



South Carolina
Department of Labor, Licensing and Regulation



Real Estate Commission

110 Centerview Drive
Post Office Box 11847
Columbia, SC 29211-1847
Phone: (803) 896-4400
FAX: (803) 896-4427

Henry D. McMaster
Governor

Emily H. Farr
Director

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Abandoned (Not Disputed) Trust Funds

The Commission is aware that there are cases of abandoned trust funds (also called “escrow funds) retained in brokerage trust accounts. This document is written to educate licensees and brokerages about their legal duties with regard to such abandoned trust funds.

S.C. Code §27-18-130(A) says:

Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within five years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

(emphasis added). Intangible property, for purposes of this statute, is defined as: “monies, checks, drafts, deposits, interest, dividends, and income... credit balances, customer overpayments, security deposits, refunds, credit memos,... and unidentified remittances.” S.C. Code §27-18-20(10)(a) and (b). Because trust funds for real estate transactions are typically monies, deposits, security deposits, and other payments are held in a fiduciary capacity for the benefit of another person related to a real estate transaction, they qualify as intangible property subject to S.C. Code §27-18-130(A).

As stated in S.C. Code §27-18-130(A), such intangible property and any income or increment derived from the intangible property (e.g. accrued interest) is presumed abandoned, if, during the five year period after those trust funds become payable or distributable, **the owner** of the funds fails to do one of the following:

- 1) increase or decrease the principle;
- 2) accept payment of principal or income from the trust funds;
- 3) communicated concerning the intangible property; or
- 4) indicate an interest in the trust funds as evidenced by a memorandum or other record on file prepared by the fiduciary.

In the case of trust funds, where the owner of those trust funds fails to do one of the 4 items listed immediately above for a period of five years after the trust funds become payable or distributable, those trust funds are presumed abandoned and, as a result, must be reported and

ultimately remitted to the South Carolina State Treasurer’s Office as unclaimed property. S.C. Code §27-18-40. There is a processing for making this report and remission. This process is:

- 1) For any abandoned trust funds valued at \$50 or more, the brokerage must send the owner of the funds a due diligence letter to the last known address for the owner. S.C. Code §27-18-180(E). This due diligence letter must be sent **at least 120 days** prior to filing the report discussed in #2, below. An example of such a due diligence letter can be found here: https://southcarolina.findyourunclaimedproperty.com/docs/SC_Sample_Due_Diligence.pdf. If the abandoned trust funds are valued at less than \$50, a due diligence letter does not have to be sent.

- 2) If the abandoned trust funds are not claimed from the brokerage by the owner following issuance of the due diligence letter, then the brokerage must file a report regarding the abandoned trust funds with the South Carolina State Treasurer’s Office. That report must be filed by no later than **November 1st** of each year. The abandoned trust funds to be reported on the November 1st report must be for those that became 5 years or more abandoned during the time period of July 1st through June 30th of the immediate proceeding year. For example, a November 1, 2026 report covers trust funds presumed abandoned for 5 of more years during the time period of July 1, 2025 through June 30, 2026. The report may be filed online at: <https://southcarolina.findyourunclaimedproperty.com/app/submit-a-report>.

- 3) After the report in #2 has been filed, the abandoned trust funds must be remitted to the South Carolina State Treasurer’s Office by no later than **November 1st** of each year for each item reported. That remittance may be made online at: <https://southcarolina.findyourunclaimedproperty.com/app/holder/payment/search>

Even if a brokerage is not holding any reportable property (abandoned trust funds), a negative report must still be filed with the Treasurer’s Office each year by no later than **November 1st**. Negative reports may be filed online at that same report address listed above.

So, a typical timeline for reporting of abandoned trust funds would look like the following for a report due on November 1, 2026:

June 30, 2021 or earlier	The owner of the funds must have failed to do one of the following things <u>on or after</u> July 1, 2021: <ol style="list-style-type: none"> 1) increase or decrease the principle; 2) accept payment of principal or income from the trust funds; 3) communicated concerning the intangible property; or 4) indicate an interest in the trust funds as evidenced by a memorandum or other record on file prepared by the fiduciary 	
July 1, 2025 – June 30, 2026	Unclaimed property that is presumed abandoned for 5 years or more is accumulated for the reporting date of November 1, 2026. Brokerages may wish to create a list of these items as the year progresses to make filing the report and remission of the funds more seamless.	Note: The REC recommends sending due diligence letters to the owner of the abandoned trust funds as soon after the 5 year mark as possible to facilitate the next steps in this process.

July 4, 2026	All due diligence letters must have been mailed for all unclaimed property to be reported on November 1, 2026.	Note: For each day the brokerage wants to file the unclaimed property report earlier than November 1, 2026, this deadline must be backed up 1 day.
November 1, 2026	Unclaimed Property report due to the SC State Treasurer’s Office.	
November 1, 2026	All funds reported on unclaimed property report remitted to the SC State Treasurer’s Office.	

Abandoned trust funds will generally be classified as one of the following types of property for purposes of this report:

- AC06 – Security Deposit
- TR03 – Fund Held in Fiduciary Capacity
- TR04 – Escrow Accounts

A complete list of property types for purposes of this report may be found at: <https://southcarolina.findyourunclaimedproperty.com/docs/REPORTING-CODES.pdf>.

Following submission of the report and remittance to the South Carolina State Treasurer’s Office, the brokerage must retain the records regarding completion of steps 1-3, above, for a period of at least ten years after the last step was completed. S.C. Code §27-18-320. Because this process involves trust funds, however, the Commission recommends that the brokerage maintain such records in perpetuity.

Additional information regarding the unclaimed property program administered by the South Carolina State Treasurer’s Office may be located here: <https://treasurer.sc.gov/what-we-do/for-businesses/unclaimed-property-reporting/>.

Finally, the Commission understands this process may be new or an unknown process to brokerages and understands that brokerages may have abandoned trust funds that are significantly more than five years abandoned. The good news is that the South Carolina State Treasurer’s Office has a voluntary disclosure program for getting up-to-date on such reports without including any penalties. Additional information about the voluntary disclosure program may be located at: <https://southcarolina.findyourunclaimedproperty.com/app/disclosure-program>.

Disclaimer: This guidance document is not intended as legal advice. The Commission is providing this guidance document to educate licensees on this area of the law with practical, everyday examples. This guidance document is only a high-level overview and may not take into consideration all the intricacies that may be present in a real-life event.