums and return premiums as trust funds and segregate them from his own funds). COLO. REV. STAT. § 10-2-704(3); COLO. CODE REGS. § 1-2-1.	Noncompliance may result—after proper notice and hearing—in the imposition of any of the sanctions made available in Colorado law pertaining to the business of insurance (or other laws), including the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of license. COLO. CODE REGS. § 1-2-1. Specifically, the Commissioner may place a producer on probation;	*Recordkeeping.* Producers are required to keep an accurate record of all fiduciary funds. COLO. CODE REGS. § 1-2-1.

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		In particular, any deposit of such premium and returned premium funds into a bank or savings account must be into a separate insurance trust account until actually remitted to the insurer or persons entitled to the funds. COLO. CODE REGS. § 1-2-1.	suspend, revoke, or refuse to issue a license; order restitution; or assess civil penalties, if—after a notice and hearing—the Commissioner finds that the producer improperly withheld, misappropriated, or converted to their own use any moneys or property belonging to policyholders, insurers, beneficiaries, etc. received in the course of the business of insurance. COLO. REV. STAT. § 10-2-801.	
Connecticut				
Delaware	All premiums, return premiums, or other funds received by a producer (or surplus lines broker) must be held in a fiduciary capacity. DEL. CODE ANN. TIT. 18, § 1706(E); 17 DEL. ADMIN. CODE § 505-5.0.	Producers who make immediate remittance (i.e., payment is in the same form as the collection was received from the insured) of collections to their entities need not maintain separate bank accounts for these collections. 17 DEL. ADMIN. CODE § 505-6.0. Producers who have the express written consent of their entities to mingle premium moneys with their own funds may do so, if the following exists: • Monies held in a fiduciary capacity are reasonably ascertainable from the books of accounts and records of the producers. • Amounts due entities are equal to or less than the combined	The Insurance Commissioner may place on probation, suspend, revoke, refuse to issue or renew a license—or levy a penalty—for unfair trade practices including incompetence, untrustworthiness, irresponsibility, accepting unlicensed business, improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business. DEL. CODE ANN. TIT. 18, § 1712(A)(2).	*Interest-Bearing Accounts*. A producer may deposit premiums collected from insureds in an interest-bearing account when the produce is not required to make an immediate remittance to the entity of premium moneys, if certain requirements are met. 17 DEL. ADMIN. CODE § 505-10.0.

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		accounts receivable and current bank balances. 17 DEL. ADMIN. CODE § 505-7.0. A producer who does not have the express consent of his entities, however, must hold the premium moneys separate from other funds in accordance with certain requirements (e.g., a producer who does not make immediate remittance to his entities may not deposit premiums in office operating accounts but must keep the moneys in a separate bank account from which disbursement may not be made other than for payment of premiums, the return of premiums, etc.). 17 DEL. ADMIN. CODE § 505-8.0.		
Florida	All premiums, return premiums or other funds belonging to insurers or others received by an agent in transactions under the license are trust funds received in a fiduciary capacity. FLA. STAT. ANN. § 626.561(1).	An agent must keep funds belonging to each insurer for which an agent is not appointed (other than a surplus lines insurer) in a separate account. FLA. STAT. ANN. § 626.561(1).	An agent who unlawfully diverts or misappropriates such funds or deprives another person of a benefit from such funds may be deemed to have committed one of the following offenses: • If the funds diverted or misappropriated are $300 or less, a misdemeanor of the first degree. • If the funds diverted or misappropriated are more than $300 but less than $20,000, a felony of the third degree.	*Recordkeeping*. Agents must keep and make available to the Department of Financial Services books, accounts, and records that will enable the Department to determine whether the agent is complying with the applicable provisions under Florida law for a minimum period of three years. FLA. STAT. ANN. § 626.561(2).

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			• If the funds diverted or misappropriated are $20,000 or more but less than $100,000, a felony of the second degree. • If the funds diverted or misappropriated are $100,000 or more, a felony of the first degree. FLA. STAT. ANN. § 626.561(3). The Department will also deny an application for, suspend, revoke, or refuse to renew/continue the license of an agent (and will suspend or revoke the eligibility to hold a license or appointment of any such person), if it finds that the agent misappropriated, converted, or unlawfully withheld moneys belonging to insurers or insureds in conduct of business under the license. FLA. STAT. ANN. § 626.611(1)(j).	
Georgia	All funds representing premiums received or return premiums due to the insured by any agent must be accounted for in their fiduciary capacity. GA. CODE ANN. § 33-23-35(B).	All funds representing premiums received or return premiums due to the insured by any agent must not be commingled with the agent's personal funds. GA. CODE ANN. § 33-23-35(B). But, this restriction should not be deemed to require an agent to maintain a separate bank deposit for the funds of each principal, if the funds so held for each principal	Any violation of the fiduciary obligations of an agent will constitute grounds or cause for action by the Commissioner, including (but not limited to) probation, suspension, or revocation of the license. Each and every act by an agent will also constitute grounds for fines and penalties.	*Premium Reporting*. An agent of an insurer must report to the insurer or its agent the premium for the contract and the amount must be shown on the contract. Violations of this provision are considered a misdemeanor under applicable law. GA. CODE ANN. § 33-23-35(A).

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		are reasonably ascertainable from the books of accounts and records of the agent. GA. CODE ANN. § 33-23-35(B).	Any willful violation will constitute a misdemeanor, unless the amounts involved exceed $1,000, whereby such violation will constitute a felony. GA. CODE ANN. § 33-23-35(C).	
Hawaii	Every licensed producer will have the responsibilities of a trustee for all premium and return premium funds received or collected. HAW. REV. STAT. § 431:9A-123.5(A).	A producer, upon receipt of funds, must either: • Remit the premiums (less commissions) and return premiums received or held by the producer to the insurers/persons entitled to such funds. • Maintain the funds at all times in a federally insured account with a bank, savings and loan association, or financial services loan company situated in Hawaii separate from the producer's own funds or funds held by the producer in any other capacity. Only such additional funds as may be reasonably necessary to pay bank, savings and loan association, or financial services loan company charges may be commingled with the premium funds. HAW. REV. STAT. § 431:9A-123.5(B). A producer is not required to maintain a separate bank account or other account for the funds of each insurer or person entitled to such funds, provided the funds	Any producer who unlawfully diverts or appropriates such funds or any portion of them to the producer's own use will be subject to penalties under Hawaii law. HAW. REV. STAT. § 431:9A-123.5(C).	*Interest-Bearing Accounts*. If the bank, savings and loan association, or financial services loan company account is an interest-earning account, the producer may not retain the interest earned on such funds for the producer's own use or benefit without the prior written consent of the insurers or person entitled to such funds. *Account Designation*. A premium trustee account must be designated on the records of the bank, savings and loan association, or financial services loan company as a "trustee account established pursuant to section 431:9A-123.5, Hawaii Revised Statutes" or words of similar import. HAW. REV. STAT. § 431:9A-123.5(B)(2).

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		held for the insurer or person entitled to such funds are reasonably ascertainable from the books of account and records of the producer. HAW. REV. STAT. § 431:9A-123.5(B)(2).		
Idaho	All fiduciary funds received or collected by a producer will be trust funds received by the producer in a fiduciary capacity. IDAHO CODE § 41-1024(1); BULLETIN NO. 11-01.	The producer must establish a separate account for funds belonging to others in order to avoid a commingling of such fiduciary funds with his own funds. IDAHO CODE § 41-1024(1); BULLETIN NO. 11-01; IDAPA § 18.06.02.014. But, nothing obligates a producer to maintain and hold fiduciary funds in their own separate account. IDAPA § 18.06.02.016. The producer may deposit and commingle in such separate account all fiduciary funds, so long as the amount of such deposit held for all other persons is reasonably ascertainable from the records and accounts of the producer. IDAHO CODE § 41-1024(1). A producer who duly collects may also deposit funds into a sweep account maintained by or for the benefit of an applicable insurer without violating the fiduciary fund account requirement. IDAHO CODE § 41-1024(1); BULLETIN NO. 11-01 (explaining that Idaho law does	Any producer who unlawfully diverts or appropriates to his own use such trust or fiduciary funds or any portion thereof will—upon conviction—be guilty of a felony. IDAHO CODE § 41-1024(3); BULLETIN NO. 11-01. The Director may impose an administrative penalty not to exceed $1,000, suspend for not more than 12 months, revoke or refuse to issue any license, if the Director finds that the producer has improperly withheld, misappropriated, or converted any moneys or properties received in the course of doing insurance business. IDAHO CODE § 41-1016.	*Recordkeeping*. A producer who receives fiduciary funds must document the receipt of those funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. IDAPA § 18.06.02.014. *Account Designation*. A fiduciary fund account must be designated on the records of the financial institution. It must have a separate account number, a separate check register, and its own checks. On the checks, the phrase "Trust Fund Account" (or other similar designation) must be displayed. IDAPA § 18.06.02.017. *Interest-Bearing Accounts*. A fiduciary fund may be interest-bearing or an investment account. IDAPA § 18.06.02.018.

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		allow multiple producers to maintain and hold fiduciary funds in a single trust fund account or for producers to collect and deposit funds into a sweep account maintained for an applicable insurer). For more information on the types of accounts permitted, *see* IDAPA § 18.06.02.016.		
Illinois	Any money that a producer receives for soliciting, negotiating, effecting, procuring, renewing, continuing, or binding policies of insurance must be held in a fiduciary capacity. 215 ILL. COMP 5/500-115(A) § 5/00-115(A).	A produce must establish and maintain a premium fund trust account in a financial institution if the producer: • Holds any premiums for 15 days or more before remitting to an insurer or other licensee. • Deposits any collected premiums into a financial institution account/other account or uses the premiums, even though the premiums are remitted within 15 days. ILL. ADMIN CODE TIT. 50, § 3113.40. Producers are not required to maintain a separate premium fund trust account for each insurer, unless required by an insurer. ILL. ADMIN CODE TIT. 50, § 3113.40.	If a producer knowingly misappropriates or converts to their own use or illegally withholds fiduciary moneys in the amount of $150 or less, they are guilty of a Class A misdemeanor for a first offense and a Class 4 felony for subsequent conversations, misappropriations, and withholdings of that nature. If an insurance producer knowingly misappropriates or converts to their own use or illegally withholds premiums in excess of $150, they are guilty of a Class 3 felony. 215 ILL. COMP § 5/500-115(D).	*Interest-Bearing Account*. A producer may place premium trust fund accounts in interest-bearing or income-producing assets and retain the interest or income thereon, provided the producer obtains the prior written authorization of the insurer on whose behalf the funds are to be held. ILL. ADMIN CODE TIT. 50, § 3113.40. *Investments*. Producers may also invest the premium funds in certain assets (e.g., direct obligations of the United States with maturities of not more than 1 year; certificates of deposit, with a maturity of not more than 1 year, issued by financial institutions where are members of the FDIC or the FSLIC, etc.). ILL. ADMIN CODE TIT. 50, § 3113.40. *Account Designation*. All producers required to maintain a premium fund trust account must designate their

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				account as a "Premium Fund Trust Account" on the bank records and those words must be displayed on the face of the checks of that account. ILL. ADMIN CODE TIT. 50, § 3113.40. *Recordkeeping*. Producers must maintain books and records which reflect all insurance transactions, specifically in regard to premiums and other monies received and deposited into the premium fund trust account and lawfully withdrawn from the premium fund trust account. ILL. ADMIN CODE TIT. 50, § 3113.50.
Indiana			Although there are no statutory fiduciary fund obligations, the Commissioner may reprimand, levy a civil penalty, place a producer on probation, suspend a producer's license, revoke a producer's license for a period of years, permanently revoke a producer's license, or refuse to issue/renew a producer's license (or any combination thereof) for improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business. IND. CODE § 27-1-15.6-12(B)(4). Indiana courts have also imposed heightened standards. *See, e.g.*, *Ind. Restorative Dentistry, P.C. v.*	

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			Laven Ins. Agency, Inc., 27 N.E.3d 260 (2015) (regarding possibility of a "special relationship" based on relationship of the parties).	
Iowa				
Kansas	An insurance agent or broker who acts in negotiating, renewing, or continuing a contract of insurance and who receives money (or substitute for money) as a premium will be deemed to hold such premium in trust for the company making the contract. KAN. STAT. ANN. § 40-247(A).		An agent or broker who violates the trust requirement will be guilty of a: • Severity level 7, nonperson felony, if the value of the insurance premium is $25,000 or more. • Severity level 9, nonperson felony, if the value of the insurance premium is at least $1,000 but less than $25,000. • A Class A, nonperson misdemeanor, if the value of the insurance premium is less than $1,000. If the value of the insurance premium is less than $1,000 and the agent or broker has, within 5 years immediately preceding commission of the crime, been convicted of two or more similar crimes, they will be guilty of a severity level 9, nonperson felony. KAN. STAT. ANN. § 40-247(B)(2).	
Kentucky	The portion of all premiums or moneys which a producer collects from an		The Commissioner may place on probation, suspend, or impose conditions upon the continuance of a license for not more than 24	

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	insured/which is to be paid to an insurer, its agents, etc. must be held by the producer in a fiduciary capacity. KY. REV. STAT. ANN. § 304.9-400.		months; revoke or refuse to issue or renew any license issued to a producer; or levy a civil penalty (or any combination thereof) for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance. KY. REV. STAT. ANN § 304.9-440(1)(D).	
Louisiana	An insurance agent or broker "owes a fiduciary duty to his customers, which includes a duty to prudently advise one's clients regarding recommended coverage." *Barreca v. Weiser*, 53 So. 3d 481, 485 n.3 (2010).		The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer license or may levy a fine not to exceed $500 for each violation (up to $10,000 aggregate for all violations in a calendar year per producer) for: • Failing to account for or remit any premiums, monies, or properties that the producer possesses in the course of doing insurance business. • Improperly withholding, misappropriating, converting, or failing to timely remit any premiums, monies, or properties received in the course of doing insurance business. LA. REV. STAT. ANN § 1554(A)(3).	
Maine	All premiums and return premiums	A producer must set up one or more separate premium trust	A person who violates this rule is subject to discipline, including:	*Recordkeeping*. Adequate records must be maintained to establish

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	received by a producer are trust funds received by the producer in a fiduciary capacity and not their personal assets. ME. REV. STAT. ANN. TIT. 24-A, § 1449; 02-31 ME. CODE R. § 3(A).	accounts in national or state bank, savings institution, or credit union and maintain therein all premiums and return premiums received by the producer until actually remitted to the insurer or other person entitled to the funds. Code of Me. Regs. ch. 540, § 3(B). Under no circumstances can a producer place fiduciary funds in a personal or business operating account. Code of Me. Regs. ch. 540, § 3(C). A producer that is a business entity may use one or more premium trust accounts for premiums and return premiums received by its affiliated producers. Code of Me. Regs. ch. 540, § 4(E). For more information on the types of deposits and withdrawals permitted, *see* Code of Me. Regs. ch. 540, § 4.	• Civil penalties. • Equitable relief. • Cease and desist orders. • Reprimand or censure. • Restitution. Code of Me. Regs. ch. 540, § 6; ME. REV. STAT. ANN. TIT. 24-A, § 12-A.	ownership of all funds in the trust account, from whom they were received, and for whom they are held. Code of Me. Regs. ch. 540, § 5(A). *Account Designation*. A premium trust account must be in the name of the producer and include the words "premium trust account." Checks drawn on the trust account must contain the insurance producer's name and the words "premium trust account." ME. CODE R. § 4(C). *Interest-Bearing Account*. A premium trust account may be—but is not required to be—an interest-bearing account. Absent any agreement to the contrary between the producer and an affected customer/insurer, the producer may use interest to offset bank charges or may treat the interest as reserve funds that may be withdrawn when no longer needed for that purpose. Code of Me. Regs. ch. 540, § 4(G).
Maryland	Although separation of funds is required in Maryland, the state does not use the "fiduciary capacity" language used in other states. "Like conventional agents, an insurance	A producer that does not make prompt remittance of a carrier or insured's premium must maintain such premium in one or more premium accounts that are sperate from any operating accounts or personal accounts. COMAR § 31.03.03.02.	The Commissioner may deny a license or suspend, revoke, or refuse to renew or reinstate a license—after notice and opportunity for hearing—if the producer has misappropriated, converted, or unlawfully withheld money belonging to an insurer, insurance producer, beneficiary, or	

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	agent must exercise reasonable care and skill in performing his duties. And if such a representative fails to do so, he may become liable to those, including his principal, who are caused a loss by his failure to use standard care." Insurance Co. of N. Am. V. Miller, 362 Md. 361, 386 (2000).	A producer may, however, make voluntary deposits into their premium account and, unless prohibited by the carrier, commingle a single carrier's premium with the premium of one or more other carriers into one or more premium accounts. COMAR § 31.03.03.02. In limited circumstances, when the officers, directors, or principal management of a carrier have a substantial interest in the conduct/operation of the agency or brokerage businesses (or vice versa), the agency or brokerage business must maintain one or more premium accounts to be used exclusively for any premium collected from the carrier that is separate from premium accounts for other carriers. COMAR § 31.03.03.04.	insured. MD. CODE. ANN. INS. § 10-126.	
Massachusetts	An agent or broker who acts in negotiating, renewing, or continuing a policy of insurance and who receives money (or substitute for money) as a premium for such policy from the insured will be deemed to hold such premium in trust for the insurance		If the agent or broker fails to pay the premium (less their commission and any deductions consented to by the company) over to the insurance company after written demand, such failure will be prima facie evidence that they have used or applied the premium for a purpose other than paying the insurance company and—upon conviction—will be guilty of	

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	company. MASS. GEN. LAWS CH. 175, § 176.		larceny. MASS. GEN. LAWS CH. 175, § 176.	
Michigan	An agent is a fiduciary for all money received or held by the agent in their capacity as an agent. MICH. COMP. LAWS ANN. § 500.1207(1).		Failure by an agent in a timely manner to turn over the money that they hold in a fiduciary capacity to the persons to whom it is owed is prima facie evidence of violation of the agent's fiduciary responsibility. MICH. COMP. LAWS ANN. § 500.1207(1).	An agent shall use reasonable accounting methods to record funds received in his or her fiduciary capacity including the receipt and distribution of all premiums due each of his or her insurers. An agent shall record return premiums received by or credited to him or her that are due an insured on policies reduced or canceled or that are due a prospective purchaser of insurance as a result of a rejected or declined application. Records required by this section must be open to examination by the director. Mich. Comp. Laws. § 500.1207(2).
Minnesota	An agent who receives funds from a client in connection with an insurance transaction receives and holds those funds in a fiduciary capacity. MINN. R. 2795.1300.		The Commissioner may restrict, censure, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty (or any combination thereof) for improperly withholding, misappropriating, or converting any money or properties received in the course of doing insurance business. MINN. STAT. § 60K.43.	*Recordkeeping*. Each agent and agency must keep a record of all funds received for or from clients that set forth the date the funds were received, from whom, the amount received, the date of deposit of the funds into the business account, and the monthly balance of the account in which the funds are deposit. Each agent and agency must also keep a separate record for each client, accounting for all funds which have been deposited in the agent's business account. These records must include information sufficient to identify the transaction and the parties, including:

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				• The date the funds are deposited. • The amount deposited. • The date of each related disbursement. • The check number of each related disbursement. • The amount of each related disbursement. • A description of each disbursement. MINN. R. 2795.1400.
Mississippi	Agent's duty is to use "degree of diligence and care with regard to securing insurance which a reasonably prudent person would exercise in the transaction of that person's own business of a like nature." *Richie v. Smith*, 311 So.2d 642, 646 (Miss. 1975).		The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty that does not exceed $1,000 per violation for improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business. MISS. CODE ANN. § 83-17-71.	
Missouri	A producer who: • Acts on behalf of any insurance company or insured; • On behalf of an insurance company, solicits applications,	Nothing requires a producer to maintain a separate bank account or deposit for the funds of each payor, as long as the funds are reasonably ascertainable from the books of accounts and records of the producer. MO. REV. STAT. § 375.051(3).	The Director may suspend, revoke, refuse to issue or refuse to renew a producer license for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business. MO. REV. STAT. § 375.141.	

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	delivers policies or renewal receipts, and collects premiums; • On behalf of an insured, seeks to place coverage, deliver policies or renewal receipts, and collect premiums on; or • Receives or collects moneys from any source on any account on behalf of an insurance company or receives or collects money from any source/on any account will be held responsible in a trust or fiduciary capacity to the insurance company or insured for any money so collected or received by or for them. MO. REV. STAT. § 375.051(1)-(2).			
Montana	A producer must, at all times, act in a fiduciary capacity (i.e., a producer not lawfully	All insurance premiums or return premiums received by a producer must be held in a separate trust account.		

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	entitled to the funds may not divert or appropriate the funds or any portion of the funds to the producer's own use). MONT. CODE ANN. § 33-17-1102.	A producer may, however, deposit and commingle in the same separate deposit all funds belonging to others so long as the amount of the deposit held for each respective person is reasonably ascertainable from the records and accounts of the licensee. MONT. CODE ANN. § 33-17-1102.		
Nebraska			The Director may suspend, revoke, or refuse to issue or renew a producer's license or may levy an administrative find (or any combination thereof) for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business. NEB. REV. STAT. § 44-4059.	
Nevada	All money of others received by a producer must be received and held by the person in a fiduciary capacity. NEV. REV. STAT. ANN. § 683A.400(1).	A producer who does not make immediate remittance of the money to the insurer or other person entitled to the money must elect one of the following methods: • Remit received premiums (less applicable commissions) and return premiums to the insurer or other person entitled to the money within 15 days of receipt.	Any producer who diverts or appropriates such fiduciary money to their own use is guilty of embezzlement. NEV. REV. STAT. ANN. § 683A.400(1). The Commissioner may refuse to issue a license, place a producer on probation, suspend the person for not more than 12 months, revoke or refuse to renew their license, or may impose an administrative fine (or any combination thereof) for	*Signature Cards*. The producer must be named as a trustee on accounts maintained for fiduciary funds and possess a signature card. Nev. Admin. Code § 683A.410. *Interest-Bearing Accounts*. The types of accounts which may be maintained by a person for the deposit of fiduciary funds include: • Checking accounts, whether or not they bear interest.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		• Establish and maintain in a commercial bank, credit union, or other established financial institution depository in Nevada one or more accounts—separate from their general personal, firm, or corporate money—and deposit and retain in the account all such premiums (net of applicable commissions) and return premiums. Money belonging to more than one principal, however, may be deposited and held in the same account if the amount held for each principal is readily ascertainable from the records of the depositor. The producer may also commingle with such fiduciary money in a particular account such additional money as the producer may deem prudent to advance premiums, establish reserves for the payment of return commissions, or for other contingencies arising in his or her business of receiving and transmitting premiums or return premiums. NEV. REV. STAT. ANN. § 683A.400(2). Finally, a producer may commingle with their own money an unlimited amount money of a particular principal if the principal in writing in advance has	misappropriating, converting or improperly withholding money or property received in the course of the business of insurance. NEV. REV. STAT. ANN. § 683A.451; NEV. ADMIN. CODE § 683A.440.	• Time deposits. • Savings accounts. NEV. ADMIN. CODE § 683A.400.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		specifically waived separate account requirement. NEV. REV. STAT. ANN. § 683A.400(3).		
New Hampshire	Any money, substitute for money, or thing of value received by any agent, solicitor, or broker as a premium or return premium must be received in a fiduciary capacity. N.H. REV. STAT. § 402:53; N.H. CODE ADMIN. R. INS § 4301.03(A)-(B).	Producers must treat all premiums and return premiums as trust funds and segregate them from their own funds. N.H. CODE ADMIN. R. INS§ 4301.03(E), 4301.04(A). Fiduciary funds held on business written in the state must, at all times, be maintained in the premium trust account separate from any other account or depository. N.H. CODE ADMIN. R. INS § 4301.04(B). Under no circumstances can a producer place fiduciary funds in a person or business operating account. The producer may: • Retain commission income or other funds in the premium trust account to advance premiums, establish reserves for paying return commissions, etc. • Retain a portion of their unearned commissions in the premium trust account to avoid being short in the event of a policy cancellation. N.H. CODE ADMIN. R. INS § 4301.05(A)-(B).	Any agent, solicitor, or broker who: • Embezzles, fraudulently converts, or appropriates to his own use; • With intent to embezzle, takes, secretes, or otherwise disposes of; or • Fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies any such premium or return premium contrary to the instructions or without the consent of the insurance company will be deemed guilty of embezzlement and will be punished accordingly, irrespective of whether or not the agent or broker has, or claims to have, any commission or other interest in the receipts. N.H. REV. STAT. § 402:53. Any person who knowingly violates any statute, rule, regulation, or order of the Commissioner may—upon hearing—be subject to such suspension or revocation of certificate of authority or license or administrative fine not to exceed	*Recordkeeping*. Producers must keep an accurate record of all fiduciary funds. The following records must be maintained at all times by the producer: • Periodic statements of account supplied by the back for all premium trust accounts. • Records of all deposits made into each premium trust account. • Cancelled checks drawn on, or records of withdrawal of funds from, such premium trust accounts. • An accounts receivable listing or similar record. N.H. CODE ADMIN. R. INS § 4301.08. *Signature Cards*. A producer must maintain a premium trust account signature card that notes that "This is an insurance premium trust account maintained under the provisions of New Hampshire Chapter Ins 4300." N.H. CODE ADMIN. R. INS § 4301.04(E). *Account Designation*. Checks drawn on the premium trust account must display a notice "Premium Trust Account New Hampshire." N.H. CODE ADMIN. R. INS § 4301.04(F).

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		Note, however, that cash premium payments may not be deposited into the producer's personal account in order to draw a personal check in the amount of the net premium payment to the insurer (i.e., the use of personal checks to transmit fiduciary funds is prohibited in any situation as it results in commingling the fiduciary funds with the producer's personal funds). N.H. CODE ADMIN. R. INS § 4301.05(C).	$2,500 per violation. N.H. REV. STAT. § 400-A:15(III).	
New Jersey	All premium funds must be held by a producer in a fiduciary capacity. N.J. ADMIN. CODE § 11:17C-2.1(A).	In general, all premium funds must be segregated and not in any manner commingled with any other funds of the producer. N.J. ADMIN. CODE § 11:17C-2.1(A). A producer must establish and maintain a trust account into which will be deposited cash, checks, and other instruments payable to the producer under the following circumstances: • When a producer holds any premiums for more than 5 business days before remitting the premiums to an insurer or other producer. • When a producer deposits any collected premiums into a financial institution account or other investment—or otherwise uses the premiums—even though the	The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty (or any combination thereof) for improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business. N.J. STAT. ANN. § 17:22A-40.	*Account Designation*. The account must be designated a "Trust Account" on the bank records and those words must be displayed on the face of the checks on that account. N.J. ADMIN. CODE § 11:17C-2.3(B). *Interest-Bearing Account*. A producer may place trust account funds in interest-bearing or income-producing assets and retain the interest or income, provided the nature of the account has been previously disclosed to the principal and the producer has secured from the principal a written authorization for the investment of the money and the retention of any earnings thereon. N.J. ADMIN. CODE § 11:17C-2.3(F). *Recordkeeping*. Each producer must issue a receipt for each premium for any payment, premium deposit, or

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		premiums are remitted within 5 business days. N.J. ADMIN. CODE § 11:17C-2.3(A). A producer may also deposit non-premium monies received for soliciting, negotiating, effecting, procuring, renewing, etc. policies (e.g., service fees, policy fees, late charges, inspection fees, and surplus lines premium taxes) into the trust account. N.J. ADMIN. CODE § 11:17C-2.3(D). A producer must maintain such a trust account in one or more financial institutions either: • Located within the state and subject to the jurisdiction of New Jersey courts. • Located outside the state, if the financial institution confirms that it will consent to the jurisdiction of New Jersey courts. N.J. ADMIN. CODE § 11:17C-2.3(E). For more information on the permissible disbursements, *see* N.J. ADMIN. CODE § 11:17C-2.3(G).		installment payment. N.J. ADMIN. CODE § 11:17C-2.4. Each producer must maintain a register of all monies received, deposited, disbursed, or withdrawn in connection with an insurance transaction. The minimum information required to be maintained in the register includes: • The date monies are received, deposited, disbursed or withdrawn. • The amount of money received, deposited, disbursed or withdrawn. • An itemized record of the allocation of the funds. • The name of the insured, producer, insurer, or other account to or from whom monies are disbursed or received. • The policy number or binder number. • The receipt number, when available. • The method of payment, such as, cash, check, money order or draft, or credit card, charge card, debit card or direct account deduction. N.J. ADMIN. CODE §§ 11:17C-2.5(B); 11:17C-2.6. *Monthly Reconciliation*. Each producer must prepare and maintain a monthly reconciliation of the trust

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
				account. N.J. ADMIN. CODE § 11:17C-2.5(G).
New Mexico	All funds of others received by a producer are received and held by the person in a fiduciary capacity. N.M. STAT. § 59A-12-22(A).	Subject to the terms of any agreement between a producer and the principal, each producer who does not make immediate remittance of funds to the insurer or other person must elect and follow either of the following methods: • Remit received premiums (less applicable commissions) and return premiums to the insurer or other person entitled thereto within 15 days of receipt. • Establish and maintain in a commercial bank or other established financial institution one or more accounts—separate from accounts holding general persona, firm, or corporate funds—and deposit and retain therein all such premiums (net of applicable commissions) and return premiums. Funds belonging to more than one principal, however, may be deposited and held in the same account so long as the amount held for each principal is readily ascertainable. N.M. STAT. § 59A-12-22(B).	Any producer who diverts or appropriates funds to their own use or takes or secretes with intent to embezzle—all without consent of the person entitled to the funds—is guilty of larceny by embezzlement. N.M. STAT. § 59A-12-22(A). The Superintendent may place on probation, suspend, revoke, or refuse to issue or renew a producer's license for improperly withholding, misappropriating or converting any money or properties received in the course of doing insurance business. N.M. STAT. § 59A-11-14.	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		Moreover, the producer may commingle with such fiduciary funds: • Any additional funds as the producer deems prudent for advancing premiums, reserves for payment of return commissions, or for other contingencies arising in the business of receiving and transmitting premiums or return premiums. N.M. STAT. § 59A-12-22(B). • An unlimited amount of funds of a particular principal who has in writing in advance expressly waived the segregation requirements. N.M. STAT. § 59A-12-22(C).		
New York	Every agent and broker must be responsible in a fiduciary capacity for all funds received or collected as an agent or broker. N.Y. INS. LAW. § 2120; 11 NYCCR § 20.3.	An insurance agent or broker must not, without the express consent of their principal, mingle any such funds with their own funds or with funds held in any other capacity. N.Y. INS. L. § 2120; 11 NYCCR § 20.3. Rather, an agent or broker who does not make immediate remittance to insurers and insureds of such funds must deposit them in one or more appropriately identified accounts in a bank duly authorized to do business in New York. 11 NYCCR § 20.3. This does not require any such agent or broker to maintain a	The Superintendent may revoke, suspend or refuse to renew the license of any agent if, after notice and hearing, he determines that the producer has improperly withheld, misappropriated or converted any monies or properties received in the course of business. In lieu of revoking or suspending the license, the Superintendent may require the licensee to pay a sum not exceeding $500 for each offense. N.Y. INS. LAW § 2127.	*Interest-Bearing Account*. An agent or broker may transfer to their operating account interest, if the principals have consented in writing. 11 NYCCR § 20.3. *Recordkeeping*. Every agent or broker must maintain books, records, and accounts in connection with the agent's/broker's business to record: • All funds received or collected in a fiduciary capacity for insurers or members of the public. • All disbursements out of funds held in a fiduciary capacity.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		separate bank deposit for the funds of each principal if, and so long as, the funds so held for each such principal are reasonably ascertainable from the books of account and records of such agent or broker. N.Y. INS. LAW. § 2120.		• All other funds received, collected, and disbursed in connection with the business. 11 NYCCR § 20.4.
North Carolina	NC imposes standard of reasonable care and skill. *See, e.g.*, *Wiles v. Mullinax*, 148 S.E.2d 229 (1967).		The Commissioner may place on probation, suspend, revoke, or refuse to renew a producer's license for improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business. N.C. GEN. STAT. § 58-33-46.	
North Dakota			The Commissioner may suspend, revoke, place on probation, or refuse to continue/issue any license if—after notice and hearing—the Commissioner finds that the producer improperly withheld, misappropriated, or converted to their own use any moneys belonging to policyholders received in the course of their insurance business. N.D. CENT. CODE § 26.1-26-42.	
Ohio			The Superintendent may suspend, revoke, or refuse to issue/renew an agent's license; assess a civil penalty; or impose any other	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
			sanctions authorized under Ohio law for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business. OHIO REV. CODE § 3905.14.	
Oklahoma	All premiums belonging to insurers and all unearned premiums belonging to insureds received by a property and casualty producer must be treated by the producer in a fiduciary capacity. OKLA. STAT. TIT. 36 §1435.13A(A).	No property and casualty producer is permitted to commingle premiums belonging to insurers and returned premiums belonging to insureds with their personal funds (or with any other funds), except those directly connected with the producer's insurance business. OKLA. STAT. TIT 36 §1435.13A(C).	A property and casualty producer convicted of knowingly misappropriating or knowingly converting to their own use or wrongfully withholding fiduciary moneys in the amount of $150 or less is guilty of a misdemeanor punishable by a fine not to exceed $1,000 or by imprisonment in the county jail for at most one year (or by both). A producer with a second or subsequent conviction for knowingly misappropriating or knowingly converting to their own use or wrongfully withholding fiduciary moneys in the amount of $150 or less (or who is convicted of knowingly misappropriating or knowingly converting to their own use or wrongfully withholding premiums in an amount in excess of $150) is guilty of a felony punishable by a fine of at most $5,000 or by imprisonment in the custody of the Department of Corrections for a term of at most 5	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
			years (or by both). OKLA. STAT.TIT 36 §1435.13A(E).	
Oregon	All premium funds received by a resident producer must be accounted for and maintained in a trust account separate from all other business and personal funds. OR. REV. STAT. § 744.083(1); OR. ADMIN. R. 836-074-0020(7).	In general, a resident producer may not commingle or otherwise combine premiums with any other moneys. Such commingling may occur, however, with any additional funds the producer deems prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies that may arise in the course of receiving and transmitting premium or return premium funds. OR. REV. STAT. § 744.083(2); OR. ADMIN. R. 836-074-0035. A producer that is a firm or corporation may use one premium fund trust account for the funds received by an affiliated person operating under its license. OR. ADMIN. R. 836-074-0050. A producer must maintain each trust account in one or more of the following forms: • A checking account, demand account, savings account, or other account in a state or national bank or savings bank. • An account that solely invests in certain instruments (e.g., U.S. bonds and treasury certificates.	The Director may place a producer on probation; suspend, revoke, or refuse to issue or renew their license; or take other actions authorized by Oregon insurance law for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business. OR. REV. STAT. § 744.074.	*Account Designation*. Each check or other instrument drawn on a trust account must clearly identify that it is drawn on an insurance premium funds account. OR. ADMIN. R. 836-074-0020(4). *Interest-Bearing Account*. A trust account may be interest bearing. OR. ADMIN. R. 836-074-0020(6). Unless a producer and the insurer agree to the contrary, interest earned in a premium funds account may be retained by the producer and: • Used to offset bank charges. • Removed to the operating account of the producer. OR. ADMIN. R. 836-074-0040. *Recordkeeping*. A producer must establish and maintain records and an appropriate accounting system for all premium funds. A producer may use any accounting system that effectively isolates each trust account from any operating accounts. OR. ADMIN. R. 836-074-0045. Additionally, a producer must make each trust account accessible to the Director for purposes of examination and audit. OR. ADMIN. R. 836-074-0020.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		• An account in an open-end investment company that meets certain requirements. OR. ADMIN. R. 836-074-0020(2).		
Pennsylvania	A producer must be responsible in a fiduciary capacity for all funds received or collected as a producer. TIT 40. PA. CONS. STAT § 310.96.	A producer must not mingle the funds received with the producer's own funds (or with funds held by the producer in any other capacity). TIT 40. PA. CONS STAT. § 310.96. Nothing, however, requires the producer to maintain a separate bank deposit for the funds of each insurance entity if, and so long as, the funds of each insurance entity are reasonably ascertainable from the books of account and records of the producer. TIT 40. PA. CONS. STAT. § 310.96.	No producer may sell, solicit, or negotiate a contract of insurance and fraudulently appropriate or convert to their own use money or substitutes for money received by them as a producer contrary to the instructions or without the consent of the insurer. TIT 40. PA. CONS. STAT. TIT. § 310.42.	
Rhode Island	The portion of all premiums/moneys that a producer collects from a policyholder or an insurance company must be held by the producer in a fiduciary capacity. TIT 27. R.I. GEN. LAWS. § 2.4-19.	Nothing requires a producer to maintain separate bank accounts or deposits for funds held in a fiduciary capacity if, and so long as, these funds held are reasonably ascertainable from the books of account and records of the producer. TIT 27. R.I. GEN. LAWS. § 2.4-19.	Any producer who converts or misappropriates such funds will be held guilty of theft and punishable for theft as provided by law. TIT 27. R.I. GEN. LAWS. § 2.4-19. The Insurance Commissioner may place on probation, suspend, revoke, or refuse to issue/renew a producer's license—or may levy an administrative penalty—for improperly withholding, misappropriating, or converting any monies or properties received	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
			in the course of doing insurance business. TIT 27. R.I. GEN. LAWS. § 2.4-14.	
South Carolina	Any excess of return premium paid by the insurer to a producer over the amount of unpaid balance and accrued service charges must be held by the producer in their fiduciary capacity. S.C. CODE. ANN. § 38-43-450.		The Director may place on probation, revoke, or suspend a producer's license (or refuse to issue/reissue a license) for improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business. S.C. CODE ANN. § 38-43-130. A producer who fails to turn over or satisfactorily account for all collections of the insurer is guilty of a misdemeanor and must, upon conviction, be fined in the discretion of the court or imprisoned not more than two years. S.C. CODE ANN. § 38-43-240.	
South Dakota	All premiums or return premiums received by a producer will be trust funds received by the producer in a fiduciary capacity. S.D. CODIFIED LAWS. § 58-30-88.	If a producer establishes a separate account in which to deposit trust funds in order to avoid a commingling of trust funds with the producer's own funds, the producer may deposit and commingle in such account all such funds, provided the amount of such funds held for each respective person is reasonably ascertainable from the records and accounts of	Any agent who unlawfully diverts or appropriates trust funds to their own use will—upon conviction—be guilty of theft and be punished as provided under state law. S.D. CODIFIED LAWS. § 58-30-89.	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		the producer. S.D. CODIFIED LAWS. § 58-30-90.		
Tennessee	Any money that a producer receives for soliciting, negotiating, or selling insurance must be held in a fiduciary capacity. TENN. CODE ANN. § 56-6-116.		The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license or may levy a civil penalty for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. TENN. CODE ANN. §§ 56-6-112, 56-6-116.	
Texas			An agent may not collect premiums or otherwise receive money and: • Embezzle, fraudulently convert, or appropriate to the person's own use the money. • With intent to embezzle and contrary to the instructions of/without the consent of the insurer, take, secrete, or otherwise dispose of or fraudulently withhold, appropriate, lend, invest, or otherwise use or apply and money received by the person in their capacity as an agent. A person who commits either offense will be punished as if they stole the money. TEXAS INS. CODE § 4005.153.	

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
			The Department may deny a license application or discipline an agent or broker if the Department determines that the person has misappropriated, converted to their own use, or illegally withheld money belonging to an insurer, an HMO, or an insured. TEXAS INS. CODE § 4005.101.	
Utah	A producer is a trustee for money that is paid to, received by, or collected by a producer for forwarding to insurers or to insureds (i.e., a producer owes to insureds and insurers the fiduciary duties of a trustee). UTAH CODE ANN. § 31A-23A-409(1)(A), (C).	Generally, a producer may not commingle trust funds with the producer's own money or many held in any other capacity. Utah Admin. Code R. § 590-170-4(3) (requiring fiduciary accounts to be separate and distinct from operating and personal accounts). This does not, however, apply to amounts necessary to pay bank charges and money paid by insureds and belonging to the producer as a fee or commission. UTAH CODE ANN. § 31A-23A-409(1)(B). Money held as a fiduciary must be deposited in: • A federally insured trust account in a depository institution which has an office in Utah, has federal deposit insurance, and is authorized by its primary regulator to engage in the trust business. • Some other account approved by the Commissioner providing safety comparable	A producer who unlawfully diverts or appropriates any portion of the money held in trust to their own use is guilty of theft. UTAH CODE ANN. § 31A-23A-409(6).	*Interest-Bearing Accounts.* A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the producer, so long as the producer otherwise complies with Utah law and with the contract with the insurer. UTAH CODE ANN. § 31A-23A-409(4). *Recordkeeping*. All records relating to a trust account must be identified with the wording "trust account" or with words of similar import (e.g., "premium fund account"). UTAH ADMIN. CODE R. § 590-170-4(1). Additionally, an accounts receivable report and an accounts payable report must be maintained and reconciled monthly. Utah ADMIN. CODE R. § 590-170-7(2)-(3). Finally, adequate records must be maintained to establish ownership of all funds in the trust account (i.e., from whom they were received and

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		to federally-insured trust accounts. UTAH CODE ANN. § 31A-23A-409(2). For more information on establishing and maintaining the trust account, *see* UTAH ADMIN. CODE R. § 590-170-4, 590-170-5.		for whom they are held). UTAH ADMIN. CODE R. § 590-170-7(4). *Insurer Access*. An insurer may access trust funds, provided the producer takes reasonable steps to assure that trust funds are protected from misappropriation by limiting access to the trust funds. UTAH ADMIN. CODE R. § 590-170-6.
Vermont	Every third-party recipient (including an agent or broker) that accepts funds intended to offset insurance policy obligations of the remitter is a fiduciary for those funds. VT. ADMIN. CODE § 4-3-26:5.	Every third-party recipient that does not immediately remit the funds to the insured or insurer must deposit the funds in a trust account (i.e., a financial account established by a third-party recipient that is separate and distinct from the operating and/or personal accounts of the third-party recipient). A third party-recipient may, however, transfer to its operating account: • Interest earned on trust accounts. • Commissions on insurance policies. • Monies paid into the account in the form of voluntary deposits. This applies so long as the balance remaining in the trust account is greater than or equal to the aggregate of all fiduciary funds	It is an unfair method of competition/an unfair or deceptive act or practice in the business of insurance if an agent or broker fails to act as a fiduciary in regard to premiums, return premiums, or other sums of money. VT. STAT. TIT. 8, § 4724. The Commissioner may suspend, revoke, or refuse to continue or renew any license if—after notice to the producer and the insurer represented—the Commissioner finds that the producer improperly withheld, misappropriated, or converted to their own use any monies belonging to policyholders, insurers, beneficiaries, or others received in the course of their insurance business. VT. STAT. TIT. 8, § 4804.	*Recordkeeping*. Every third-party recipient must maintain a ledger or system showing all receipts and disbursements for each trust account that identify at a minimum: • The source of all deposits. • The nature of all disbursements. • The date and amount of each transaction. • The name of the insured, policy applicant, or insurer for whom the transaction was made. VT. ADMIN. CODE § 4-3-26:6.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		received but not remitted. VT. ADMIN. CODE § 4-3-26:5.		
Virginia	All premiums, return premiums, and other funds received in any manner by an agent must be held in a fiduciary capacity. VA. CODE ANN. § 38.2-1813.	All funds held in a fiduciary capacity must be maintained in a fiduciary account separate from all other business and personal funds. VA. CODE ANN. § 38.2-1813. Funds deposited into the separate fiduciary account may not be commingled with other funds except for the purpose of advancing premiums, establishing reserves for the payment of return premiums, etc. VA. CODE ANN. § 38.2-1813. A separate account does not need to be maintained, however, if an agent has a written contractual relationship with an insurer that includes provisions regarding remittance of funds. Such funds must be held separately from any personal or nonbusiness funds and must be reasonably ascertainable from the books of accounts and records of the agent. VA. CODE ANN. § 38.2-1813.	The Commissioner may, in addition to/in lieu of a $5,000 civil penalty, place on probation, suspend, revoke, or refuse to issue or renew any person's license for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. VA. CODE ANN. § 38.2-1831, 38.2-218.	*Recordkeeping*. The agent must maintain an accurate record and itemization of the funds deposited into this account. VA. CODE ANN. § 38.2-1813.
Washington	All funds representing premiums or return premiums received by a producer must be received in the	All funds representing premiums or return premiums received by a producer must be accounted for and maintained in a separate account from all other business and	Each willful violation will constitute a misdemeanor. WASH. REV. CODE. §§ 48.17.480, 48.17.600.	*Premium reporting*. A producer must report to the insurer the exact amount of consideration charged as premium for the contract *and such amount must likewise be shown in the

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
	producer's fiduciary capacity. WASH. REV. CODE. § 48.17.480(2), 48.17.600.	personal funds. WASH. REV. CODE. § 48.17.600; WASH. ADMIN. CODE § 284-12-080. The separate account funds must be: • Deposited in a checking account, demand account, or savings account in a bank, national banking association, savings and loan association, etc. • Invested in U.S. government bonds and treasury certificates or other obligations for which the full faith and credit of the U.S. government is pledged for payment of principal and interest. WASH. ADMIN. CODE § 284-12-080. A producer must not commingle or otherwise combine premiums with any other moneys, except that a producer may commingling with premium funds any additional funds as the producer may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, etc. WASH. REV. CODE. § 48.17.600. Moreover, a producer may commingle Washington premiums and return premiums with those produced in other states, provided adequate records are maintained to	A producer who unlawfully diverts or appropriates funds received in a fiduciary capacity to their own use is guilty of theft. WASH. REV. CODE. § 48.17.480(4).	contract and in the records of the producer). WASH. REV. CODE. § 48.17.480(1). *Interest-Bearing Account*. All funds representing premiums and return premiums received on Washington business by a producer in their fiduciary capacity must be deposited in one or more identifiable separate accounts which may be interest bearing. WASH. ADMIN. CODE § 284-12-080. Absent an agreement between the producer and the insured/insurer to the contrary, interest earned on the deposits held in the separate account may be retained by the producer and used to offset bank charges, establish reserves, pay return premiums, etc. WASH. ADMIN. CODE § 284-12-080. *Recordkeeping*. A producer must establish and maintain accounting records for all premiums that: • Effectively isolate the separate premium account from any operating accounts. • Identify all Washington business from that of other states. • Provide an audit trail to identify underlying documents. • Provide the origin and disposition of all premium transactions. Wash. Admin. Code § 284-12-080.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		identify the amounts for Washington business. WASH. ADMIN. CODE § 284-12-080. For more information on permissible deposits, *see* WASH. ADMIN. CODE § 284-12-080.		
West Virginia			The Commissioner may place in probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty or any combination of actions for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. W. Va. Code Ann. § 33-12-24.	
Wisconsin				
Wyoming	Any premiums or return premiums received by a producer are trust funds received in a fiduciary capacity. WYO. STAT. § 26-9-229(A).	A producer must establish a separate trust account for premiums and must not use the account for/commingle it with their own funds. WYO. STAT. § 26-9-229(B). The trust account must: • Be established and maintained in a qualified financial institution located within the state.	A producer who unlawfully diverts or appropriates funds to their own use is guilty of embezzlement and—upon conviction—will be punished as provided by state law. WYO. STAT. § 26-9-229(C).	*Account Designation.* The checks, check register, and bank records for the account must be clearly identified with the wording "Premium Trust Account." TIT 44-46. WYO. ADMIN. CODE § 0002. *Bank Charges or Fees*. No bank charges or fees will be paid from funds deposited in the trust account (i.e., such charges or fees must be paid from the producer's own funds). TIT 44-46. WYO. ADMIN. CODE § 0002.

State	Fiduciary Capacity	Segregated Account	Penalties	Miscellaneous
		• Be separate and distinct from the producer's operating and personal accounts. • Have a separate account number, separate check register, and different checks. TIT 44-46. WYO. ADMIN. CODE §.0002 . A producer may establish the trust account with an initial deposit of the producer's own funds only if such deposit is required to open the account or to avoid bank charges/fees for maintaining the account. Once the first deposit of premiums or return premiums is made into the account, the producer must either immediately withdraw such funds or maintain all such funds within the account and separately account for them. TIT 44-46. WYO. ADMIN. CODE § 0002.		*Interest-Bearing Account*. No producer can establish an interest-bearing trust account. TIT 44-46. WYO. ADMIN. CODE § 0002. *Recordkeeping*. All producers who maintain and use a trust account must maintain, at their principal place of business, accurate accounting records kept on a consistent basis that—at a minimum—show: • Any written authorization from the insured to retain credit balances, income, or funds placed in the premium trust account (or from an insurer to retain income on funds placed in the premium trust account). • The existence and the source of any fees and commissions in the trust account. • That a generally accepted form of reconciliation has been completed on a monthly basis showing transfers into and out of the account. TIT 44-46. WYO. ADMIN. CODE § 0002.