

**NEW DISCLOSURE REGARDING  
FDIC INSURANCE COVERAGE OF DEPOSIT FUNDS**

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The unstable economy and resultant string of recent bank closures has caused many prospective purchasers and tenants to wonder whether deposit funds, advance rents and other sums held in connection with a real estate purchase or lease (“Deposit Funds”) are sufficiently protected. This article and the new disclosure form referred to herein are designed to assist the licensee in providing buyers, sellers, landlords and tenants with the necessary tools and information to confirm the security of the Deposit Funds and other funds, and to place the responsibility for such confirmation squarely on their shoulders.

The Federal Deposit Insurance Corporation (FDIC) is an independent agency of the United States government that protects depositors against the loss of their deposit funds if an FDIC-insured bank or savings association fails. Funds held in checking and savings accounts, money market deposit accounts and certificates of deposit (CDs) are FDIC-insured. Funds invested in stocks, bonds, mutual fund shares, annuities, municipal securities and life insurance policies are not FDIC-insured, even if purchased from an FDIC-insured bank or savings association.

In an effort to maintain consumer confidence in the marketplace and banking system, the Emergency Economic Stabilization Act of 2008 was passed on October 3, 2008. The Act (more infamously known as the bailout legislation) temporarily increases the basic limit on FDIC deposit insurance coverage to from \$100,000.00 to \$250,000.00 per depositor, per FDIC-insured bank or savings association. All deposits owned by and titled in one person or entity at a particular FDIC-insured bank or savings association are combined, and the total deposit funds at that bank or savings association are insured up to \$250,000.00. Because the FDIC provides separate coverage for deposits held in different account ownership categories, a thorough analysis of all accounts held at the same bank or savings association is required in order to fully understand the insurance coverage for deposits. The \$250,000.00 limit is subject to change after December 31, 2009 (the old \$100,000.00 limit will likely be re-established).

Deposit Funds are typically held by the attorney, title company or broker acting as escrow agent in FDIC-insured banks or savings associations (attorneys are required to do so by the Florida Bar Rules of Professional Conduct); however, licensees should strongly encourage their buyers, sellers, landlords and tenants to learn the identity of the bank or savings association where the Deposit Funds are being held, and confirm that said bank or savings association is in fact FDIC-insured.

Deposit Funds held at an FDIC-insured bank or savings association are for insurability purposes deemed to be held directly in an account owned by and titled in the buyer or tenant, and are combined with any and all other buyer or tenant deposit accounts held by the institution holding the Deposit Funds. Therefore, if a buyer or tenant holds any other deposits with the institution holding the Deposit Funds, the licensee should urge the buyer or tenant to immediately contact that institution to confirm that all buyer or tenant funds, including the Deposit Funds, are fully FDIC insured.

Licensees should not involve themselves in the FDIC insurance coverage analysis. The disclosure form which follows this article, entitled “Disclosure Regarding FDIC Coverage of Deposit Funds”, should be furnished by licensees to buyers, sellers, landlords and tenants not later than the time of execution of the subject sales contract, lease or other rental agreement, and should be signed and dated by the applicable parties to evidence receipt thereof. The form is designed to place responsibility for determining that Deposit Funds and other deposit funds are fully FDIC insured upon the parties to a transaction, and not on the licensees or escrow agent. A copy of the fully signed disclosure form should be retained in the licensee records.

In the disclosure, buyers, tenants, sellers and landlords wishing to learn more about FDIC insurance coverage are encouraged to visit the FDIC website at [www.myfdicinsurance.gov](http://www.myfdicinsurance.gov) or [www.fdic.gov](http://www.fdic.gov), or call the FDIC at 1-877-ASK-FDIC (275-3342) for additional information. Those parties may verify whether a particular financial institution is FDIC-insured by using the on-line “Bank Find” service on the above websites. Buyers and tenants or further advised to calculate the insurance coverage applicable to the Deposit Funds and all other deposit funds by using the FDIC on-line Electronic Deposit Insurance Estimator (EDIE) at [www2.fdic.gov/edie](http://www2.fdic.gov/edie).