

BILL ANALYSIS

DATE: March 27, 2009

COMMITTEE: Consumer Protection and
Professional Licensure

BILL NO.: SB 241

PRIME SPONSOR: Senator Tomlinson

PRINTER'S NO.: 246

This bill amends the Real Estate Licensing and Registration Act. It permits a real estate salespersons and associate brokers to form a new business entity called a qualified association, and amends the conditions under which real estate brokers may release escrow funds.

It adds the definition for the term "qualified association". A qualified association is a corporation, limited liability partnership, limited partnership or limited liability company that:

- 1) is organized under the laws of Pennsylvania or another jurisdiction;
- 2) does not hold a license under this act;
- 3) does not hold itself out to the public as providing real estate services or real estate-related services; and
- 4) is solely owned by licensees who are all affiliated with the same broker.

The legislation would permit a broker to pay his salespersons' and associate brokers' commissions or compensation from a qualified association. In addition, a salesperson or associate broker who owns a share of a qualified association may receive a commission or compensation for performing real estate services or real estate-related services from the qualified association.

The bill would authorize the State Real Estate Commission to discipline licensees who own a share of a qualified association that participates in any of the prohibited acts identified in Section 604. or is not solely owned by licensees who are all affiliated with the same broker; or hold itself out to the public as providing real estate services or real estate-related services.

SB 241 requires a licensee who forms or joins a qualified association to report to the State Real Estate Commission the registration and ownership information for the qualified association.

Escrow disbursement

The bill removes from Section 604, the prohibited acts, the requirements for handling deposits and escrows and creates a new section, Section 608.5 to establish new rules for the administration of escrow.

The new requirements differ from the existing law in only three provisions. First, 608.5 (a)(2)(ii) permits a broker to release escrow funds when a transaction is terminated prior to settlement and a dispute exists, if the parties have a prior written agreement specifying disposition of the escrow funds in the event of a dispute.

Second, 608.5 (a)(3) authorizes a broker to release escrow funds at any time after deposit if the broker receives written instructions signed by all the parties directing release of some or all of the funds. Finally, 608.5 (k) authorizes the parties to a transaction to agree in writing that a person other than the brokers who represent the parties can hold the escrow funds.

The act shall take effect in 60 days.