

Chapter 451

(House Bill 379)

AN ACT concerning

Real Property – Deposits on New Homes – Escrow Accounts

FOR the purpose of clarifying the circumstances under which a vendor or builder of a new single-family residential unit is required to deposit certain money in a certain escrow account or obtain and maintain a certain surety bond or irrevocable letter of credit; clarifying the circumstances under which the vendor's or builder's obligation to maintain an escrow account, surety bond, or letter of credit terminates; authorizing the vendor or builder to make withdrawals from an escrow account under certain circumstances; providing that a banking institution or national banking association at which a certain escrow account is maintained is not responsible for a withdrawal from the escrow account under certain circumstances; establishing that any sum of money received by a vendor or builder in connection with the sale and purchase of a new single-family residential unit shall be held in trust for the benefit of the purchaser; establishing that certain payments shall be consistent with ~~the trust~~ a certain trust obligation; defining certain terms; and generally relating to deposits on new homes.

BY repealing and reenacting, with amendments,
 Article – Real Property
 Section 10–301 and 10–301.1
 Annotated Code of Maryland
 (2010 Replacement Volume and 2010 Supplement)

BY adding to
 Article – Real Property
 Section 10–301.1
 Annotated Code of Maryland
 (2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

10–301.

(a) If, in connection with the sale and purchase of a new single-family residential unit [which], **THE CONSTRUCTION OF WHICH HAS NOT BEGUN OR, IF**

BEGUN, is not completed at the time of contracting the sale, the vendor or builder obligates the purchaser to pay and the vendor or builder receives any sum of money before completion of the unit and grant of the realty to the purchaser, the builder or vendor shall:

(1) Deposit or hold the sum in an escrow account segregated from all other funds of the vendor or builder to assure the return of the sum to the purchaser in the event the purchaser becomes entitled to a return of the sum;

(2) Obtain and maintain a corporate surety bond in the form and in the amounts set forth in § 10-302 of this subtitle, conditioned on the return of the sum to the purchaser in the event the purchaser becomes entitled to the return of the money; or

(3) Obtain and maintain an irrevocable letter of credit issued by a Maryland bank in the form and in the amounts set forth in § 10-303 of this subtitle.

(b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** vendor or builder shall maintain the escrow account, surety bond, or irrevocable letter of credit until the happening of the earlier of:

[(1) (I) The granting of a deed to the property on which [the] **A COMPLETED** residential unit is located to the purchaser;

[(2) (II) The return of the sum of money to the purchaser; or

[(3) (III) The forfeiture of the sum by the purchaser, under the terms of the contract of sale relating to the purchase of the residential unit.

(2) **THE VENDOR OR BUILDER MAY MAKE WITHDRAWALS FROM AN ESCROW ACCOUNT ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS SECTION THAT CONSISTS OF SUMS RECEIVED TO FINANCE THE CONSTRUCTION OF A RESIDENTIAL UNIT TO PAY, IN ACCORDANCE WITH A DRAW SCHEDULE AGREED TO BY THE PURCHASER IN WRITING, ~~IN ACCORDANCE WITH A DRAW SCHEDULE AGREED TO BY THE PURCHASER,~~ DOCUMENTED CLAIMS OF PERSONS WHO HAVE FURNISHED LABOR OR MATERIAL FOR THE CONSTRUCTION OF THE RESIDENTIAL UNIT.**

(c) (1) (i) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(ii) “BANKING INSTITUTION” HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(III) "NATIONAL BANKING ASSOCIATION" HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(2) A BANKING INSTITUTION OR NATIONAL BANKING ASSOCIATION AT WHICH AN ESCROW ACCOUNT ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS SECTION IS MAINTAINED IS NOT RESPONSIBLE FOR A WITHDRAWAL FROM THE ESCROW ACCOUNT MADE BY THE VENDOR OR BUILDER.

10-301.1.

(A) ANY SUM OF MONEY RECEIVED BY A VENDOR OR BUILDER IN CONNECTION WITH THE SALE AND PURCHASE OF A NEW SINGLE-FAMILY RESIDENTIAL UNIT SHALL BE HELD IN TRUST FOR THE BENEFIT OF THE PURCHASER.

(B) ANY PAYMENTS MADE FOR LABOR OR MATERIAL IN CONNECTION WITH THE CONSTRUCTION OF THE RESIDENTIAL UNIT SHALL BE CONSISTENT WITH THE TRUST OBLIGATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

[10-301.1.] 10-301.2.

(a) A vendor or builder may deposit trust moneys in:

- (1) A noninterest bearing checking account;**
- (2) One or more savings accounts; or**

(3) Any combination of accounts in any bank or savings and loan association authorized by federal or State law to do business in the State.

(b) Trust moneys in the hands of the vendor or builder may be invested in any other investment vehicle specified by the client or beneficial owner or as they and the licensee may agree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2011.

Approved by the Governor, May 19, 2011.