

## Chapter 349

**(House Bill 222)**

AN ACT concerning

**Real Property – Residential Real Estate Transactions – Escrow Agents**

FOR the purpose of requiring an escrow agent to enter into a written agreement with the purchaser and seller of certain residential real estate ~~before~~ when the escrow agent ~~may~~ agrees to hold trust money in escrow for the residential real estate transaction; requiring a written agreement an escrow agent enters into with the purchaser and seller of real estate under certain circumstances to contain certain information; defining certain terms; providing for the construction and application of this Act; and generally relating to escrow agents and residential real estate transactions.

BY adding to

Article – Real Property

Section 10–802

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

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

**Article – Real Property****10–802.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BENEFICIAL OWNER” MEANS A PERSON OTHER THAN THE OWNER OF THE TRUST MONEY FOR WHOSE BENEFIT AN ESCROW AGENT IS ENTRUSTED TO HOLD TRUST MONEY.

(3) “ESCROW AGENT” MEANS A PERSON ENGAGED IN THE BUSINESS OF RECEIVING ESCROWS FOR DEPOSIT OR DELIVERY.

(4) “TRUST MONEY” MEANS A DEPOSIT, ~~PAYMENT, OR OTHER MONEY~~ AN ADDITIONAL DEPOSIT, OR A DOWN PAYMENT MADE BY A PURCHASER THAT A PERSON THE PURCHASER ENTRUSTS TO AN ESCROW AGENT TO HOLD FOR:

(I) THE BENEFIT OF THE OWNER OR BENEFICIAL OWNER OF THE TRUST MONEY; AND

(II) A PURPOSE THAT RELATES TO ~~A REAL ESTATE TRANSACTION INVOLVING~~ THE PURCHASE OR SALE OF RESIDENTIAL REAL ESTATE IN THE STATE.

(B) (1) THIS SECTION APPLIES ONLY TO:

(I) REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE-FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION; AND

(II) UNIMPROVED REAL PROPERTY ZONED FOR RESIDENTIAL USE BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE REAL PROPERTY IS LOCATED.

(2) THIS SECTION DOES NOT APPLY TO:

(I) ~~A PERSON DOING BUSINESS UNDER A STATE OR FEDERAL LAW THAT RELATES TO BANKS~~ BANKS, TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS, OR SAVINGS AND LOAN ASSOCIATIONS, SAVINGS BANKS, OR CREDIT UNIONS;

(II) A HOMEBUILDER REGISTERED UNDER TITLE 4.5 OF THE BUSINESS REGULATION ARTICLE WHO IS ENGAGED IN THE INITIAL SALE OF RESIDENTIAL REAL ESTATE; OR

(III) A REAL ESTATE SALESPERSON, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE BROKER LICENSED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

~~(2) THIS SECTION APPLIES ONLY TO REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE-FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.~~

(C) (1) ~~BEFORE~~ WHEN AN ESCROW AGENT MAY AGREES TO HOLD TRUST MONEY IN ESCROW FOR A RESIDENTIAL REAL ESTATE TRANSACTION, THE ESCROW AGENT ~~MUST~~ SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE PURCHASER AND SELLER OF THE RESIDENTIAL REAL ESTATE.

(2) THE WRITTEN AGREEMENT UNDER THIS SUBSECTION MUST CONTAIN THE FOLLOWING INFORMATION:

(I) THE AMOUNT OF THE TRUST MONEY ENTRUSTED TO THE ESCROW AGENT;

(II) THE DATE THE TRUST MONEY WAS ENTRUSTED TO THE ESCROW AGENT;

(III) THE RESPONSIBILITY OF THE ESCROW AGENT TO NOTIFY THE PURCHASER AND SELLER OF TRUST MONEY RETURNED DUE TO ~~INSUFFICIENT~~ DISHONORED FUNDS;

(IV) THE CONDITIONS UNDER WHICH THE ESCROW AGENT MAY RELEASE THE TRUST MONEY; AND

(V) THE PROCESS TO ADDRESS DISPUTES OVER THE RELEASE OF THE TRUST MONEY.

(D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN ESCROW AGENT FROM TRANSFERRING TRUST MONEY TO ANOTHER ESCROW AGENT IF THE PURCHASER OF THE RESIDENTIAL REAL ESTATE FOR WHICH THE TRUST MONEY IS HELD CHOOSES THE ESCROW AGENT TO WHOM THE TRUST MONEY IS TRANSFERRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.