

March 17, 2005

H 725. REAL ESTATE RESALE DEALERS. TO REGULATE THE PRACTICE OF REAL ESTATE RESALE DEALERS IN THIS STATE. Adds Article 41 to GS Chapter 66, regulating the practice of real estate resale dealers. Defines "real estate resale transaction" as an agreement through which a person contracts with an owner of real property to transfer real or equitable title to the real property to the person or the person's agent or into a trust for which the person serves as either trustee or beneficiary and that remains subject to an existing deed of trust. Specifies that agreement includes installment land contracts with right of possession in buyer, lease option contracts, rent-to-own agreements, and land trust agreements. Requires real estate resale dealer (person who enters into a real estate resale transaction) at least seven days before entering into a real estate resale transaction with a homeowner/seller, to provide written disclosures specified in bill, among which are notices indicating that the transaction does not extinguish the homeowner/seller's responsibility to make payments to the lender, that if the homeowner/seller's deed of trust contains a due on sale clause, the lender has the right to call the entire amount of the loan due, and listing information about the real estate resale dealer. Requires real estate resale dealer before entering into an installment land sale contract with right of possession in the buyer, option to buy contract, or rent-to-own contract to give similar disclosures, appropriate for a buyer, among which are notice that it is against the law for the dealer to charge a consumer a nonrefundable deposit or fee for one of these contracts if the dealer has taken control of the property while the property is subject to a deed of trust in someone else's name, and that the property the person is renting or buying is subject to an outstanding deed of trust in another person's name and the lender may foreclose if that person defaults on the payments. Requires real estate resale dealer to obtain a surety bond or establish a trust account in the amount of \$200,000 to protect persons who are damaged by dealer's breach of contract or obligation under the law. Requires real estate resale dealer to file disclosure statements and copy of bond or formal notification of trust account with Secretary of State. Requires real estate resale transaction seminars to provide a copy of this law as part of its materials. Specifies prohibited activities of dealers and remedies for failure to comply with law.

Intro. by Ross, Howard, Goforth.

Ref. to Judiciary I

GS 66

May 31, 2005

H 725. REAL ESTATE RESALE DEALERS. Intro. 3/17/05. House committee substitute makes the following changes to 1st edition. Modifies proposed Article 41 of GS Chapter 66 as follows: (1) Narrows definition of "real estate resale transaction" to apply only to residential real estate transactions and deletes references to specific agreements and provides that term includes any agreement through which a buyer contracts with a seller of residential real property. (2) Adds definition of "person" and revises definitions of "due on sale clause," "real estate resale dealer," and "subject to." (3) Provides that a real estate dealer that has engaged in only one real estate transaction during the previous 12 months (was, calendar year), including transactions where the resale dealer holds a majority of the beneficial interest in another real estate resale dealer, is exempt from Article. (4) Modifies required disclosure statement to delete statement advising seller that seller is responsible for property insurance and maintenance, to replace references to surety company with the Secretary of State and references to "trust account" with "letter of credit," and to delete requirement that disclosure document include the total number of real estate transactions resale dealer has entered into within the past 12 months. (5) Requires that real estate resale dealer obtain a surety bond or establish a letter of credit in the amount of \$250,000 (was, \$200,000) and provides that the bond or letter of credit may not be used to pay any fine imposed under Article. (6) Requires that real estate resale dealer file disclosure statements and a copy of the bond or the letter of credit (was, formal notification of trust account) with the Secretary of State. (7) Imposes a fine of up to \$10,000 for failure to obtain bond or to file bond and disclosure statements (was, made violations a Class 1 misdemeanor) and imposes same fine for violation of requirement that a copy of the law be provided at real estate resale transaction seminars. (8) Amends section listing "prohibited activities" to: (i) delete provision that authorized dealer to take title to property subject to a deed or mortgage containing a due-on-sale clause if seller obtains

written consent to transfer title to dealer without paying off outstanding deed of trust and (ii) provide that a real estate dealer may collect a nonrefundable deposit or fee if the money is maintained in a trust account and is refunded under the circumstances listed. (9) Makes technical changes. Makes act effective October 1, 2005.