HB 83

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 83 Chairman ECM (Dept)
(Departmental – Labor, Licensing, and Regulation)
Economic Matters Economic and Environmental Affairs

Real Estate Transactions - Distribution of Trust Money

This departmental bill allows a real estate broker to distribute trust money after an owner or beneficial owner fails to complete the transaction for which the money was entrusted.

Prior to distributing any trust money, the broker must notify by hand or by certified mail the owner and/or beneficial owner of the impending distribution per the terms of the real estate contract.

The owner and/or beneficial owner has 30 days to deliver by hand or certified mail any protest to the distribution. If there is no protest, then the broker shall distribute the trust money. If there is a protest, then the broker shall distribute the trust money in accordance with any written instructions from the owner or beneficial owner or in accordance with a court order.

Fiscal Summary

State Effect: None. The bill pertains exclusively to private sector activities and would not directly affect State finances.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: A real estate broker may distribute trust money upon the satisfaction of one of three conditions: (1) the real estate transaction is consummated or terminated; (2) the broker receives written instructions from the owner or beneficial owner; or (3) a court order directing the distribution is issued.

Background: As a symbol of good faith a prospective real estate buyer will put a certain amount of money, usually a small percentage of the total transaction price, into a trust account that includes the buyer as an account co-owner. This money is to be applied to the sales price when the transaction is completed. However, standard real estate contracts do not always address how these funds are to be disbursed if the buyer cancels the transaction.

Since these funds may not be disbursed without approval of both parties, it becomes a convenient way for a disgruntled seller to exact some revenge on a buyer who has backed out of a deal. Other circumstances such as an out-of-state seller or a proxy seller with limited power of attorney can make it difficult to disburse the trust money as well. As a result, these funds often go undistributed, creating paperwork and administrative requirements for the broker and, in the aggregate, creating a significant pool of un-claimed money.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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b/jr

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