
By: **Senator Dyson**

Introduced and read first time: February 4, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate Brokers - Trust Money - Distribution and Liability**

3 FOR the purpose of requiring a real estate broker to maintain trust money in a
4 certain account until certain actions occur including the failure of the owner or
5 beneficial owner of trust money to complete the real estate transaction for which
6 the trust money was entrusted and the real estate broker, in the real estate
7 broker's sole discretion, decides to distribute the trust money according to
8 certain provisions of law; prohibiting a real estate broker from being held civilly
9 liable to the owner or beneficial owner of trust money for a good faith decision to
10 distribute or not to distribute certain trust money under a certain provision of
11 law; and generally relating to the distribution of trust money by real estate
12 brokers and the liability of real estate brokers for the distribution of trust
13 money.

14 BY repealing and reenacting, with amendments,
15 Article - Business Occupations and Professions
16 Section 17-505
17 Annotated Code of Maryland
18 (2000 Replacement Volume and 2003 Supplement)

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

21 **Article - Business Occupations and Professions**

22 17-505.

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

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

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

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

6 (4) the owner or beneficial owner of the trust money fails to complete the
7 real estate transaction for which the trust money was entrusted AND THE REAL
8 ESTATE BROKER, IN THE REAL ESTATE BROKER'S SOLE DISCRETION, DECIDES TO
9 DISTRIBUTE THE TRUST MONEY IN ACCORDANCE WITH SUBSECTION (B) OF THIS
10 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
13 that the real estate broker intends to distribute the trust money to the person who, in
14 the good faith opinion of the real estate broker, is entitled to receive the trust money
15 in accordance with 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
23 date 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
26 be 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
30 mail to both the owner and beneficial owner.

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

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

1 (iii) A protest shall be in writing and either:
2 1. hand delivered; or
3 2. sent by certified mail, return receipt requested, and
4 regular mail.
5 (5) (i) If a written protest is received by the real estate broker, the real
6 estate broker shall distribute the trust money in accordance with subsection (a)(1),
7 (2), or (3) of this section.

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

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

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

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

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

18 (e) A real estate broker [who has in good faith distributed the trust money
19 under subsection (a)(4) of this section] may not be liable to an owner or beneficial
20 owner [for the distribution] of the trust money FOR:

21 (1) A GOOD FAITH DECISION TO DISTRIBUTE THE TRUST MONEY UNDER
22 SUBSECTION (A)(4) OF THIS SECTION; OR

23 (2) A GOOD FAITH DECISION NOT TO DISTRIBUTE THE TRUST MONEY
24 UNDER SUBSECTION (A)(4) OF THIS SECTION.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2004.