

No. 2006-3

AN ACT

HB 1826

Amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, further providing for escrow of deposits or posting of surety bond or letter of credit.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 5408 of Title 68 of the Pennsylvania Consolidated Statutes is amended to read:

§ 5408. Escrow of deposits.

(a) General rule.—Any deposit (which shall not include any installment payment under an installment sales contract nor a payment specifically stated in a sales contract to be in payment of or on account of extras, changes or custom work) made in connection with the purchase or reservation of a unit from a declarant shall be placed in escrow and held in this Commonwealth by a licensed real estate broker, an attorney admitted to practice in this Commonwealth, a financial institution or a licensed title insurance company in an account or in the form of a certificate of deposit designated solely for that purpose with a financial institution whose accounts are insured by a governmental agency or instrumentality until:

(1) delivered to the declarant at closing or, in the case of the sale of a unit pursuant to an installment sales contract, upon the expiration of 30 days from the date of occupancy of the unit;

(2) delivered to the declarant because of purchaser's default under a contract to purchase the unit; or

(3) refunded to the purchaser.

(b) Use of bond or letter of credit.—*In lieu of escrowing deposits in accordance with subsection (a), a declarant may:*

(1) obtain and maintain a corporate surety bond issued by a surety authorized to do business in this Commonwealth, and in which the declarant has no direct or indirect ownership interest, in the form and in the amount set forth in subsection (d); or

(2) obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are insured by a governmental agency or instrumentality, and in which the declarant has no direct or indirect ownership interest, in the form and in the amount set forth in subsection (d).

(c) Timing.—*A corporate surety bond or irrevocable letter of credit obtained pursuant to subsection (b) shall be maintained until all deposits received by the declarant have been deposited in escrow or properly*

credited or refunded to a purchaser under the conditions enumerated in subsection (a).

(d) Form and amount of bond or letter of credit.—

(1) A bond obtained pursuant to subsection (b)(1) shall be payable to the Commonwealth for use and benefit of every person protected by the provisions of this section. The declarant shall deposit the bond with the Attorney General. The bond shall be a blanket bond in the minimum amount of \$1,000,000, in a form acceptable to the Attorney General.

(2) A letter of credit obtained pursuant to subsection (b)(2) shall be payable to the Commonwealth for the use and benefit of every person protected by the provisions of this section. The declarant shall deposit the letter of credit with the Attorney General. The letter of credit shall be a blanket letter of credit, in a form acceptable to the Attorney General, in the minimum amount of \$1,000,000.

(e) Adjustment of bond amount.—The Attorney General may annually adjust the amount of the required bond, based upon the cumulative change in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area, using 2004 as the base year. An adjustment shall be effective 60 days after publication in the Pennsylvania Bulletin of notice of the adjustment.

Section 2. This act shall take effect in 60 days.

APPROVED—The 6th day of January, A.D. 2006.

EDWARD G. RENDELL