



Real Estate Law Alert

August 2009

PENNSYLVANIA OFFICE OF NORRIS McLAUGHLIN & MARCUS, P.A.

Real Estate Legislative Action Alert

Many brokers and other licensees might be surprised to learn that on July 6, 2009, Governor Rendell signed into law Act 14 which implements two key changes to the Pennsylvania Real Estate Licensing and Registration Act (RELRA) which will take effect on September 4, 2009.

Brokers Can Pay Commissions to Qualified Associations

The first key change to RELRA is that as of September 4, 2009, brokers will be able to pay commissions to “qualified associations”, which are essentially legal entities that are wholly-owned by licensees affiliated with the same broker. Prior to Act 14, brokers were only permitted under RELRA to pay commissions directly to their affiliated licensees or other brokers. Qualified associations can potentially benefit affiliated licensees by offering favorable tax treatment and flexible allocations of income from commission payments. All licensees should be cautioned, however, that qualified associations must be organized in *strict* compliance with RELRA and they should accordingly secure competent legal counsel in connection with exploring any potential qualified association under RELRA. Furthermore, licensees should know that they are obligated to notify the State Real Estate Commission (the Commission) within thirty (30) days of either the formation of a qualified association or any change in ownership of a qualified association.

Act 14 Affects How Brokers Handle Deposits

Act 14's second key change to RELRA is that it sets forth a broker's duty with respect to the receipt and release of deposit monies. Fortunately, most of Act 14's changes to RELRA only codify the existing regulations promulgated by the Commission in connection with brokers' deposit money obligations. As of September 4, 2009, brokers will be permitted under RELRA to release deposit monies in the following instances: (1) the transaction is completed; (2) the transaction terminates and there is no dispute as to who is entitled to the escrowed deposit; (3) the broker receives written release instructions signed by all parties to the transaction; (4) a valid and final court order specifies the release; or (5) the transaction terminates and there is a prior written agreement among the parties as to the disposition of the deposit in the event of a dispute regarding entitlement to the deposit. The last instance in which there is a prior written agreement specifying disposition of the deposit in the event of a dispute was not previously permitted under Pennsylvania law.

This *Real Estate Law Alert* was written by Timothy J. Siegfried, Chairperson of the Tallman, Hudders & Sorrentino Real Estate and Municipal Practice Group, and S. Graham Simmons, III. If you have any questions regarding Act 14 or organizing qualified associations, please do not hesitate to contact the authors at tsiegfried@thsLaw.com or gsimmons@thsLaw.com.

The *Real Estate Law Alert* provides information to our clients and friends about current legal developments of general interest in the area of corporate law. The information contained in this Alert should not be construed as legal advice, and readers should not act upon such without professional counsel. Copyright © 2009 Norris McLaughlin & Marcus, P.A.