

# HOUSE BILL 222

N1

9lr1221

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By: **Delegate Holmes**

Introduced and read first time: January 23, 2019

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Real Property – Residential Real Estate Transactions – Escrow Agents**

3 FOR the purpose of requiring an escrow agent to enter into a written agreement with the  
4 purchaser and seller of certain residential real estate ~~before~~ when the escrow agent  
5 ~~may agree to~~ hold trust money in escrow for the residential real estate transaction;  
6 requiring a written agreement an escrow agent enters into with the purchaser and  
7 seller of real estate under certain circumstances to contain certain information;  
8 defining certain terms; providing for the construction and application of this Act; and  
9 generally relating to escrow agents and residential real estate transactions.

10 BY adding to

11 Article – Real Property

12 Section 10–802

13 Annotated Code of Maryland

14 (2015 Replacement Volume and 2018 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Real Property**

18 **10–802.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           (2) “BENEFICIAL OWNER” MEANS A PERSON OTHER THAN THE  
2 OWNER OF THE TRUST MONEY FOR WHOSE BENEFIT AN ESCROW AGENT IS  
3 ENTRUSTED TO HOLD TRUST MONEY.

4           (3) “ESCROW AGENT” MEANS A PERSON ENGAGED IN THE BUSINESS  
5 OF RECEIVING ESCROWS FOR DEPOSIT OR DELIVERY.

6           (4) “TRUST MONEY” MEANS A DEPOSIT, ~~PAYMENT, OR OTHER MONEY~~  
7 AN ADDITIONAL DEPOSIT, OR A DOWN PAYMENT MADE BY A PURCHASER THAT A  
8 PERSON THE PURCHASER ENTRUSTS TO AN ESCROW AGENT TO HOLD FOR:

9           (I) THE BENEFIT OF THE OWNER OR BENEFICIAL OWNER OF  
10 THE TRUST MONEY; AND

11           (II) A PURPOSE THAT RELATES TO ~~A REAL ESTATE~~  
12 ~~TRANSACTION INVOLVING~~ THE PURCHASE OR SALE OF RESIDENTIAL REAL ESTATE  
13 IN THE STATE.

14           (B) (1) THIS SECTION APPLIES ONLY TO:

15           (I) REAL PROPERTY IMPROVED BY FOUR OR FEWER  
16 SINGLE-FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE  
17 INTENDED FOR HUMAN HABITATION; AND

18           (II) UNIMPROVED REAL PROPERTY ZONED FOR RESIDENTIAL  
19 USE BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH  
20 THE REAL PROPERTY IS LOCATED.

21           (2) THIS SECTION DOES NOT APPLY TO:

22           (I) ~~A PERSON DOING BUSINESS UNDER A STATE OR FEDERAL~~  
23 ~~LAW THAT RELATES TO BANKS~~ BANKS, TRUST COMPANIES, BUILDING AND LOAN  
24 ~~ASSOCIATIONS, OR SAVINGS AND LOAN ASSOCIATIONS, SAVINGS BANKS, OR CREDIT~~  
25 UNIONS;

26           (II) A HOMEBUILDER REGISTERED UNDER TITLE 4.5 OF THE  
27 BUSINESS REGULATION ARTICLE WHO IS ENGAGED IN THE INITIAL SALE OF  
28 RESIDENTIAL REAL ESTATE; OR

29           (III) A REAL ESTATE SALESPERSON, ASSOCIATE REAL ESTATE  
30 BROKER, OR REAL ESTATE BROKER LICENSED UNDER TITLE 17 OF THE BUSINESS  
31 OCCUPATIONS AND PROFESSIONS ARTICLE.

1           ~~(2) THIS SECTION APPLIES ONLY TO REAL PROPERTY IMPROVED BY~~  
2 ~~FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE DESIGNED~~  
3 ~~PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.~~

4           (c) (1) ~~BEFORE~~ WHEN AN ESCROW AGENT ~~MAY~~ AGREES TO HOLD TRUST  
5 MONEY IN ESCROW FOR A RESIDENTIAL REAL ESTATE TRANSACTION, THE ESCROW  
6 AGENT ~~MUST~~ SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE PURCHASER  
7 AND SELLER OF THE RESIDENTIAL REAL ESTATE.

8           (2) THE WRITTEN AGREEMENT UNDER THIS SUBSECTION MUST  
9 CONTAIN THE FOLLOWING INFORMATION:

10                   (i) THE AMOUNT OF THE TRUST MONEY ENTRUSTED TO THE  
11 ESCROW AGENT;

12                   (ii) THE DATE THE TRUST MONEY WAS ENTRUSTED TO THE  
13 ESCROW AGENT;

14                   (iii) THE RESPONSIBILITY OF THE ESCROW AGENT TO NOTIFY  
15 THE PURCHASER AND SELLER OF TRUST MONEY RETURNED DUE TO ~~INSUFFICIENT~~  
16 DISHONORED FUNDS;

17                   (iv) THE CONDITIONS UNDER WHICH THE ESCROW AGENT MAY  
18 RELEASE THE TRUST MONEY; AND

19                   (v) THE PROCESS TO ADDRESS DISPUTES OVER THE RELEASE  
20 OF THE TRUST MONEY.

21           (d) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN  
22 ESCROW AGENT FROM TRANSFERRING TRUST MONEY TO ANOTHER ESCROW AGENT  
23 IF THE PURCHASER OF THE RESIDENTIAL REAL ESTATE FOR WHICH THE TRUST  
24 MONEY IS HELD CHOOSES THE ESCROW AGENT TO WHOM THE TRUST MONEY IS  
25 TRANSFERRED.

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2019.