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Worthwhile Legal News and Commentary

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Client Alert: Maryland Real Estate Commission Activity

17 May 2021

Various bulletins and notices from the Maryland Real Estate Commission serve as important reminders:

Real Estate Agents Not to be Paid by Title Company or Others – Must be Paid Through the Brokerage.

Payment of real estate commissions to agents or associate brokers may not be from the settlement company's account. Instead, payments of commissions need to be paid through the real estate broker. Specifically, the Maryland Real Estate Broker's Act, Title 17-322(b)(21) provides:

Subject to the hearing provisions of §17–324 of this subtitle, the Commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee: for real estate brokerage services provided by an associate real estate broker or a real estate salesperson, accepts a commission or other valuable consideration from any person other than a real estate broker with whom the associate broker or the salesperson is affiliated.

Real Estate Commission Licensees may not Require Use of a Specific Lender or Settlement Company

Occasionally, real estate agents and other licensees have sought to "require" the purchaser to use a particular lender or settlement company. Although a Seller may offer owner-financing as a condition of settlement, the general rule is that, during the course of a sale of a single-family dwelling, a license may not require to buyer to engage a particular settlement company, title attorney, or lender. Violations of Maryland Real Estate Broker's Act, Section 17-607 can result in fines or imprisonment, as well as disciplinary actions pursuant to Section 17-322(b)(29),

Lenders Must Fund on or Before Closing Date

Maryland is a "wet settlement" state. Lenders may not delay funding until after they receive signed documents. Good funds have to be with the settlement company on or before the date of closing. The Maryland Code, Real Property Article §7-109(b) requires that:

"In any consumer loan transaction in which the loan is secured by a purchase money mortgage or deed of trust on real property located in this State, on or before the day of settlement, the lender shall disburse the loan proceeds in accordance with the loan documents to the agent responsible for settlement…"

Lenders who fail to comply are not entitled to charge interest on the loan for the first 30 days after the Closing Date.

Client Alert: Maryland Real Estate Commission Activity

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CLIENT ALERT: MARYLAND REAL ESTATE COMMISSION ACTIVITY

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TAGGED: Maryland Real Estate, Maryland Real Estate Commission, Real Estate Agents