

HOUSE BILL 972

N1

1lr1774
CF 1lr2952

By: **Delegate C. Branch**

Introduced and read first time: February 5, 2021

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate – Real Estate Brokerage Services – Prohibition**

3 FOR the purpose of prohibiting a real estate broker from providing brokerage services
4 relating to any new transaction involving certain property until certain trust money
5 has been distributed in accordance with certain provisions of law, under certain
6 circumstances; and generally relating to real estate brokerage services and trust
7 money.

8 BY repealing and reenacting, without amendments,
9 Article – Business Occupations and Professions
10 Section 17–101(a) and (l) and 17–501
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2020 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Business Occupations and Professions
15 Section 17–505
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2020 Supplement)

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

20 **Article – Business Occupations and Professions**

21 17–101.

22 (a) In this title the following words have the meanings indicated.

23 (l) “Provide real estate brokerage services” means to engage in any of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 following activities:

2 (1) for consideration, providing any of the following services for another
3 person:

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

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

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

8 (3) engaging regularly in a business of dealing in real estate or leases or
9 options on real estate;

10 (4) engaging in a business the primary purpose of which is promoting the
11 sale of real estate through a listing in a publication issued primarily for the promotion of
12 real estate sales;

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

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

17 17-501.

18 (a) In this Part I of this subtitle the following words have the meanings indicated.

19 (b) "Beneficial owner" means a person, other than the owner of the trust money,
20 for whose benefit a real estate broker or, on behalf of a real estate broker, an associate real
21 estate broker or a real estate salesperson is entrusted to hold trust money.

22 (c) "Trust money" means a deposit, payment, or other money that a person
23 entrusts to a real estate broker or, on behalf of a real estate broker, to an associate real
24 estate broker or a real estate salesperson to hold for:

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

26 (2) a purpose that relates to a real estate transaction involving real estate
27 in the State.

28 17-505.

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

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

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

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

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

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

16 (2) The notice required under this subsection shall:

17 (i) be in writing;

18 (ii) state whether the trust money will be paid to the owner or
19 beneficial owner; and

20 (iii) disclose to the owner and the beneficial owner that:

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

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

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

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

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

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

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

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

5 1. hand delivered; or

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

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

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

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

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

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

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

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

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

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

27 (f) An agreement under which a real estate broker is entrusted with the trust
28 money shall contain a statement that the real estate broker may distribute the trust money
29 in accordance with subsection (b) of this section if the owner or beneficial owner of the trust
30 money fails to complete the real estate transaction for which the trust money was
31 entrusted.

32 **(G) IF THE OWNER OR THE BENEFICIAL OWNER OF THE TRUST MONEY FAILS**
33 **TO COMPLETE THE REAL ESTATE TRANSACTION FOR WHICH THE TRUST MONEY WAS**

1 ENTRUSTED, A REAL ESTATE BROKER MAY NOT PROVIDE BROKERAGE SERVICES
2 RELATING TO ANY NEW TRANSACTION INVOLVING THE SAME PROPERTY UNTIL THE
3 TRUST MONEY HAS BEEN DISTRIBUTED IN ACCORDANCE WITH THIS SECTION.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2021.