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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE BROKERS AND SALESPERSONS

Introduced By: Representatives DaSilva, and Savage

Date Introduced: January 18, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 5-20.5-26 of the General Laws in Chapter 5-20.5 entitled "Real  
2 Estate Brokers and Salespersons" is hereby amended to read as follows:

3           **5-20.5-26. Escrows.** -- (a) Escrow.

4           (1) Escrow accounts.

5           (i) Each real estate firm shall maintain an escrow account under the supervision of the  
6 broker qualified to do business in the name and on behalf of the corporate, partnership or  
7 association licensee. All those funds paid to a salesperson or paid directly to a broker shall be  
8 segregated on the broker's books and deposited in an account in a recognized federally insured  
9 financial institution in Rhode Island separate from any account containing funds owned by the  
10 broker. A broker or salesperson shall not commingle deposit money or other customers' funds and  
11 his or her own funds, use a customer's funds as his or her own, or fail to keep an escrow or trustee  
12 account of funds deposited with him or her relating to a real estate transaction, for a period of  
13 three (3) years, showing to whom the money belongs, date deposited, date of withdrawal, to  
14 whom paid, and any other pertinent information that the commission requires. Those records are  
15 to be available to the commission and the department or their representatives, on demand, or upon  
16 written notice given to the depository. Each broker/office supervisor shall maintain a monthly  
17 report as to the status of that office's escrow account, and is responsible for its accuracy.

18           (ii) A multi-office firm may either have an escrow account for each office or one central

1 escrow account for the firm.

2 (iii) Funds held in escrow may be applied to the commission when earned by the listing  
3 company. and all earned commissions shall be paid and disbursed at the closing.

4 (iv) Whenever the ownership of any deposit monies received by a broker or salesperson  
5 pursuant to this section is in dispute by the parties to a real estate transaction, the broker or  
6 salesperson shall deposit the monies with the general treasurer within one hundred eighty (180)  
7 days of the date of the original deposit, those monies to be held in trust by the general treasurer  
8 until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties. The parties  
9 to a real estate transaction may agree in writing to extend the time period by which the monies  
10 must be deposited with the general treasurer in accordance with regulations promulgated by the  
11 department of business regulation.

12 (v) The department of business regulation shall have the authority to promulgate rules  
13 and regulations with respect to such escrow accounts and the deposit of monies with the general  
14 treasurer.

15 (2) Escrow agents. - Funds or deposits placed in escrow may be held by any person or  
16 entity legally authorized to hold funds in that capacity, e.g., the real estate broker or attorney.

17 (b) Dual activities. - In all real estate transactions in which a broker holds more than one  
18 title, e.g., builder, contractor, or insurance agent, all deposit monies received must be placed in  
19 the brokers real estate escrow account, unless there is a contractual agreement between the  
20 principals to the contrary.

21 (c) Unlawful appropriation. - Pursuant to section 11-41-11.1, any licensee to whom any  
22 money or other property is entrusted as escrow funds, who intentionally appropriates to the  
23 licensee's own use that money or property, or transfers the funds from an escrow account to a  
24 company or personal account prior to a closing, is guilty of unlawful appropriation.

25 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- REAL ESTATE BROKERS AND  
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- 1 This act would require that real estate commissions be paid at the closing.
- 2 This act would take effect upon passage.

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