

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1211
103RD GENERAL ASSEMBLY

2743H.02C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 339.105, RSMo, and to enact in lieu thereof one new section relating to separate bank escrow accounts maintained by brokers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 339.105, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.105, to read as follows:

339.105. 1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that:

(1) A broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account; **and**

(2) **A broker may keep in the account any interest accrued on the funds in the account payable to the broker as long as any payment of such interest is withdrawn from the account within thirty days of receipt.**

2. Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 business days of any change of his or her intent to maintain an escrow account, the financial
20 institution, account numbers, or change in account status.

21 3. In conjunction with each escrow or trust account a broker shall maintain books,
22 records, contracts and other necessary documents so that the adequacy of said account may be
23 determined at any time. The account and other records shall be provided to the commission
24 and its duly authorized agents for inspection at all times during regular business hours at the
25 broker's usual place of business.

26 4. Whenever the ownership of any escrow moneys received by a broker pursuant to
27 this section is in dispute by the parties to a real estate sales transaction, the broker shall report
28 and deliver the moneys to the state treasurer within three hundred sixty-five days of the date
29 of the initial projected closing date in compliance with sections 447.500 to 447.595. The
30 parties to a real estate sales transaction may agree in writing that the funds are not in dispute
31 and shall notify the broker who is holding the funds.

32 5. A broker shall not be entitled to any money or other money paid to him or her in
33 connection with any real estate sales transaction as part or all of his or her commission or fee
34 until the transaction has been consummated or terminated, unless agreed in writing by all
35 parties to the transaction.

36 6. When, through investigations or otherwise, the commission has reasonable cause to
37 believe that a licensee has acted, is acting or is about to act in violation of this section, the
38 commission may, through the attorney general or any assistants designated by the attorney
39 general, proceed in the name of the commission to institute suit to enjoin any act or acts in
40 violation of this section.

41 7. Any such suit shall be commenced in either the county in which the defendant
42 resides or in the county in which the defendant has acted, is acting or is about to act in
43 violation of this section.

44 8. In such proceeding, the court shall have power to issue such temporary restraining
45 or injunction orders, without bond, which are necessary to protect the public interest. Any
46 action brought under this section shall be in addition to and not in lieu of any other provisions
47 of this chapter. In such action, the commission or the state need not allege or prove that there
48 is no adequate remedy at law or that any individual has suffered any economic injury as a
49 result of the activity sought to be enjoined.

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