



John H. Rust, Jr.  
Commissioner of Accounts

COMMONWEALTH OF VIRGINIA  
CIRCUIT COURT OF FAIRFAX COUNTY  
OFFICE OF THE COMMISSIONER OF ACCOUNTS  
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Joseph A. Barsanti  
Deputy Commissioner

## INTERIM FIDUCIARY COMPENSATION SCHEDULE FORECLOSURE TRUSTEES

§ 55-59.4 of the Virginia Code allows a “reasonable commission” to a fiduciary for services rendered in the sale of real property under a deed of trust. There is no specific definition of “reasonable compensation.” The Commissioner, in the absence of unusual circumstances, will typically allow a fee based upon the following:

1. A fee based upon the foreclosure sales price in accordance with the following schedule:

First \$200,000.00	5%
Next \$150,000.00	4%
Next \$150,000.00	3%
Balance over \$500,000.00	2%
2. Fiduciary compensation may be forfeited if a proper account is not timely filed. Virginia Code § 64.2-1309.
3. Special Rules
  - a. If the deed of trust clearly sets out compensation in a specific dollar amount or a specific percentage that the fiduciary is to receive, the deed of trust controls, and the fiduciary is entitled to the amount set out.
  - b. If the deed of trust is silent as to the fiduciary’s compensation or sets out that such compensation shall be reasonable, the guidelines set out herein apply.
  - c. Where all parties affected by the amount of compensation are (i) competent to contract (ii) understand the issues involved (i.e., can give “informed consent”) and (iii) agree in writing as to the amount of the compensation to be paid, then the Commissioner will honor the agreement.
  - d. If the fiduciary employs an attorney or accountant to perform duties that should be performed by the fiduciary, the fees of those persons should be deducted from the compensation due the fiduciary. Note that this does not apply to reasonable fees paid to attorneys for litigation services. The reasonable expense of such services will be allowed in addition to the fiduciary fee.

- e. If there are co-fiduciaries, generally, one fee will be divided equally among them. The co-fiduciaries may agree among themselves on a different division. If there is a dispute concerning the division of the fee, the Commissioner may hold a hearing to resolve the dispute.
- f. The Commissioner may increase or decrease the otherwise allowable compensation in exceptional circumstances. Factors to be considered in determining the compensation include the character of the work, the difficulties encountered, the time and expertise required, the responsibilities assumed, the risks incurred and the results obtained.
- g. Any party in interest may object to the Commissioner's determination of reasonable compensation to a fiduciary for services rendered in the sale of real property under a deed of trust by filing exceptions to such determination with the Circuit Court pursuant to § 64.2-1212 of the Virginia Code
- h. If the fiduciary has any questions about the allowable compensation after examining these guidelines, the fiduciary should consult with the Commissioner before taking any fee.
- i. Nothing in these guidelines is intended to alter any statute concerning fiduciary compensation.
- j. The Circuit Court shall conduct a review of this interim fiduciary compensation schedule after one year from the approval hereof to determine whether to continue, adjust or change such schedule.

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**Authorized and approved pursuant to  
§ 64.2-1208 of the Virginia Code, as amended.**