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HOUSE BILL NO. 1246

House Amendments in [] — February 14, 1998

A BILL to amend and reenact § 54.1-2108 of the Code of Virginia, relating to the Real Estate Board; protection of escrow funds.

Patrons—Drake, Abbitt, Christian, Davis, Hargrove, Murphy, Nixon, O'Brien, Parrish, Robinson, Rust, Stump and Williams; Senator: Schrock

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2108 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2108. Protection of escrow funds, etc., held by broker.

No licensee or any agent of the licensee shall divert or misuse [~~escrow funds or other funds held by him~~ any funds held in escrow or otherwise held by them for another] . Where escrow funds or other funds are held by the licensee or his agents and the Real Estate Board or its agents have reason to believe that the licensee is not able to adequately protect the interests of persons involved, or his conduct threatens their interests, the Board shall file a petition with any court of record having equity jurisdiction over the licensee or any of the funds held by him stating the facts upon which it relies. The court may temporarily enjoin further activity by the licensee and take such further action as shall be necessary to conserve, protect and disburse the funds involved, including the appointment of a receiver. If a receiver is appointed his expenses and a reasonable fee as determined by the court shall be paid by the licensee. If the court finds him unable to make such payment, the Board shall determine whether the expenses and fees shall be paid from the Virginia Real Estate Transaction Recovery Fund or from funds received by the Board. Such determination shall be made within thirty days of the Board's receipt of the court-approved receiver invoices. If the court finds that the licensee was without fault and that he is found not to have violated any provisions of this chapter or of the regulations of the Board, then the receiver's expenses and fees shall be paid by the Board. Such payments shall be paid from funds received by the Board.

ENGROSSED

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