

HOUSE BILL 83

Unofficial Copy
C2

2001 Regular Session
1r0046

(PRE-FILED)

By: **Chairman, Economic Matters Committee (Departmental - Labor,
Licensing and Regulation)**

Requested: October 26, 2000

Introduced and read first time: January 10, 2001

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate Transactions - Distribution of Trust Money**

3 FOR the purpose of altering the circumstances under which a real estate broker may
4 distribute certain trust money; requiring a real estate broker to provide certain
5 notice to certain persons in a certain manner prior to the distribution of certain
6 trust money; authorizing certain persons to protest the distribution of the trust
7 money; providing that the real estate broker will not be liable for the
8 distribution under certain circumstances; and generally relating to the
9 distribution of trust money by real estate brokers.

10 BY repealing and reenacting, with amendments,
11 Article - Business Occupations and Professions
12 Section 17-505
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2000 Supplement)

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

17 **Article - Business Occupations and Professions**

18 17-505.

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

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

23 (2) the real estate broker receives proper written instructions from the
24 owner and beneficial owner directing withdrawal or other disposition of the trust
25 money; [or]

1 (3) on an interpleader filed by the real estate broker, a court orders a
2 different disposition; OR

3 (4) THE OWNER OR BENEFICIAL OWNER OF THE TRUST MONEY FAILS TO
4 COMPLETE THE REAL ESTATE TRANSACTION FOR WHICH THE TRUST MONEY WAS
5 ENTRUSTED.

6 (B) (1) PRIOR TO DISTRIBUTING THE TRUST MONEY UNDER SUBSECTION (A)(4)
7 OF THIS SECTION, THE REAL ESTATE BROKER SHALL NOTIFY BOTH THE OWNER AND
8 THE BENEFICIAL OWNER THAT THE REAL ESTATE BROKER INTENDS TO DISTRIBUTE
9 THE TRUST MONEY TO THE PERSON WHO, IN THE GOOD FAITH OPINION OF THE REAL
10 ESTATE BROKER, IS ENTITLED TO RECEIVE THE TRUST MONEY IN ACCORDANCE
11 WITH THE TERMS OF THE REAL ESTATE CONTRACT WHICH ESTABLISHED THE
12 TRUST.

13 (2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE IN
14 WRITING AND SHALL STATE WHETHER THE TRUST MONEY WILL BE PAID TO THE
15 OWNER OR BENEFICIAL OWNER.

16 (3) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE:

17 (I) HAND DELIVERED TO BOTH THE OWNER AND BENEFICIAL
18 OWNER; OR

19 (II) SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND
20 REGULAR MAIL TO BOTH THE OWNER AND BENEFICIAL OWNER.

21 (4) (I) AN OWNER OR BENEFICIAL OWNER MAY PROTEST THE
22 DISTRIBUTION OF THE TRUST MONEY.

23 (II) AN OWNER OR BENEFICIAL OWNER SHALL SUBMIT THE
24 PROTEST TO THE REAL ESTATE BROKER HOLDING THE TRUST MONEY WITHIN 30
25 DAYS FROM THE DATE THE NOTICE REQUIRED IN PARAGRAPH (1) OF THIS
26 SUBSECTION WAS DELIVERED OR MAILED BY THE REAL ESTATE BROKER.

27 (III) A PROTEST SHALL BE IN WRITING AND EITHER:

28 1. HAND DELIVERED; OR

29 2. SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
30 AND REGULAR MAIL.

31 (5) (I) IF A WRITTEN PROTEST IS RECEIVED BY THE REAL ESTATE
32 BROKER, THE REAL ESTATE BROKER SHALL DISTRIBUTE THE TRUST MONEY IN
33 ACCORDANCE WITH SUBSECTION (A)(1), (2), OR (3) OF THIS SECTION.

34 (II) IF NO WRITTEN PROTEST IS RECEIVED BY THE REAL ESTATE
35 BROKER HOLDING THE TRUST MONEY, THE REAL ESTATE BROKER SHALL
36 DISTRIBUTE THE TRUST MONEY IN ACCORDANCE WITH THE TERMS OF THE NOTICE
37 AS REQUIRED IN THIS SECTION.

1 [(b)] (C) When the duty of the real estate broker to maintain trust money in
2 an account terminates, the real estate broker promptly shall account for all trust
3 money.

4 [(c)] (D) A real estate broker may invest trust money:

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

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

9 (E) A REAL ESTATE BROKER WHO HAS IN GOOD FAITH DISTRIBUTED THE
10 TRUST MONEY UNDER SUBSECTION (A)(4) OF THIS SECTION MAY NOT BE LIABLE TO
11 AN OWNER OR BENEFICIAL OWNER FOR THE DISTRIBUTION OF THE TRUST MONEY.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2001.