



Senate Bill 691– Real Property - Termination of Residential Real Estate Contracts - Contingency Clauses

Position: Support

Maryland REALTORS® supports SB 691, which clarifies Maryland law governing the return of escrow deposits. Namely, this would now allow an expedited return of deposit when a homebuyer properly exercises any contractual contingency.

In 2023, the General Assembly enacted SB 651 to create an expedited process for returning deposits when certain contingencies were invoked. Nearly all residential real estate contracts contain contingencies—conditions such as inspections, appraisals, or other required events that must occur before a contract becomes binding. Prior to the enactment of SB 651, a seller could impede the return of the buyer’s deposit by not signing the required release form. This left disputed funds in the escrow account for years at a time.

Financing contingencies were excluded from the original legislation because they can be more complex than other contingencies. Unlike inspection or appraisal provisions, financing contingencies often involve third-party lenders, underwriting timelines, and detailed documentation. At the time, there was concern that including financing contingencies in the expedited process could create unintended complications, so the General Assembly took a measured approach to ensure the new framework would function effectively.

In the years since enactment, the expedited return process has provided clarity, efficiency, and fairness for parties exercising contractual contingencies, without creating administrative or legal difficulties. Based on that experience, expanding the process to include financing contingencies is now a prudent and well-supported next step.

The bill also clarifies the mediation process when a seller contests release of the deposit. Under current law, ambiguity exists if a seller elects mediation but fails to participate, leaving buyers in limbo and unable to access their funds. SB 691 provides needed clarity so mediation cannot be used to delay the return of escrow money.

These two updates will strengthen consumer protections while preserving contractual rights. For these reasons, Maryland REALTORS® requests your favorable report on SB 691.

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