

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 895

Short Title: Real Estate Trust Monies.

(Public)

Sponsors: Senator Rand.

Referred to: Commerce.

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY REAL ESTATE BROKERS DUTIES RELATED TO REAL ESTATE TRUST MONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-6(a) reads as rewritten:

"(a) The Commission has power to take disciplinary action. Upon its own initiative, or on the complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission has power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of:

- (1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact.
- (2) Making any false promises of a character likely to influence, persuade, or induce.
- (3) Pursuing a course of misrepresentation or making of false promises through agents, ~~salespersons~~, advertising or otherwise.
- (4) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts.
- (5) Accepting a commission or valuable consideration as a real estate salesperson for the performance of any of the acts specified in this Article or Article 4 of this Chapter, from any person except his or her broker-in-charge or licensed broker by whom he or she is employed.
- (6) Representing or attempting to represent a real estate broker other than the broker by whom he or she is engaged or associated, without the

- 1 express knowledge and consent of the broker with whom he or she is
2 associated.
- 3 (7) Failing, within a reasonable time, to account for or to remit any monies
4 coming into his or her possession which belong to others.
- 5 (8) Being unworthy or incompetent to act as a real estate broker or
6 ~~salesperson~~ in a manner as to endanger the interest of the public.
- 7 (9) Paying a commission or valuable consideration to any person for acts
8 or services performed in violation of this Chapter.
- 9 (10) Any other conduct which constitutes improper, fraudulent or dishonest
10 dealing.
- 11 (11) Performing or undertaking to perform any legal service, as set forth in
12 G.S. 84-2.1, or any other acts constituting the practice of law.
- 13 (12) Commingling the money or other property of his or her principals with
14 his or her own or failure to maintain and deposit in a trust or escrow
15 account in an insured bank or savings and loan association in North
16 Carolina all money received by him or her as a real estate licensee
17 acting in that capacity, or an escrow agent, or the ~~temporary~~ custodian
18 or manager of the funds of others, in a real estate transaction; another
19 person or entity which relate to or concern that person's or entity's
20 interest or investment in real property, provided, these accounts shall
21 not bear interest unless the principals authorize in writing the deposit
22 be made in an interest bearing account and also provide for the
23 disbursement of the interest accrued.
- 24 (13) Failing to deliver, within a reasonable time, a completed copy of any
25 purchase agreement or offer to buy and sell real estate to the buyer and
26 to the seller.
- 27 (14) Failing, at the time the transaction is consummated, to deliver to the
28 seller in every real estate transaction, a complete detailed closing
29 statement showing all of the receipts and disbursements handled by
30 him or her for the seller or failing to deliver to the buyer a complete
31 statement showing all money received in the transaction from the
32 buyer and how and for what it was disbursed.
- 33 (15) Violating any rule or regulation promulgated by the Commission.

34 The Executive Director shall transmit a certified copy of all final orders of the
35 Commission suspending or revoking licenses issued under this Chapter to the clerk of
36 superior court of the county in which the licensee maintains his or her principal place of
37 business. The clerk shall enter these orders upon the judgment docket of the county."

38 **SECTION 2.** This act is effective when it becomes law.