

HOUSE BILL 972

N1

1lr1774
CF 1lr2952

By: **Delegate C. Branch**

Introduced and read first time: February 5, 2021

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2021

CHAPTER _____

1 AN ACT concerning

2 **Real Estate – ~~Real Estate Brokerage Services – Prohibition~~ Workgroup to Study**
3 **Real Estate Trust Money Distribution**

4 FOR the purpose of ~~prohibiting a real estate broker from providing brokerage services~~
5 ~~relating to any new transaction involving certain property until certain trust money~~
6 ~~has been distributed in accordance with certain provisions of law, under certain~~
7 ~~circumstances~~; establishing the Workgroup to Study Real Estate Trust Money
8 Distribution; providing for the membership, composition, chair, and staffing of the
9 Workgroup; prohibiting a member of the Workgroup from receiving compensation,
10 but authorizing the reimbursement of certain expenses; requiring the Workgroup to
11 study and make recommendations regarding certain matters; requiring the
12 Workgroup to report its recommendations to certain committees of the General
13 Assembly on or before a certain date; providing for the termination of this Act; and
14 generally relating to real estate brokerage services and trust money.

15 ~~BY repealing and reenacting, without amendments,~~
16 ~~Article – Business Occupations and Professions~~
17 ~~Section 17-101(a) and (l) and 17-501~~
18 ~~Annotated Code of Maryland~~
19 ~~(2018 Replacement Volume and 2020 Supplement)~~

20 ~~BY repealing and reenacting, with amendments,~~
21 ~~Article – Business Occupations and Professions~~
22 ~~Section 17-505~~

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 ~~Annotated Code of Maryland~~
2 ~~(2018 Replacement Volume and 2020 Supplement)~~

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

5 ~~Article — Business Occupations and Professions~~

6 ~~17-101.~~

7 ~~(a) In this title the following words have the meanings indicated:~~

8 ~~(1) “Provide real estate brokerage services” means to engage in any of the~~
9 ~~following activities:~~

10 ~~(1) for consideration, providing any of the following services for another~~
11 ~~person:~~

12 ~~(i) selling, buying, exchanging, or leasing any real estate; or~~

13 ~~(ii) collecting rent for the use of any real estate;~~

14 ~~(2) for consideration, assisting another person to locate or obtain for~~
15 ~~purchase or lease any residential real estate;~~

16 ~~(3) engaging regularly in a business of dealing in real estate or leases or~~
17 ~~options on real estate;~~

18 ~~(4) engaging in a business the primary purpose of which is promoting the~~
19 ~~sale of real estate through a listing in a publication issued primarily for the promotion of~~
20 ~~real estate sales;~~

21 ~~(5) engaging in a business that subdivides land that is located in any state~~
22 ~~and sells the divided lots; or~~

23 ~~(6) for consideration, serving as a consultant regarding any activity set~~
24 ~~forth in items (1) through (5) of this subsection.~~

25 ~~17-501.~~

26 ~~(a) In this Part I of this subtitle the following words have the meanings indicated:~~

27 ~~(b) “Beneficial owner” means a person, other than the owner of the trust money,~~
28 ~~for whose benefit a real estate broker or, on behalf of a real estate broker, an associate real~~
29 ~~estate broker or a real estate salesperson is entrusted to hold trust money.~~

1 ~~(e) "Trust money" means a deposit, payment, or other money that a person~~
2 ~~entrusts to a real estate broker or, on behalf of a real estate broker, to an associate real~~
3 ~~estate broker or a real estate salesperson to hold for:~~

4 ~~(1) the benefit of the owner or beneficial owner of the trust money; and~~

5 ~~(2) a purpose that relates to a real estate transaction involving real estate~~
6 ~~in the State.~~

7 ~~17-505.~~

8 ~~(a) A real estate broker shall maintain trust money in an account authorized~~
9 ~~under this Part I of this subtitle until:~~

10 ~~(1) the real estate transaction for which the trust money was entrusted is~~
11 ~~consummated or terminated;~~

12 ~~(2) the real estate broker receives proper written instructions from the~~
13 ~~owner and beneficial owner directing withdrawal or other disposition of the trust money;~~

14 ~~(3) on an interpleader filed by the real estate broker, a court orders a~~
15 ~~different disposition; or~~

16 ~~(4) the owner or beneficial owner of the trust money fails to complete the~~
17 ~~real estate transaction for which the trust money was entrusted and the real estate broker,~~
18 ~~in the real estate broker's sole discretion, decides to distribute the trust money in~~
19 ~~accordance with subsection (b) of this section.~~

20 ~~(b) (1) Prior to distributing the trust money under subsection (a)(4) of this~~
21 ~~section, the real estate broker shall notify both the owner and the beneficial owner that the~~
22 ~~real estate broker intends to distribute the trust money to the person who, in the good faith~~
23 ~~opinion of the real estate broker, is entitled to receive the trust money in accordance with~~
24 ~~the terms of the real estate contract which established the trust.~~

25 ~~(2) The notice required under this subsection shall:~~

26 ~~(i) be in writing;~~

27 ~~(ii) state whether the trust money will be paid to the owner or~~
28 ~~beneficial owner; and~~

29 ~~(iii) disclose to the owner and the beneficial owner that:~~

30 ~~1. either party may prevent distribution of the trust money~~
31 ~~under subsection (a)(4) of this section by submitting a protest within 30 days from the date~~
32 ~~the notice was delivered or mailed by the real estate broker; and~~

~~2. If neither party submits a protest within 30 days from the date the notice was delivered or mailed by the real estate broker, the trust money will be distributed in accordance with the real estate broker's notice.~~

~~(3) The notice required under this subsection shall be:~~

~~(i) hand delivered to both the owner and beneficial owner; or~~

~~(ii) sent by certified mail, return receipt requested, and regular mail to both the owner and beneficial owner.~~

~~(4) (i) An owner or beneficial owner may protest the distribution of the trust money.~~

~~(ii) An owner or beneficial owner shall submit the protest to the real estate broker holding the trust money within 30 days from the date the notice required in paragraph (1) of this subsection was delivered or mailed by the real estate broker.~~

~~(iii) A protest shall be in writing and either:~~

~~1. hand delivered; or~~

~~2. sent by certified mail, return receipt requested, and regular mail.~~

~~(5) (i) If a written protest is received by the real estate broker, the real estate broker shall distribute the trust money in accordance with subsection (a)(1), (2), or (3) of this section.~~

~~(ii) If no written protest is received by the real estate broker holding the trust money, the real estate broker shall distribute the trust money in accordance with the terms of the notice as required in this section.~~

~~(e) When the duty of the real estate broker to maintain trust money in an account terminates, the real estate broker promptly shall account for all trust money.~~

~~(d) A real estate broker may invest trust money:~~

~~(1) as the owner and beneficial owner of the trust money instruct in writing; or~~

~~(2) as the real estate broker, owner, and beneficial owner of the trust money agree in writing.~~

~~(e) A real estate broker may not be liable to an owner or beneficial owner of the trust money for:~~

1 ~~(1) a good faith decision to distribute the trust money under subsection~~
2 ~~(a)(4) of this section; or~~

3 ~~(2) a decision not to distribute the trust money under subsection (a)(4) of~~
4 ~~this section.~~

5 ~~(f) An agreement under which a real estate broker is entrusted with the trust~~
6 ~~money shall contain a statement that the real estate broker may distribute the trust money~~
7 ~~in accordance with subsection (b) of this section if the owner or beneficial owner of the trust~~
8 ~~money fails to complete the real estate transaction for which the trust money was~~
9 ~~entrusted.~~

10 ~~(G) IF THE OWNER OR THE BENEFICIAL OWNER OF THE TRUST MONEY FAILS~~
11 ~~TO COMPLETE THE REAL ESTATE TRANSACTION FOR WHICH THE TRUST MONEY WAS~~
12 ~~ENTRUSTED, A REAL ESTATE BROKER MAY NOT PROVIDE BROKERAGE SERVICES~~
13 ~~RELATING TO ANY NEW TRANSACTION INVOLVING THE SAME PROPERTY UNTIL THE~~
14 ~~TRUST MONEY HAS BEEN DISTRIBUTED IN ACCORDANCE WITH THIS SECTION.~~

15 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
16 ~~October 1, 2021.~~

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That:

19 (a) There is a Workgroup to Study Real Estate Trust Money Distribution.

20 (b) The Workgroup consists of the following members, appointed by the Secretary
21 of Labor:

22 (1) one representative of the Maryland Department of Labor;

23 (2) one representative of the State Real Estate Commission;

24 (3) one representative of the Maryland Association of Realtors;

25 (4) one representative of the Maryland Land Title Association; and

26 (5) any other stakeholders that the Secretary deems appropriate.

27 (c) The Secretary of Labor shall designate the chair of the Workgroup.

28 (d) The Maryland Department of Labor shall provide staff for the Workgroup.

29 (e) A member of the Workgroup:

30 (1) may not receive compensation as a member of the Workgroup; but

1 (2) is entitled to reimbursement for expenses under the Standard State
2 Travel Regulations, as provided in the State budget.

3 (f) The Workgroup shall:

4 (1) study the issues presented in House Bill 972 of 2021, as introduced,
5 including the timely disposition of deposit money when a dispute arises between a seller
6 and a buyer; and

7 (2) make recommendations regarding any legislation needed to provide
8 more specificity about the way in which real estate trust money is distributed.

9 (g) On or before December 1, 2021, the Workgroup shall report its
10 recommendations, in accordance with § 2-1257 of the State Government Article, to the
11 Senate Education, Health, and Environmental Affairs Committee and the House Economic
12 Matters Committee.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2021. It shall remain effective for a period of 6 months and, at the end of December 31,
15 2021, this Act, with no further action required by the General Assembly, shall be abrogated
16 and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.