



House Bill 972 – Real Estate – Real Estate Brokerage Services - Prohibition

Position: Oppose

The Maryland REALTORS® opposes HB 972 which would prohibit a seller from remarketing their property when a dispute over the deposit money arises. The REALTORS® appreciate the concern over this issue and our discussions with the sponsor about possible alternatives.

HB 972 would prevent a home seller from relisting a property when a dispute with a current buyer results and the seller has not returned the deposit. Deposit money, also called earnest money, is typically offered in a transaction to demonstrate a buyer's commitment to buy the property. If a buyer decides to exercise a contingency in the contract and not move forward with the sale, the buyer is legally owed the deposit money back. However, if the buyer does not move forward with the transaction and is not exercising a legal contingency under the contract, the seller is legally owed the deposit money. If a seller is prohibited from relisting the property, there really is no reason for a deposit on the property because most sellers will never be in a position to "wait out" the resolution of the deposit money before relisting their property. The REALTORS® understand that buyers also face this problem if a recalcitrant seller is trying to delay release of the deposit money.

In the past, the REALTORS® have supported changes to encourage a quicker release of the money, including changes to the 30-day letter which allows the broker holding the money to release it to the appropriate party as long as one of the party's does not object. If a party does object, the parties must resolve their differences before the money can be released. Additionally, some deposits are not held by the real estate broker but by an attorney or title company and the REALTORS® supported changes in law to require, in those situations, an escrow agreement in which the seller and buyer agree to a process for release of the money.

To protect themselves in the transaction, the buyer currently has options including not offering a deposit or offering a smaller deposit amount. If the buyer chooses that course, the buyer may be better protected from a possible escrow money dispute but potentially risks the seller not accepting their offer if a similar offer is on the table with a larger deposit.

While the current legal process over return of disputed deposits is not perfect, the REALTORS® are concerned that HB 972 will make any future deposit money moot and unenforceable. For these reasons, the REALTORS® recommend an unfavorable report.

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