

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 19 (Delegate Holmes)

Environment and Transportation

Judicial Proceedings

Residential Real Estate Transactions – Escrow Agents and Trust Money

This bill clarifies recently enacted requirements relating to the written agreements entered into when an escrow agent agrees to hold trust money for certain residential real estate transactions, primarily by altering statutory definitions.

Fiscal Summary

State Effect: The bill does not affect State government operations or finances.

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Escrow agent” means a person engaged in the business of residential real estate settlements who receives trust money. “Residential real estate” means (1) real property improved by four or fewer single-family dwellings units that are designed principally and are intended for home habitation and (2) unimproved real property zoned for residential use by the local zoning authority of the county or municipality in which the real property is located. “Trust money” means a deposit made by a purchaser in connection with a residential real estate sales transaction that the purchaser delivers to an escrow agent to hold for the benefit of the purchaser and seller. The bill eliminates a reference to “beneficial owner” in the modified definition of “trust money” and, thus, also eliminates the unnecessary definition of “beneficial owner.” The bill makes other stylistic and clarifying changes; for example, “entrust” is changed to “deliver” and the multiple forms of “deposit” are eliminated in favor of the one broad term.

Current Law: Chapter 349 of 2019 established requirements within the Real Property Article for an escrow agent to enter into a written agreement with the purchaser and seller of certain residential real estate when the escrow agent agrees to hold trust money in escrow for the transaction. “Escrow agent” means a person engaged in the business of receiving escrows for deposit. “Trust money” is a deposit, an additional deposit, or a down payment made by a purchaser that the purchaser entrusts to an escrow agent to hold for (1) the benefit of the owner or beneficial owner of the trust money and (2) a purpose that relates to the purchase or sale of residential real estate in the State. “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.

The written agreement must contain (1) the amount of the trust money entrusted to the agent; (2) the date the trust money was entrusted to the agent; (3) the responsibility of the agent to notify the purchaser and seller of trust money returned due to dishonored funds; (4) the conditions under which the escrow agent may release the trust money; and (5) the process to address disputes over the release of the trust money. An escrow agent is not prohibited 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.

These requirements apply to (1) real property improved by four or fewer single-family dwelling units that are designed principally and are intended for human habitation and (2) unimproved real property zoned for residential use by the local zoning authority of the county or municipality in which the real property is located. The requirements do not apply to (1) banks, trust companies, savings and loan associations, savings banks, or credit unions; (2) a home builder registered under specified provisions of the Business Regulation Article who is engaged in the initial sale of residential real estate; or (3) a real estate salesperson, associate real estate broker, or real estate broker licensed under specified provisions of the Business Occupations and Professions Article.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2021
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