



House Bill 1235 – Real Estate Brokerage Services and Termination of Residential Real Estate Contracts (The Anthony Moorman Act)

Position: Favorable

Maryland REALTORS® supports HB 1235 which changes the way earnest money deposits are returned to buyers when they cancel a real estate purchase.

The provisions of HB 1235 apply when a buyer cancels a real estate transaction through one of the contingencies listed in the contract. This can include: a bad inspection; a low appraisal that doesn't support the mortgage amount; failure to receive condo or HOA documents; and other factors. If the buyer properly exercises the contingency, the buyer should receive their deposit money back from the title company or real estate broker who is holding the funds in an escrow account.

The current process to return a buyer's deposit involves the seller signing a release form for the broker or title company to initiate the return of the funds. Unfortunately, many sellers choose not to sign the deposit money release even when the buyer is legally entitled to the money because they are upset about the transaction falling apart. When the seller fails to sign the release, the broker or title company is unable to act upon the deposit account. Almost all real estate companies in Maryland hold deposit money they have never been able to return to buyers because of this.

More importantly this leaves the buyers without access to the funds that they have saved to use in the transaction and prevents them from making an offer on another property. Without the seller's signature on the release, the buyer must go to court to recover their earnest money deposit. If the buyer only put down a couple thousand dollars, attorney and court costs will extinguish the funds.

HB 1235 flips this process so that when a buyer exercises one of the named contingencies in the bill, the holder of the deposit must return the money to the buyer within 30 days after being notified in writing by the buyer. If the seller feels they are owed the money as damages, they would be required to go to court to claim the money.

HB 1235 is the process currently used in Pennsylvania, that has eliminated much of the potential litigation between buyers and sellers given that buyers are almost exclusively the party exercising a contingency.

One of the biggest hurdles buyers face in today's market is saving enough cash to settle on a house. HB 1235 will help all buyers, but it will help these cash-strapped first-time buyers the most from having their deposit funds tied up for months and sometimes years.

The REALTORS® encourage a favorable report.