

HOUSE BILL 83

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C2

2001 Regular Session  
11r0046

(PRE-FILED)

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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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 2001

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CHAPTER \_\_\_\_\_

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 the agreement under which a real  
5 estate broker is entrusted with trust money to include a certain statement;  
6 requiring a real estate broker to provide certain notice to certain persons in a  
7 certain manner prior to the distribution of certain trust money; authorizing  
8 certain persons to protest the distribution of the trust money; providing that the  
9 real estate broker will not be liable for the distribution under certain  
10 circumstances; and generally relating to the distribution of trust money by real  
11 estate brokers.

12 BY repealing and reenacting, with amendments,  
13 Article - Business Occupations and Professions  
14 Section 17-505  
15 Annotated Code of Maryland  
16 (2000 Replacement Volume and 2000 Supplement)

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

1 **Article - Business Occupations and Professions**

2 17-505.

3 (a) A real estate broker shall maintain trust money in an account authorized  
4 under this Part I of this subtitle until:5 (1) the real estate transaction for which the trust money was entrusted  
6 is consummated or terminated;7 (2) the real estate broker receives proper written instructions from the  
8 owner and beneficial owner directing withdrawal or other disposition of the trust  
9 money; [or]10 (3) on an interpleader filed by the real estate broker, a court orders a  
11 different disposition; OR12 (4) THE OWNER OR BENEFICIAL OWNER OF THE TRUST MONEY FAILS TO  
13 COMPLETE THE REAL ESTATE TRANSACTION FOR WHICH THE TRUST MONEY WAS  
14 ENTRUSTED.15 (B) (1) PRIOR TO DISTRIBUTING THE TRUST MONEY UNDER SUBSECTION (A)(4)  
16 OF THIS SECTION, THE REAL ESTATE BROKER SHALL NOTIFY BOTH THE OWNER AND  
17 THE BENEFICIAL OWNER THAT THE REAL ESTATE BROKER INTENDS TO DISTRIBUTE  
18 THE TRUST MONEY TO THE PERSON WHO, IN THE GOOD FAITH OPINION OF THE REAL  
19 ESTATE BROKER, IS ENTITLED TO RECEIVE THE TRUST MONEY IN ACCORDANCE  
20 WITH THE TERMS OF THE REAL ESTATE CONTRACT WHICH ESTABLISHED THE  
21 TRUST.

22 (2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL:

23 (I) BE IN WRITING ~~AND SHALL:~~24 (II) STATE WHETHER THE TRUST MONEY WILL BE PAID TO THE  
25 OWNER OR BENEFICIAL OWNER; ~~AND~~26 (III) DISCLOSE TO THE OWNER AND THE BENEFICIAL OWNER THAT:27 1. EITHER PARTY MAY PREVENT DISTRIBUTION OF THE  
28 TRUST MONEY UNDER SUBSECTION (A)(4) OF THIS SECTION BY SUBMITTING A  
29 PROTEST WITHIN 30 DAYS FROM THE DATE THE NOTICE WAS DELIVERED OR MAILED  
30 BY THE REAL ESTATE BROKER; AND31 2. IF NEITHER PARTY SUBMITS A PROTEST WITHIN 30 DAYS  
32 FROM THE DATE THE NOTICE WAS DELIVERED OR MAILED BY THE REAL ESTATE  
33 BROKER, THE TRUST MONEY WILL BE DISTRIBUTED IN ACCORDANCE WITH THE REAL  
34 ESTATE BROKER'S NOTICE.

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

1 (I) HAND DELIVERED TO BOTH THE OWNER AND BENEFICIAL  
2 OWNER; OR

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

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

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

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

12 1. HAND DELIVERED; OR

13 2. SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,  
14 AND REGULAR MAIL.

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

18 (II) IF NO WRITTEN PROTEST IS RECEIVED BY THE REAL ESTATE  
19 BROKER HOLDING THE TRUST MONEY, THE REAL ESTATE BROKER SHALL  
20 DISTRIBUTE THE TRUST MONEY IN ACCORDANCE WITH THE TERMS OF THE NOTICE  
21 AS REQUIRED IN THIS SECTION.

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

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

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

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

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

33 (F) AN AGREEMENT UNDER WHICH A REAL ESTATE BROKER IS ENTRUSTED  
34 WITH THE TRUST MONEY SHALL CONTAIN A STATEMENT THAT THE REAL ESTATE  
35 BROKER MAY DISTRIBUTE THE TRUST MONEY IN ACCORDANCE WITH SUBSECTION  
36 (B) OF THIS SECTION IF THE OWNER OR BENEFICIAL OWNER OF THE TRUST MONEY

1 FAILS TO COMPLETE THE REAL ESTATE TRANSACTION FOR WHICH THE TRUST  
2 MONEY WAS ENTRUSTED.

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