
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2630 Session of 2006

INTRODUCED BY GANNON, CIVERA, NAILOR, BELFANTI, BOYD, GODSHALL,
BUXTON, MUSTIO, CLYMER, CALTAGIRONE, CAPPELLI, STABACK,
CRAHALLA, BEBKO-JONES, HERSHEY, DeWEESE, MICOZZIE, WRIGHT,
LEH, MAJOR, SCAVELLO, MAITLAND, GOOD, GRELL, SEMMEL, DALLY,
RUBLEY, KOTIK, PICKETT, GEORGE, MARKOSEK, STURLA, ARGALL,
BENNINGHOFF, FAIRCHILD, ADOLPH, BARRAR, KILLION, FORCIER,
R. STEVENSON AND CORNELL, APRIL 26, 2006

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 26, 2006

AN ACT

1 Amending the act of February 19, 1980 (P.L.15, No.9), entitled
2 "An act establishing the State Real Estate Commission and
3 providing for the licensing of real estate brokers and
4 salesmen," further providing for prohibited acts.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 604(a)(5) of the act of February 19, 1980
8 (P.L.15, No.9), known as the Real Estate Licensing and
9 Registration Act, amended June 29, 1990 (P.L.246, No.58), is
10 amended to read:

11 Section 604. Prohibited acts.

12 (a) The commission may upon its own motion, and shall
13 promptly upon the verified complaint in writing of any person
14 setting forth a complaint under this section, ascertain the
15 facts and, if warranted, hold a hearing for the suspension or
16 revocation of a license or registration certificate or for the

1 imposition of fines not exceeding \$1,000, or both. The
2 commission shall have power to refuse a license or registration
3 certificate for cause or to suspend or revoke a license or
4 registration certificate or to levy fines up to \$1,000, or both,
5 where the said license has been obtained by false
6 representation, or by fraudulent act or conduct, or where a
7 licensee or registrant, in performing or attempting to perform
8 any of the acts mentioned herein, is found guilty of:

9 * * *

10 (5) Failure to comply with the following requirements:

11 (i) ~~[all]~~ (A) All deposits or other moneys
12 accepted by every person, holding a real estate
13 broker license under the provisions of this act,
14 shall be retained by such real estate broker pending:

15 (I) consummation of the transaction
16 involved; [or]

17 (II) termination of the transaction
18 involved[, and] under circumstances where there
19 is either a prior agreement as to disposition of
20 the deposit or other moneys or no dispute as to
21 entitlement to the deposit or other moneys;

22 (III) receipt of instructions at any time
23 from all of the parties in interest to release
24 some or all of the deposit or other moneys; or

25 (IV) an order of court specifying
26 disposition of the deposit or other moneys
27 becoming final and not subject to appeal.

28 (B) The deposit or other moneys shall be
29 accounted for in the full amount thereof at the time
30 of the consummation [or], termination[;] or release.

1 (ii) [every] Every salesperson and associate broker
2 promptly on receipt by him of a deposit or other moneys
3 on any transaction in which he is engaged on behalf of
4 his broker-employer, shall pay over the deposit to the
5 broker[;].

6 (iii) [a] A broker shall not commingle the money or
7 other property of his principal with his own[;].

8 (iv) [every] Every broker shall immediately deposit
9 such moneys, of whatever kind or nature, belonging to
10 others, in a separate custodial or trust fund account
11 maintained by the broker with some bank or recognized
12 depository until the [transaction involved is consummated
13 or terminated,] moneys are paid or released as provided
14 in subparagraph (i). at which time the broker shall
15 account for the full amount received. Under no
16 circumstances shall a broker permit any advance payment
17 of funds belonging to others to be deposited in the
18 broker's business or personal account, or to be
19 commingled with any funds he may have on deposit[;].

20 (v) [every] Every broker shall keep records of all
21 funds deposited therein, which records shall indicate
22 clearly the date and from whom he received money, the
23 date deposited, the dates of withdrawals, and other
24 pertinent information concerning the transaction, and
25 shall show clearly for whose account the money is
26 deposited and to whom the money belongs. All such records
27 and funds shall be subject to inspection by the
28 commission. Such separate custodial or trust fund account
29 shall designate the broker, as trustee, and such account
30 must provide for withdrawal of funds without previous

1 notice. All such records shall be available to the
2 commission, or its representatives, immediately after
3 proper demand or after written notice given, or upon
4 written notice given to the depository[;].

5 (vi) [a] A broker is not required to hold in escrow
6 rents that he receives for property management for a
7 lessor. A broker shall deposit rents received into a
8 rental management account that is separate from the
9 broker's escrow account and general business accounts[;
10 or].

11 (vii) [a] A broker shall be permitted to deposit
12 moneys into his escrow account to cover service charges
13 to this account assessed by the banking institution.

14 * * *

15 Section 2. This act shall take effect in 60 days.