

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
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S.B. 863
PRINCIPAL CLERK

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SENATE BILL DRS35392-MQa-161

Short Title: Homebuyer Fairness & Protection Act. (Public)

Sponsors: Senators Garrett, Batch, and Fitch (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE AMOUNT OF DUE DILIGENCE FUNDS ALLOWED IN
3 RESIDENTIAL REAL PROPERTY TRANSACTIONS AND TO APPROPRIATE FUNDS
4 TO THE NORTH CAROLINA HOUSING COALITION TO BE USED TO SUPPORT
5 HOMEBUYER EDUCATION SERVICES IN THIS STATE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 22B of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 4.

10 "Unenforceable Real Estate Transaction Charges.

11 "**§ 22B-30. Due diligence funds.**

12 (a) A seller of residential real property may not require, as a condition of acceptance of
13 an offer to purchase real property, due diligence funds to be paid in an amount exceeding one
14 percent (1%) of the purchase price contained in the offer to purchase. Any provision in a contract
15 specifying an amount in excess of the amount provided in this section is void and unenforceable.

16 (b) For the purposes of this section, the term "due diligence funds" means nonrefundable
17 funds to be paid directly to a seller of real property upon acceptance of an offer to purchase real
18 property in exchange for the opportunity to further investigate the subject real property and
19 transaction within an agreed-upon time period.

20 (c) In an action to recover due diligence funds specified in a contract provision rendered
21 void and unenforceable under this section, the seller is liable to the offeror for court costs and for
22 attorneys' fees actually and reasonably incurred in the action."

23 **SECTION 2.** There is appropriated from the General Fund to the Office of State
24 Budget and Management the sum of ten million dollars (\$10,000,000) in nonrecurring funds for
25 the 2022-2023 fiscal year to be allocated in the form of a grant to the North Carolina Housing
26 Coalition, Inc., a nonprofit corporation, to support homebuyer education in this State.

27 **SECTION 3.** Section 1 of this act becomes effective October 1, 2022, and applies to
28 offers to purchase residential real estate accepted on or after that date. Section 2 of this act
29 becomes effective July 1, 2022. The remainder of this act is effective when it becomes law.



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